

Senate Amendments to House Bill No. 526

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

6 **SECTION 1.** Section 43-21-261, Mississippi Code of 1972, is
7 amended as follows:

8 43-21-261. (1) Except as otherwise provided in this
9 section, records involving children shall not be disclosed, other
10 than to necessary staff of the youth court, except pursuant to an
11 order of the youth court specifying the person or persons to whom
12 the records may be disclosed, the extent of the records which may
13 be disclosed and the purpose of the disclosure. Such court orders
14 for disclosure shall be limited to those instances in which the
15 youth court concludes, in its discretion, that disclosure is
16 required for the best interests of the child, the public safety or
17 the functioning of the youth court and then only to the following
18 persons:

19 (a) The judge of another youth court or member of
20 another youth court staff;

21 (b) The court of the parties in a child custody or
22 adoption cause in another court;

23 (c) A judge of any other court or members of another
24 court staff;

25 (d) Representatives of a public or private agency
26 providing supervision or having custody of the child under order
27 of the youth court;

28 (e) Any person engaged in a bona fide research purpose,
29 provided that no information identifying the subject of the
30 records shall be made available to the researcher unless it is
31 absolutely essential to the research purpose and the judge gives

32 prior written approval, and the child, through his or her
33 representative, gives permission to release the information;

34 (f) The Mississippi Employment Security Commission, or
35 its duly authorized representatives, for the purpose of a child's
36 enrollment into the Job Corps Training Program as authorized by
37 Title IV of the Comprehensive Employment Training Act of 1973 (29
38 USCS Section 923 et seq.). However, no records, reports,
39 investigations or information derived therefrom pertaining to
40 child abuse or neglect shall be disclosed; and

41 (g) To any person pursuant to a finding by a judge of
42 the youth court of compelling circumstances affecting the health
43 or safety of a child and that such disclosure is in the best
44 interests of the child.

45 Law enforcement agencies may disclose information to the
46 public concerning the taking of a child into custody for the
47 commission of a delinquent act without the necessity of an order
48 from the youth court. The information released shall not identify
49 the child or his address unless the information involves a child
50 convicted as an adult.

51 (2) Any records involving children which are disclosed under
52 an order of the youth court or pursuant to the terms of this
53 section and the contents thereof shall be kept confidential by the
54 person or agency to whom the record is disclosed unless otherwise
55 provided in the order. Any further disclosure of any records
56 involving children shall be made only under an order of the youth
57 court as provided in this section.

58 (3) Upon request, the parent, guardian or custodian of the
59 child who is the subject of a youth court cause or any attorney
60 for such parent, guardian or custodian, shall have the right to
61 inspect any record, report or investigation which is to be
62 considered by the youth court at a hearing, except that the
63 identity of the reporter shall not be released, nor the name of
64 any other person where the person or agency making the information
65 available finds that disclosure of the information would be likely
66 to endanger the life or safety of such person.

67 (4) Upon request, the child who is the subject of a youth
68 court cause shall have the right to have his counsel inspect and
69 copy any record, report or investigation which is filed with the
70 youth court or which is to be considered by the youth court at a
71 hearing.

72 (5) (a) The youth court prosecutor or prosecutors, the
73 county attorney, the district attorney, the youth court defender
74 or defenders, or any attorney representing a child shall have the
75 right to inspect and copy any law enforcement record involving
76 children.

77 (b) The Department of Human Services shall disclose to
78 a county prosecuting attorney or district attorney any and all
79 records resulting from an investigation into suspected child abuse
80 or neglect when the case has been referred by the Department of
81 Human Services to the county prosecuting attorney or district
82 attorney for criminal prosecution.

83 (c) Agency records made confidential under the
84 provisions of this section may be disclosed to a court of
85 competent jurisdiction.

86 (6) Information concerning an investigation into a report of
87 child abuse or child neglect may be disclosed by the Department of
88 Human Services without order of the youth court to any attorney,
89 physician, dentist, intern, resident, nurse, psychologist, social
90 worker, family protection worker, family protection specialist,
91 child caregiver, minister, law enforcement officer, public or
92 private school employee making that report pursuant to Section
93 43-21-353(1) if the reporter has a continuing professional
94 relationship with the child and a need for such information in
95 order to protect or treat the child.

96 (7) Information concerning an investigation into a report of
97 child abuse or child neglect may be disclosed without further
98 order of the youth court to any interagency child abuse task force
99 established in any county or municipality by order of the youth
100 court of that county or municipality.

