

By: Representatives Coleman, Henley, Dixon,
Hines

To: Education; Youth and
Family Affairs

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1481

1 AN ACT TO CREATE THE MISSISSIPPI JUVENILE DETENTION
2 FACILITIES LICENSING ACT; TO PROVIDE CERTAIN DEFINITIONS; TO
3 PRESCRIBE CERTAIN DUTIES OF THE JUVENILE FACILITIES MONITORING
4 UNIT IN ITS ROLE AS A LICENSING AGENCY; TO REQUIRE THE DEPARTMENT
5 OF EDUCATION TO PROMULGATE CERTAIN RULES AS THEY PERTAIN TO THE
6 EDUCATION OF CHILDREN HOUSED IN JUVENILE DETENTION FACILITIES; TO
7 PROVIDE THAT JUVENILE DETENTION FACILITIES MUST HAVE A LICENSE TO
8 OPERATE AS OF OCTOBER OF 2017; TO REQUIRE THE LICENSING AGENCY TO
9 MAKE INSPECTIONS; TO PROVIDE A HEARING AND APPEALS PROCESS IF A
10 JUVENILE DETENTION FACILITY'S LICENSE IS SUSPENDED, REVOKED OR
11 RESTRICTED; TO AMEND SECTION 43-21-321, MISSISSIPPI CODE OF 1972,
12 TO REMOVE CERTAIN MINIMUM STANDARDS FOR THE JUVENILE DETENTION
13 CENTER; TO AMEND SECTION 43-21-323, MISSISSIPPI CODE OF 1972, IN
14 CONFORMITY THERETO; TO PROVIDE THAT THE JUVENILE FACILITIES
15 MONITORING UNIT SHALL TRAIN JUVENILE DETENTION OFFICERS; TO
16 PROVIDE THAT NO STATEMENTS, ADMISSIONS OR CONFESSIONS OR
17 INCRIMINATING INFORMATION OBTAINED FROM A YOUTH DURING A SCREENING
18 OR ASSESSMENT SHALL BE ADMITTED INTO EVIDENCE AGAINST THE CHILD ON
19 THE ISSUE OF WHETHER THE CHILD COMMITTED A DELINQUENT ACT; TO
20 AMEND SECTION 43-21-105, MISSISSIPPI CODE OF 1972, TO ADD THE
21 TERMS "ASSESSMENT" AND "SCREENING" UNDER THE YOUTH COURT LAW; TO
22 AMEND SECTION 43-21-559, MISSISSIPPI CODE OF 1972, TO PROHIBIT
23 STATEMENTS, ADMISSIONS OR CONFESSIONS FROM BEING ADMITTED INTO
24 EVIDENCE TO DETERMINE DELINQUENCY; TO AMEND SECTIONS 43-21-561 AND
25 43-21-603, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO
26 REQUIRE THAT LANGUAGE AND SIGN LANGUAGE INTERPRETATION SERVICES BE
27 PROVIDED FOR CERTAIN YOUTH AT JUVENILE DETENTION CENTERS; TO
28 PROVIDE DEFINITIONS; TO REQUIRE JUVENILE DETENTION CENTERS TO
29 ADOPT A POLICY PROVIDING FOR INTERPRETATION SERVICES FOR CERTAIN
30 YOUTH AT THE CENTERS; TO PROVIDE THAT INTERPRETERS SHALL BE MADE
31 AVAILABLE 24 HOURS A DAY TO ASSIST THE CENTERS; TO REQUIRE THE
32 CENTERS TO POST NOTICES ADVERTISING THE INTERPRETATION SERVICES
33 WITHIN THE DETENTION CENTERS; TO REQUIRE FUNDING FOR SUCH
34 SERVICES; AND FOR RELATED PURPOSES.



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

36 **SECTION 1.** Sections 1 through 8 of this act and Sections 11,
37 12 and 17 of this act shall be cited as the "Mississippi Juvenile
38 Detention Facilities Licensing Act."

39 **SECTION 2.** The purpose of this act is to protect and promote
40 the health and safety of the children who are detained in juvenile
41 detention centers in this state by providing for the licensing of
42 juvenile detention facilities as defined herein so as to assure
43 that certain minimum standards are maintained in such facilities.

44 **SECTION 3.** As used in this act, the following words shall
45 have the following meanings:

46 (a) "Facility administrator" means the principal
47 official of the facility.

48 (b) "Facility staff" means all employees of the
49 facility who are under the supervision of the facility
50 administrator.

51 (c) "Juvenile detention facility" and "facility" are
52 synonymous and each means a secure facility that house children
53 who are charged with a delinquent act as defined in Section
54 43-21-105(j).

55 (d) "Licensing agency" means the Juvenile Facilities
56 Monitoring Unit of the Department of Public Safety.

