

By: Representative Dixon

To: Youth and Family
Affairs; Judiciary B

HOUSE BILL NO. 52

1 AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,
 2 TO REMOVE THE REQUIREMENT THAT A YOUTH COURT JUDGE ASSESS AN
 3 ADDITIONAL FINE ON A JUVENILE WHO IS A PARTICIPANT IN THE STATE
 4 WIDE JUVENILE WORK PROGRAM IN ORDER TO PAY CERTAIN COSTS OF
 5 SUPERVISION; TO REMOVE THE REQUIREMENT THAT A JUVENILE PAY TEN
 6 DOLLARS TO OFFSET THE COST OF ADMINISTERING AN ALCOHOL AND DRUG
 7 TEST; TO AMEND SECTION 43-21-615, MISSISSIPPI CODE OF 1972, TO
 8 REMOVE THE AUTHORITY OF A YOUTH COURT JUDGE TO ORDER THE PARENT OF
 9 A JUVENILE DELINQUENT TO PAY CERTAIN COSTS RELATED TO NECESSARY
 10 MEDICAL TREATMENT OF THE JUVENILE; TO AMEND SECTION 43-21-619,
 11 MISSISSIPPI CODE OF 1972, TO REMOVE THE AUTHORITY OF THE YOUTH
 12 COURT TO ORDER FINANCIALLY ABLE PARENTS TO PAY FOR COURT ORDERED
 13 MEDICAL AND OTHER EXAMINATIONS AND TREATMENT OF HIS OR HER CHILD
 14 WHO IS WITHIN THE JUVENILE JUSTICE SYSTEM; TO AMEND SECTION
 15 47-5-1007, MISSISSIPPI CODE OF 1972, TO REMOVE THE MONTHLY FEE
 16 THAT IS IMPOSED UPON A JUVENILE WHO IS A PARTICIPANT IN THE
 17 INTENSIVE SUPERVISION PROGRAM; TO BRING FORWARD SECTION 43-21-651,
 18 MISSISSIPPI CODE OF 1972, WHICH PERTAINS TO CERTAIN FEES PAID TO
 19 THE SUPREME COURT OF MISSISSIPPI FOR THE APPEAL OF A YOUTH ORDER
 20 OR DECREE BY AN APPELLANT, FOR PURPOSES OF AMENDMENT; AND FOR
 21 RELATED PURPOSES.

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

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

25 43-21-605. (1) In delinquency cases, the disposition order
 26 may include any of the following alternatives:

27 (a) Release the child without further action;



28 (b) Place the child in the custody of the parents, a
29 relative or other persons subject to any conditions and
30 limitations, including restitution, as the youth court may
31 prescribe;

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

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

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

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

48 (g) Give legal custody of the child to any of the
49 following:

50 (i) The Department of Human Services for
51 appropriate placement; or



52 (ii) Any public or private organization,
53 preferably community-based, able to assume the education, care and
54 maintenance of the child, which has been found suitable by the
55 court; or

56 (iii) The Division of Youth Services for placement
57 in the least restrictive environment, except that no child under
58 the age of ten (10) years shall be committed to the state training
59 school. Only a child who has been adjudicated delinquent for a
60 felony may be committed to the training school. In the event a
61 child is committed to the Oakley Youth Development Center by the
62 court, the child shall be deemed to be committed to the custody of
63 the Department of Human Services which may place the child in the
64 Oakley Youth Development Center or another appropriate facility.

65 The training school may retain custody of the child until the
66 child's twentieth birthday but for no longer. When the child is
67 committed to the training school, the child shall remain in the
68 legal custody of the training school until the child has made
69 sufficient progress in treatment and rehabilitation and it is in
70 the best interest of the child to release the child. However, the
71 superintendent of the state training school, in consultation with
72 the treatment team, may parole a child at any time he or she may
73 deem it in the best interest and welfare of such child. Ten (10)
74 business days before the parole, the training school shall notify
75 the committing court of the pending release. This notice may be
76 made in less than ten (10) days if Oakley Youth Development Center



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



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

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

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

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

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



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

138 * * *

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

141 (k) Order terms of house arrest under the intensive
142 supervision program as created in Sections 47-5-1001 through
143 47-5-1015. The Department of Human Services shall take bids for
144 the placement of juveniles in the intensive supervision program.
145 The Department of Human Services shall promulgate rules regarding
146 the supervision of juveniles placed in the intensive supervision
147 program. For each county there shall be seventy-five (75) slots
148 created in the intensive supervision program for juveniles. Any
149 youth ordered into the intensive home-based supervision program



