

By: Representative Dixon

To: Public Health and Human
Services; Education

HOUSE BILL NO. 1065

1 AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IF THE YOUTH COURT PLACES A YOUTH IN THE
3 STATE-SUPPORTED TRAINING SCHOOL, A YOUTH DETENTION CENTER AND/OR
4 MENTAL HEALTH FACILITY, THE COURT SHALL REQUIRE CERTAIN BEHAVIORAL
5 ASSESSMENTS BE PERFORMED ON THE YOUTH; TO PROVIDE THAT BEFORE ANY
6 MEDICATION IS PRESCRIBED FOR A YOUTH WHO IS NOT ON MEDICATION FOR
7 BEHAVIORAL AND MENTAL HEALTH ISSUES, THE YOUTH SHALL RECEIVE A
8 SECOND INDEPENDENT MEDICAL OPINION; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 43-21-605, Mississippi Code of 1972, is
11 amended as follows:

12 43-21-605. (1) In delinquency cases, the disposition order
13 may include any of the following alternatives:

14 (a) Release the child without further action;

15 (b) Place the child in the custody of the parents, a
16 relative or other persons subject to any conditions and
17 limitations, including restitution, as the youth court may
18 prescribe;

19 (c) Place the child on probation subject to any
20 reasonable and appropriate conditions and limitations, including
21 restitution, as the youth court may prescribe;



22 (d) Order terms of treatment calculated to assist the
23 child and the child's parents or guardian which are within the
24 ability of the parent or guardian to perform and which are not in
25 conflict with a provider's determination of medical necessity;

26 (e) Order terms of supervision which may include
27 participation in a constructive program of service or education or
28 civil fines not in excess of Five Hundred Dollars (\$500.00), or
29 restitution not in excess of actual damages caused by the child to
30 be paid out of his own assets or by performance of services
31 acceptable to the victims and approved by the youth court and
32 reasonably capable of performance within one (1) year;

33 (f) Suspend the child's driver's license by taking and
34 keeping it in custody of the court for not more than one (1) year;

35 (g) Give legal custody of the child to any of the
36 following:

37 (i) The Department of Human Services for
38 appropriate placement; or

39 (ii) Any public or private organization,
40 preferably community-based, able to assume the education, care and
41 maintenance of the child, which has been found suitable by the
42 court; or

43 (iii) The Division of Youth Services for placement
44 in the least restrictive environment, except that no child under
45 the age of ten (10) years shall be committed to the state training
46 school. Only a child who has been adjudicated delinquent for a



47 felony may be committed to the training school. In the event a
48 child is committed to the Oakley Youth Development Center by the
49 court, the child shall be deemed to be committed to the custody of
50 the Department of Human Services which may place the child in the
51 Oakley Youth Development Center or another appropriate facility.

52 The training school may retain custody of the child until the
53 child's twentieth birthday but for no longer. When the child is
54 committed to the training school, the child shall remain in the
55 legal custody of the training school until the child has made
56 sufficient progress in treatment and rehabilitation and it is in
57 the best interest of the child to release the child. However, the
58 superintendent of the state training school, in consultation with
59 the treatment team, may parole a child at any time he or she may
60 deem it in the best interest and welfare of such child. Ten (10)
61 business days before the parole, the training school shall notify
62 the committing court of the pending release. This notice may be
63 made in less than ten (10) days if Oakley Youth Development Center
64 needs to manage population limitations. The youth court may then
65 arrange subsequent placement after a reconvened disposition
66 hearing, except that the youth court may not recommit the child to
67 the training school or any other secure facility without an
68 adjudication of a new offense or probation or parole violation.
69 The Department of Human Services shall ensure that staffs create
70 transition planning for youth leaving the facilities. Plans shall
71 include providing the youth and his or her parents or guardian



72 with copies of the youth's training school education and health
73 records, information regarding the youth's home community,
74 referrals to mental and counseling services when appropriate, and
75 providing assistance in making initial appointments with community
76 service providers. Before assigning the custody of any child to
77 any private institution or agency, the youth court through its
78 designee shall first inspect the physical facilities to determine
79 that they provide a reasonable standard of health and safety for
80 the child. No child shall be placed in the custody of the state
81 training school for a status offense or for contempt of or
82 revocation of a status offense adjudication unless the child is
83 contemporaneously adjudicated for having committed an act of
84 delinquency that is not a status offense. A disposition order
85 rendered under this subparagraph shall meet the following
86 requirements:

