

By: Representative Scott (80th)

To: Juvenile Justice

HOUSE BILL NO. 1276

1 AN ACT TO AMEND SECTIONS 43-21-605 AND 43-21-607, MISSISSIPPI
2 CODE OF 1972, TO AUTHORIZE DRUG TESTING IN CERTAIN YOUTH COURT
3 DISPOSITIONS; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 43-21-605, Mississippi Code of 1972, is
6 amended as follows:

7 43-21-605. (1) In delinquency cases, the disposition order
8 may include any of the following alternatives:

9 (a) Release the child without further action;

10 (b) Place the child in the custody of the parents, a
11 relative or other persons subject to any conditions and
12 limitations, including restitution, as the youth court may
13 prescribe;

14 (c) Place the child on probation subject to any
15 reasonable and appropriate conditions and limitations, including
16 restitution, as the youth court may prescribe;

17 (d) Order terms of treatment calculated to assist the
18 child and the child's parents or guardian which are within the
19 ability of the parent or guardian to perform;

20 (e) Order terms of supervision which may include
21 participation in a constructive program of service or education or
22 civil fines not in excess of Five Hundred Dollars (\$500.00), or
23 restitution not in excess of actual damages caused by the child to
24 be paid out of his own assets or by performance of services
25 acceptable to the victims and approved by the youth court and
26 reasonably capable of performance within one (1) year;

27 (f) Suspend the child's driver's license by taking and
28 keeping it in custody of the court for not more than one (1) year;
29 (g) Give legal custody of the child to any of the
30 following:
31 (i) The Department of Human Services for
32 appropriate placement; or
33 (ii) Any public or private organization,
34 preferably community-based, able to assume the education, care and
35 maintenance of the child, which has been found suitable by the
36 court; or
37 (iii) The Department of Human Services for
38 placement in a wilderness training program or a state-supported
39 training school, except that no child under the age of ten (10)
40 years shall be committed to a state training school. The training
41 school may retain custody of the child until the child's twentieth
42 birthday but for no longer. The superintendent of a state
43 training school may parole a child at any time he may deem it in
44 the best interest and welfare of such child. Twenty (20) days
45 prior to such parole, the training school shall notify the
46 committing court of the pending release. The youth court may then
47 arrange subsequent placement after a reconvened disposition
48 hearing except that the youth court may not recommit the child to
49 the training school or any other secure facility without an
50 adjudication of a new offense or probation or parole violation.
51 Prior to assigning the custody of any child to any private
52 institution or agency, the youth court through its designee shall
53 first inspect the physical facilities to determine that they
54 provide a reasonable standard of health and safety for the child.
55 The youth court shall not place a child in the custody of a state
56 training school for truancy, unless such child has been
57 adjudicated to have committed an act of delinquency in addition to
58 truancy;

59 (h) Recommend to the child and the child's parents or
60 guardian that the child attend and participate in the Youth
61 Challenge Program under the Mississippi National Guard, as created
62 in Section 43-27-203, subject to the selection of the child for
63 the program by the National Guard; however, the child must
64 volunteer to participate in the program. The youth court may not
65 order any child to apply or attend the program;

66 (i) (i) Adjudicate the juvenile to the Statewide
67 Juvenile Work Program if the program is established in the court's
68 jurisdiction. The juvenile and his parents or guardians must sign
69 a waiver of liability in order to participate in the work program.
70 The judge will coordinate with the youth services counselors as to
71 placing participants in the work program;

72 (ii) The severity of the crime, whether or not the
73 juvenile is a repeat offender or is a felony offender will be
74 taken into consideration by the judge when adjudicating a juvenile
75 to the work program. The juveniles adjudicated to the work
76 program will be supervised by police officers or reserve officers.
77 The term of service will be from twenty-four (24) to one hundred
78 twenty (120) hours of community service. A juvenile will work the
79 hours to which he was adjudicated on the weekends during school
80 and week days during the summer. Parents are responsible for a
81 juvenile reporting for work. Noncompliance with an order to
82 perform community service will result in a heavier adjudication.
83 A juvenile may be adjudicated to the community service program
84 only two (2) times;

85 (iii) The judge shall assess an additional fine on
86 the juvenile which will be used to pay the costs of implementation
87 of the program and to pay for supervision by police officers and
88 reserve officers. The amount of the fine will be based on the
89 number of hours to which the juvenile has been adjudicated;

90 (j) Order the child to participate in a youth court
91 work program as provided in Section 43-21-627; or

92 (k) Order the child into a juvenile detention center
93 operated by the county or into a juvenile detention center
94 operated by any county with which the county in which the court is
95 located has entered into a contract for the purpose of housing
96 delinquents. The time period for such detention cannot exceed
97 ninety (90) days. The youth court judge may order that the number
98 of days specified in the detention order be served either
99 throughout the week or on weekends only.

100 (2) In addition to any of the disposition alternatives
101 authorized under subsection (1) of this section, the disposition
102 order in any case in which the child is adjudicated delinquent for
103 an offense under Section 63-11-30 shall include an order denying
104 the driver's license and driving privileges of the child as
105 required under subsection (8) of Section 63-11-30.

106 (3) Fines levied under this chapter shall be paid into the
107 general fund of the county but, in those counties wherein the
108 youth court is a branch of the municipal government, it shall be
109 paid into the municipal treasury.

110 (4) Any institution or agency to which a child has been
111 committed shall give to the youth court any information concerning
112 the child as the youth court may at any time require.

113 (5) The youth court shall not place a child in another
114 school district who has been expelled from a school district for
115 the commission of a violent act. For the purpose of this
116 subsection, "violent act" means any action which results in death
117 or physical harm to another or an attempt to cause death or
118 physical harm to another.

119 (6) The youth court may require drug testing as part of a
120 disposition order. If a child tests positive, the court shall
121 require treatment, counseling and random testing. The costs of
122 such tests and treatment shall be paid by the parent, guardian or
123 custodian of the child.

SECTION 2. Section 43-21-607, Mississippi Code of 1972, is amended as follows:

43-21-607. (1) In children in need of supervision cases, the disposition order may include any of the following alternatives or combination of the following alternatives, giving precedence in the following sequence:

(a) Release the child without further action;

(b) Place the child in the custody of the parent, a relative or other person subject to any conditions and limitations as the youth court may prescribe;

(c) Place the child under youth court supervision subject to any conditions and limitations the youth court may prescribe;

(d) Order terms of treatment calculated to assist the child and the child's parent, guardian or custodian which are within the ability of the parent, guardian or custodian to perform;

(e) Order terms of supervision which may include participation in a constructive program of service or education or restitution not in excess of actual damages caused by the child to be paid out of his own assets or by performance of services acceptable to the parties and reasonably capable of performance within one (1) year;

(f) Give legal custody of the child to any of the following but in no event to any state training school;

(i) The Department of Human Services for appropriate placement which may include a wilderness training program; or

(ii) Any private or public organization, preferably community-based, able to assume the education, care and maintenance of the child, which has been found suitable by the court. Prior to assigning the custody of any child to any private institution or agency, the youth court through its designee shall

157 first inspect the physical facilities to determine that they
158 provide a reasonable standard of health and safety for the child;
159 or

160 (g) Order the child to participate in a youth court
161 work program as provided in Section 43-21-627.

162 (2) The court may order drug testing as provided in Section
163 43-21-605(6).

164 SECTION 3. This act shall take effect and be in force from
165 and after July 1, 2001.