

By: Representatives Hood, Sykes

To: Youth and Family Affairs

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1484

1 AN ACT TO AMEND SECTION 43-21-105, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT A YOUTH COURT JUDGE MAY NOT DESIGNATE AN EMPLOYEE  
3 OF THE MISSISSIPPI DEPARTMENT OF HUMAN SERVICES AS HIS OR HER  
4 DESIGNEE; TO AMEND SECTION 43-21-257, MISSISSIPPI CODE OF 1972, TO  
5 REQUIRE THE ADMINISTRATIVE OFFICE OF COURTS, RATHER THAN THE  
6 OFFICE OF YOUTH SERVICES OF THE DEPARTMENT OF HUMAN SERVICES, TO  
7 MAINTAIN THE STATE CENTRAL REGISTRY OF YOUTH COURT CASES THROUGH  
8 THE MISSISSIPPI YOUTH COURT INFORMATION DELIVERY SYSTEM (MYCIDS);  
9 AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 43-21-105, Mississippi Code of 1972, is  
12 amended as follows:

13 43-21-105. The following words and phrases, for purposes of  
14 this chapter, shall have the meanings ascribed herein unless the  
15 context clearly otherwise requires:

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

17 (b) "Judge" means the judge of the Youth Court  
18 Division.

19 (c) "Designee" means any person that the judge appoints  
20 to perform a duty which this chapter requires to be done by the  
21 judge or his designee. The judge may not appoint a person who is



22 involved in law enforcement or who is an employee of the  
23 Mississippi Department of Human Servces to be his designee.

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

29 (e) "Parent" means the father or mother to whom the  
30 child has been born, or the father or mother by whom the child has  
31 been legally adopted.

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

34 (g) "Custodian" means any person having the present  
35 care or custody of a child whether such person be a parent or  
36 otherwise.

37 (h) "Legal custodian" means a court-appointed custodian  
38 of the child.

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

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



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

50 (i) Is habitually disobedient of reasonable and  
51 lawful commands of his parent, guardian or custodian and is  
52 ungovernable; or

53 (ii) While being required to attend school,  
54 willfully and habitually violates the rules thereof or willfully  
55 and habitually absents himself therefrom; or

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

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

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

59 (i) Whose parent, guardian or custodian or any  
60 person responsible for his care or support, neglects or refuses,  
61 when able so to do, to provide for him proper and necessary care  
62 or support, or education as required by law, or medical, surgical,  
63 or other care necessary for his well-being; however, a parent who  
64 withholds medical treatment from any child who in good faith is  
65 under treatment by spiritual means alone through prayer in  
66 accordance with the tenets and practices of a recognized church or  
67 religious denomination by a duly accredited practitioner thereof  
68 shall not, for that reason alone, be considered to be neglectful  
69 under any provision of this chapter; or

70 (ii) Who is otherwise without proper care,  
71 custody, supervision or support; or



72 (iii) Who, for any reason, lacks the special care  
73 made necessary for him by reason of his mental condition, whether  
74 the mental condition is having mental illness or having an  
75 intellectual disability; or

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

78 (m) "Abused child" means a child whose parent, guardian  
79 or custodian or any person responsible for his care or support,  
80 whether legally obligated to do so or not, has caused or allowed  
81 to be caused, upon the child, sexual abuse, sexual exploitation,  
82 emotional abuse, mental injury, nonaccidental physical injury or  
83 other maltreatment. However, physical discipline, including  
84 spanking, performed on a child by a parent, guardian or custodian  
85 in a reasonable manner shall not be deemed abuse under this  
86 section.

87 (n) "Sexual abuse" means obscene or pornographic  
88 photographing, filming or depiction of children for commercial  
89 purposes, or the rape, molestation, incest, prostitution or other  
90 such forms of sexual exploitation of children under circumstances  
91 which indicate that the child's health or welfare is harmed or  
92 threatened.

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



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

102           (q) "Custody" means the physical possession of the  
103 child by any person.

104           (r) "Legal custody" means the legal status created by a  
105 court order which gives the legal custodian the responsibilities  
106 of physical possession of the child and the duty to provide him  
107 with food, shelter, education and reasonable medical care, all  
108 subject to residual rights and responsibilities of the parent or  
109 guardian of the person.

110           (s) "Detention" means the care of children in  
111 physically restrictive facilities.

112           (t) "Shelter" means care of children in physically  
113 nonrestrictive facilities.

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

116           (i) All youth court records as defined in Section  
117 43-21-251;

118           (ii) All social records as defined in Section  
119 43-21-253;

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



122 (iv) All agency records as defined in Section  
123 43-21-257; and

124 (v) All other documents maintained by any  
125 representative of the state, county, municipality or other public  
126 agency insofar as they relate to the apprehension, custody,  
127 adjudication or disposition of a child who is the subject of a  
128 youth court cause.

