

By: Senator(s) Horhn

To: Public Health and
Welfare; Judiciary, Division
B

SENATE BILL NO. 2943

1 AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE AND DIRECT THE DEPARTMENT OF HUMAN SERVICES DIVISION
3 OF YOUTH SERVICES TO ESTABLISH AND OPERATE THE MISSISSIPPI YOUTH
4 BUILD PROGRAM IN JACKSON, MISSISSIPPI, FOR COURT-ORDERED
5 DELINQUENT YOUTH TO PROVIDE CERTAIN REHABILITATION SERVICES; AND
6 FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 43-21-605, Mississippi Code of 1972, is
9 amended as follows:

10 43-21-605. (1) In delinquency cases, the disposition order
11 may include any of the following alternatives:

12 (a) Release the child without further action;

13 (b) Place the child in the custody of the parents, a
14 relative or other persons subject to any conditions and
15 limitations, including restitution, as the youth court may
16 prescribe;

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

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

23 (e) Order terms of supervision which may include
24 participation in a constructive program of service or education or
25 civil fines not in excess of Five Hundred Dollars (\$500.00), or
26 restitution not in excess of actual damages caused by the child to
27 be paid out of his own assets or by performance of services
28 acceptable to the victims and approved by the youth court and
29 reasonably capable of performance within one (1) year;

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

32 (g) Give legal custody of the child to any of the
33 following:

34 (i) The Department of Human Services for
35 appropriate placement; or

36 (ii) Any public or private organization,
37 preferably community-based, able to assume the education, care and
38 maintenance of the child, which has been found suitable by the
39 court; or

40 (iii) The Department of Human Services for
41 placement in a wilderness training program or the Division of
42 Youth Services for placement in a state-supported training school,
43 except that no child under the age of ten (10) years shall be
44 committed to a state training school, and no first-time nonviolent
45 youth offenders shall be committed to a state training school
46 until all other options provided for in this section have been
47 considered and the court makes a specific finding of fact that
48 commitment is appropriate.

49 The training school may retain custody of the child until the
50 child's twentieth birthday but for no longer. When the child is
51 committed to a training school, the child shall remain in the
52 legal custody of the training school until the child has made
53 sufficient progress in treatment and rehabilitation and it is in
54 the best interest of the child to release the child. However, the
55 superintendent of a state training school, in consultation with
56 the treatment team, may parole a child at any time he may deem it
57 in the best interest and welfare of such child. Twenty (20) days
58 prior to such parole, the training school shall notify the
59 committing court of the pending release. The youth court may then
60 arrange subsequent placement after a reconvened disposition
61 hearing, except that the youth court may not recommit the child to
62 the training school or any other secure facility without an

63 adjudication of a new offense or probation or parole violation.
64 The Department of Human Services shall ensure that staffs create
65 transition planning for youth leaving the facilities. Plans shall
66 include providing the youth and his or her parents or guardian
67 with copies of the youth's training school education and health
68 records, information regarding the youth's home community,
69 referrals to mental and counseling services when appropriate, and
70 providing assistance in making initial appointments with community
71 service providers. Prior to assigning the custody of any child to
72 any private institution or agency, the youth court through its
73 designee shall first inspect the physical facilities to determine
74 that they provide a reasonable standard of health and safety for
75 the child. No child shall be placed in the custody of a state
76 training school for a status offense or for contempt of or
77 revocation of a status offense adjudication unless the child is
78 contemporaneously adjudicated for having committed an act of
79 delinquency that is not a status offense. A disposition order
80 rendered under this subparagraph shall meet the following
81 requirements:

82 1. The disposition is the least restrictive
83 alternative appropriate to the best interest of the child and the
84 community;

85 2. The disposition allows the child to be in
86 reasonable proximity to the family home community of each child
87 given the dispositional alternatives available and the best
88 interest of the child and the state; and

89 3. The disposition order provides that the
90 court has considered the medical, educational, vocational, social
91 and psychological guidance, training, social education,
92 counseling, substance abuse treatment and other rehabilitative
93 services required by that child as determined by the court;

94 (h) Recommend to the child and the child's parents or
95 guardian that the child attend and participate in the Youth

96 Challenge Program under the Mississippi National Guard, as created
97 in Section 43-27-203, subject to the selection of the child for
98 the program by the National Guard; however, the child must
99 volunteer to participate in the program. The youth court shall
100 not order any child to apply or attend the program;

101 (i) (i) Adjudicate the juvenile to the Statewide
102 Juvenile Work Program if the program is established in the court's
103 jurisdiction. The juvenile and his parents or guardians must sign
104 a waiver of liability in order to participate in the work program.
105 The judge will coordinate with the youth services counselors as to
106 placing participants in the work program;

107 (ii) The severity of the crime, whether or not the
108 juvenile is a repeat offender or is a felony offender will be
109 taken into consideration by the judge when adjudicating a juvenile
110 to the work program. The juveniles adjudicated to the work
111 program will be supervised by police officers or reserve officers.
112 The term of service will be from twenty-four (24) to one hundred
113 twenty (120) hours of community service. A juvenile will work the
114 hours to which he was adjudicated on the weekends during school
115 and weekdays during the summer. Parents are responsible for a
116 juvenile reporting for work. Noncompliance with an order to
117 perform community service will result in a heavier adjudication.
118 A juvenile may be adjudicated to the community service program
119 only two (2) times;

