

By: Representative Mims

To: Juvenile Justice;
Judiciary B

HOUSE BILL NO. 1118

1 AN ACT TO AMEND SECTION 43-21-619, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THAT WHEN THE YOUTH COURT ORDERS THAT RESTITUTION BE
3 PAID SUCH RESTITUTION MUST BE PAID WITHIN 90 DAYS OF A CHILD'S
4 COMMITTING A DELINQUENT ACT; TO AMEND SECTION 43-21-605,
5 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
6 PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 **SECTION 1.** Section 43-21-619, Mississippi Code of 1972, is
9 amended as follows:

10 43-21-619. (1) The youth court may order financially able
11 parents to pay for court ordered medical and other examinations
12 and treatment of a child; for reasonable attorney's fees and court
13 costs; and for other expenses found necessary or appropriate in
14 the best interest of the child as determined by the youth court.
15 The youth court is authorized to enforce payments ordered under
16 this subsection.

17 (2) The youth court may order the parents, guardians or
18 custodians who exercise parental custody and control of a child
19 who is under the jurisdiction of the youth court and who has
20 willfully or maliciously caused personal injury or damaged or
21 destroyed property, to pay such damages or restitution through the
22 court to the victim in an amount not to exceed the actual loss and
23 to enforce payment thereof. Restitution ordered by the youth
24 court shall be paid within ninety (90) days of a child's
25 committing a delinquent act. Restitution ordered by the youth
26 court under this section shall not preclude recovery of damages by
27 the victim from such child or parent, guardian or custodian or
28 other person who would otherwise be liable. The youth court also
29 may order the parents, guardians or custodians of a child who is

30 under the jurisdiction of the youth court and who willfully or
31 maliciously has caused personal injury or damaged or destroyed
32 property to participate in a counseling program or other suitable
33 family treatment program for the purpose of preventing future
34 occurrences of malicious destruction of property or personal
35 injury.

36 (3) Such orders under this section shall constitute a civil
37 judgment and may be enrolled on the judgment rolls in the office
38 of the circuit clerk of the county where such order was entered,
39 and further, such order may be enforced in any manner provided by
40 law for civil judgments.

41 **SECTION 2.** Section 43-21-605, Mississippi Code of 1972, is
42 amended as follows:

43 43-21-605. (1) In delinquency cases, the disposition order
44 may include any of the following alternatives:

45 (a) Release the child without further action;

46 (b) Place the child in the custody of the parents, a
47 relative or other persons subject to any conditions and
48 limitations, including restitution that must be paid within the
49 time frame provided in Section 43-21-619, as the youth court may
50 prescribe;

51 (c) Place the child on probation subject to any
52 reasonable and appropriate conditions and limitations, including
53 restitution, as the youth court may prescribe;

54 (d) Order terms of treatment calculated to assist the
55 child and the child's parents or guardian which are within the
56 ability of the parent or guardian to perform;

57 (e) Order terms of supervision which may include
58 participation in a constructive program of service or education or
59 civil fines not in excess of Five Hundred Dollars (\$500.00), or
60 restitution not in excess of actual damages caused by the child to
61 be paid out of his own assets or by performance of services

62 acceptable to the victims and approved by the youth court and
63 reasonably capable of performance within one (1) year;

64 (f) Suspend the child's driver's license by taking and
65 keeping it in custody of the court for not more than one (1) year;

66 (g) Give legal custody of the child to any of the
67 following:

68 (i) The Department of Human Services for
69 appropriate placement; or

70 (ii) Any public or private organization,
71 preferably community-based, able to assume the education, care and
72 maintenance of the child, which has been found suitable by the
73 court; or

74 (iii) The Department of Human Services for
75 placement in a wilderness training program or the Division of
76 Youth Services for placement in a state-supported training school,
77 except that no child under the age of ten (10) years shall be
78 committed to a state training school, and no first-time nonviolent
79 youth offenders shall be committed to a state training school
80 until all other options provided for in this section have been
81 considered and the court makes a specific finding of fact that
82 commitment is appropriate.

