

By: Representative Baker (74th)

To: Judiciary A; Juvenile Justice

HOUSE BILL NO. 197

1 AN ACT TO AMEND SECTIONS 63-11-30, 43-21-159 AND 43-21-605,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT FIRST AND SECOND DUI
3 VIOLATIONS OF PERSONS UNDER THE AGE OF 18 MAY BE TRANSFERRED TO
4 YOUTH COURT BECAUSE OF THE GREATER DISPOSITIONAL RESOURCES OF
5 YOUTH COURT; TO REQUIRE THE TRANSFER OF THIRD VIOLATIONS TO YOUTH
6 COURT BECAUSE OF THE GREATER DISPOSITIONAL RESOURCES OF YOUTH
7 COURT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 63-11-30, Mississippi Code of 1972, is
10 amended as follows:

11 63-11-30. (1) It is unlawful for any person to drive or
12 otherwise operate a vehicle within this state who (a) is under the
13 influence of intoxicating liquor; (b) is under the influence of
14 any other substance which has impaired such person's ability to
15 operate a motor vehicle; (c) has an alcohol concentration of eight
16 one-hundredths percent (.08%) or more for persons who are above
17 the legal age to purchase alcoholic beverages under state law, or
18 two one-hundredths percent (.02%) or more for persons who are
19 below the legal age to purchase alcoholic beverages under state
20 law, in the person's blood based upon grams of alcohol per one
21 hundred (100) milliliters of blood or grams of alcohol per two
22 hundred ten (210) liters of breath as shown by a chemical analysis
23 of such person's breath, blood or urine administered as authorized
24 by this chapter; (d) is under the influence of any drug or
25 controlled substance, the possession of which is unlawful under
26 the Mississippi Controlled Substances Law; or (e) has an alcohol
27 concentration of four one-hundredths percent (.04%) or more in the
28 person's blood, based upon grams of alcohol per one hundred (100)
29 milliliters of blood or grams of alcohol per two hundred ten (210)

30 liters of breath as shown by a chemical analysis of such person's
31 blood, breath or urine, administered as authorized by this chapter
32 for persons operating a commercial motor vehicle.

33 (2) (a) Except as otherwise provided in subsection (3),
34 upon conviction of any person for the first offense of violating
35 subsection (1) of this section where chemical tests provided for
36 under Section 63-11-5 were given, or where chemical test results
37 are not available, such person shall be fined not less than Two
38 Hundred Fifty Dollars (\$250.00) nor more than One Thousand Dollars
39 (\$1,000.00), or imprisoned for not more than forty-eight (48)
40 hours in jail or both; and the court shall order such person to
41 attend and complete an alcohol safety education program as
42 provided in Section 63-11-32. The court may substitute attendance
43 at a victim impact panel instead of forty-eight (48) hours in
44 jail. In addition, the Department of Public Safety, the
45 Commissioner of Public Safety or his duly authorized agent shall,
46 after conviction and upon receipt of the court abstract, suspend
47 the driver's license and driving privileges of such person for a
48 period of not less than ninety (90) days and until such person
49 attends and successfully completes an alcohol safety education
50 program as herein provided; provided, however, in no event shall
51 such period of suspension exceed one (1) year. Commercial driving
52 privileges shall be suspended as provided in Section 63-1-83.

53 The circuit court having jurisdiction in the county in which
54 the conviction was had or the circuit court of the person's county
55 of residence may reduce the suspension of driving privileges under
56 Section 63-11-30(2)(a) if the denial of which would constitute a
57 hardship on the offender, except that no court may issue such an
58 order reducing the suspension of driving privileges under this
59 subsection until thirty (30) days have elapsed from the effective
60 date of the suspension. Hardships shall only apply to first
61 offenses under Section 63-11-30(1), and shall not apply to second,
62 third or subsequent convictions of any person violating subsection

63 (1) of this section. A reduction of suspension on the basis of
64 hardship shall not be available to any person who refused to
65 submit to a chemical test upon the request of a law enforcement
66 officer as provided in Section 63-11-5. When the petition is
67 filed, such person shall pay to the circuit clerk of the court
68 where the petition is filed a fee of Fifty Dollars (\$50.00), which
69 shall be deposited into the State General Fund to the credit of a
70 special fund hereby created in the State Treasury to be used for
71 alcohol or drug abuse treatment and education, upon appropriation
72 by the Legislature. This fee shall be in addition to any other
73 court costs or fees required for the filing of petitions.