87 1. The disposition is the least restrictive
88 alternative appropriate to the best interest of the child and the
89 community;

90 2. The disposition allows the child to be in
91 reasonable proximity to the family home community of each child
92 given the dispositional alternatives available and the best
93 interest of the child and the state; and

94 3. The disposition order provides that the
95 court has considered the medical, educational, vocational, social
96 and psychological guidance, training, social education,



counseling, substance abuse treatment and other rehabilitative services required by that child as determined by the court;

(h) Recommend to the child and the child's parents or guardian that the child attend and participate in the Youth Challenge Program under the Mississippi National Guard, as created in Section 43-27-203, subject to the selection of the child for the program by the National Guard; however, the child must volunteer to participate in the program. The youth court shall not order any child to apply for or attend the program;

(i) Adjudicate the juvenile to the Statewide Juvenile Work Program if the program is established in the court's jurisdiction. The juvenile and his or her parents or guardians must sign a waiver of liability in order to participate in the work program. The judge will coordinate with the youth services counselors as to placing participants in the work program as follows:

(i) The severity of the crime, whether or not the juvenile is a repeat offender or is a felony offender will be taken into consideration by the judge when adjudicating a juvenile to the work program. The juveniles adjudicated to the work program will be supervised by police officers or reserve officers. The term of service will be from twenty-four (24) to one hundred twenty (120) hours of community service. A juvenile will work the hours to which he or she was adjudicated on the weekends during school and weekdays during the summer. Parents are responsible



for a juvenile reporting for work. Noncompliance with an order to perform community service will result in a heavier adjudication. A juvenile may be adjudicated to the community service program only two (2) times;

(ii) The judge shall assess an additional fine on the juvenile which will be used to pay the costs of implementation of the program and to pay for supervision by police officers and reserve officers. The amount of the fine will be based on the number of hours to which the juvenile has been adjudicated;

(j) Order the child to participate in a youth court work program as provided in Section 43-21-627;

(k) Order terms of house arrest under the intensive supervision program as created in Sections 47-5-1001 through 47-5-1015. The Department of Human Services shall take bids for the placement of juveniles in the intensive supervision program. The Department of Human Services shall promulgate rules regarding the supervision of juveniles placed in the intensive supervision program. For each county there shall be seventy-five (75) slots created in the intensive supervision program for juveniles. Any youth ordered into the intensive home-based supervision program shall receive comprehensive strength-based needs assessments and individualized treatment plans. Based on the assessment, an individualized treatment plan shall be developed that defines the supervision and programming that is needed by a youth. The treatment plan shall be developed by a multidisciplinary team that



includes the family of the youth whenever possible. The juvenile shall pay Ten Dollars (\$10.00) to offset the cost of administering the alcohol and drug test. The juvenile must attend school, alternative school or be in the process of working toward a High School Equivalency Diploma certificate;

(1) (i) Order the child into a juvenile detention center operated by the county or into a juvenile detention center operated by any county with which the county in which the court is located has entered into a contract for the purpose of housing delinquents. The time period for detention cannot exceed ninety (90) days, and any detention exceeding forty-five (45) days shall be administratively reviewed by the youth court no later than forty-five (45) days after the entry of the order. At that time the youth court counselor shall review the status of the youth in detention and shall report any concerns to the court. The youth court judge may order that the number of days specified in the detention order be served either throughout the week or on weekends only. No first-time nonviolent youth offender shall be committed to a detention center for a period in excess of ninety (90) days until all other options provided for in this section have been considered and the court makes a specific finding of fact by a preponderance of the evidence by assessing what is in the best rehabilitative interest of the child and the public safety of communities and that there is no reasonable alternative



to a nonsecure setting and therefore commitment to a detention center is appropriate.

