

By: Representative Carlton

To: Juvenile Justice

HOUSE BILL NO. 1500  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 43-21-603, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT IF A CHILD HAS BEEN ADJUDICATED A DELINQUENT CHILD  
3 IN YOUTH COURT, THE COURT MUST CONSIDER CERTAIN ADDITIONAL FACTORS  
4 BEFORE ENTERING A DISPOSITION ORDER; TO PROVIDE THAT IF THE  
5 DISPOSITION ORDERED BY THE YOUTH COURT INCLUDES PLACING THE CHILD  
6 IN A TRAINING SCHOOL, AN ADMISSION PACKET SHALL BE PREPARED FOR  
7 THE CHILD THAT CONTAINS CERTAIN INFORMATION, AND THE COURT SHALL  
8 PROVIDE THE ADMISSION PACKET TO THE TRAINING SCHOOL BEFORE THE  
9 CHILD'S ARRIVAL AT THE SCHOOL; TO PROVIDE THE HOURS OF ADMISSION  
10 FOR A TRAINING SCHOOL; TO PROVIDE A REVERTER DATE OF JULY 1, 2006,  
11 FOR THE SECTION; AND FOR RELATED PURPOSES.

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

13 SECTION 1. Section 43-21-603, Mississippi Code of 1972, is  
14 amended as follows:

15 [Until July 1, 2006, this section shall read as follows:]

16 43-21-603. (1) At the beginning of each disposition  
17 hearing, the judge shall inform the parties of the purpose of the  
18 hearing.

19 (2) All testimony shall be under oath unless waived by all  
20 parties and may be in narrative form. The court may consider any  
21 evidence that is material and relevant to the disposition of the  
22 cause, including hearsay and opinion evidence. At the conclusion  
23 of the evidence, the youth court shall give the parties an  
24 opportunity to present oral argument.

25 (3) If the child has been adjudicated a delinquent child,  
26 before entering a disposition order, the youth court should  
27 consider, among others, the following relevant factors:

- 28 (a) The nature of the offense;
- 29 (b) The manner in which the offense was committed;
- 30 (c) The nature and number of a child's prior
- 31 adjudicated offenses; \* \* \*

- 32           (d) The child's need for care and assistance;
- 33           (e) The child's current medical history, including  
34 medication and diagnosis;
- 35           (f) The child's mental health history, which may  
36 include, but not be limited to, the Massachusetts Youth Screening  
37 Instrument version 2 (MAYSI-2);
- 38           (g) The child's cumulative record from the last school  
39 of record, including special education records, if applicable;
- 40           (h) Recommendation from the school of record based on  
41 areas of remediation needed;
- 42           (i) Disciplinary records from the school of record; and
- 43           (j) Records of disciplinary actions outside of the  
44 school setting.

45           (4) If the child has been adjudicated a child in need of  
46 supervision, before entering a disposition order, the youth court  
47 should consider, among others, the following relevant factors:

- 48           (a) The nature and history of the child's conduct;
- 49           (b) The family and home situation; and
- 50           (c) The child's need of care and assistance.

51           (5) If the child has been adjudicated a neglected child or  
52 an abused child, before entering a disposition order, the youth  
53 court shall consider, among others, the following relevant  
54 factors:

- 55           (a) The child's physical and mental conditions;
- 56           (b) The child's need of assistance;
- 57           (c) The manner in which the parent, guardian or  
58 custodian participated in, tolerated or condoned the abuse,  
59 neglect or abandonment of the child;
- 60           (d) The ability of a child's parent, guardian or  
61 custodian to provide proper supervision and care of a child; and
- 62           (e) Relevant testimony and recommendations, where  
63 available, from the foster parent of the child, the grandparents  
64 of the child, the guardian ad litem of the child, representatives

65 of any private care agency that has cared for the child, the  
66 social worker assigned to the case, and any other relevant  
67 testimony pertaining to the case.