57 **SECTION 4.** (1) The licensing agency shall have the powers
58 and duties as set in this section, in addition to the other duties
59 prescribed by law:



60 (a) To adopt the licensing standards as set forth by
61 the Juvenile Detention and Alternatives Taskforce's 2014 report;

62 (b) To promulgate future rules and regulations
63 concerning the licensing and regulation of juvenile detention
64 facilities as defined under Section 1 of this act;

65 (c) To issue, deny, suspend, revoke, restrict, or
66 otherwise take disciplinary action against juvenile detention
67 facilities as provided for in this act;

68 (d) To provide the training required by the rules and
69 regulations promulgated by the licensing agency to all facility
70 administrators and facility staff; and

71 (e) To have such other powers as may be required to
72 carry out the provisions of this act.

73 (2) The licensing agency shall require to be performed a
74 criminal records background check and a child abuse registry check
75 for all facility administrators and facility staff of a juvenile
76 detention facility. The Department of Human Services shall have
77 the authority to disclose to the licensing agency any potential
78 applicant whose name is listed on the Child Abuse Central Registry
79 or has a pending administrative review. That information shall
80 remain confidential.

81 (3) The licensing agency shall have the authority to exclude
82 a particular crime or crimes or a substantiated finding of child
83 abuse or neglect as disqualifying individuals or entities for
84 prospective or current employment.



85 (4) Information in the possession of the licensing agency
86 concerning the license of a juvenile detention facility may be
87 disclosed to the public, except such information shall not be
88 disclosed in a manner that would identify children detained in the
89 juvenile detention facility. Nothing in this section shall affect
90 the agency's authority to release findings of investigations into
91 allegations of abuse pursuant to either Section 43-21-353(8) or
92 Section 43-21-257.

93 (5) The Mississippi Department of Education shall be
94 responsible for promulgating rules and regulations related to the
95 education of all children housed in a juvenile detention facility.
96 The Mississippi Department of Education shall conduct inspections
97 of the facility's educational services at least annually, and more
98 often as deemed necessary. After each inspection, the department
99 shall provide the licensing agency with its determination of the
100 facility's compliance with the education provisions. The
101 licensing agency shall use such information in its determination
102 of the facility's eligibility for licensure.

103 **SECTION 5.** Beginning October 1, 2016, the licensing agency
104 shall conduct mock reviews of all juvenile detention facilities
105 and determine what, if any, issues exist which may prevent
106 licensure pursuant to the adopted rules and regulations. From and
107 after October 1, 2017, no county or state entity shall establish,
108 own, operate, and maintain a juvenile detention facility without a
109 license issued under this act.



110 **SECTION 6.** A license issued under this act shall be renewed
111 every two (2) years based on the current rules and regulations
112 promulgated by the licensing agency.

113 **SECTION 7.** The licensing agency shall make inspections to
114 determine ongoing compliance with the laws and regulations
115 governing the licensure of juvenile detention facilities. Such
116 inspections shall be made at least twice a year, but additional
117 inspections may be made as often as deemed necessary by the
118 licensing agency. The licensing agency shall not be required to
119 provide any notice to the juvenile detention facility before
120 making an inspection.

121 **SECTION 8.** (1) The licensing agency may deny or refuse to
122 renew a license for any of the reasons set forth in subsection (3)
123 of this section.

124 (2) Before the licensing agency may deny or refuse to renew
125 a license, the county or contractor operating the juvenile
126 detention facility shall be entitled to a hearing before the
127 director of the licensing agency in order to show cause why the
128 license should not be denied or should be renewed.

129 (3) The licensing agency may suspend, revoke, or restrict
130 the license of any juvenile detention facility upon one or more of
131 the following grounds:

132 (a) Fraud, misrepresentation or concealment of material
133 facts;



134 (b) Violation of any of the provisions of this act or
135 any of the regulations governing the licensing and regulation of
136 juvenile detention facilities promulgated by the licensing agency;

137 (c) Any conduct, or failure to act that is found or
138 determined by the licensing agency to threaten the health and
139 safety of children at the facility;

140 (d) Failure of a juvenile detention facility to conduct
141 background checks as required under Section 5 of this act.

142 (e) Information that is received by the licensing
143 agency as a result of the criminal records background check and
144 the child abuse registry check on all facility administrators and
145 facility staff under Section 5 of this act.

146 (4) The licensing agency shall develop rules and regulations
147 related to the development and implementation of corrective action
148 plans to address violations at facilities prior to a revocation,
149 suspension, or restriction of the facility's license.

150 (5) Before the licensing agency may suspend, revoke or
151 restrict the license of any facility, the county or contractor
152 affected by that decision of the licensing agency shall be
153 entitled to a hearing before the director of licensing agency in
154 which it may show cause why the license should not be suspended,
155 revoked, or restricted.

156 (6) Any juvenile detention facility who disagrees with or is
157 aggrieved by the licensing agency in regard to the denial, refusal
158 to renew, suspension, revocation, or restriction of the license



159 for the juvenile detention facility may appeal to the chancery
160 court of the county in which the facility is located. The appeal
161 shall be filed no later than thirty (30) days after the licensee
162 receives written notice of the final administrative action by the
163 licensing agency.

