

By: Barnett (92nd)

To: Juvenile Justice

HOUSE BILL NO. 364

1 AN ACT TO AMEND SECTION 43-21-151 AND 43-21-159, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THAT JUVENILES WHO COMMIT THE OFFENSE OF  
3 CARJACKING OR AUTO THEFT SHALL BE TRIED AS ADULTS; AND FOR RELATED  
4 PURPOSES.

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

6 SECTION 1. Section 43-21-151, Mississippi Code of 1972, is  
7 amended as follows:

8 43-21-151. (1) The youth court shall have exclusive  
9 original jurisdiction in all proceedings concerning a delinquent  
10 child, a child in need of supervision, a neglected child, an  
11 abused child or a dependent child except in the following  
12 circumstances:

13 (a) Any act attempted or committed by a child, which if  
14 committed by an adult would be punishable under state or federal  
15 law by life imprisonment or death, will be in the original  
16 jurisdiction of the circuit court;

17 (b) Any act attempted or committed by a child with the  
18 use of a deadly weapon, the carrying of which concealed is  
19 prohibited by Section 97-37-1, or a shotgun or a rifle, which  
20 would be a felony if committed by an adult, will be in the  
21 original jurisdiction of the circuit court; \* \* \*

22 (c) A violation of the Mississippi Carjacking Act of

23 1993;

24 (d) A violation of Section 97-17-41 or 97-17-42; and

25 When a charge of abuse of a child first arises in the course  
26 of a custody action between the parents of the child already  
27 pending in the chancery court and no notice of such abuse was  
28 provided prior to such chancery proceedings, the chancery court  
29 may proceed with the investigation, hearing and determination of  
30 such abuse charge as a part of its hearing and determination of  
31 the custody issue as between the parents, notwithstanding the  
32 other provisions of the Youth Court Law. The proceedings in  
33 chancery court on the abuse charge shall be confidential in the  
34 same manner as provided in youth court proceedings.

35 When a child is expelled from the public schools, the youth  
36 court shall be notified of the act of expulsion and the act or  
37 acts constituting the basis for expulsion.

38 (2) Jurisdiction of the child in the cause shall attach at  
39 the time of the offense and shall continue thereafter for that  
40 offense until the child's twentieth birthday, unless sooner  
41 terminated by order of the youth court. The youth court shall not  
42 have jurisdiction over offenses committed by a child on or after  
43 his eighteenth birthday, or over offenses committed by a child on  
44 or after his seventeenth birthday where such offenses would be a  
45 felony if committed by an adult.

46 (3) No child who has not reached his thirteenth birthday  
47 shall be held criminally responsible or criminally prosecuted for  
48 a misdemeanor or felony; however, the parent, guardian or  
49 custodian of such child may be civilly liable for any criminal  
50 acts of such child. No child under the jurisdiction of the youth  
51 court shall be held criminally responsible or criminally  
52 prosecuted by any court for any act designated as a delinquent  
53 act, unless jurisdiction is transferred to another court under

54 Section 43-21-157.

55 (4) The youth court shall also have jurisdiction of offenses  
56 committed by a child which have been transferred to the youth  
57 court by an order of a circuit court of this state having original  
58 jurisdiction of the offense, as provided by Section 43-21-159.

59 (5) The youth court shall regulate and approve the use of  
60 teen court as provided in Section 43-21-753.

61 SECTION 2. Section 43-21-159, Mississippi Code of 1972, is  
62 amended as follows:

63 43-21-159. (1) When a person appears before a court other  
64 than the youth court, and it is determined that the person is a  
65 child under jurisdiction of the youth court, such court shall,  
66 unless the jurisdiction of the offense has been transferred to  
67 such court as provided in this chapter, or unless the child has  
68 previously been the subject of a transfer from the youth court to  
69 the circuit court for trial as an adult and was convicted,  
70 immediately dismiss the proceeding without prejudice and forward  
71 all documents pertaining to the cause to the youth court; and all  
72 entries in permanent records shall be expunged. The youth court  
73 shall have the power to order and supervise the expunction or the  
74 destruction of such records in accordance with Section 43-21-265.

