

By: Representatives Baria, Paden, Hines,
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To: Youth and Family
Affairs; Judiciary A

HOUSE BILL NO. 1067
(As Passed the House)

1 AN ACT TO AMEND SECTION 43-21-203, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE ANY PERSON ADMITTED TO THE PRACTICE OF LAW IN
3 MISSISSIPPI TO OBSERVE YOUTH COURT HEARINGS AS LONG AS THE PERSON
4 SIGNS AN OATH OF CONFIDENTIALITY; TO REQUIRE THE MISSISSIPPI
5 JUDICIAL COLLEGE TO PREPARE THE OATH FOR YOUTH COURT; TO PROVIDE
6 THAT IN ALL HEARINGS IN YOUTH COURT, A COMPLETE RECORD OF EVIDENCE
7 SHALL BE TAKEN BY STENOGRAPHIC REPORTING; TO AMEND SECTION
8 43-21-261, MISSISSIPPI CODE OF 1972, TO REQUIRE YOUTH COURTS TO
9 PROVIDE TO THE ADMINISTRATIVE OFFICE OF COURTS, ON A MONTHLY
10 BASIS, CUMULATIVE DATA THAT PROVIDES CERTAIN NONIDENTIFYING
11 INFORMATION PERTAINING TO CASES IN THE COURT; AND FOR RELATED
12 PURPOSES.

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

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

16 43-21-203. (1) The youth court shall be in session at all
17 times.

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

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



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

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

(6) The general public shall be excluded from the hearing * * *. All persons admitted to the practice of law in Mississippi shall be permitted to observe youth court hearings, but all such persons, except those attorneys representing a party or a person found to have a direct interest in the cause, must sign an oath of confidentiality upon entering the courtroom affirming their understanding than no disclosure of any kind may be made regarding the identity of the parties of witnesses participating in the hearing and consenting to the authority of the court to impose sanctions, including a finding of contempt, for any willful violation of the oath. The oath of confidentiality shall be prepared by the Mississippi Judicial College and distributed to all youth court judges. Youth court clerks shall maintain a file containing the signatures of all persons signing the oath. Otherwise, only those persons * * * who are found by the youth court to have a direct interest in the cause or work of the youth court. Any person found by the youth court to have a direct interest in the cause shall have the right to appear and be represented by legal counsel.



48 (7) In all hearings * * * a complete record of all evidence
49 shall be taken by stenographic reporting, by mechanical or
50 electronic device or by some combination thereof.

51 (8) The youth court may exclude the attendance of a child
52 from a hearing in neglect and abuse cases with consent of the
53 child's counsel. The youth court may exclude the attendance of a
54 child from any portion of a disposition hearing that would be
55 injurious to the best interest of the child in delinquency and
56 children in need of supervision cases with consent of the child's
57 counsel.

58 (9) All parties to a youth court cause shall have the right
59 at any hearing in which an investigation, record or report is
60 admitted in evidence:

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

63 (b) To introduce evidence controverting the contents of
64 the report.

65 (10) Except as provided by Section 43-21-561(5) or as
66 otherwise provided by this chapter, the disposition of a child's
67 cause or any evidence given in the youth court in any proceedings
68 concerning the child shall not be admissible against the child in
69 any case or proceeding in any court other than a youth court.

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



43-21-261. (1) Except as otherwise provided in this section, records involving children shall not be disclosed, other than to necessary staff of the youth court or a Court-Appointed Special Advocate (CASA) volunteer that may be assigned in an abuse and neglect case, except pursuant to an order of the youth court specifying the person or persons to whom the records may be disclosed, the extent of the records which may be disclosed and the purpose of the disclosure. Such court orders for disclosure shall be limited to those instances in which the youth court concludes, in its discretion, that disclosure is required for the best interests of the child, the public safety or the functioning of the youth court and then only to the following persons:

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

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

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

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

(e) Any person engaged in a bona fide research purpose, provided that no information identifying the subject of the records shall be made available to the researcher unless it is absolutely essential to the research purpose and the judge gives



97 prior written approval, and the child, through his or her
98 representative, gives permission to release the information;

99 (f) The Mississippi Department of Employment Security,
100 or its duly authorized representatives, for the purpose of a
101 child's enrollment into the Job Corps Training Program as
102 authorized by Title IV of the Comprehensive Employment Training
103 Act of 1973 (29 USCS Section 923 et seq.). However, no records,
104 reports, investigations or information derived therefrom
105 pertaining to child abuse or neglect shall be disclosed;

106 (g) To any person pursuant to a finding by a judge of
107 the youth court of compelling circumstances affecting the health,
108 safety or well-being of a child and that such disclosure is in the
109 best interests of the child or an adult who was formerly the
110 subject of a youth court delinquency proceeding.

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

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



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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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



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

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

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

(22) For each Mississippi youth court, cumulative data shall be provided to the Administrative Office of Courts on a monthly basis disclosing the following:

(a) The total number of cases pending in the court;

(b) The number of children adjudicated delinquent each month;

(c) The total number of children placed in detention each month;



295 (d) The charges on which each adjudication of
296 delinquency was rendered;

297 (e) The number of adjudications of abuse or neglect
298 each month;

299 (f) The number of children removed from parental
300 custody each month; and

301 (g) The number of children placed in the custody of the
302 State of Mississippi each month.

303 No information identifying any party or witness in any youth
304 court matter shall be included in any monthly data report provided
305 to the Administrative Office of Courts. The Administrative Office
306 of Courts shall compile monthly youth court reports and make them
307 available to the public and the youth courts section of the
308 Administrative Office of Courts website.

309 **SECTION 3.** This act shall take effect and be in force from
310 and after July 1, 2019.