150 shall receive comprehensive strength-based needs assessments and
151 individualized treatment plans. Based on the assessment, an
152 individualized treatment plan shall be developed that defines the
153 supervision and programming that is needed by a youth. The
154 treatment plan shall be developed by a multidisciplinary team that
155 includes the family of the youth whenever possible. * * * The
156 juvenile must attend school, alternative school or be in the
157 process of working toward a High School Equivalency Diploma
158 certificate;

159 (1) (i) Order the child into a juvenile detention
160 center operated by the county or into a juvenile detention center
161 operated by any county with which the county in which the court is
162 located has entered into a contract for the purpose of housing
163 delinquents. The time period for detention cannot exceed ninety
164 (90) days, and any detention exceeding forty-five (45) days shall
165 be administratively reviewed by the youth court no later than
166 forty-five (45) days after the entry of the order. At that time
167 the youth court counselor shall review the status of the youth in
168 detention and shall report any concerns to the court. The youth
169 court judge may order that the number of days specified in the
170 detention order be served either throughout the week or on
171 weekends only. No first-time nonviolent youth offender shall be
172 committed to a detention center for a period in excess of ninety
173 (90) days until all other options provided for in this section
174 have been considered and the court makes a specific finding of



175 fact by a preponderance of the evidence by assessing what is in
176 the best rehabilitative interest of the child and the public
177 safety of communities and that there is no reasonable alternative
178 to a nonsecure setting and therefore commitment to a detention
179 center is appropriate.

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

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

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

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

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



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

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

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

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

217 (4) If the youth court places a child in a state-supported
218 training school, the court may order the parents or guardians of
219 the child and other persons living in the child's household to
220 receive counseling and parenting classes for rehabilitative
221 purposes while the child is in the legal custody of the training
222 school. A youth court entering an order under this subsection (4)
223 shall utilize appropriate services offered * * * at no cost * * *.



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

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

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

237 (8) The youth court may require drug testing as part of a
238 disposition order. If a child tests positive, the court may
239 require treatment, counseling and random testing, as it deems
240 appropriate. The costs of such tests shall be paid by * * * the
241 court * * *.

242 (9) The Mississippi Department of Human Services, Division
243 of Youth Services, shall operate and maintain services for youth
244 adjudicated delinquent at the Oakley Youth Development Center.
245 The program shall be designed for children committed to the
246 training schools by the youth courts. The purpose of the program
247 is to promote good citizenship, self-reliance, leadership and
248 respect for constituted authority, teamwork, cognitive abilities



249 and appreciation of our national heritage. The program must use
250 evidenced-based practices and gender-specific programming and must
251 develop an individualized and specific treatment plan for each
252 youth. The Division of Youth Services shall issue credit towards
253 academic promotions and high school completion. The Division of
254 Youth Services may award credits to each student who meets the
255 requirements for a general education development certification.
256 The Division of Youth Services must also provide to each special
257 education eligible youth the services required by that youth's
258 individualized education plan.

259 **SECTION 2.** Section 43-21-615, Mississippi Code of 1972, is
260 amended as follows:

261 43-21-615. * * * The costs of conveying any child committed
262 to any institution or agency shall be paid by the county or
263 municipality from which the child is committed out of the general
264 treasury of the county or municipality upon approval of the court.
265 No compensation shall be allowed beyond the actual and necessary
266 expenses of the child and the person actually conveying the child.
267 In the case of a female child, the youth court shall designate
268 some suitable woman to accompany her to the institution or agency.

269 * * *

270 **SECTION 3.** Section 43-21-619, Mississippi Code of 1972, is
271 amended as follows:

272 43-21-619. * * *



273 (* * *1) The youth court may order the parents, guardians
274 or custodians who exercise parental custody and control of a child
275 who is under the jurisdiction of the youth court and who has
276 willfully or maliciously caused personal injury or damaged or
277 destroyed property, to pay such damages or restitution through the
278 court to the victim in an amount not to exceed the actual loss and
279 to enforce payment thereof. Restitution ordered by the youth
280 court under this section shall not preclude recovery of damages by
281 the victim from such child or parent, guardian or custodian or
282 other person who would otherwise be liable. The youth court also
283 may order the parents, guardians or custodians of a child who is
284 under the jurisdiction of the youth court and who willfully or
285 maliciously has caused personal injury or damaged or destroyed
286 property to participate in a counseling program or other suitable
287 family treatment program for the purpose of preventing future
288 occurrences of malicious destruction of property or personal
289 injury.