75 The youth court is authorized to expunge the record of any case  
76 within its jurisdiction in which an arrest was made, the person  
77 arrested was released and the case was dismissed or the charges  
78 were dropped or there was no disposition of such case. In cases  
79 where the child is charged with a hunting or fishing violation or  
80 a traffic violation whether it be any state or federal law, a  
81 violation of the Mississippi Implied Consent Law, a violation of

82 the Mississippi Carjacking Act of 1993, a violation of Section  
83 97-17-41, a violation of Section 97-17-42, or municipal ordinance  
84 or county resolution or where the child is charged with a  
85 violation of Section 67-3-70, the appropriate criminal court shall  
86 proceed to dispose of the same in the same manner as for other  
87 adult offenders and it shall not be necessary to transfer the case  
88 to the youth court of the county. Unless the cause has been  
89 transferred, or unless the child has previously been the subject  
90 of a transfer from the youth court to the circuit court for trial  
91 as an adult, except for violations under the Implied Consent Law,  
92 and was convicted, the youth court shall have power on its own  
93 motion to remove jurisdiction from any criminal court of any  
94 offense including a hunting or fishing violation, a traffic  
95 violation, or a violation of Section 67-3-70, committed by a child  
96 in a matter under the jurisdiction of the youth court and proceed  
97 therewith in accordance with the provisions of this chapter.

98 (2) After conviction and sentence of any child by any other  
99 court having original jurisdiction on a misdemeanor charge, and  
100 within the time allowed for an appeal of such conviction and  
101 sentence, the youth court of the county shall have the full power  
102 to stay the execution of the sentence and to release the child on  
103 good behavior or on other order as the youth court may see fit to  
104 make unless the child has previously been the subject of a  
105 transfer from the youth court to the circuit court for trial as an  
106 adult and was convicted. When a child is convicted of a  
107 misdemeanor and is committed to, incarcerated in or imprisoned in  
108 a jail or other place of detention by a criminal court having  
109 proper jurisdiction of such charge, such court shall notify the

110 youth court judge or the judge's designee of the conviction and  
111 sentence prior to the commencement of such incarceration. The  
112 youth court shall have the power to order and supervise the  
113 destruction of any records involving children maintained by the  
114 criminal court in accordance with Section 43-21-265. However, the  
115 youth court shall have the power to set aside a judgment of any  
116 other court rendered in any matter over which the youth court has  
117 exclusive original jurisdiction, to expunge or destroy the records  
118 thereof in accordance with Section 43-21-265, and to order a  
119 refund of fines and costs.

120 (3) Nothing in subsections (1) or (2) shall apply to a youth  
121 who has a pending charge or a conviction for any crime over which  
122 circuit court has original jurisdiction.

123 (4) In any case wherein the defendant is a child as defined  
124 in this chapter and of which the circuit court has original  
125 jurisdiction, the circuit judge, upon a finding that it would be  
126 in the best interest of such child and in the interest of justice,  
127 may at any stage of the proceedings prior to the attachment of  
128 jeopardy transfer such proceedings to the youth court for further  
129 proceedings unless the child has previously been the subject of a  
130 transfer from the youth court to the circuit court for trial as an  
131 adult and was convicted or has previously been convicted of a  
132 crime which was in original circuit court jurisdiction, and the  
133 youth court shall, upon acquiring jurisdiction, proceed as  
134 provided in this chapter for the adjudication and disposition of  
135 delinquent child proceeding proceedings. If the case is not  
136 transferred to the youth court and the youth is convicted of a  
137 crime by any circuit court, the trial judge shall sentence the

138 youth as though such youth was an adult. The circuit court shall  
139 not have the authority to commit such child to the custody of the  
140 Department of Youth Services for placement in a state-supported  
141 training school.

142 (5) In no event shall a court sentence an offender over the  
143 age of eighteen (18) to the custody of the Division of Youth  
144 Services for placement in a state-supported training school.

145 (6) When a child's driver's license is suspended by the  
146 youth court for any reason, the clerk of the youth court shall  
147 report the suspension, without a court order under Section  
148 43-21-261, to the Commissioner of Public Safety in the same manner  
149 as such suspensions are reported in cases involving adults.

150 (7) No offense involving the use or possession of a firearm  
151 by a child who has reached his fifteenth birthday and which, if  
152 committed by an adult would be a felony, shall be transferred to  
153 the youth court.

154 SECTION 3. This act shall take effect and be in force from  
155 and after July 1, 2000.