

By: Representative Upshaw

To: Juvenile Justice

HOUSE BILL NO. 1542
(As Passed the House)

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) Notwithstanding subsection 43-21-301(6)(a), any person
15 who wilfully violates, neglects or refuses to obey, perform or
16 comply with any order of the youth court shall be in contempt of
17 court and punished by a fine not to exceed Five Hundred Dollars
18 (\$500.00) and/or may be held in a secure nonadult facility for a
19 period not to exceed ninety (90) days * * *.

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

22 43-21-301. (1) No court other than the youth court shall
23 issue an arrest warrant or custody order for a child in a matter
24 in which the youth court has exclusive original jurisdiction but
25 shall refer the matter to the youth court.

26 (2) Except as otherwise provided, no child in a matter in
27 which the youth court has exclusive original jurisdiction shall be
28 taken into custody by a law enforcement officer, the Department of
29 Human Services, or any other person unless the judge or his

30 designee has issued a custody order to take the child into
31 custody.

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

38 (a) The child is within the jurisdiction of the court;
39 and

40 (b) Custody is necessary; custody shall be deemed
41 necessary:

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

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

46 (iii) When a parent, guardian or custodian is not
47 available to provide for the care and supervision of the child;
48 and

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

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

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

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

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

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

73 (e) State the date issued and the youth court by which
74 the order is issued; and

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

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

79 (6) (a) Except as provided in Section 43-21-153 (2), no
80 child who has been accused or adjudicated of any offense that
81 would not be a crime if committed by an adult shall be placed in
82 secure detention or in an adult jail or lockup. Further, no child
83 who has been accused or adjudicated of an offense that would not
84 be a crime if committed by an adult shall be held in a secure
85 juvenile detention facility for a period in excess of twenty-four
86 (24) hours, excluding Saturdays, Sundays and statutory state
87 holidays, except that out-of-state runaways may be held pending
88 return to their home state.

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

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

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

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

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