164 **SECTION 9.** Section 43-21-321, Mississippi Code of 1972, is
165 amended as follows:

166 43-21-321. (1) * * * All juvenile detention centers shall
167 develop and implement policies and procedures that comply with the
168 regulations promulgated by the Juvenile Facilities Monitoring Unit
169 as part of their responsibility to license all juvenile detention
170 facilities that operate in the state.

171 * * *

172 (* * * 2) If a student's detention will cause him or her to
173 miss one or more days of school during the academic school year,
174 the detention center staff shall notify school district officials
175 where the detainee last attended school by the first school day
176 following the student's placement in the facility. Detention
177 center staff shall not disclose youth court records to the school
178 district, except as provided by Section 43-21-261.

179 (* * * 3) All juvenile detention centers shall adhere to the
180 following minimum standards:

181 (a) Each center shall have a manual that states the
182 policies and procedures for operating and maintaining the



183 facility, and the manual shall be reviewed annually and revised as
184 needed;

185 (b) Each center shall have a policy that specifies
186 support for a drug-free workplace for all employees, and the
187 policy shall, at a minimum, include the following:

188 (i) The prohibition of the use of illegal drugs;

189 (ii) The prohibition of the possession of any
190 illegal drugs except in the performance of official duties;

191 (iii) The procedure used to ensure compliance with
192 a drug-free workplace policy;

193 (iv) The opportunities available for the treatment
194 and counseling for drug abuse; and

195 (v) The penalties for violation of the drug-free
196 workplace policy; and

197 (c) Each center shall have a policy, procedure and
198 practice that ensures that personnel files and records are
199 current, accurate and confidential * * *.

200 * * *

201 (* * *4) Local school districts shall work collaboratively
202 with juvenile detention center staff to provide special education
203 services as required by state and federal law. Upon the written
204 request of the youth court judge for the county in which the
205 detention center is located, a local school district in the county
206 in which the detention center is located, or a private provider
207 agreed upon by the youth court judge and sponsoring school



208 district, shall provide a certified teacher to provide educational
209 services to detainees. The youth court judge shall designate the
210 school district which shall be defined as the sponsoring school
211 district. The local home school district shall be defined as the
212 school district where the detainee last attended prior to
213 detention. Teacher selection shall be in consultation with the
214 youth court judge. The Legislature shall annually appropriate
215 sufficient funds for the provision of educational services, as
216 provided under this section, to detainees in detention
217 centers * * *.

218 (* * * 5) The sponsoring school district, or a private
219 provider agreed upon by the youth court judge and sponsoring
220 school district, shall be responsible for providing the
221 instructional program for the detainee while in detention. After
222 forty-eight (48) hours of detention, excluding legal holidays and
223 weekends, the detainee shall receive the following services which
224 may be computer-based:

225 (* * * a) Diagnostic assessment of grade-level mastery
226 of reading and math skills;

227 (* * * b) Individualized instruction and practice to
228 address any weaknesses identified in the assessment conducted
229 under * * * paragraph (a) of this subsection, provided such
230 detainee is in the center for more than forty-eight (48) hours;
231 and



232 (* * *c) Character education to improve
233 behavior * * *.

234 (* * *6) No later than the tenth day of detention, the
235 detainee shall begin an extended detention education program. A
236 team consisting of a certified teacher provided by the local
237 sponsoring school district or a private provider agreed upon by
238 the youth court judge and sponsoring school district, the
239 appropriate official from the local home school district, and the
240 youth court counselor or representative will develop an
241 individualized education program for the detainee, where
242 appropriate as determined by the teacher of the sponsoring school
243 district, or a private provider agreed upon by the youth court
244 judge and sponsoring school district. The detainee's parent or
245 guardian shall participate on the team unless excused by the youth
246 court judge. Failure of any party to participate shall not delay
247 implementation of this education program * * *.

248 (* * *7) The sponsoring school district, or a private
249 provider agreed upon by the youth court judge and sponsoring
250 school district, shall provide the detention center with an
251 appropriate and adequate computer lab to serve detainees. The
252 Legislature shall annually appropriate sufficient funds to equip
253 and maintain the computer labs. The computer lab shall become the
254 property of the detention centers and the sponsoring school
255 districts shall maintain and update the labs * * *.



256 (* * *8) The Mississippi Department of Education will
257 collaborate with the appropriate state and local agencies,
258 juvenile detention centers and local school districts to ensure
259 the provision of educational services to every student placed in a
260 juvenile detention center. The Mississippi Department of
261 Education has the authority to develop and promulgate policies and
262 procedures regarding financial reimbursements to the sponsoring
263 school district from school districts that have students of record
264 or compulsory-school-age residing in said districts placed in a
265 youth detention center. Such services may include, but not be
266 limited to: assessment and math and reading instruction,
267 character education and behavioral counseling. The Mississippi
268 Department of Education shall work with the appropriate state and
269 local agencies, juvenile detention centers and local school
270 districts to annually determine the proposed costs for educational
271 services to youth placed in juvenile detention centers and
272 annually request sufficient funding for such services as
273 necessary * * *.