74 The petition filed under the provisions of this subsection
75 shall contain the specific facts which the petitioner alleges to
76 constitute a hardship and the driver's license number of the
77 petitioner. A hearing may be held on any petition filed under
78 this subsection only after ten (10) days' prior written notice to
79 the Commissioner of Public Safety, or his designated agent, or the
80 attorney designated to represent the state. At such hearing, the
81 court may enter an order reducing the period of suspension.

82 The order entered under the provisions of this subsection
83 shall contain the specific grounds upon which hardship was
84 determined, and shall order the petitioner to attend and complete
85 an alcohol safety education program as provided in Section
86 63-11-32. A certified copy of such order shall be delivered to
87 the Commissioner of Public Safety by the clerk of the court within
88 five (5) days of the entry of the order. The certified copy of
89 such order shall contain information which will identify the
90 petitioner, including, but not limited to, the name, mailing
91 address, street address, social security number and driver's
92 license number of the petitioner.

93 At any time following at least thirty (30) days of suspension
94 for a first offense violation of this section, the court may grant
95 the person hardship driving privileges upon written petition of

96 the defendant, if it finds reasonable cause to believe that
97 revocation would hinder the person's ability to:

98 (i) Continue his employment;

99 (ii) Continue attending school or an educational
100 institution; or

101 (iii) Obtain necessary medical care.

102 Proof of the hardship shall be established by clear and
103 convincing evidence which shall be supported by independent
104 documentation.

105 (b) Except as otherwise provided in subsection (3),
106 upon any second conviction of any person violating subsection (1)
107 of this section, the offenses being committed within a period of
108 five (5) years, such person shall be fined not less than Six
109 Hundred Dollars (\$600.00) nor more than One Thousand Five Hundred
110 Dollars (\$1,500.00), shall be imprisoned not less than five (5)
111 days nor more than one (1) year and sentenced to community service
112 work for not less than ten (10) days nor more than one (1) year.
113 The minimum penalties shall not be suspended or reduced by the
114 court and no prosecutor shall offer any suspension or sentence
115 reduction as part of a plea bargain. Except as may otherwise be
116 provided by paragraph (d) of this subsection, the Commissioner of
117 Public Safety shall suspend the driver's license of such person
118 for two (2) years. Suspension of a commercial driver's license
119 shall be governed by Section 63-1-83. Upon any second conviction
120 as described in this paragraph, the court shall ascertain whether
121 the defendant is married, and if the defendant is married shall
122 obtain the name and address of the defendant's spouse; the clerk
123 of the court shall submit this information to the Department of
124 Public Safety. Further, the commissioner shall notify in writing,
125 by certified mail, return receipt requested, the owner of the
126 vehicle and the spouse, if any, of the person convicted of the
127 second violation of the possibility of forfeiture of the vehicle
128 if such person is convicted of a third violation of subsection (1)

129 of this section. The owner of the vehicle and the spouse shall be
130 considered notified under this paragraph if the notice is
131 deposited in the United States mail and any claim that the notice
132 was not in fact received by the addressee shall not affect a
133 subsequent forfeiture proceeding.

134 For any second or subsequent conviction of any person under
135 this section, the person shall also be subject to the penalties
136 set forth in Section 63-11-31.

