

By: Representative Baria

To: Youth and Family  
Affairs; Judiciary B

HOUSE BILL NO. 1215

1 AN ACT TO AMEND SECTION 43-21-203, MISSISSIPPI CODE OF 1972,  
2 TO REMOVE THE EXCEPTION THAT PROHIBITS YOUTH COURTS FROM UTILIZING  
3 COURT REPORTERS IN DETENTION AND SHELTER HEARINGS; TO AMEND  
4 SECTION 43-21-309, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE  
5 PRECEDING SECTION; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 43-21-203, Mississippi Code of 1972, is  
8 amended as follows:

9 43-21-203. (1) The youth court shall be in session at all  
10 times.

11 (2) All cases involving children shall be heard at any place  
12 the judge deems suitable but separately from the trial of cases  
13 involving adults.

14 (3) Hearings in all cases involving children shall be  
15 conducted without a jury and may be recessed from time to time.

16 (4) All hearings shall be conducted under such rules of  
17 evidence and rules of court as may comply with applicable  
18 constitutional standards.



19 (5) No proceeding by the youth court in cases involving  
20 children shall be a criminal proceeding but shall be entirely of a  
21 civil nature.

22 (6) The general public shall be excluded from the hearing,  
23 and only those persons shall be admitted who are found by the  
24 youth court to have a direct interest in the cause or work of the  
25 youth court. Any person found by the youth court to have a direct  
26 interest in the cause shall have the right to appear and be  
27 represented by legal counsel.

28 (7) In all hearings, \* \* \* including detention and shelter  
29 hearings under Section 43-21-309, a complete record of all  
30 evidence shall be taken by stenographic reporting, by mechanical  
31 or electronic device or by some combination thereof.

32 (8) The youth court may exclude the attendance of a child  
33 from a hearing in neglect and abuse cases with consent of the  
34 child's counsel. The youth court may exclude the attendance of a  
35 child from any portion of a disposition hearing that would be  
36 injurious to the best interest of the child in delinquency and  
37 children in need of supervision cases with consent of the child's  
38 counsel.

39 (9) All parties to a youth court cause shall have the right  
40 at any hearing in which an investigation, record or report is  
41 admitted in evidence:

42 (a) To subpoena, confront and examine the person who  
43 prepared or furnished data for the report; and



44           (b) To introduce evidence controverting the contents of  
45 the report.

46           (10) Except as provided by Section 43-21-561(5) or as  
47 otherwise provided by this chapter, the disposition of a child's  
48 cause or any evidence given in the youth court in any proceedings  
49 concerning the child shall not be admissible against the child in  
50 any case or proceeding in any court other than a youth court.

51           **SECTION 2.** Section 43-21-309, Mississippi Code of 1972, is  
52 amended as follows:

53           43-21-309. (1) A child who has been ordered or taken into  
54 custody may be held in custody for longer than temporary custody  
55 if:

56                   (a) A written complaint or petition has been filed; and

57                   (b) A court order has been entered for continued  
58 custody following a review of that custody at a detention hearing  
59 in delinquency and child in need of supervision cases and at a  
60 shelter hearing in abuse and neglect cases.

61           (2) Reasonable oral or written notice of the time, place and  
62 purpose of the hearing shall be given to the child; to his or her  
63 parent, guardian or custodian; to his or her guardian ad litem, if  
64 any; and to his or her counsel. If the parent, guardian or  
65 custodian cannot be found, the youth court may hold the hearing in  
66 the absence of the child's parent, guardian or custodian.

67           (3) At the detention or shelter hearing, all parties present  
68 shall have the right to present evidence and cross-examine



69 witnesses produced by others. The youth court may, in its  
70 discretion, limit the extent but not the right or presentation of  
71 evidence and cross-examination of witnesses. The youth court may  
72 receive any testimony and other evidence relevant to the necessity  
73 for the continued custody of the child without regard to the  
74 formal rules of evidence, including hearsay and opinion evidence.  
75 All testimony shall be made under oath and may be in narrative  
76 form, and a complete record of all evidence shall be taken by  
77 stenographic reporting, by mechanical or electronic device or by  
78 some combination thereof.

79 (4) (a) At the conclusion of the detention or shelter  
80 hearing, the youth court shall order that the child be released to  
81 the custody of the child's parent, guardian or custodian unless  
82 the youth court finds and the detention or shelter hearing order  
83 recites that:

84 (i) There is probable cause that the youth court  
85 has jurisdiction; and

86 (ii) Custody is necessary as defined in Section  
87 43-21-301(3)(b).

88 (b) In the case of a shelter hearing, the shelter  
89 hearing order shall further recite that the effect of the  
90 continuation of the child's residing within his or her own home  
91 would be contrary to the welfare of the child, that the placement  
92 of the child in foster care is in the best interest of the child,



93 and, unless the reasonable efforts requirement is bypassed under  
94 Section 43-21-603(7)(c), the order also must state:

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

98 (ii) The circumstances are of such an emergency  
99 nature that no reasonable efforts have been made to maintain the  
100 child within his own home, and there is no reasonable alternative  
101 to custody.

102 (c) In the event that the court makes a finding in  
103 accordance with subparagraph (ii), the court shall order that  
104 reasonable efforts be made towards the reunification of the child  
105 with his or her family.

106 (5) The child with advice of counsel may waive in writing  
107 the time of the detention hearing or the detention hearing itself.  
108 The child's guardian ad litem, and parent, guardian or custodian,  
109 and child may waive in writing the time of the shelter hearing or  
110 the shelter hearing itself. If the child has not reached his  
111 tenth birthday, the child's consent shall not be required.

112 (6) Any order placing a child into custody shall comply with  
113 the requirements provided in Section 43-21-301.

114 **SECTION 3.** This act shall take effect and be in force from  
115 and after July 1, 2017.