274 * * *

275 (* * *9) Juvenile detention centers shall ensure that
276 staffs create transition planning for youth leaving the
277 facilities. Plans shall include providing the youth and his or
278 her parents or guardian with copies of the youth's detention
279 center education and health records, information regarding the
280 youth's home community, referrals to mental and counseling



281 services when appropriate, and providing assistance in making
282 initial appointments with community service providers; the
283 transition team will work together to help the detainee
284 successfully transition back into the home school district once
285 released from detention. The transition team will consist of a
286 certified teacher provided by the local sponsoring school
287 district, or a private provider agreed upon by the youth court
288 judge and sponsoring school district, the appropriate official
289 from the local home school district, the school attendance officer
290 assigned to the local home school district, and the youth court
291 counselor or representative. The detainee's parent or guardian
292 shall participate on the team unless excused by the youth court
293 judge. Failure of any party to participate shall not delay
294 implementation of this education program * * *.

295 (* * *10) The Juvenile Detention Facilities Monitoring Unit
296 shall monitor the detention facilities for compliance with these
297 minimum standards, and no child shall be housed in a detention
298 facility the monitoring unit determines is substantially out of
299 compliance with the standards prescribed in this subsection.

300 * * *

301 **SECTION 10.** Section 43-21-323, Mississippi Code of 1972, is
302 amended as follows:

303 43-21-323. (1) There is established the Juvenile Detention
304 Facilities Monitoring Unit within the Department of Public Safety
305 to work in cooperation with the Council of Youth Court Judges and



306 Referees and the Juvenile Justice Advisory Committee described in
307 Sections 45-1-33 and 43-21-125, and which shall serve as the
308 licensing agency for juvenile detention facilities, as defined in
309 Section 3 of this act. The unit shall be responsible for
310 investigating, evaluating and securing the rights of children held
311 in juvenile justice facilities, including detention centers,
312 training schools and group homes throughout the state to ensure
313 that the facilities operate in compliance with national best
314 practices and state and federal law. The monitoring unit shall
315 only monitor group homes that serve as a dispositional placement
316 for delinquent youth pursuant to Section 43-21-605. Nothing in
317 this section shall be construed as giving the monitoring unit
318 authority to monitor foster care or shelter care placements. All
319 monitors shall be employees of the Department of Public Safety.
320 The inspections by the unit shall encompass the following:

321 (a) To review and evaluate (i) all procedures set by
322 detention centers, training schools and group homes and (ii) all
323 records containing information related to the operations of the
324 detention centers, training schools and group homes;

325 (b) To review and investigate all complaints filed with
326 the monitoring unit concerning children's treatment in detention
327 centers, training schools and group homes;

328 (c) To conduct quarterly monitoring visits of all
329 detention centers, training schools and group homes. The monitor



330 shall have access to an entire facility and shall conduct
331 confidential interviews with youth and facility staff;

332 (d) To advise a facility on how to meet the needs of
333 children who require immediate attention;

334 (e) To provide technical assistance and advice to
335 juvenile detention facilities, which will assist the facilities in
336 complying with state and federal law.

337 To carry out the duties in this subsection (1) a monitor may
338 consult with an administrator, employee, child, parent, expert or
339 other individual in the course of monitoring or investigating. In
340 addition, the monitor may review court documents and other
341 confidential records as necessary to fulfill these duties.

342 (2) Additional duties of the monitoring unit are as follows:

343 (a) To make available on a quarterly basis to the
344 Governor, Lieutenant Governor and each member of the Legislature
345 and each member of a county board of supervisors, a report that
346 describes:

347 (i) The work of the monitoring unit;

348 (ii) The results of any review or investigation
349 undertaken by the monitoring unit;

350 (iii) Any allegations of abuse or injury of a
351 child; and

352 (iv) Any problems concerning the administration of
353 a detention center.



354 The reports described in this subsection shall keep the names
355 of all children, parents and employees confidential.

356 (b) To promote awareness among the public and the
357 children held in detention by providing the following:

358 (i) How the monitoring unit may be contacted;

359 (ii) The purpose of the monitoring unit; and

360 (iii) The services that the monitoring unit
361 provides.

362 (3) The records of a monitor shall be confidential. Any
363 child, staff member, parent or other interested individual may
364 communicate to a monitor in person, by mail, by phone, or any
365 other means. All communications shall be kept confidential and
366 privileged, except that the youth court and the facility shall
367 have access to such records, but the identity of reporters shall
368 remain confidential.

