

By: Senator(s) Seymour

To: Judiciary, Division A

SENATE BILL NO. 2267

1 AN ACT TO AMEND SECTION 43-21-261, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE RELEASE OF CERTAIN CHILDREN'S RECORDS TO A
3 COMMITTEE OR MEMBER OF THE LEGISLATURE UPON PRIOR WRITTEN CONSENT
4 OF THE PARENT, GUARDIAN OR CUSTODIAN OF THE CHILD; TO SET FORTH
5 MINIMUM REQUIREMENTS FOR THE WRITTEN RELEASE; AND FOR RELATED
6 PURPOSES.

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

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

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



21 required for the best interests of the child, the public safety,
22 the functioning of the youth court, or to identify a person who
23 knowingly made a false allegation of child abuse or neglect, and
24 then only to the following persons:

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

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

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

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

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

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



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

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

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

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

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



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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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



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

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

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

235 (22) (a) Upon the prior written release of the parent,
236 guardian or custodian of the child who is the subject of a youth
237 court cause, any committee or member of the Mississippi
238 Legislature shall have the right to inspect any record, report or
239 investigation, including any trial transcripts or recordings, that
240 are in the custody of the youth court or the Department of Child
241 Protection Services.



242 (b) A written release in substantially the following
243 form shall be sufficient for the purposes of this subsection (22):

244 **YOUTH COURT AND CHILD PROTECTION SERVICES RECORD RELEASE FORM**

245 By completing this form and signing the statement below, you
246 are authorizing the appropriate Youth Court and Child Protection
247 Services to disclose such information to a committee of the
248 Legislature or a member of the Legislature. Such information will
249 be kept confidential by them from third parties. You also affirm
250 that this request for assistance is in no way an attempt to evade
251 or violate any federal, state, or local law.

252 PLEASE COMPLETE AND RETURN FORM.

253 NAME: (LAST) (FIRST) (MI)

254 ADDRESS:

255 _____

256 CITY COUNTY STATE ZIP

257 EMAIL

258 PHONE

259 CELL ALT

260 DATE OF BIRTH SSN

261 THIRD PARTY (if applicable)

262 _____ Relationship?

263 _____

264 Is this matter currently under consideration by an attorney?

265 NO YES



266 PLEASE EXPLAIN THE ISSUE YOU ARE FACING AND THE OUTCOME YOU WOULD
267 LIKE TO SEE: (Use reverse side or add another page if necessary,
268 and attach any relevant documentation that may be helpful in
269 resolving your issue.)

270 _____
271 _____
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282 SIGNATURE

283 _____

284 DATE _____

285 (* * * 23) The Department of Child Protection Services may
286 disclose records involving children to the following:

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



290 (b) An individual, agency or organization that provides
291 services to a child or the child's family in furtherance of the
292 child's permanency plan to the extent necessary in providing those
293 services;

294 (c) Health and mental health care providers of a child
295 to the extent necessary for the provider to properly treat and
296 care for the child;

297 (d) An educational institution or educational services
298 provider where the child is enrolled or where enrollment is
299 anticipated to the extent necessary for the school to provide
300 appropriate services to the child;

301 (e) Any state agency or board that administers student
302 financial assistance programs. However, any records request under
303 this paragraph shall be initiated by the agency or board for the
304 purpose determining the child's eligibility for student financial
305 assistance, and any disclosure shall be limited to the
306 verification of the child's age during the period of time in which
307 the child was in the department's legal custody; and

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

311 (* * *24) Nothing in this section or chapter shall require
312 youth court approval for disclosure of records involving children
313 as defined in Section 43-21-105(u), if the disclosure is made in a
314 criminal matter by a municipal or county prosecutor, a district



315 attorney or statewide prosecutor, pursuant to the Mississippi
316 Rules of Criminal Procedure and the records are disclosed under a
317 protective order issued by the Circuit Court presiding over the
318 criminal matter which incorporates the penalties stated in Section
319 43-21-267.

320 **SECTION 2.** This act shall take effect and be in force from
321 and after July 1, 2024.