137 (c) * * * For any third or subsequent conviction of any
138 person violating subsection (1) of this section, the offenses
139 being committed within a period of five (5) years, if such person
140 is under the age of eighteen (18) years, the court shall transfer
141 the case to the youth court for disposition in accordance with
142 Section 43-21-605, otherwise such person shall be guilty of a
143 felony and fined not less than Two Thousand Dollars (\$2,000.00)
144 nor more than Five Thousand Dollars (\$5,000.00), shall serve not
145 less than one (1) year nor more than five (5) years in the custody
146 of the Department of Corrections; provided, however, that for any
147 such offense which does not result in serious injury or death to
148 any person, any sentence of incarceration may be served in the
149 county jail rather than in the State Penitentiary at the
150 discretion of the circuit court judge. The minimum penalties
151 shall not be suspended or reduced by the court and no prosecutor
152 shall offer any suspension or sentence reduction as part of a plea
153 bargain. The law enforcement agency shall seize the vehicle
154 operated by any person charged with a third or subsequent
155 violation of subsection (1) of this section, if such convicted
156 person was driving the vehicle at the time the offense was
157 committed. Such vehicle may be forfeited in the manner provided
158 by Sections 63-11-49 through 63-11-53. Except as may otherwise be
159 provided by paragraph (e) of this subsection, the Commissioner of
160 Public Safety shall suspend the driver's license of such person

161 for five (5) years. The suspension of a commercial driver's
162 license shall be governed by Section 63-1-83.

163 (d) * * * Any person convicted of a second violation of
164 subsection (1) of this section shall receive an in-depth
165 diagnostic assessment, and if as a result of such assessment is
166 determined to be in need of treatment of his alcohol and/or drug
167 abuse problem, such person shall successfully complete treatment
168 of his alcohol and/or drug abuse problem at a program site
169 certified by the Department of Mental Health. Such person shall
170 be eligible for reinstatement of his driving privileges upon the
171 successful completion of such treatment after a period of one (1)
172 year after such person's driver's license is suspended. Each
173 person who receives a diagnostic assessment shall pay a fee
174 representing the cost of such assessment. Each person who
175 participates in a treatment program shall pay a fee representing
176 the cost of such treatment.

177 (e) Except as otherwise provided in subsection (3), any
178 person convicted of a third or subsequent violation of subsection
179 (1) of this section shall receive an in-depth diagnostic
180 assessment, and if as a result of such assessment is determined to
181 be in need of treatment of his alcohol and/or drug abuse problem,
182 such person shall enter an alcohol and/or drug abuse program
183 approved by the Department of Mental Health for treatment of such
184 person's alcohol and/or drug abuse problem. If such person
185 successfully completes such treatment, such person shall be
186 eligible for reinstatement of his driving privileges after a
187 period of three (3) years after such person's driver's license is
188 suspended.

189 (f) The Department of Public Safety shall promulgate
190 rules and regulations for the use of interlock ignition devices as
191 provided in Section 63-11-31 and consistent with the provisions
192 therein. Such rules and regulations shall provide for the
193 calibration of such devices and shall provide that the cost of the

194 use of such systems shall be borne by the offender. The
195 Department of Public Safety shall approve which vendors of such
196 devices shall be used to furnish such systems.

197 (3) (a) This subsection shall be known and may be cited as
198 Zero Tolerance for Minors. The provisions of this subsection
199 shall apply only for the first offense or second offense of
200 violating subsection (1) of this section when a person under the
201 age of twenty-one (21) years has a blood alcohol concentration two
202 one-hundredths percent (.02%) or more, but lower than eight
203 one-hundredths percent (.08%). If such person's blood alcohol
204 concentration is eight one-hundredths percent (.08%) or more, or
205 if such person has two (2) or more prior convictions for violating
206 subsection (1) of this section, the offenses being committed
207 within a period of five (5) years, the provisions of subsection (2)
208 shall apply.