369 **SECTION 11.** (1) No statements, admissions or confessions
370 made by or incrimination information obtained from a child in the
371 course of a screening or assessment that is undertaken in
372 conjunction with any proceedings under this act, including, but
373 not limited to, that which is court-ordered, shall be admitted
374 into evidence against the child on the issue of whether the child
375 committed a delinquent act under the Youth Court Act or on the
376 issue of guilt in any criminal proceedings.

377 (2) The provisions of subsection (1) of this section are in
378 addition to and do not override any existing statutory and



379 constitutional prohibition on the admission into evidence in
380 delinquency or criminal proceedings of information obtained during
381 screening, assessment or treatment.

382 **SECTION 12.** Section 43-21-105, Mississippi Code of 1972, is
383 amended as follows:

384 43-21-105. The following words and phrases, for purposes of
385 this chapter, shall have the meanings ascribed herein unless the
386 context clearly otherwise requires:

387 (a) "Youth court" means the Youth Court Division.

388 (b) "Judge" means the judge of the Youth Court
389 Division.

390 (c) "Designee" means any person that the judge appoints
391 to perform a duty which this chapter requires to be done by the
392 judge or his designee. The judge may not appoint a person who is
393 involved in law enforcement to be his designee.

394 (d) "Child" and "youth" are synonymous, and each means
395 a person who has not reached his eighteenth birthday. A child who
396 has not reached his eighteenth birthday and is on active duty for
397 a branch of the armed services or is married is not considered a
398 "child" or "youth" for the purposes of this chapter.

399 (e) "Parent" means the father or mother to whom the
400 child has been born, or the father or mother by whom the child has
401 been legally adopted.

402 (f) "Guardian" means a court-appointed guardian of the
403 person of a child.



404 (g) "Custodian" means any person having the present
405 care or custody of a child whether such person be a parent or
406 otherwise.

407 (h) "Legal custodian" means a court-appointed custodian
408 of the child.

409 (i) "Delinquent child" means a child who has reached
410 his tenth birthday and who has committed a delinquent act.

411 (j) "Delinquent act" is any act, which if committed by
412 an adult, is designated as a crime under state or federal law, or
413 municipal or county ordinance other than offenses punishable by
414 life imprisonment or death. A delinquent act includes escape from
415 lawful detention and violations of the Uniform Controlled
416 Substances Law and violent behavior.

417 (k) "Child in need of supervision" means a child who
418 has reached his seventh birthday and is in need of treatment or
419 rehabilitation because the child:

420 (i) Is habitually disobedient of reasonable and
421 lawful commands of his parent, guardian or custodian and is
422 ungovernable; or

423 (ii) While being required to attend school,
424 willfully and habitually violates the rules thereof or willfully
425 and habitually absents himself therefrom; or

426 (iii) Runs away from home without good cause; or

427 (iv) Has committed a delinquent act or acts.

428 (l) "Neglected child" means a child:



429 (i) Whose parent, guardian or custodian or any
430 person responsible for his care or support, neglects or refuses,
431 when able so to do, to provide for him proper and necessary care
432 or support, or education as required by law, or medical, surgical,
433 or other care necessary for his well-being; however, a parent who
434 withholds medical treatment from any child who in good faith is
435 under treatment by spiritual means alone through prayer in
436 accordance with the tenets and practices of a recognized church or
437 religious denomination by a duly accredited practitioner thereof
438 shall not, for that reason alone, be considered to be neglectful
439 under any provision of this chapter; or

440 (ii) Who is otherwise without proper care,
441 custody, supervision or support; or

442 (iii) Who, for any reason, lacks the special care
443 made necessary for him by reason of his mental condition, whether
444 the mental condition is having mental illness or having an
445 intellectual disability; or

446 (iv) Who, for any reason, lacks the care necessary
447 for his health, morals or well-being.

448 (m) "Abused child" means a child whose parent, guardian
449 or custodian or any person responsible for his care or support,
450 whether legally obligated to do so or not, has caused or allowed
451 to be caused, upon the child, sexual abuse, sexual exploitation,
452 emotional abuse, mental injury, nonaccidental physical injury or
453 other maltreatment. However, physical discipline, including



454 spanking, performed on a child by a parent, guardian or custodian
455 in a reasonable manner shall not be deemed abuse under this
456 section.

457 (n) "Sexual abuse" means obscene or pornographic
458 photographing, filming or depiction of children for commercial
459 purposes, or the rape, molestation, incest, prostitution or other
460 such forms of sexual exploitation of children under circumstances
461 which indicate that the child's health or welfare is harmed or
462 threatened.

463 (o) "A child in need of special care" means a child
464 with any mental or physical illness that cannot be treated with
465 the dispositional alternatives ordinarily available to the youth
466 court.

467 (p) A "dependent child" means any child who is not a
468 child in need of supervision, a delinquent child, an abused child
469 or a neglected child, and which child has been voluntarily placed
470 in the custody of the Department of Human Services by his parent,
471 guardian or custodian.