120 (iii) The judge shall assess an additional fine on
121 the juvenile which will be used to pay the costs of implementation
122 of the program and to pay for supervision by police officers and
123 reserve officers. The amount of the fine will be based on the
124 number of hours to which the juvenile has been adjudicated;

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

127 (k) Order the child into a juvenile detention center
128 operated by the county or into a juvenile detention center

129 operated by any county with which the county in which the court is
130 located has entered into a contract for the purpose of housing
131 delinquents. The time period for detention cannot exceed ninety
132 (90) days, and any detention exceeding forty-five (45) days shall
133 be administratively reviewed by the youth court no later than
134 forty-five (45) days after the entry of the order. The youth
135 court judge may order that the number of days specified in the
136 detention order be served either throughout the week or on
137 weekends only. No first-time nonviolent youth offender shall be
138 committed to a detention center for a period of ninety (90) days
139 until all other options provided for in this section have been
140 considered and the court makes a specific finding of fact that
141 commitment to a detention center is appropriate. However, if a
142 child is committed to a detention center ninety (90) consecutive
143 days, the disposition order shall meet the following requirements:

144 (i) The disposition order is the least restrictive
145 alternative appropriate to the best interest of the child and the
146 community;

147 (ii) The disposition order allows the child to be
148 in reasonable proximity to the family home community of each child
149 given the dispositional alternatives available and the best
150 interest of the child and the state; and

151 (iii) The disposition order provides that the
152 court has considered the medical, educational, vocational, social
153 and psychological guidance, training, social education,
154 counseling, substance abuse treatment and other rehabilitative
155 services required by that child as determined by the court; or

156 (1) Referral to A-team provided system of care
157 services.

158 (2) If a disposition order requires that a child miss school
159 due to other placement, the youth court shall notify a child's
160 school while maintaining the confidentiality of the youth court
161 process.

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

168 (4) If the youth court places a child in a state-supported
169 training school, the court may order the parents or guardians of
170 the child and other persons living in the child's household to
171 receive counseling and parenting classes for rehabilitative
172 purposes while the child is in the legal custody of the training
173 school. A youth court entering an order under this subsection (4)
174 shall utilize appropriate services offered either at no cost or
175 for a fee calculated on a sliding scale according to income unless
176 the person ordered to participate elects to receive other
177 counseling and classes acceptable to the court at the person's
178 sole expense.

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

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

186 (7) The youth court shall not place a child in another
187 school district who has been expelled from a school district for
188 the commission of a violent act. For the purpose of this
189 subsection, "violent act" means any action which results in death
190 or physical harm to another or an attempt to cause death or
191 physical harm to another.

192 (8) The youth court may require drug testing as part of a
193 disposition order. If a child tests positive, the court may
194 require treatment, counseling and random testing, as it deems

195 appropriate. The costs of such tests shall be paid by the parent,
196 guardian or custodian of the child unless the court specifically
197 finds that the parent, guardian or custodian is unable to pay.

198 (9) The Mississippi Department of Human Services, Division
199 of Youth Services, shall operate and maintain services for youth
200 adjudicated delinquent at Columbia and Oakley Training Schools.
201 The program shall be designed for children committed to the
202 training schools by the youth courts. The purpose of the program
203 is to promote good citizenship, self-reliance, leadership and
204 respect for constituted authority, teamwork, cognitive abilities
205 and appreciation of our national heritage. The Division of Youth
206 Services shall issue credit towards academic promotions and high
207 school completion. The Division of Youth Services may award
208 credits to each student who meets the requirements for a general
209 education development certification. The Division of Youth
210 Services must also provide to each special education eligible
211 youth the services required by that youth's individualized
212 education plan.

213 (10) There is created a study committee to determine what
214 entity should be responsible for providing the educational
215 services within detention centers to ensure that detained youth
216 receive adequate educational services. The study is also to
217 include, but is not limited to, the examination of the costs of
218 providing such educational services. The study committee shall
219 consist of the following ten (10) members:

220 (a) The Chairperson of the House of Representatives of
221 the Juvenile Justice Committee;

222 (b) The Chairperson of the Senate Judiciary B
223 Committee;

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

226 (d) The Chairperson of the Senate Education Committee
227 or his or her designee;

228 (e) Three (3) members from the House of
229 Representatives, appointed by the Chairperson of the Juvenile
230 Justice Committee; and

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

233 At its first meeting the study committee shall elect a
234 chairperson and vice chairperson from its membership and shall
235 adopt rules for transacting its business and keeping its records.

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

238 (11) The Department of Human Services Division of Youth
239 Services shall establish, operate and maintain the Mississippi
240 Youth Build Program located at 2605 Livingston Road in Jackson,
241 Mississippi. Delinquent youth eligible for placement at Oakley
242 and Columbia Training Schools may be court-ordered into the
243 Mississippi Youth Build Program. The program shall provide
244 rehabilitation services to delinquent youth, including, but not
245 limited to, construction education, trade and job skills, GED
246 education, counseling and job placement. The department may
247 expend funds appropriated therefor by the Legislature for the
248 establishment, operation and maintenance of the program and may
249 expend federal work force development funds for this purpose.

250 **SECTION 2.** This act shall take effect and be in force from
251 and after July 1, 2007.