

By: Mettetal

To: Juvenile Justice

SENATE BILL NO. 2659

1 AN ACT TO AMEND SECTION 43-21-159, MISSISSIPPI CODE OF 1972,
2 TO REVISE YOUTH COURT JURISDICTION OVER VIOLATIONS OF THE
3 MISSISSIPPI IMPLIED CONSENT LAW; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 43-21-159, Mississippi Code of 1972, is
6 amended as follows:

7 43-21-159. (1) When a person appears before a court other
8 than the youth court, and it is determined that the person is a
9 child under jurisdiction of the youth court, such court shall,
10 unless the jurisdiction of the offense has been transferred to
11 such court as provided in this chapter, or unless the child has
12 previously been the subject of a transfer from the youth court to
13 the circuit court for trial as an adult and was convicted,
14 immediately dismiss the proceeding without prejudice and forward
15 all documents pertaining to the cause to the youth court; and all
16 entries in permanent records shall be expunged. The youth court
17 shall have the power to order and supervise the expunction or the
18 destruction of such records in accordance with Section 43-21-265.
19 The youth court is authorized to expunge the record of any case
20 within its jurisdiction in which an arrest was made, the person
21 arrested was released and the case was dismissed or the charges
22 were dropped or there was no disposition of such case. In cases
23 where the child is charged with a hunting or fishing violation or
24 a traffic violation, except for driving offenses under the
25 Mississippi Implied Consent Law, whether it be a state or federal
26 law * * * or municipal ordinance or county resolution or where the

child is charged with a violation of Section 67-3-70, the appropriate criminal court may proceed to dispose of the same in the same manner as for other * * * offenders and it shall not be necessary to transfer the case to the youth court of the county. The youth court, in addition to other action, may suspend the driver's license of any child charged with an offense under the Mississippi Implied Consent Law. Unless the cause has been transferred, or unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult * * * and was convicted, the youth court shall have power on its own motion to remove jurisdiction from any criminal court of any offense including a hunting or fishing violation, a traffic violation, or a violation of Section 67-3-70, committed by a child in a matter under the jurisdiction of the youth court and proceed therewith in accordance with the provisions of this chapter.

(2) After conviction and sentence of any child by any other court having original jurisdiction on a misdemeanor charge, and within the time allowed for an appeal of such conviction and sentence, the youth court of the county shall have the full power to stay the execution of the sentence and to release the child on good behavior or on other order as the youth court may see fit to make unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted. When a child is convicted of a misdemeanor and is committed to, incarcerated in or imprisoned in a jail or other place of detention by a criminal court having proper jurisdiction of such charge, such court shall notify the youth court judge or the judge's designee of the conviction and sentence prior to the commencement of such incarceration. The youth court shall have the power to order and supervise the destruction of any records involving children maintained by the criminal court in accordance with Section 43-21-265. However, the youth court shall have the power to set aside a judgment of any other court rendered in any matter over which the youth court has exclusive original jurisdiction, to expunge or destroy the records thereof in accordance with Section 43-21-265, and to order a

64 refund of fines and costs.

65 (3) Nothing in subsection (1) or (2) shall apply to a youth
66 who has a pending charge or a conviction for any crime over which
67 circuit court has original jurisdiction.

68 (4) In any case wherein the defendant is a child as defined
69 in this chapter and of which the circuit court has original
70 jurisdiction, the circuit judge, upon a finding that it would be
71 in the best interest of such child and in the interest of justice,
72 may at any stage of the proceedings prior to the attachment of
73 jeopardy transfer such proceedings to the youth court for further
74 proceedings unless the child has previously been the subject of a
75 transfer from the youth court to the circuit court for trial as an
76 adult and was convicted or has previously been convicted of a
77 crime which was in original circuit court jurisdiction, and the
78 youth court shall, upon acquiring jurisdiction, proceed as
79 provided in this chapter for the adjudication and disposition of
80 delinquent child proceeding proceedings. If the case is not
81 transferred to the youth court and the youth is convicted of a
82 crime by any circuit court, the trial judge shall sentence the
83 youth as though such youth was an adult. The circuit court shall
84 not have the authority to commit such child to the custody of the
85 Department of Youth Services for placement in a state-supported
86 training school.

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

90 (6) When a child's driver's license is suspended by the
91 youth court for any reason, the clerk of the youth court shall
92 report the suspension, without a court order under Section
93 43-21-261, to the Commissioner of Public Safety in the same manner
94 as such suspensions are reported in cases involving adults.

95 (7) No offense involving the use or possession of a firearm
96 by a child who has reached his fifteenth birthday and which, if

97 committed by an adult would be a felony, shall be transferred to
98 the youth court.

99 SECTION 2. This act shall take effect and be in force from
100 and after its passage.