472 (q) "Custody" means the physical possession of the
473 child by any person.

474 (r) "Legal custody" means the legal status created by a
475 court order which gives the legal custodian the responsibilities
476 of physical possession of the child and the duty to provide him
477 with food, shelter, education and reasonable medical care, all



478 subject to residual rights and responsibilities of the parent or
479 guardian of the person.

480 (s) "Detention" means the care of children in
481 physically restrictive facilities.

482 (t) "Shelter" means care of children in physically
483 nonrestrictive facilities.

484 (u) "Records involving children" means any of the
485 following from which the child can be identified:

486 (i) All youth court records as defined in Section
487 43-21-251;

488 (ii) All social records as defined in Section
489 43-21-253;

490 (iii) All law enforcement records as defined in
491 Section 43-21-255;

492 (iv) All agency records as defined in Section
493 43-21-257; and

494 (v) All other documents maintained by any
495 representative of the state, county, municipality or other public
496 agency insofar as they relate to the apprehension, custody,
497 adjudication or disposition of a child who is the subject of a
498 youth court cause.

499 (v) "Any person responsible for care or support" means
500 the person who is providing for the child at a given time. This
501 term shall include, but is not limited to, stepparents, foster
502 parents, relatives, nonlicensed baby-sitters or other similar



503 persons responsible for a child and staff of residential care
504 facilities and group homes that are licensed by the Department of
505 Human Services.

506 (w) The singular includes the plural, the plural the
507 singular and the masculine the feminine when consistent with the
508 intent of this chapter.

509 (x) "Out-of-home" setting means the temporary
510 supervision or care of children by the staff of licensed day care
511 centers, the staff of public, private and state schools, the staff
512 of juvenile detention facilities, the staff of unlicensed
513 residential care facilities and group homes and the staff of, or
514 individuals representing, churches, civic or social organizations.

515 (y) "Durable legal custody" means the legal status
516 created by a court order which gives the durable legal custodian
517 the responsibilities of physical possession of the child and the
518 duty to provide him with care, nurture, welfare, food, shelter,
519 education and reasonable medical care. All these duties as
520 enumerated are subject to the residual rights and responsibilities
521 of the natural parent(s) or guardian(s) of the child or children.

522 (z) "Status offense" means conduct subject to
523 adjudication by the youth court that would not be a crime if
524 committed by an adult.

525 (aa) "Financially able" means a parent or child who is
526 ineligible for a court-appointed attorney.



527 (bb) "Assessment" means an individualized examination
528 of a child to determine the child's psychosocial needs and
529 problems, including the type and extent of any mental health,
530 substance abuse or co-occurring mental health and substance abuse
531 disorders and recommendations for treatment. The term includes,
532 but is not limited to, a drug and alcohol, psychological or
533 psychiatric evaluation, records review, clinical interview or the
534 administration of a formal test and instrument.

535 (cc) "Screening" means a process, with or without the
536 administration of a formal instrument, that is designed to
537 identify a child who is at increased risk of having mental health,
538 substance abuse or co-occurring mental health and substance abuse
539 disorders that warrant immediate attention, intervention or more
540 comprehensive assessment.

541 **SECTION 13.** Section 43-21-559, Mississippi Code of 1972, is
542 amended as follows:

543 43-21-559. (1) In arriving at its adjudicatory decision,
544 the youth court shall consider only evidence which has been
545 formally admitted at the adjudicatory hearing. All testimony
546 shall be under oath and may be in narrative form. In proceedings
547 to determine whether a child is a delinquent child or a child in
548 need of supervision, the youth court shall admit any evidence that
549 would be admissible in a criminal proceeding. In proceedings to
550 determine whether a child is a neglected child or an abused child,



551 the youth court shall admit any evidence that would be admissible
552 in a civil proceeding.

553 (2) An out-of-court admission by the child, even if
554 otherwise admissible, shall be insufficient to support an
555 adjudication that the child is a delinquent child unless the
556 admission is corroborated, in whole or in part, by other competent
557 evidence.

558 (3) Members of the youth court staff may appear as witnesses
559 except that no member of the youth court staff may testify as to
560 an admission or confession made to him.

561 (4) (a) No statements, admissions or confessions made by or
562 incriminatory information obtained from a child in the course of a
563 screening or assessment that is undertaken in conjunction with any
564 proceedings under this chapter, including, but not limited to,
565 that which is court-ordered, shall be admitted into evidence
566 against the child on the issue of whether the child committed a
567 delinquent act under this chapter or on the issue of guilt in any
568 criminal proceedings.

569 (b) The provisions of paragraph (a) of this subsection
570 are in addition to and do not override any existing statutory and
571 constitutional prohibition on the admission into evidence in
572 delinquency and criminal proceedings of information obtained
573 during screening, assessment or treatment.

