

By: Representative Ladner

To: Youth and Family
Affairs; Judiciary B

HOUSE BILL NO. 973

1 AN ACT TO AMEND SECTION 43-21-203, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ANY YOUTH COURT HEARING SHALL BE OPEN TO THE NEWS
3 MEDIA; TO PROHIBIT SUCH MEDIA FROM USING THE NAME OF ANY CHILD IN
4 ANY NEWS REPORT CONCERNING ANY YOUTH COURT HEARING; TO AMEND
5 SECTION 43-21-261, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
6 YOUTH COURT TO DISCLOSE CERTAIN YOUTH COURT RECORDS TO THE NEWS
7 MEDIA UNDER CERTAIN CONDITIONS; AND FOR RELATED PURPOSES.

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

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

11 43-21-203. (1) The youth court shall be in session at all
12 times.

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

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

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



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

24 (6) Except as otherwise provided in this section, the
25 general public shall be excluded from the hearing, and only those
26 persons shall be admitted who are found by the youth court to have
27 a direct interest in the cause or work of the youth court. Any
28 person found by the youth court to have a direct interest in the
29 cause shall have the right to appear and be represented by legal
30 counsel.

31 (7) All hearings shall be open to the news media; however,
32 any reporting conducted by the news media concerning a youth court
33 hearing shall not include the name of any child in any report. As
34 used under this subsection, "news media" means bona fide radio and
35 television stations, newspapers, journals or magazines or bona
36 fide news bureaus or associations which in turn furnish
37 information solely to bona fide radio or television stations,
38 newspapers, journals or magazines.

39 (* * *8) In all hearings, except detention and shelter
40 hearings under Section 43-21-309, a complete record of all
41 evidence shall be taken by stenographic reporting, by mechanical
42 or electronic device or by some combination thereof.

43 (* * *9) The youth court may exclude the attendance of a
44 child from a hearing in neglect and abuse cases with consent of
45 the child's counsel. The youth court may exclude the attendance



46 of a child from any portion of a disposition hearing that would be
47 injurious to the best interest of the child in delinquency and
48 children in need of supervision cases with consent of the child's
49 counsel.

50 (* * *10) All parties to a youth court cause shall have the
51 right at any hearing in which an investigation, record or report
52 is admitted in evidence:

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

55 (b) To introduce evidence controverting the contents of
56 the report.

57 (* * *11) Except as provided by Section 43-21-561(5) or as
58 otherwise provided by this chapter, the disposition of a child's
59 cause or any evidence given in the youth court in any proceedings
60 concerning the child shall not be admissible against the child in
61 any case or proceeding in any court other than a youth court.

62 **SECTION 2.** Section 43-21-261, Mississippi Code of 1972, is
63 amended as follows:

64 43-21-261. (1) Except as otherwise provided in this
65 section, records involving children shall not be disclosed, other
66 than to necessary staff of the youth court or a Court-Appointed
67 Special Advocate (CASA) volunteer that may be assigned in an abuse
68 and neglect case, except pursuant to an order of the youth court
69 specifying the person or persons to whom the records may be
70 disclosed, the extent of the records which may be disclosed and



71 the purpose of the disclosure. Such court orders for disclosure
72 shall be limited to those instances in which the youth court
73 concludes, in its discretion, that disclosure is required for the
74 best interests of the child, the public safety or the functioning
75 of the youth court and then only to the following persons:

76 (a) The judge of another youth court or member of
77 another youth court staff;

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

80 (c) A judge of any other court or members of another
81 court staff;

82 (d) Representatives of a public or private agency
83 providing supervision or having custody of the child under order
84 of the youth court;

85 (e) Any person engaged in a bona fide research purpose,
86 provided that no information identifying the subject of the
87 records shall be made available to the researcher unless it is
88 absolutely essential to the research purpose and the judge gives
89 prior written approval, and the child, through his or her
90 representative, gives permission to release the information;

91 (f) The Mississippi Department of Employment Security,
92 or its duly authorized representatives, for the purpose of a
93 child's enrollment into the Job Corps Training Program as
94 authorized by Title IV of the Comprehensive Employment Training
95 Act of 1973 (29 USCS Section 923 et seq.). However, no records,



96 reports, investigations or information derived therefrom
97 pertaining to child abuse or neglect shall be disclosed;

98 (g) To any person pursuant to a finding by a judge of
99 the youth court of compelling circumstances affecting the health,
100 safety or well-being of a child and that such disclosure is in the
101 best interests of the child or an adult who was formerly the
102 subject of a youth court delinquency proceeding * * *; and

103 (h) To any news media in any case where an abuse or
104 neglect allegation has been made concerning the abuse or neglect
105 allegation of a child, as long as the name of any child is
106 redacted from the records. If the child's records are released,
107 as prescribed under this paragraph, then the records shall be
108 provided at cost to the news media. The term "news media" shall
109 have the same meaning as prescribed under Section 43-21-203 (7).

