

By: Representatives Dixon, Baria, Paden,
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To: Youth and Family
Affairs; Judiciary B

HOUSE BILL NO. 666

1 AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,
2 TO RAISE THE MINIMUM AGE AT WHICH A CHILD MAY BE COMMITTED TO THE
3 STATE TRAINING SCHOOL; AND FOR RELATED PURPOSES.

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

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

7 43-21-605. (1) In delinquency cases, the disposition order
8 may include any of the following alternatives:

9 (a) Release the child without further action;

10 (b) Place the child in the custody of the parents, a
11 relative or other persons subject to any conditions and
12 limitations, including restitution, as the youth court may
13 prescribe;

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

17 (d) Order terms of treatment calculated to assist the
18 child and the child's parents or guardian which are within the



19 ability of the parent or guardian to perform and which are not in
20 conflict with a provider's determination of medical necessity;

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

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

30 (g) Give legal custody of the child to any of the
31 following:

32 (i) The Department of Human Services for
33 appropriate placement; or

34 (ii) Any public or private organization,
35 preferably community-based, able to assume the education, care and
36 maintenance of the child, which has been found suitable by the
37 court; or

38 (iii) The Division of Youth Services for placement
39 in the least restrictive environment, except that no child under
40 the age of * * * twelve (12) years shall be committed to the state
41 training school. Only a child who has been adjudicated delinquent
42 for a felony may be committed to the training school. In the
43 event a child is committed to the Oakley Youth Development Center



44 by the court, the child shall be deemed to be committed to the
45 custody of the Department of Human Services which may place the
46 child in the Oakley Youth Development Center or another
47 appropriate facility.

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



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

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

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

90 3. The disposition order provides that the
91 court has considered the medical, educational, vocational, social
92 and psychological guidance, training, social education,



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

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

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

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



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

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

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

129 (k) Order terms of house arrest under the intensive
130 supervision program as created in Sections 47-5-1001 through
131 47-5-1015. The Department of Human Services shall take bids for
132 the placement of juveniles in the intensive supervision program.
133 The Department of Human Services shall promulgate rules regarding
134 the supervision of juveniles placed in the intensive supervision
135 program. For each county there shall be seventy-five (75) slots
136 created in the intensive supervision program for juveniles. Any
137 youth ordered into the intensive home-based supervision program
138 shall receive comprehensive strength-based needs assessments and
139 individualized treatment plans. Based on the assessment, an
140 individualized treatment plan shall be developed that defines the
141 supervision and programming that is needed by a youth. The
142 treatment plan shall be developed by a multidisciplinary team that



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

148 (1) (i) Order the child into a juvenile detention
149 center operated by the county or into a juvenile detention center
150 operated by any county with which the county in which the court is
151 located has entered into a contract for the purpose of housing
152 delinquents, except that a child under the age twelve (12) years
153 cannot be held in secure detention as a disposition. The time
154 period for detention cannot exceed ninety (90) days, and any
155 detention exceeding forty-five (45) days shall be administratively
156 reviewed by the youth court no later than forty-five (45) days
157 after the entry of the order. At that time the youth court
158 counselor shall review the status of the youth in detention and
159 shall report any concerns to the court. The youth court judge may
160 order that the number of days specified in the detention order be
161 served either throughout the week or on weekends only. No
162 first-time nonviolent youth offender shall be committed to a
163 detention center for a period in excess of ninety (90) days until
164 all other options provided for in this section have been
165 considered and the court makes a specific finding of fact by a
166 preponderance of the evidence by assessing what is in the best
167 rehabilitative interest of the child and the public safety of



168 communities and that there is no reasonable alternative to a
169 nonsecure setting and therefore commitment to a detention center
170 is appropriate.

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

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

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

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

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

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



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

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

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

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



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

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

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

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

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

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



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

255 **SECTION 2.** This act shall take effect and be in force from
256 and after July 1, 2019.

