

By: Representative Dixon

To: Youth and Family Affairs

HOUSE BILL NO. 1067

1 AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT WHEN A CHILD IS COMMITTED TO THE OAKLEY YOUTH
 3 DEVELOPMENT CENTER BY THE YOUTH COURT, THE CHILD SHALL BE IN THE
 4 PHYSICAL CUSTODY OF OAKLEY WITHIN ONE DAY OF THE COMMITTAL; TO
 5 REQUIRE OAKLEY STAFF TO UTILIZE THE MISSISSIPPI YOUTH COURT
 6 INFORMATION DELIVERY SYSTEM (MYCIDS) TO ASCERTAIN INFORMATION FOR
 7 A CHILD DURING THE ADMISSIONS PROCESS; AND FOR RELATED PURPOSES.

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

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

11 43-21-605. (1) In delinquency cases, the disposition order
 12 may include any of the following alternatives:

13 (a) Release the child without further action;

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

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



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

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

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

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

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

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

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



46 felony may be committed to the training school. In the event a
47 child is committed to the Oakley Youth Development Center by the
48 court, the child shall be deemed to be committed to the custody of
49 the Department of Human Services which may place the child in the
50 Oakley Youth Development Center or another appropriate facility.
51 If a child is ordered to the Oakley Youth Development Center, the
52 child shall be placed in the physical custody of the training
53 school within one (1) business day of the court's committal,
54 unless Oakley staff provides written notice to the youth court,
55 within the one (1) business day, that there are no available beds
56 at Oakley Youth Development Center. In addition to the youth
57 court's order, staff of the Oakley Youth Development Center shall
58 utilize the Mississippi Youth Court Information Delivery System
59 (MYCIDS) to ascertain information regarding the child during the
60 admissions process.

61 The training school may retain custody of the child until the
62 child's twentieth birthday but for no longer. When the child is
63 committed to the training school, the child shall remain in the
64 legal custody of the training school until the child has made
65 sufficient progress in treatment and rehabilitation and it is in
66 the best interest of the child to release the child. However, the
67 superintendent of the state training school, in consultation with
68 the treatment team, may parole a child at any time he or she may
69 deem it in the best interest and welfare of such child. Ten (10)
70 business days before the parole, the training school shall notify



71 the committing court of the pending release. This notice may be
72 made in less than ten (10) days if Oakley Youth Development Center
73 needs to manage population limitations. The youth court may then
74 arrange subsequent placement after a reconvened disposition
75 hearing, except that the youth court may not recommit the child to
76 the training school or any other secure facility without an
77 adjudication of a new offense or probation or parole violation.
78 The Department of Human Services shall ensure that staffs create
79 transition planning for youth leaving the facilities. Plans shall
80 include providing the youth and his or her parents or guardian
81 with copies of the youth's training school education and health
82 records, information regarding the youth's home community,
83 referrals to mental and counseling services when appropriate, and
84 providing assistance in making initial appointments with community
85 service providers. Before assigning the custody of any child to
86 any private institution or agency, the youth court through its
87 designee shall first inspect the physical facilities to determine
88 that they provide a reasonable standard of health and safety for
89 the child. No child shall be placed in the custody of the state
90 training school for a status offense or for contempt of or
91 revocation of a status offense adjudication unless the child is
92 contemporaneously adjudicated for having committed an act of
93 delinquency that is not a status offense. A disposition order
94 rendered under this subparagraph shall meet the following
95 requirements:



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

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

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

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

115 (i) Adjudicate the juvenile to the Statewide Juvenile
116 Work Program if the program is established in the court's
117 jurisdiction. The juvenile and his or her parents or guardians
118 must sign a waiver of liability in order to participate in the
119 work program. The judge will coordinate with the youth services



120 counselors as to placing participants in the work program as
121 follows:

122 (i) The severity of the crime, whether or not the
123 juvenile is a repeat offender or is a felony offender will be
124 taken into consideration by the judge when adjudicating a juvenile
125 to the work program. The juveniles adjudicated to the work
126 program will be supervised by police officers or reserve officers.
127 The term of service will be from twenty-four (24) to one hundred
128 twenty (120) hours of community service. A juvenile will work the
129 hours to which he or she was adjudicated on the weekends during
130 school and weekdays during the summer. Parents are responsible
131 for a juvenile reporting for work. Noncompliance with an order to
132 perform community service will result in a heavier adjudication.
133 A juvenile may be adjudicated to the community service program
134 only two (2) times;