68 (6) After consideration of all the evidence and the relevant  
69 factors, the youth court shall enter a disposition order that  
70 shall not recite any of the facts or circumstances upon which the  
71 disposition is based, nor shall it recite that a child has been  
72 found guilty; but it shall recite that a child is found to be a  
73 delinquent child, a child in need of supervision, a neglected  
74 child or an abused child.

75 (7) If the youth court orders that the custody or  
76 supervision of a child who has been adjudicated abused or  
77 neglected be placed with the Department of Human Services or any  
78 other person or public or private agency, other than the child's  
79 parent, guardian or custodian, the youth court shall find and the  
80 disposition order shall recite that:

81 (a) (i) Reasonable efforts have been made to maintain  
82 the child within his own home, but that the circumstances warrant  
83 his removal and there is no reasonable alternative to custody; or

84 (ii) The circumstances are of such an emergency  
85 nature that no reasonable efforts have been made to maintain the  
86 child within his own home, and that there is no reasonable  
87 alternative to custody; and

88 (b) That the effect of the continuation of the child's  
89 residence within his own home would be contrary to the welfare of  
90 the child and that the placement of the child in foster care is in  
91 the best interests of the child; or

92 (c) Reasonable efforts to maintain the child within his  
93 home shall not be required if the court determines that:

94 (i) The parent has subjected the child to  
95 aggravated circumstances, including, but not limited to,  
96 abandonment, torture, chronic abuse and sexual abuse; or

97                   (ii) The parent has been convicted of murder of  
98 another child of that parent, voluntary manslaughter of another  
99 child of that parent, aided or abetted, attempted, conspired or  
100 solicited to commit that murder or voluntary manslaughter, or a  
101 felony assault that results in the serious bodily injury to the  
102 surviving child or another child of that parent; or

103                   (iii) The parental rights of the parent to a  
104 sibling have been terminated involuntarily; and

105                   (iv) That the effect of the continuation of the  
106 child's residence within his own home would be contrary to the  
107 welfare of the child and that placement of the child in foster  
108 care is in the best interests of the child.

109           Once the reasonable efforts requirement is bypassed, the  
110 court shall have a permanency hearing under Section 43-21-613  
111 within thirty (30) days of the finding.

112           (8) Upon a written motion by a party, the youth court shall  
113 make written findings of fact and conclusions of law upon which it  
114 relies for the disposition order. If the disposition ordered by  
115 the youth court includes placing the child in the custody of a  
116 training school, an admission packet shall be prepared for the  
117 child that contains the following information:

118                   (a) The child's current medical history, including  
119 medications and diagnosis;

120                   (b) The child's mental health history;

121                   (c) The child's cumulative record from the last school  
122 of record, including special education records, if reasonably  
123 available;

124                   (d) Recommendation from the school of record based on  
125 areas of remediation needed;

126                   (e) Disciplinary records from the school of record; and

127                   (f) Records of disciplinary actions outside of the  
128 school setting, if reasonably available.

129        Only individuals who are permitted under the Health Insurance  
130 Portability and Accountability Act of 1996 (HIPAA) shall have  
131 access to a child's medical records which are contained in an  
132 admission packet. The youth court shall provide the admission  
133 packet to the training school at or before the child's arrival at  
134 the training school. The admittance of any child to a training  
135 school shall take place between the hours of 8:00 a.m. and 3:00  
136 p.m. on designated admission days.

137        **[From and after July 1, 2006, this section shall read as**  
138 **follows:]**

139        43-21-603. (1) At the beginning of each disposition  
140 hearing, the judge shall inform the parties of the purpose of the  
141 hearing.

142        (2) All testimony shall be under oath unless waived by all  
143 parties and may be in narrative form. The court may consider any  
144 evidence that is material and relevant to the disposition of the  
145 cause, including hearsay and opinion evidence. At the conclusion  
146 of the evidence, the youth court shall give the parties an  
147 opportunity to present oral argument.

