

By: Representative Flagg

To: Juvenile Justice

HOUSE BILL NO. 1371

1 AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT WHEN A CHILD IS COMMITTED TO A STATE-SUPPORTED
3 TRAINING SCHOOL A CHILD MUST REMAIN IN THE LEGAL CUSTODY OF THE
4 TRAINING SCHOOL FOR A MINIMUM OF NINETY DAYS; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 43-21-605, Mississippi Code of 1972, is
8 amended as follows:

9 43-21-605. (1) In delinquency cases, the disposition order
10 may include any of the following alternatives:

11 (a) Release the child without further action;

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

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

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

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

29 (f) Suspend the child's driver's license by taking and
30 keeping it in custody of the court for not more than one (1) year;

31 (g) Give legal custody of the child to any of the
32 following:

33 (i) The Department of Human Services for
34 appropriate placement; or

35 (ii) Any public or private organization,
36 preferably community-based, able to assume the education, care and
37 maintenance of the child, which has been found suitable by the
38 court; or

39 (iii) The Department of Human Services for
40 placement in a wilderness training program or a state-supported
41 training school, except that no child under the age of ten (10)
42 years shall be committed to a state training school. The training
43 school may retain custody of the child until the child's twentieth
44 birthday but for no longer. When the child is committed to a
45 training school, the child must remain in the legal custody of the
46 training school for a minimum of ninety (90) days. However, the
47 superintendent of a state training school may parole a child at
48 any time he may deem it in the best interest and welfare of such
49 child, after the child has been in the custody of the training
50 school for a minimum of ninety (90) days. Twenty (20) days prior
51 to such parole, the training school shall notify the committing
52 court of the pending release. The youth court may then arrange
53 subsequent placement after a reconvened disposition hearing except
54 that the youth court may not recommit the child to the training
55 school or any other secure facility without an adjudication of a
56 new offense or probation or parole violation. Prior to assigning
57 the custody of any child to any private institution or agency, the
58 youth court through its designee shall first inspect the physical
59 facilities to determine that they provide a reasonable standard of
60 health and safety for the child. The youth court shall not place
61 a child in the custody of a state training school for truancy,

62 unless such child has been adjudicated to have committed an act of
63 delinquency in addition to truancy;

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

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

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

90 (iii) The judge shall assess an additional fine on
91 the juvenile which will be used to pay the costs of implementation
92 of the program and to pay for supervision by police officers and
93 reserve officers. The amount of the fine will be based on the
94 number of hours to which the juvenile has been adjudicated;

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

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

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

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

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

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

124 (6) The youth court may require drug testing as part of a
125 disposition order. If a child tests positive, the court may
126 require treatment, counseling and random testing, as it deems
127 appropriate. The costs of such tests shall be paid by the parent,

128 guardian or custodian of the child unless the court specifically
129 finds that the parent, guardian or custodian is unable to pay.

130 **SECTION 2.** This act shall take effect and be in force from
131 and after July 1, 2004.