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

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

142 (k) Order terms of house arrest under the intensive
143 supervision program as created in Sections 47-5-1001 through
144 47-5-1015. The Department of Human Services shall take bids for



145 the placement of juveniles in the intensive supervision program.
146 The Department of Human Services shall promulgate rules regarding
147 the supervision of juveniles placed in the intensive supervision
148 program. For each county there shall be seventy-five (75) slots
149 created in the intensive supervision program for juveniles. Any
150 youth ordered into the intensive home-based supervision program
151 shall receive comprehensive strength-based needs assessments and
152 individualized treatment plans. Based on the assessment, an
153 individualized treatment plan shall be developed that defines the
154 supervision and programming that is needed by a youth. The
155 treatment plan shall be developed by a multidisciplinary team that
156 includes the family of the youth whenever possible. The juvenile
157 shall pay Ten Dollars (\$10.00) to offset the cost of administering
158 the alcohol and drug test. The juvenile must attend school,
159 alternative school or be in the process of working toward a High
160 School Equivalency Diploma certificate;

161 (1) (i) Order the child into a juvenile detention
162 center operated by the county or into a juvenile detention center
163 operated by any county with which the county in which the court is
164 located has entered into a contract for the purpose of housing
165 delinquents. The time period for detention cannot exceed ninety
166 (90) days, and any detention exceeding forty-five (45) days shall
167 be administratively reviewed by the youth court no later than
168 forty-five (45) days after the entry of the order. At that time
169 the youth court counselor shall review the status of the youth in



170 detention and shall report any concerns to the court. The youth
171 court judge may order that the number of days specified in the
172 detention order be served either throughout the week or on
173 weekends only. No first-time nonviolent youth offender shall be
174 committed to a detention center for a period in excess of ninety
175 (90) days until all other options provided for in this section
176 have been considered and the court makes a specific finding of
177 fact by a preponderance of the evidence by assessing what is in
178 the best rehabilitative interest of the child and the public
179 safety of communities and that there is no reasonable alternative
180 to a nonsecure setting and therefore commitment to a detention
181 center is appropriate.

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

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

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

192 3. The disposition order provides that the
193 court has considered the medical, educational, vocational, social
194 and psychological guidance, training, social education,



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

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

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

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

206 (2) If a disposition order requires that a child miss school
207 due to other placement, the youth court shall notify a child's
208 school while maintaining the confidentiality of the youth court
209 process. If a disposition order requires placement of a child in
210 a juvenile detention facility, the facility shall comply with the
211 educational services and notification requirements of Section
212 43-21-321.

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



219 (4) If the youth court places a child in * * * the
220 state-supported training school, the court may order the parents
221 or guardians of the child and other persons living in the child's
222 household to receive counseling and parenting classes for
223 rehabilitative purposes while the child is in the legal custody of
224 the training school. A youth court entering an order under this
225 subsection (4) shall utilize appropriate services offered either
226 at no cost or for a fee calculated on a sliding scale according to
227 income unless the person ordered to participate elects to receive
228 other counseling and classes acceptable to the court at the
229 person's sole expense.

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

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

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



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

249 (9) The Mississippi Department of Human Services, Division
250 of Youth Services, shall operate and maintain services for youth
251 adjudicated delinquent at the Oakley Youth Development Center.
252 The program shall be designed for children committed to the
253 training schools by the youth courts. The purpose of the program
254 is to promote good citizenship, self-reliance, leadership and
255 respect for constituted authority, teamwork, cognitive abilities
256 and appreciation of our national heritage. The program must use
257 evidenced-based practices and gender-specific programming and must
258 develop an individualized and specific treatment plan for each
259 youth. The Division of Youth Services shall issue credit towards
260 academic promotions and high school completion. The Division of
261 Youth Services may award credits to each student who meets the
262 requirements for a general education development certification.
263 The Division of Youth Services must also provide to each special
264 education eligible youth the services required by that youth's
265 individualized education plan.

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