129 (v) "Any person responsible for care or support" means  
130 the person who is providing for the child at a given time. This  
131 term shall include, but is not limited to, stepparents, foster  
132 parents, relatives, nonlicensed baby-sitters or other similar  
133 persons responsible for a child and staff of residential care  
134 facilities and group homes that are licensed by the Department of  
135 Human Services.

136 (w) The singular includes the plural, the plural the  
137 singular and the masculine the feminine when consistent with the  
138 intent of this chapter.

139 (x) "Out-of-home" setting means the temporary  
140 supervision or care of children by the staff of licensed day care  
141 centers, the staff of public, private and state schools, the staff  
142 of juvenile detention facilities, the staff of unlicensed  
143 residential care facilities and group homes and the staff of, or  
144 individuals representing, churches, civic or social organizations.

145 (y) "Durable legal custody" means the legal status  
146 created by a court order which gives the durable legal custodian



147 the responsibilities of physical possession of the child and the  
148 duty to provide him with care, nurture, welfare, food, shelter,  
149 education and reasonable medical care. All these duties as  
150 enumerated are subject to the residual rights and responsibilities  
151 of the natural parent(s) or guardian(s) of the child or children.

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

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

157 **SECTION 2.** Section 43-21-257, Mississippi Code of 1972, is  
158 amended as follows:

159 43-21-257. (1) Unless otherwise provided in this section,  
160 any record involving children, including valid and invalid  
161 complaints, and the contents thereof maintained by the Department  
162 of Human Services, or any other state agency, shall be kept  
163 confidential and shall not be disclosed except as provided in  
164 Section 43-21-261.

165 (2) The \* \* \* Administrative Office of Courts shall maintain  
166 a state central registry containing the number and disposition of  
167 all cases together with such other useful information regarding  
168 those cases as may be requested and is obtainable from the records  
169 of the youth court. \* \* \* The central registry files and the  
170 contents thereof shall be confidential and shall not be open to  
171 public inspection. Any person who discloses or encourages the



172 disclosure of any record involving children from the central  
173 registry shall be subject to the penalty in Section 43-21-267.  
174 The youth court shall furnish \* \* \* the necessary information  
175 needed by the Administrative Office of Courts, through the  
176 Mississippi Youth Court Information Delivery System (MYCIDS) or  
177 other forms, and these completed forms shall be forwarded to the  
178 Administrative Office of Courts.

179 (3) The Department of Human Services shall maintain a state  
180 central registry on neglect and abuse cases containing (a) the  
181 name, address and age of each child, (b) the nature of the harm  
182 reported, (c) the name and address of the person responsible for  
183 the care of the child, and (d) the name and address of the  
184 substantiated perpetrator of the harm reported. "Substantiated  
185 perpetrator" shall be defined as an individual who has committed  
186 an act(s) of sexual abuse or physical abuse that would otherwise  
187 be deemed as a felony or any child neglect that would be deemed as  
188 a threat to life, as determined upon investigation by the Office  
189 of Family and Children's Services. "Substantiation" for the  
190 purposes of the Mississippi Department of Human Services Central  
191 Registry shall require a criminal conviction or an adjudication by  
192 a youth court judge or court of competent jurisdiction, ordering  
193 that the name of the perpetrator be listed on the central  
194 registry, pending due process. The Department of Human Services  
195 shall adopt such rules and administrative procedures, especially  
196 those procedures to afford due process to individuals who have





197 been named as substantiated perpetrators before the release of  
198 their name from the central registry, as may be necessary to carry  
199 out this subsection. The central registry shall be confidential  
200 and shall not be open to public inspection. Any person who  
201 discloses or encourages the disclosure of any record involving  
202 children from the central registry without following the rules and  
203 administrative procedures of the department shall be subject to  
204 the penalty in Section 43-21-267. The Department of Human  
205 Services and its employees are exempt from any civil liability as  
206 a result of any action taken pursuant to the compilation and/or  
207 release of information on the central registry under this section  
208 and any other applicable section of the code, unless determined  
209 that an employee has willfully and maliciously violated the rules  
210 and administrative procedures of the department, pertaining to the  
211 central registry or any section of this code. If an employee is  
212 determined to have willfully and maliciously performed such a  
213 violation, said employee shall not be exempt from civil liability  
214 in this regard.

215 (4) The Mississippi State Department of Health may release  
216 the findings of investigations into allegations of abuse within  
217 licensed day care centers made under the provisions of Section  
218 43-21-353(8) to any parent of a child who is enrolled in the day  
219 care center at the time of the alleged abuse or at the time the  
220 request for information is made. The findings of any such  
221 investigation may also be released to parents who are considering



222 placing children in the day care center. No information  
223 concerning those investigations may contain the names or  
224 identifying information of individual children.

225 The Department of Health shall not be held civilly liable for  
226 the release of information on any findings, recommendations or  
227 actions taken pursuant to investigations of abuse that have been  
228 conducted under Section 43-21-353(8).

229 **SECTION 3.** This act shall take effect and be in force from  
230 and after July 1, 2016.