110 Law enforcement agencies may disclose information to the
111 public concerning the taking of a child into custody for the
112 commission of a delinquent act without the necessity of an order
113 from the youth court. The information released shall not identify
114 the child or his address unless the information involves a child
115 convicted as an adult.

116 (2) Any records involving children which are disclosed under
117 an order of the youth court or pursuant to the terms of this
118 section and the contents thereof shall be kept confidential by the
119 person or agency to whom the record is disclosed unless otherwise
120 provided in the order. Any further disclosure of any records



121 involving children shall be made only under an order of the youth
122 court as provided in this section.

123 (3) Upon request, the parent, guardian or custodian of the
124 child who is the subject of a youth court cause or any attorney
125 for such parent, guardian or custodian, shall have the right to
126 inspect any record, report or investigation which is to be
127 considered by the youth court at a hearing, except that the
128 identity of the reporter shall not be released, nor the name of
129 any other person where the person or agency making the information
130 available finds that disclosure of the information would be likely
131 to endanger the life or safety of such person. The attorney for
132 the parent, guardian or custodian of the child, upon request,
133 shall be provided a copy of any record, report or investigation,
134 that is to be considered by the youth court at a hearing, but the
135 identity of the reporter must be redacted and the name of any
136 other person must also be redacted if the person or agency making
137 the information available finds that disclosure of the information
138 would be likely to endanger the life, safety or well-being of the
139 person. A record provided to the attorney under this section,
140 must remain in the attorney's control and the attorney may not
141 provide copies or access to another person or entity without prior
142 consent of a court with appropriate jurisdiction.

143 (4) Upon request, the child who is the subject of a youth
144 court cause shall have the right to have his counsel inspect and
145 copy any record, report or investigation which is filed with the



146 youth court or which is to be considered by the youth court at a
147 hearing.

148 (5) (a) The youth court prosecutor or prosecutors, the
149 county attorney, the district attorney, the youth court defender
150 or defenders, or any attorney representing a child shall have the
151 right to inspect and copy any law enforcement record involving
152 children.

153 (b) The Department of Human Services shall disclose to
154 a county prosecuting attorney or district attorney any and all
155 records resulting from an investigation into suspected child abuse
156 or neglect when the case has been referred by the Department of
157 Human Services to the county prosecuting attorney or district
158 attorney for criminal prosecution.

159 (c) Agency records made confidential under the
160 provisions of this section may be disclosed to a court of
161 competent jurisdiction.

162 (d) Records involving children shall be disclosed to
163 the Division of Victim Compensation of the Office of the Attorney
164 General upon the division's request without order of the youth
165 court for purposes of determination of eligibility for victim
166 compensation benefits.

167 (6) Information concerning an investigation into a report of
168 child abuse or child neglect may be disclosed by the Department of
169 Human Services without order of the youth court to any attorney,
170 physician, dentist, intern, resident, nurse, psychologist, social



171 worker, family protection worker, family protection specialist,
172 child caregiver, minister, law enforcement officer, public or
173 private school employee making that report pursuant to Section
174 43-21-353(1) if the reporter has a continuing professional
175 relationship with the child and a need for such information in
176 order to protect or treat the child.

177 (7) Information concerning an investigation into a report of
178 child abuse or child neglect may be disclosed without further
179 order of the youth court to any interagency child abuse task force
180 established in any county or municipality by order of the youth
181 court of that county or municipality.

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

186 (9) Names and addresses of juveniles adjudicated as
187 delinquent for murder, manslaughter, burglary, arson, armed
188 robbery, aggravated assault, any sex offense as defined in Section
189 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
190 violation of Section 63-11-30, shall not be held confidential and
191 shall be made available to the public.