574 **SECTION 14.** Section 43-21-561, Mississippi Code of 1972, is
575 amended as follows:



576 43-21-561. (1) If the youth court finds on proof beyond a
577 reasonable doubt that a child is a delinquent child or a child in
578 need of supervision, the youth court shall enter an order
579 adjudicating the child to be a delinquent child or a child in need
580 of supervision.

581 (2) Where the petition alleges that the child is a
582 delinquent child, the youth court may enter an order that the
583 child is a child in need of supervision on proof beyond a
584 reasonable doubt that the child is a child in need of supervision.

585 (3) If the court finds from a preponderance of the evidence
586 that the child is a neglected child, an abused child, a dependent
587 child or a child in need of special care the youth court shall
588 enter an order adjudicating the child to be a neglected child, an
589 abused child, dependent child or a child in need of special care.

590 (4) No decree or order of adjudication concerning any child
591 shall recite that a child has been found guilty; but it shall
592 recite that a child is found to be a delinquent child or a child
593 in need of supervision or a neglected child or an abused child or
594 a sexually abused child or a dependent child or a child in need of
595 special care. Upon a written motion by a party, the youth court
596 shall make written findings of fact and conclusions of law upon
597 which it relies for the adjudication that the child is a
598 delinquent child, a child in need of supervision, a neglected
599 child, an abused child, a dependent child or a child in need of
600 special care.



601 (5) No adjudication upon the status of any child shall
602 operate to impose any of the civil disabilities ordinarily imposed
603 on an adult because of a criminal conviction, nor shall any child
604 be deemed a criminal by reason of adjudication, nor shall that
605 adjudication be deemed a conviction. A person in whose interest
606 proceedings have been brought in the youth court may deny, without
607 any penalty, the existence of those proceedings and any
608 adjudication made in those proceedings. Except for the right of a
609 defendant or prosecutor in criminal proceedings and a respondent
610 or a youth court prosecutor in youth court proceedings to
611 cross-examine a witness, including a defendant or respondent, to
612 show bias or interest, no adjudication shall be used for
613 impeachment purposes in any court.

614 (6) (a) No statements, admissions or confessions made by or
615 incrimination information obtained from a child in the course of a
616 screening or assessment that is undertaken in conjunction with any
617 proceedings under this chapter, including, but not limited to,
618 that which is court-ordered, shall be admitted into evidence
619 against the child on the issue of whether the child committed a
620 delinquent act under this chapter or on the issue of guilt in any
621 criminal proceedings.

622 (b) The provisions of paragraph (a) of this subsection
623 are in addition to and do not override any existing statutory and
624 constitutional prohibition on the admission into evidence in



625 delinquency and criminal proceedings of information obtained
626 during screening, assessment or treatment.

627 **SECTION 15.** Section 43-21-603, Mississippi Code of 1972, is
628 amended as follows:

629 43-21-603. (1) At the beginning of each disposition
630 hearing, the judge shall inform the parties of the purpose of the
631 hearing.

632 (2) All testimony shall be under oath unless waived by all
633 parties and may be in narrative form. The court may consider any
634 evidence that is material and relevant to the disposition of the
635 cause, including hearsay and opinion evidence. At the conclusion
636 of the evidence, the youth court shall give the parties an
637 opportunity to present oral argument.

638 (3) If the child has been adjudicated a delinquent child,
639 before entering a disposition order, the youth court should
640 consider, among others, the following relevant factors:

- 641 (a) The nature of the offense;
- 642 (b) The manner in which the offense was committed;
- 643 (c) The nature and number of a child's prior
644 adjudicated offenses;
- 645 (d) The child's need for care and assistance;
- 646 (e) The child's current medical history, including
647 medication and diagnosis;



648 (f) The child's mental health history, which may
649 include, but not be limited to, the Massachusetts Youth Screening
650 Instrument version 2 (MAYSI-2);

651 (g) Copies of the child's cumulative record from the
652 last school of record, including special education records, if
653 applicable;

654 (h) Recommendation from the school of record based on
655 areas of remediation needed;

656 (i) Disciplinary records from the school of record; and

657 (j) Records of disciplinary actions outside of the
658 school setting.

659 (4) If the child has been adjudicated a child in need of
660 supervision, before entering a disposition order, the youth court
661 should consider, among others, the following relevant factors:

662 (a) The nature and history of the child's conduct;

663 (b) The family and home situation; and

664 (c) The child's need of care and assistance.

665 (5) If the child has been adjudicated a neglected child or
666 an abused child, before entering a disposition order, the youth
667 court shall consider, among others, the following relevant
668 factors:

669 (a) The child's physical and mental conditions;

670 (b) The child's need of assistance;



671 (c) The manner in which the parent, guardian or
672 custodian participated in, tolerated or condoned the abuse,
673 neglect or abandonment of the child;

674 (d) The ability of a child's parent, guardian or
675 custodian to provide proper supervision and care of a child; and

676 (e) Relevant testimony and recommendations, where
677 available, from the foster parent of the child, the grandparents
678 of the child, the guardian ad litem of the child, representatives
679 of any private care agency that has cared for the child, the
680 family protection worker or family protection specialist assigned
681 to the case, and any other relevant testimony pertaining to the
682 case.