101 (8) Names and addresses of juveniles twice adjudicated as
102 delinquent for an act which would be a felony if committed by an
103 adult or for the unlawful possession of a firearm shall not be
104 held confidential and shall be made available to the public.

105 (9) Names and addresses of juveniles adjudicated as
106 delinquent for murder, manslaughter, burglary, arson, armed
107 robbery, aggravated assault, any sex offense as defined in Section
108 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
109 violation of Section 63-11-30, shall not be held confidential and
110 shall be made available to the public.

111 (10) The judges of the circuit and county courts, and
112 presentence investigators for the circuit courts, as provided in
113 Section 47-7-9, shall have the right to inspect any youth court
114 records of a person convicted of a crime for sentencing purposes
115 only.

116 (11) The victim of an offense committed by a child who is
117 the subject of a youth court cause shall have the right to be
118 informed of the child's disposition by the youth court.

119 (12) A classification hearing officer of the State
120 Department of Corrections, as provided in Section 47-5-103, shall
121 have the right to inspect any youth court records, excluding abuse
122 and neglect records, of any offender in the custody of the
123 department who as a child or minor was a juvenile offender or was
124 the subject of a youth court cause of action, and the State Parole
125 Board, as provided in Section 47-7-17, shall have the right to
126 inspect such records when the offender becomes eligible for
127 parole.

128 (13) The youth court shall notify the Department of Public
129 Safety of the name, and any other identifying information such
130 department may require, of any child who is adjudicated delinquent
131 as a result of a violation of the Uniform Controlled Substances
132 Law.

133 (14) The Administrative Office of Courts shall have the
134 right to inspect any youth court records in order that the number
135 of youthful offenders, abused, neglected, truant and dependent

136 children, as well as children in need of special care and children
137 in need of supervision, may be tracked with specificity through
138 the youth court and adult justice system, and to utilize tracking
139 forms for such purpose.

140 (15) Upon a request by a youth court, the Administrative
141 Office of Courts shall disclose all information at its disposal
142 concerning any previous youth court intakes alleging that a child
143 was a delinquent child, child in need of supervision, child in
144 need of special care, truant child, abused child or neglected
145 child, as well as any previous youth court adjudications for the
146 same and all dispositional information concerning a child who at
147 the time of such request comes under the jurisdiction of the youth
148 court making such request.

149 (16) In every case where an abuse or neglect allegation has
150 been made, the confidentiality provisions of this section shall
151 not apply to prohibit access to a child's records by any state
152 regulatory agency, any state or local prosecutorial agency or law
153 enforcement agency; however, no identifying information concerning
154 the child in question may be released to the public by such agency
155 except as otherwise provided herein.

156 (17) In every case where there is any indication or
157 suggestion of either abuse or neglect and a child's physical
158 condition is medically labeled as medically "serious" or
159 "critical" or a child dies, the confidentiality provisions of this
160 section shall not apply. In cases of child deaths, the following
161 information may be released by the Mississippi Department of Human
162 Services: (a) child's name; (b) address or location; (c)
163 verification from the Department of Human Services of case status
164 (no case or involvement, case exists, open or active case, case
165 closed); (d) if a case exists, the type of report or case
166 (physical abuse, neglect, etc.), date of intake(s) and
167 investigation(s), and case disposition (substantiated or
168 unsubstantiated). Notwithstanding the aforesaid, the
169 confidentiality provisions of this section shall continue if there

170 is a pending or planned investigation by any local, state or
171 federal governmental agency or institution.

172 (18) Any member of a foster care review board designated by
173 the Department of Human Services shall have the right to inspect
174 youth court records relating to the abuse, neglect or child in
175 need of supervision cases assigned to such member for review.

176 (19) Information concerning an investigation into a report
177 of child abuse or child neglect may be disclosed without further
178 order of the youth court in any administrative or due process
179 hearing held, pursuant to Section 43-21-257, by the Department of
180 Human Services for individuals whose names will be placed on the
181 central registry as substantiated perpetrators.

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 43-21-261, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE ATTORNEY FOR A CHILD SHALL HAVE THE RIGHT TO
3 COPY RECORDS, REPORTS OR INVESTIGATIONS THAT ARE TO BE CONSIDERED
4 BY THE YOUTH COURT FOR A HEARING; AND FOR RELATED PURPOSES.

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John O. Gilbert
Secretary of the Senate