192 (10) The judges of the circuit and county courts, and
193 presentence investigators for the circuit courts, as provided in
194 Section 47-7-9, shall have the right to inspect any youth court



195 records of a person convicted of a crime for sentencing purposes
196 only.

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

200 (12) A classification hearing officer of the State
201 Department of Corrections, as provided in Section 47-5-103, shall
202 have the right to inspect any youth court records, excluding abuse
203 and neglect records, of any offender in the custody of the
204 department who as a child or minor was a juvenile offender or was
205 the subject of a youth court cause of action, and the State Parole
206 Board, as provided in Section 47-7-17, shall have the right to
207 inspect such records when the offender becomes eligible for
208 parole.

209 (13) The youth court shall notify the Department of Public
210 Safety of the name, and any other identifying information such
211 department may require, of any child who is adjudicated delinquent
212 as a result of a violation of the Uniform Controlled Substances
213 Law.

214 (14) The Administrative Office of Courts shall have the
215 right to inspect any youth court records in order that the number
216 of youthful offenders, abused, neglected, truant and dependent
217 children, as well as children in need of special care and children
218 in need of supervision, may be tracked with specificity through



219 the youth court and adult justice system, and to utilize tracking
220 forms for such purpose.

221 (15) Upon a request by a youth court, the Administrative
222 Office of Courts shall disclose all information at its disposal
223 concerning any previous youth court intakes alleging that a child
224 was a delinquent child, child in need of supervision, child in
225 need of special care, truant child, abused child or neglected
226 child, as well as any previous youth court adjudications for the
227 same and all dispositional information concerning a child who at
228 the time of such request comes under the jurisdiction of the youth
229 court making such request.

230 (16) The Administrative Office of Courts may, in its
231 discretion, disclose to the Department of Public Safety any or all
232 of the information involving children contained in the office's
233 youth court data management system known as Mississippi Youth
234 Court Information Delivery System or "MYCIDS."

235 (17) The youth courts of the state shall disclose to the
236 Joint Legislative Committee on Performance Evaluation and
237 Expenditure Review (PEER) any youth court records in order that
238 the number of youthful offenders, abused, neglected, truant and
239 dependent children, as well as children in need of special care
240 and children in need of supervision, may be tracked with
241 specificity through the youth court and adult justice system, and
242 to utilize tracking forms for such purpose. The disclosure
243 prescribed in this subsection shall not require a court order and



244 shall be made in sortable, electronic format where possible. The
245 PEER Committee may seek the assistance of the Administrative
246 Office of Courts in seeking this information. The PEER Committee
247 shall not disclose the identities of any youth who have been
248 adjudicated in the youth courts of the state and shall only use
249 the disclosed information for the purpose of monitoring the
250 effectiveness and efficiency of programs established to assist
251 adjudicated youth, and to ascertain the incidence of adjudicated
252 youth who become adult offenders.

253 (18) In every case where an abuse or neglect allegation has
254 been made, the confidentiality provisions of this section shall
255 not apply to prohibit access to a child's records by any state
256 regulatory agency, any state or local prosecutorial agency or law
257 enforcement agency; however, no identifying information concerning
258 the child in question may be released to the public by such agency
259 except as otherwise provided herein.

260 (19) In every case where there is any indication or
261 suggestion of either abuse or neglect and a child's physical
262 condition is medically labeled as medically "serious" or
263 "critical" or a child dies, the confidentiality provisions of this
264 section shall not apply. In cases of child deaths, the following
265 information may be released by the Mississippi Department of Human
266 Services: (a) child's name; (b) address or location; (c)
267 verification from the Department of Human Services of case status
268 (no case or involvement, case exists, open or active case, case



269 closed); (d) if a case exists, the type of report or case
270 (physical abuse, neglect, etc.), date of intake(s) and
271 investigation(s), and case disposition (substantiated or
272 unsubstantiated). Notwithstanding the aforesaid, the
273 confidentiality provisions of this section shall continue if there
274 is a pending or planned investigation by any local, state or
275 federal governmental agency or institution.

276 (20) Any member of a foster care review board designated by
277 the Department of Human Services shall have the right to inspect
278 youth court records relating to the abuse, neglect or child in
279 need of supervision cases assigned to such member for review.

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

286 **SECTION 3.** This act shall take effect and be in force from
287 and after July 1, 2018.

