

By: Senator(s) Sojourner

To: Judiciary, Division A

SENATE BILL NO. 2566

1 AN ACT TO AMEND SECTION 43-21-603, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE YOUTH COURT SHALL CONSIDER THE REPORT OF THE
3 DEPARTMENT OF CHILD PROTECTION SERVICES DURING A DISPOSITION
4 HEARING; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-21-603, Mississippi Code of 1972, is
7 amended as follows:

8 43-21-603. (1) At the beginning of each disposition
9 hearing, the judge shall inform the parties of the purpose of the
10 hearing.

11 (2) (a) All testimony shall be under oath unless waived by
12 all parties and may be in narrative form. The court may consider
13 any evidence that is material and relevant to the disposition of
14 the cause, including hearsay and opinion evidence. The court
15 shall consider the report of the Department of Child Protection
16 Services under Section 43-21-353.

17 (b) At the conclusion of the evidence, the youth court
18 shall give the parties an opportunity to present oral argument.



19 (3) If the child has been adjudicated a delinquent child,
20 before entering a disposition order, the youth court should
21 consider, among others, the following relevant factors:

- 22 (a) The nature of the offense;
- 23 (b) The manner in which the offense was committed;
- 24 (c) The nature and number of a child's prior
25 adjudicated offenses;
- 26 (d) The child's need for care and assistance;
- 27 (e) The child's current medical history, including
28 medication and diagnosis;
- 29 (f) The child's mental health history, which may
30 include, but not be limited to, the Massachusetts Youth Screening
31 Instrument Version 2 (MAYSI-2);
- 32 (g) Copies of the child's cumulative record from the
33 last school of record, including special education records, if
34 applicable;
- 35 (h) Recommendation from the school of record based on
36 areas of remediation needed;
- 37 (i) Disciplinary records from the school of record; and
- 38 (j) Records of disciplinary actions outside of the
39 school setting.

40 (4) If the child has been adjudicated a child in need of
41 supervision, before entering a disposition order, the youth court
42 should consider, among others, the following relevant factors:

- 43 (a) The nature and history of the child's conduct;



44 (b) The family and home situation; and
45 (c) The child's need of care and assistance.

46 (5) If the child has been adjudicated a neglected child or
47 an abused child, before entering a disposition order, the youth
48 court shall consider, among others, the following relevant
49 factors:

50 (a) The child's physical and mental conditions;
51 (b) The child's need of assistance;
52 (c) The manner in which the parent, guardian or
53 custodian participated in, tolerated or condoned the abuse,
54 neglect or abandonment of the child;

55 (d) The ability of a child's parent, guardian or
56 custodian to provide proper supervision and care of a child; and
57 (e) Relevant testimony and recommendations, where
58 available, from the foster parent of the child, the grandparents
59 of the child, the guardian ad litem of the child, representatives
60 of any private care agency that has cared for the child, the
61 family protection worker or family protection specialist assigned
62 to the case, and any other relevant testimony pertaining to the
63 case.

64 (6) After consideration of all the evidence and the relevant
65 factors, the youth court shall enter a disposition order that
66 shall not recite any of the facts or circumstances upon which the
67 disposition is based, nor shall it recite that a child has been
68 found guilty; but it shall recite that a child is found to be a



delinquent child, a child in need of supervision, a neglected child or an abused child.

(7) If the youth court orders that the custody or supervision of a child who has been adjudicated abused or neglected be placed with the Department of * * * Child Protection Services or any other person or public or private agency, other than the child's parent, guardian or custodian, the youth court shall find and the disposition order shall recite that:

(a) (i) Reasonable efforts have been made to maintain the child within his own home, but that the circumstances warrant his removal and there is no reasonable alternative to custody; or

(ii) The circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home, and that there is no reasonable alternative to custody; and

(b) That the effect of the continuation of the child's residence within his own home would be contrary to the welfare of the child and that the placement of the child in foster care is in the best interests of the child; or

(c) Reasonable efforts to maintain the child within his home shall not be required if the court determines that:

(i) The parent has subjected the child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse and sexual abuse; or



(ii) The parent has been convicted of murder of another child of that parent, voluntary manslaughter of another child of that parent, aided or abetted, attempted, conspired or solicited to commit that murder or voluntary manslaughter, or a felony assault that results in the serious bodily injury to the surviving child or another child of that parent; or

(iii) The parental rights of the parent to a sibling have been terminated involuntarily; and

(iv) That the effect of the continuation of the child's residence within his own home would be contrary to the welfare of the child and that placement of the child in foster care is in the best interests of the child.

Once the reasonable efforts requirement is bypassed, the court shall have a permanency hearing under Section 43-21-613 within thirty (30) days of the finding.

(8) Upon a written motion by a party, the youth court shall make written findings of fact and conclusions of law upon which it relies for the disposition order. If the disposition ordered by the youth court includes placing the child in the custody of a training school, an admission packet shall be prepared for the child that contains the following information:

(a) The child's current medical history, including medications and diagnosis;

(b) The child's mental health history;



(c) Copies of the child's cumulative record from the last school of record, including special education records, if reasonably available;

(d) Recommendation from the school of record based on areas of remediation needed;

(e) Disciplinary records from the school of record; and

(f) Records of disciplinary actions outside of the school setting, if reasonably available.

Only individuals who are permitted under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) shall have access to a child's medical records which are contained in an admission packet. The youth court shall provide the admission packet to the training school at or before the child's arrival at the training school. The admittance of any child to a training school shall take place between the hours of 8:00 a.m. and 3:00 p.m. on designated admission days.

(9) When a child in the jurisdiction of the Youth Court is committed to the custody of the * * * Department of * * * Child Protection Services and is believed to be in need of treatment for a mental or emotional disability or infirmity, the Department of * * * Child Protection Services shall file an affidavit alleging that the child is in need of mental health services with the Youth Court. The Youth Court shall refer the child to the appropriate community mental health center for evaluation pursuant to Section 41-21-67. If the prescreening evaluation recommends



residential care, the Youth Court shall proceed with civil commitment pursuant to Sections 41-21-61 et seq., 43-21-315 and 43-21-611, and the Department of Mental Health, once commitment is ordered, shall provide appropriate care, treatment and services for at least as many adolescents as were provided services in fiscal year 2004 in its facilities.

(10) Any screening and assessment examinations ordered by the court may aid in dispositions related to delinquency, but no statements or admissions made during the course thereof may be admitted into evidence against the child on the issue of whether the child committed a delinquent act.

SECTION 2. This act shall take effect and be in force from and after July 1, 2021.