(ii) If a child is committed to a detention center for ninety (90) days, the disposition order shall meet the following requirements:

1. The disposition order is the least restrictive alternative appropriate to the best interest of the child and the community;

2. The disposition order allows the child to be in reasonable proximity to the family home community of each child given the dispositional alternatives available and the best interest of the child and the state; and

3. The disposition order provides that the court has considered the medical, educational, vocational, social and psychological guidance, training, social education, counseling, substance abuse treatment and other rehabilitative services required by that child as determined by the court;

(m) The judge may consider house arrest in an intensive supervision program as a reasonable prospect of rehabilitation within the juvenile justice system. The Department of Human Services shall promulgate rules regarding the supervision of juveniles placed in the intensive supervision program;

(n) Referral to A-team provided system of care services; or



195 (o) Place the child on electronic monitoring subject to
196 any conditions and limitations as the youth court may prescribe.

197 (2) If a disposition order requires that a child miss school
198 due to other placement, the youth court shall notify a child's
199 school while maintaining the confidentiality of the youth court
200 process. If a disposition order requires placement of a child in
201 a juvenile detention facility, the facility shall comply with the
202 educational services and notification requirements of Section
203 43-21-321.

204 (3) In addition to any of the disposition alternatives
205 authorized under subsection (1) of this section, the disposition
206 order in any case in which the child is adjudicated delinquent for
207 an offense under Section 63-11-30 shall include an order denying
208 the driver's license and driving privileges of the child as
209 required under Section 63-11-30(9).

210 (4) If the youth court places a child in the state-supported
211 training school, the court may order the parents or guardians of
212 the child and other persons living in the child's household to
213 receive counseling and parenting classes for rehabilitative
214 purposes while the child is in the legal custody of the training
215 school. A youth court entering an order under this subsection (4)
216 shall utilize appropriate services offered either at no cost or
217 for a fee calculated on a sliding scale according to income unless
218 the person ordered to participate elects to receive other



counseling and classes acceptable to the court at the person's sole expense.

(5) Fines levied under this chapter shall be paid into the general fund of the county but, in those counties wherein the youth court is a branch of the municipal government, it shall be paid into the municipal treasury.

(6) Any institution or agency to which a child has been committed shall give to the youth court any information concerning the child as the youth court may at any time require.

(7) The youth court shall not place a child in another school district who has been expelled from a school district for the commission of a violent act. For the purpose of this subsection, "violent act" means any action which results in death or physical harm to another or an attempt to cause death or physical harm to another.

(8) The youth court may require drug testing as part of a disposition order. If a child tests positive, the court may require treatment, counseling and random testing, as it deems appropriate. The costs of such tests shall be paid by the parent, guardian or custodian of the child unless the court specifically finds that the parent, guardian or custodian is unable to pay.

(9) The Mississippi Department of Human Services, Division of Youth Services, shall operate and maintain services for youth adjudicated delinquent at the Oakley Youth Development Center. The program shall be designed for children committed to the



244 training schools by the youth courts. The purpose of the program
245 is to promote good citizenship, self-reliance, leadership and
246 respect for constituted authority, teamwork, cognitive abilities
247 and appreciation of our national heritage. The program must use
248 evidenced-based practices and gender-specific programming and must
249 develop an individualized and specific treatment plan for each
250 youth. The Division of Youth Services shall issue credit towards
251 academic promotions and high school completion. The Division of
252 Youth Services may award credits to each student who meets the
253 requirements for a general education development certification.
254 The Division of Youth Services must also provide to each special
255 education eligible youth the services required by that youth's
256 individualized education plan.

257 (10) If the youth court places a child in the
258 state-supported training school, a youth detention center and/or
259 mental health facility, the court shall require a behavioral and
260 mental health assessment for the youth. If it is determined that
261 medication is needed for a youth who is not on medication
262 prescribed for behavioral and mental health issues, then the court
263 shall require that a second independent medical opinion be
264 provided before medication is prescribed for the youth. The
265 second independent medical opinion shall be paid by the county
266 where the youth court is located. In the event the second
267 independent medical opinion is different from the initial medical
268 opinion, then the medical opinion with the lowest level of



medication shall be prescribed to the youth. The state-supported training school, any youth court detention center or state or county mental health facility shall not be liable to any party nor shall it indemnify or hold harmless any party for any liabilities, obligations, losses, damages, penalties, settlements, claims, actions, suits, proceedings or judgments of any kind and nature, costs, expenses, or attorney's fees incurred by a party or parties for any act or action arising out of or in connection with any second independent medical opinion that is provided as authorized under this subsection.

SECTION 2. This act shall take effect and be in force from and after July 1, 2018.