290 (* * *2) Such orders under this section shall constitute a
291 civil judgment and may be enrolled on the judgment rolls in the
292 office of the circuit clerk of the county where such order was
293 entered, and further, such order may be enforced in any manner
294 provided by law for civil judgments.

295 **SECTION 4.** Section 47-5-1007, Mississippi Code of 1972, is
296 amended as follows:



297 47-5-1007. (1) Any participant in the intensive supervision
298 program who engages in employment shall pay a monthly fee to the
299 department for each month such person is enrolled in the program.
300 The department may waive the monthly fee if the offender is a
301 full-time student or is engaged in vocational training. * * *
302 Money received by the department from participants in the program
303 shall be deposited into a special fund which is hereby created in
304 the State Treasury. It shall be used, upon appropriation by the
305 Legislature, for the purpose of helping to defray the costs
306 involved in administering and supervising such program.
307 Unexpended amounts remaining in such special fund at the end of a
308 fiscal year shall not lapse into the State General Fund, and any
309 interest earned on amounts in such special fund shall be deposited
310 to the credit of the special fund.

311 (2) The participant shall admit any correctional officer
312 into his residence at any time for purposes of verifying the
313 participant's compliance with the conditions of his detention.

314 (3) The participant shall make the necessary arrangements to
315 allow for correctional officers to visit the participant's place
316 of education or employment at any time, based upon the approval of
317 the educational institution or employer, for the purpose of
318 verifying the participant's compliance with the conditions of his
319 detention.

320 (4) The participant shall acknowledge and participate with
321 the approved electronic monitoring device as designated by the



322 department at any time for the purpose of verifying the
323 participant's compliance with the conditions of his detention.

324 (5) The participant shall be responsible for and shall
325 maintain the following:

326 (a) A working telephone line in the participant's home;

327 (b) A monitoring device in the participant's home, or
328 on the participant's person, or both; and

329 (c) A monitoring device in the participant's home and
330 on the participant's person in the absence of a telephone.

331 (6) The participant shall obtain approval from the
332 correctional field officer before the participant changes
333 residence.

334 (7) The participant shall not commit another crime during
335 the period of home detention ordered by the court or department.

336 (8) Notice shall be given to the participant that violation
337 of the order of home detention shall subject the participant to
338 prosecution for the crime of escape as a felony.

339 (9) The participant shall abide by other conditions as set
340 by the court or the department.

341 **SECTION 5.** Section 43-21-651, Mississippi Code of 1972, is
342 brought forward as follows:

343 43-21-651. (1) The court to which appeals may be taken from
344 final orders or decrees of the youth court shall be the Supreme
345 Court of Mississippi. In any case wherein an appeal is desired,
346 written notice of intention to appeal shall be filed with the



347 youth court clerk within the time, and costs in the youth court
348 and the filing fee in the Supreme Court shall be paid, as is
349 otherwise required for appeals to the Supreme Court. If the
350 appellant shall make affidavit that he is unable to pay such costs
351 and filing fee, he shall have an appeal without prepayment of
352 court costs and filing fee. Only the initials of the child shall
353 appear on the record on appeal.

354 (2) The pendency of an appeal shall not suspend the order or
355 decree of the youth court regarding a child, nor shall it
356 discharge the child from the custody of that court or of the
357 person, institution or agency to whose care such child shall have
358 been committed, unless the youth court or Supreme Court shall so
359 order. If appellant desires to appeal with supersedeas, the
360 matter first shall be presented to the youth court. If refused,
361 the youth court shall forthwith issue a written order stating the
362 reasons for the denial, which order shall be subject to review by
363 the Supreme Court. If the Supreme Court does not dismiss the
364 proceedings and discharge the child, it shall affirm or modify or
365 reverse the order of the youth court and remand the child to the
366 jurisdiction of the youth court for placement and supervision in
367 accordance with its order, and thereafter the child shall be and
368 remain under the jurisdiction of the youth court in the same
369 manner as if the youth court had made the order without an appeal
370 having been taken.



371 (3) Appeals from the youth court shall be preference cases
372 in the Supreme Court.

373 **SECTION 6.** This act shall take effect and be in force from
374 and after July 1, 2019.