83 The training school may retain custody of the child until the
84 child's twentieth birthday but for no longer. When the child is
85 committed to a training school, the child shall remain in the
86 legal custody of the training school until the child has made
87 sufficient progress in treatment and rehabilitation and it is in
88 the best interest of the child to release the child. However, the
89 superintendent of a state training school, in consultation with
90 the treatment team, may parole a child at any time he may deem it
91 in the best interest and welfare of such child. Twenty (20) days
92 prior to such parole, the training school shall notify the
93 committing court of the pending release. The youth court may then
94 arrange subsequent placement after a reconvened disposition

95 hearing, except that the youth court may not recommit the child to
96 the training school or any other secure facility without an
97 adjudication of a new offense or probation or parole violation.
98 The Department of Human Services shall ensure that staffs create
99 transition planning for youth leaving the facilities. Plans shall
100 include providing the youth and his or her parents or guardian
101 with copies of the youth's training school education and health
102 records, information regarding the youth's home community,
103 referrals to mental and counseling services when appropriate, and
104 providing assistance in making initial appointments with community
105 service providers. Prior to assigning the custody of any child to
106 any private institution or agency, the youth court through its
107 designee shall first inspect the physical facilities to determine
108 that they provide a reasonable standard of health and safety for
109 the child. No child shall be placed in the custody of a state
110 training school for a status offense or for contempt of or
111 revocation of a status offense adjudication unless the child is
112 contemporaneously adjudicated for having committed an act of
113 delinquency that is not a status offense. A disposition order
114 rendered under this subparagraph shall meet the following
115 requirements:

116 1. The disposition is the least restrictive
117 alternative appropriate to the best interest of the child and the
118 community;

119 2. The disposition allows the child to be in
120 reasonable proximity to the family home community of each child
121 given the dispositional alternatives available and the best
122 interest of the child and the state; and

123 3. The disposition order provides that the
124 court has considered the medical, educational, vocational, social
125 and psychological guidance, training, social education,
126 counseling, substance abuse treatment and other rehabilitative
127 services required by that child as determined by the court;

128 (h) Recommend to the child and the child's parents or
129 guardian that the child attend and participate in the Youth
130 Challenge Program under the Mississippi National Guard, as created
131 in Section 43-27-203, subject to the selection of the child for
132 the program by the National Guard; however, the child must
133 volunteer to participate in the program. The youth court shall
134 not order any child to apply or attend the program;

135 (i) (i) Adjudicate the juvenile to the Statewide
136 Juvenile Work Program if the program is established in the court's
137 jurisdiction. The juvenile and his parents or guardians must sign
138 a waiver of liability in order to participate in the work program.
139 The judge will coordinate with the youth services counselors as to
140 placing participants in the work program;

141 (ii) The severity of the crime, whether or not the
142 juvenile is a repeat offender or is a felony offender will be
143 taken into consideration by the judge when adjudicating a juvenile
144 to the work program. The juveniles adjudicated to the work
145 program will be supervised by police officers or reserve officers.
146 The term of service will be from twenty-four (24) to one hundred
147 twenty (120) hours of community service. A juvenile will work the
148 hours to which he was adjudicated on the weekends during school
149 and weekdays during the summer. Parents are responsible for a
150 juvenile reporting for work. Noncompliance with an order to
151 perform community service will result in a heavier adjudication.
152 A juvenile may be adjudicated to the community service program
153 only two (2) times;

154 (iii) The judge shall assess an additional fine on
155 the juvenile which will be used to pay the costs of implementation
156 of the program and to pay for supervision by police officers and
157 reserve officers. The amount of the fine will be based on the
158 number of hours to which the juvenile has been adjudicated;

159 (j) Order the child to participate in a youth court
160 work program as provided in Section 43-21-627;

161 (k) Order the child into a juvenile detention center
162 operated by the county or into a juvenile detention center
163 operated by any county with which the county in which the court is
164 located has entered into a contract for the purpose of housing
165 delinquents. The time period for detention cannot exceed ninety
166 (90) days, and any detention exceeding forty-five (45) days shall
167 be administratively reviewed by the youth court no later than
168 forty-five (45) days after the entry of the order. The youth
169 court judge may order that the number of days specified in the
170 detention order be served either throughout the week or on
171 weekends only. No first-time nonviolent youth offender shall be
172 committed to a detention center for a period of ninety (90) days
173 until all other options provided for in this section have been
174 considered and the court makes a specific finding of fact that
175 commitment to a detention center is appropriate. However, if a
176 child is committed to a detention center ninety (90) consecutive
177 days, the disposition order shall meet the following requirements:

178 (i) The disposition order is the least restrictive
179 alternative appropriate to the best interest of the child and the
180 community;

181 (ii) The disposition order allows the child to be
182 in reasonable proximity to the family home community of each child
183 given the dispositional alternatives available and the best
184 interest of the child and the state; and

185 (iii) The disposition order provides that the
186 court has considered the medical, educational, vocational, social
187 and psychological guidance, training, social education,
188 counseling, substance abuse treatment and other rehabilitative
189 services required by that child as determined by the court; or

190 (1) Referral to A-team provided system of care
191 services.