683 (6) After consideration of all the evidence and the relevant
684 factors, the youth court shall enter a disposition order that
685 shall not recite any of the facts or circumstances upon which the
686 disposition is based, nor shall it recite that a child has been
687 found guilty; but it shall recite that a child is found to be a
688 delinquent child, a child in need of supervision, a neglected
689 child or an abused child.

690 (7) If the youth court orders that the custody or
691 supervision of a child who has been adjudicated abused or
692 neglected be placed with the Department of Human Services or any
693 other person or public or private agency, other than the child's
694 parent, guardian or custodian, the youth court shall find and the
695 disposition order shall recite that:



696 (a) (i) Reasonable efforts have been made to maintain
697 the child within his own home, but that the circumstances warrant
698 his removal and there is no reasonable alternative to custody; or

699 (ii) The circumstances are of such an emergency
700 nature that no reasonable efforts have been made to maintain the
701 child within his own home, and that there is no reasonable
702 alternative to custody; and

703 (b) That the effect of the continuation of the child's
704 residence within his own home would be contrary to the welfare of
705 the child and that the placement of the child in foster care is in
706 the best interests of the child; or

707 (c) Reasonable efforts to maintain the child within his
708 home shall not be required if the court determines that:

709 (i) The parent has subjected the child to
710 aggravated circumstances, including, but not limited to,
711 abandonment, torture, chronic abuse and sexual abuse; or

712 (ii) The parent has been convicted of murder of
713 another child of that parent, voluntary manslaughter of another
714 child of that parent, aided or abetted, attempted, conspired or
715 solicited to commit that murder or voluntary manslaughter, or a
716 felony assault that results in the serious bodily injury to the
717 surviving child or another child of that parent; or

718 (iii) The parental rights of the parent to a
719 sibling have been terminated involuntarily; and



720 (iv) That the effect of the continuation of the
721 child's residence within his own home would be contrary to the
722 welfare of the child and that placement of the child in foster
723 care is in the best interests of the child.

724 Once the reasonable efforts requirement is bypassed, the
725 court shall have a permanency hearing under Section 43-21-613
726 within thirty (30) days of the finding.

727 (8) Upon a written motion by a party, the youth court shall
728 make written findings of fact and conclusions of law upon which it
729 relies for the disposition order. If the disposition ordered by
730 the youth court includes placing the child in the custody of a
731 training school, an admission packet shall be prepared for the
732 child that contains the following information:

733 (a) The child's current medical history, including
734 medications and diagnosis;

735 (b) The child's mental health history;

736 (c) Copies of the child's cumulative record from the
737 last school of record, including special education records, if
738 reasonably available;

739 (d) Recommendation from the school of record based on
740 areas of remediation needed;

741 (e) Disciplinary records from the school of record; and

742 (f) Records of disciplinary actions outside of the
743 school setting, if reasonably available.



744 Only individuals who are permitted under the Health Insurance
745 Portability and Accountability Act of 1996 (HIPAA) shall have
746 access to a child's medical records which are contained in an
747 admission packet. The youth court shall provide the admission
748 packet to the training school at or before the child's arrival at
749 the training school. The admittance of any child to a training
750 school shall take place between the hours of 8:00 a.m. and 3:00
751 p.m. on designated admission days.

752 (9) When a child in the jurisdiction of the Youth Court is
753 committed to the custody of the Mississippi Department of Human
754 Services and is believed to be in need of treatment for a mental
755 or emotional disability or infirmity, the Department of Human
756 Services shall file an affidavit alleging that the child is in
757 need of mental health services with the Youth Court. The Youth
758 Court shall refer the child to the appropriate community mental
759 health center for evaluation pursuant to Section 41-21-67. If the
760 prescreening evaluation recommends residential care, the Youth
761 Court shall proceed with civil commitment pursuant to Sections
762 41-21-61 et seq., 43-21-315 and 43-21-611, and the Department of
763 Mental Health, once commitment is ordered, shall provide
764 appropriate care, treatment and services for at least as many
765 adolescents as were provided services in fiscal year 2004 in its
766 facilities.

767 (10) Any screening and assessment examinations ordered by
768 the court may aid in dispositions related to delinquency, but no



769 statements or admissions made during the course thereof may be
770 admitted into evidence against the child on the issue of whether
771 the child committed a delinquent act.

772 **SECTION 16.** Sections 1 through 8 and Section 11 of this act
773 shall be codified in Chapter 21, Title 43, Mississippi Code of
774 1972.

775 **SECTION 17.** This act shall take effect and be in force from
776 and after July 1, 2016.

