

By: Representative Upshaw

To: Juvenile Justice

HOUSE BILL NO. 1542

1 AN ACT TO AMEND SECTION 43-21-153, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT YOUTH WHO ARE FOUND TO BE IN CONTEMPT OF A YOUTH
3 COURT ORDER MAY BE HELD IN SECURE DETENTION AT A NONADULT FACILITY
4 FOR A PERIOD NOT TO EXCEED 90 DAYS; TO AMEND SECTION 43-21-301,
5 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** Section 43-21-153, Mississippi Code of 1972, is
9 amended as follows:

10 43-21-153. (1) The youth court shall have full power and
11 authority to issue all writs and processes including injunctions
12 necessary to the exercise of jurisdiction and to carrying out the
13 purpose of this chapter.

14 (2) Any person, except for a child described in (3) of this
15 section, who willfully violates, neglects or refuses to obey,
16 perform or comply with any order of the youth court shall be in
17 contempt of court and punished by a fine not to exceed Five
18 Hundred Dollars (\$500.00) or by imprisonment in jail not to exceed
19 ninety (90) days, or by both such fine and imprisonment.

20 (3) Any child who willfully violates, neglects or refuses to
21 obey, perform or comply with any order of the youth court, and is
22 found in contempt of court for a violation of a valid court order
23 may be held in secure detention at a nonadult facility for a
24 period not to exceed ninety (90) days.

25 **SECTION 2.** Section 43-21-301, Mississippi Code of 1972, is
26 amended as follows:

27 43-21-301. (1) No court other than the youth court shall
28 issue an arrest warrant or custody order for a child in a matter

29 in which the youth court has exclusive original jurisdiction but
30 shall refer the matter to the youth court.

31 (2) Except as otherwise provided, no child in a matter in
32 which the youth court has exclusive original jurisdiction shall be
33 taken into custody by a law enforcement officer, the Department of
34 Human Services, or any other person unless the judge or his
35 designee has issued a custody order to take the child into
36 custody.

37 (3) The judge or his designee may issue an order to a law
38 enforcement officer, the Department of Human Services, or any
39 suitable person to take a child into custody for a period not
40 longer than forty-eight (48) hours, excluding Saturdays, Sundays,
41 and statutory state holidays if it appears that there is probable
42 cause to believe that:

43 (a) The child is within the jurisdiction of the court;
44 and

45 (b) Custody is necessary; custody shall be deemed
46 necessary:

47 (i) When a child is endangered or any person would
48 be endangered by the child; or

49 (ii) To insure the child's attendance in court at
50 such time as required; or

51 (iii) When a parent, guardian or custodian is not
52 available to provide for the care and supervision of the child;
53 and

54 (c) There is no reasonable alternative to custody.

55 (4) The judge or his designee may order, orally or in
56 writing, the immediate release of any child in the custody of any
57 person or agency. Custody orders as provided by this chapter and
58 authorizations of temporary custody may be written or oral, but,
59 if oral, reduced to writing as soon as practicable. The written
60 order shall:

61 (a) Specify the name and address of the child, or, if
62 unknown, designate him by any name or description by which he can
63 be identified with reasonable certainty;

64 (b) Specify the age of the child, or, if unknown, that
65 he is believed to be of an age subject to the jurisdiction of the
66 youth court;

67 (c) Except in cases where the child is alleged to be a
68 delinquent child, state that there is probable cause to believe
69 that (i) reasonable efforts have been made to maintain the child
70 within his own home, but that the circumstances warrant his
71 removal and there is no reasonable alternative to custody; or (ii)
72 the circumstances are of such an emergency nature that no
73 reasonable efforts have been made to maintain the child within his
74 own home, and that there is no reasonable alternative to custody;

75 (d) State that the child shall be brought immediately
76 before the youth court or be taken to a place designated by the
77 order to be held pending review of the order;

78 (e) State the date issued and the youth court by which
79 the order is issued; and

80 (f) Be signed by the judge or his designee with the
81 title of his office.

82 (5) The taking of a child into custody shall not be
83 considered an arrest except for evidentiary purposes.

84 (6) (a) Except as provided in Section 43-21-153 (3), no
85 child who has been accused or adjudicated of any offense that
86 would not be a crime if committed by an adult shall be placed in
87 secure detention or in an adult jail or lockup. Further, no child
88 who has been accused or adjudicated of an offense that would not
89 be a crime if committed by an adult shall be held in a secure
90 juvenile detention facility for a period in excess of twenty-four
91 (24) hours, excluding Saturdays, Sundays and statutory state
92 holidays, except that out-of-state runaways may be held pending
93 return to their home state.

94 (b) No accused or adjudicated juvenile offender, except
95 for an accused or adjudicated juvenile offender in cases where
96 jurisdiction is waived to the adult criminal court, shall be
97 detained or placed into custody of any adult jail or lockup for a
98 period in excess of six (6) hours.

99 (c) If any county violates the provisions of paragraph
100 (a) or (b) of this subsection, the state agency authorized to
101 allocate federal funds received pursuant to the Juvenile Justice
102 and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in
103 scattered sections of 5, 18, 42 USCS), shall withhold the county's
104 share of such funds.

105 (d) Any county that does not have a facility in which
106 to detain its juvenile offenders in compliance with the provisions
107 of paragraphs (a) and (b) of this subsection may enter into a
108 contractual agreement with any county or municipality that does
109 have such a facility, or with the State of Mississippi, or with
110 any private entity that maintains a juvenile correctional
111 facility, or with the State of Mississippi, to detain or place
112 into custody the juvenile offenders of the county not having such
113 a facility.

114 (e) Notwithstanding the provisions of paragraphs (a),
115 (b), (c) and (d) of this subsection, all counties shall be allowed
116 a one-year grace period from March 27, 1993, to comply with the
117 provisions of this subsection.

118 **SECTION 3.** This act shall take effect and be in force from
119 and after July 1, 2004.