

By: Representative Burnett

To: Youth and Family Affairs

HOUSE BILL NO. 1173

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 OR ORDERED INTO SECURE DETENTION AS A
4 DISPOSITION; AND FOR RELATED PURPOSES.

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

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

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

10 (a) Release the child without further action;

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

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

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



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

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

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

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

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

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

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



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

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



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

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

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

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



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

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

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

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



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

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

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

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



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

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



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

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

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

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

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

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

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



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

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

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

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



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

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

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

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

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

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



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

256 **SECTION 2.** This act shall take effect and be in force from
257 and after July 1, 2020.