148        (3) If the child has been adjudicated a delinquent child,  
149 before entering a disposition order, the youth court should  
150 consider, among others, the following relevant factors:

- 151            (a) The nature of the offense;  
152            (b) The manner in which the offense was committed;  
153            (c) The nature and number of a child's prior  
154 adjudicated offenses; and  
155            (d) The child's need for care and assistance.

156        (4) If the child has been adjudicated a child in need of  
157 supervision, before entering a disposition order, the youth court  
158 should consider, among others, the following relevant factors:

- 159            (a) The nature and history of the child's conduct;  
160            (b) The family and home situation; and  
161            (c) The child's need of care and assistance.

162 (5) If the child has been adjudicated a neglected child or  
163 an abused child, before entering a disposition order, the youth  
164 court shall consider, among others, the following relevant  
165 factors:

166 (a) The child's physical and mental conditions;

167 (b) The child's need of assistance;

168 (c) The manner in which the parent, guardian or  
169 custodian participated in, tolerated or condoned the abuse,  
170 neglect or abandonment of the child;

171 (d) The ability of a child's parent, guardian or  
172 custodian to provide proper supervision and care of a child; and

173 (e) Relevant testimony and recommendations, where  
174 available, from the foster parent of the child, the grandparents  
175 of the child, the guardian ad litem of the child, representatives  
176 of any private care agency which has cared for the child, the  
177 social worker assigned to the case, and any other relevant  
178 testimony pertaining to the case.

179 (6) After consideration of all the evidence and the relevant  
180 factors, the youth court shall enter a disposition order which  
181 shall not recite any of the facts or circumstances upon which such  
182 disposition is based, nor shall it recite that a child has been  
183 found guilty; but it shall recite that a child is found to be a  
184 delinquent child, a child in need of supervision, a neglected  
185 child or an abused child.

186 (7) If the youth court orders that the custody or  
187 supervision of a child who has been adjudicated abused or  
188 neglected be placed with the Department of Human Services or any  
189 other person or public or private agency, other than the child's  
190 parent, guardian or custodian, the youth court shall find and the  
191 disposition order shall recite that:

192 (a) (i) Reasonable efforts have been made to maintain  
193 the child within his own home, but that the circumstances warrant  
194 his removal and there is no reasonable alternative to custody; or

195 (ii) The circumstances are of such an emergency  
196 nature that no reasonable efforts have been made to maintain the  
197 child within his own home, and that there is no reasonable  
198 alternative to custody; and

199 (b) That the effect of the continuation of the child's  
200 residence within his own home would be contrary to the welfare of  
201 the child and that the placement of the child in foster care is in  
202 the best interests of the child; or

203 (c) Reasonable efforts to maintain the child within his  
204 home shall not be required if the court determines that:

205 (i) The parent has subjected the child to  
206 aggravated circumstances, including, but not limited to,  
207 abandonment, torture, chronic abuse and sexual abuse; or

208 (ii) The parent has been convicted of murder of  
209 another child of such parent, voluntary manslaughter of another  
210 child of that parent, aided or abetted, attempted, conspired or  
211 solicited to commit that murder or voluntary manslaughter, or a  
212 felony assault that results in the serious bodily injury to the  
213 surviving child or another child of that parent; or

214 (iii) The parental rights of the parent to a  
215 sibling have been terminated involuntarily; and

216 (iv) That the effect of the continuation of the  
217 child's residence within his own home would be contrary to the  
218 welfare of the child and that placement of the child in foster  
219 care is in the best interests of the child.

220 Once the reasonable efforts requirement is bypassed, the  
221 court shall have a permanency hearing under Section 43-21-613  
222 within thirty (30) days of the finding.

223 (8) Upon a written motion by a party, the youth court shall  
224 make written findings of fact and conclusions of law upon which it  
225 relies for the disposition order.

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