

By: Senator(s) Johnson

To: Judiciary, Division A

SENATE BILL NO. 2376

1 AN ACT TO AMEND SECTION 43-21-261, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE DISCLOSURE OF CERTAIN YOUTH COURT RECORDS
3 SHALL NOT REQUIRE YOUTH COURT APPROVAL IN CRIMINAL MATTERS; AND
4 FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-21-261, Mississippi Code of 1972, is
7 amended as follows:

8 43-21-261. (1) Except as otherwise provided in this
9 section, records involving children shall not be disclosed, other
10 than to necessary staff or officials of the youth court, a
11 guardian ad litem appointed to a child by the court, or a
12 Court-Appointed Special Advocate (CASA) volunteer who may be
13 assigned in an abuse and neglect case, except pursuant to an order
14 of the youth court specifying the person or persons to whom the
15 records may be disclosed, the extent of the records which may be
16 disclosed and the purpose of the disclosure. Such court orders
17 for disclosure shall be limited to those instances in which the
18 youth court concludes, in its discretion, that disclosure is
19 required for the best interests of the child, the public safety,



20 the functioning of the youth court, or to identify a person who
21 knowingly made a false allegation of child abuse or neglect, and
22 then only to the following persons:

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

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

27 (c) A judge of any other court or members of another
28 court staff, including the chancery court that ordered a forensic
29 interview;

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

33 (e) Any person engaged in a bona fide research purpose,
34 provided that no information identifying the subject of the
35 records shall be made available to the researcher unless it is
36 absolutely essential to the research purpose and the judge gives
37 prior written approval, and the child, through his or her
38 representative, gives permission to release the information;

39 (f) The Mississippi Department of Employment Security,
40 or its duly authorized representatives, for the purpose of a
41 child's enrollment into the Job Corps Training Program as
42 authorized by Title IV of the Comprehensive Employment Training
43 Act of 1973 (29 USCS Section 923 et seq.). However, no records,



44 reports, investigations or information derived therefrom
45 pertaining to child abuse or neglect shall be disclosed;

46 (g) Any person pursuant to a finding by a judge of the
47 youth court of compelling circumstances affecting the health,
48 safety or well-being of a child and that such disclosure is in the
49 best interests of the child or an adult who was formerly the
50 subject of a youth court delinquency proceeding;

51 (h) A person who was the subject of a knowingly made
52 false allegation of child abuse or neglect which has resulted in a
53 conviction of a perpetrator in accordance with Section 97-35-47 or
54 which allegation was referred by the Department of Child
55 Protection Services to a prosecutor or law enforcement official in
56 accordance with the provisions of Section 43-21-353(4).

57 Law enforcement agencies may disclose information to the
58 public concerning the taking of a child into custody for the
59 commission of a delinquent act without the necessity of an order
60 from the youth court. The information released shall not identify
61 the child or his address unless the information involves a child
62 convicted as an adult.

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



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

70 (3) Upon request, the parent, guardian or custodian of the
71 child who is the subject of a youth court cause or any attorney
72 for such parent, guardian or custodian, shall have the right to
73 inspect any record, report or investigation relevant to a matter
74 to be heard by a youth court, except that the identity of the
75 reporter shall not be released, nor the name of any other person
76 where the person or agency making the information available finds
77 that disclosure of the information would be likely to endanger the
78 life or safety of such person. The attorney for the parent,
79 guardian or custodian of the child, upon request, shall be
80 provided a copy of any record, report or investigation relevant to
81 a matter to be heard by a youth court, but the identity of the
82 reporter must be redacted and the name of any other person must
83 also be redacted if the person or agency making the information
84 available finds that disclosure of the information would be likely
85 to endanger the life, safety or well-being of the person. A
86 record provided to the attorney under this section must remain in
87 the attorney's control and the attorney may not provide copies or
88 access to another person or entity without prior consent of a
89 court with appropriate jurisdiction.

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



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

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

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

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

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

114 (6) Information concerning an investigation into a report of
115 child abuse or child neglect may be disclosed by the Department of
116 Child Protection Services without order of the youth court to any
117 attorney, physician, dentist, intern, resident, nurse,



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

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

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

133 (9) Names and addresses of juveniles adjudicated as
134 delinquent for murder, manslaughter, burglary, arson, armed
135 robbery, aggravated assault, any sex offense as defined in Section
136 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
137 violation of Section 63-11-30, shall not be held confidential and
138 shall be made available to the public.

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



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

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

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

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

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



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

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

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

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



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

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

207 (19) In every case of child abuse or neglect, if a child's
208 physical condition is medically labeled as medically "serious" or
209 "critical" or a child dies, the confidentiality provisions of this
210 section shall not apply. In such cases, the following information
211 may be released by the Mississippi Department of Child Protection
212 Services: the cause of the circumstances regarding the fatality
213 or medically serious or critical physical condition; the age and
214 gender of the child; information describing any previous reports
215 of child abuse or neglect investigations that are pertinent to the



216 child abuse or neglect that led to the fatality or medically
217 serious or critical physical condition; the result of any such
218 investigations; and the services provided by and actions of the
219 state on behalf of the child that are pertinent to the child abuse
220 or neglect that led to the fatality or medically serious or
221 critical physical condition.

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

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

233 (22) The Department of Child Protection Services may
234 disclose records involving children to the following:

235 (a) A foster home, residential child-caring agency or
236 child-placing agency to the extent necessary to provide such care
237 and services to a child;

238 (b) An individual, agency or organization that provides
239 services to a child or the child's family in furtherance of the



240 child's permanency plan to the extent necessary in providing those
241 services;

242 (c) Health and mental health care providers of a child
243 to the extent necessary for the provider to properly treat and
244 care for the child;

245 (d) An educational institution or educational services
246 provider where the child is enrolled or where enrollment is
247 anticipated to the extent necessary for the school to provide
248 appropriate services to the child;

249 (e) Any state agency or board that administers student
250 financial assistance programs. However, any records request under
251 this paragraph shall be initiated by the agency or board for the
252 purpose determining the child's eligibility for student financial
253 assistance, and any disclosure shall be limited to the
254 verification of the child's age during the period of time in which
255 the child was in the department's legal custody; and

256 (f) Any other state agency if the disclosure is
257 necessary to the department in fulfilling its statutory
258 responsibilities in protecting the best interests of the child.

259 (23) Nothing in this section or chapter shall require youth
260 court approval for disclosure of records involving children as
261 defined in Section 43-21-105(u), if the disclosure is made in a
262 criminal matter by a municipal or county prosecutor, a district
263 attorney or statewide prosecutor, pursuant to the Mississippi
264 Rules of Criminal Procedure.



265 **SECTION 2.** This act shall take effect and be in force from
266 and after July 1, 2023.