192 (2) If a disposition order requires that a child miss school
193 due to other placement, the youth court shall notify a child's

194 school while maintaining the confidentiality of the youth court
195 process.

196 (3) In addition to any of the disposition alternatives
197 authorized under subsection (1) of this section, the disposition
198 order in any case in which the child is adjudicated delinquent for
199 an offense under Section 63-11-30 shall include an order denying
200 the driver's license and driving privileges of the child as
201 required under Section 63-11-30(9).

202 (4) If the youth court places a child in a state-supported
203 training school, the court may order the parents or guardians of
204 the child and other persons living in the child's household to
205 receive counseling and parenting classes for rehabilitative
206 purposes while the child is in the legal custody of the training
207 school. A youth court entering an order under this subsection (4)
208 shall utilize appropriate services offered either at no cost or
209 for a fee calculated on a sliding scale according to income unless
210 the person ordered to participate elects to receive other
211 counseling and classes acceptable to the court at the person's
212 sole expense.

213 (5) Fines levied under this chapter shall be paid into the
214 general fund of the county but, in those counties wherein the
215 youth court is a branch of the municipal government, it shall be
216 paid into the municipal treasury.

217 (6) Any institution or agency to which a child has been
218 committed shall give to the youth court any information concerning
219 the child as the youth court may at any time require.

220 (7) The youth court shall not place a child in another
221 school district who has been expelled from a school district for
222 the commission of a violent act. For the purpose of this
223 subsection, "violent act" means any action which results in death
224 or physical harm to another or an attempt to cause death or
225 physical harm to another.

226 (8) The youth court may require drug testing as part of a
227 disposition order. If a child tests positive, the court may
228 require treatment, counseling and random testing, as it deems
229 appropriate. The costs of such tests shall be paid by the parent,
230 guardian or custodian of the child unless the court specifically
231 finds that the parent, guardian or custodian is unable to pay.

232 (9) The Mississippi Department of Human Services, Division
233 of Youth Services, shall operate and maintain services for youth
234 adjudicated delinquent at Columbia and Oakley Training Schools.
235 The program shall be designed for children committed to the
236 training schools by the youth courts. The purpose of the program
237 is to promote good citizenship, self-reliance, leadership and
238 respect for constituted authority, teamwork, cognitive abilities
239 and appreciation of our national heritage. The Division of Youth
240 Services shall issue credit towards academic promotions and high
241 school completion. The Division of Youth Services may award
242 credits to each student who meets the requirements for a general
243 education development certification. The Division of Youth
244 Services must also provide to each special education eligible
245 youth the services required by that youth's individualized
246 education plan.

247 (10) There is created a study committee to determine what
248 entity should be responsible for providing the educational
249 services within detention centers to ensure that detained youth
250 receive adequate educational services. The study is also to
251 include, but is not limited to, the examination of the costs of
252 providing such educational services. The study committee shall
253 consist of the following ten (10) members:

254 (a) The Chairperson of the House of Representatives of
255 the Juvenile Justice Committee;

256 (b) The Chairperson of the Senate Judiciary B
257 Committee;

258 (c) The Chairperson of the House of Representatives
259 Education Committee or his or her designee;

260 (d) The Chairperson of the Senate Education Committee
261 or his or her designee;

262 (e) Three (3) members from the House of
263 Representatives, appointed by the Chairperson of the Juvenile
264 Justice Committee; and

265 (f) Three (3) members from the Senate, appointed by the
266 Chairperson of the Senate Judiciary B Committee.

267 At its first meeting the study committee shall elect a
268 chairperson and vice chairperson from its membership and shall
269 adopt rules for transacting its business and keeping its records.

270 By October 31, 2006, the study committee shall make a report
271 of its work and recommendations.

272 **SECTION 3.** This act shall take effect and be in force from
273 and after July 1, 2007.