209 (b) Except as otherwise provided in subsection (3)(f)
210 of this section, upon conviction of any person under the age of
211 twenty-one (21) years for the first offense of violating
212 subsection (1) of this section where chemical tests provided for
213 under Section 63-11-5 were given, or where chemical test results
214 are not available, such person shall have his driver's license
215 suspended for ninety (90) days and shall be fined Two Hundred
216 Fifty Dollars (\$250.00); and the court shall order such person to
217 attend and complete an alcohol safety education program as
218 provided in Section 63-11-32. The court may also require
219 attendance at a victim impact panel.

220 The court in the county in which the conviction was had or
221 the circuit court of the person's county of residence may reduce
222 the suspension of driving privileges under Section 63-11-30(3)(b)
223 if the denial of which would constitute a hardship on the
224 offender, except that no court may issue such an order reducing
225 the suspension of driving privileges under this subsection until
226 thirty (30) days have elapsed from the effective date of the

227 suspension. Hardships shall only apply to first offenses under
228 Section 63-11-30(1), and shall not apply to second, third or
229 subsequent convictions of any person violating subsection (1) of
230 this section. A reduction of suspension on the basis of hardship
231 shall not be available to any person who refused to submit to a
232 chemical test upon the request of a law enforcement officer as
233 provided in Section 63-11-5. When the petition is filed, such
234 person shall pay to the circuit clerk of the court where the
235 petition is filed a fee of Fifty Dollars (\$50.00), which shall be
236 deposited into the State General Fund to the credit of a special
237 fund hereby created in the State Treasury to be used for alcohol
238 or drug abuse treatment and education, upon appropriation by the
239 Legislature. This fee shall be in addition to any other court
240 costs or fees required for the filing of petitions.

241 The petition filed under the provisions of this subsection
242 shall contain the specific facts which the petitioner alleges to
243 constitute a hardship and the driver's license number of the
244 petitioner. A hearing may be held on any petition filed under
245 this subsection only after ten (10) days' prior written notice to
246 the Commissioner of Public Safety, or his designated agent, or the
247 attorney designated to represent the state. At such hearing, the
248 court may enter an order reducing the period of suspension.

249 The order entered under the provisions of this subsection
250 shall contain the specific grounds upon which hardship was
251 determined, and shall order the petitioner to attend and complete
252 an alcohol safety education program as provided in Section
253 63-11-32. A certified copy of such order shall be delivered to
254 the Commissioner of Public Safety by the clerk of the court within
255 five (5) days of the entry of the order. The certified copy of
256 such order shall contain information which will identify the
257 petitioner, including, but not limited to, the name, mailing
258 address, street address, social security number and driver's
259 license number of the petitioner.

260 At any time following at least thirty (30) days of suspension
261 for a first offense violation of this section, the court may grant
262 the person hardship driving privileges upon written petition of
263 the defendant, if it finds reasonable cause to believe that
264 revocation would hinder the person's ability to:

- 265 (i) Continue his employment;
- 266 (ii) Continue attending school or an educational
267 institution; or
- 268 (iii) Obtain necessary medical care.

269 Proof of the hardship shall be established by clear and
270 convincing evidence which shall be supported by independent
271 documentation.

272 (c) Except as otherwise provided in subsection (3)(f)
273 of this section, upon any second conviction of any person under
274 the age of twenty-one (21) years violating subsection (1) of this
275 section, the offenses being committed within a period of five (5)
276 years, such person shall be fined not more than Five Hundred
277 Dollars (\$500.00) and shall have his driver's license suspended
278 for one (1) year.

279 * * *

280 (d) Any person under the age of twenty-one (21) years
281 convicted of a second violation of subsection (1) of this section,
282 may have the period that his driver's license is suspended reduced
283 if such person receives an in-depth diagnostic assessment, and as
284 a result of such assessment is determined to be in need of
285 treatment of his alcohol and/or drug abuse problem and
286 successfully completes treatment of his alcohol and/or drug abuse
287 problem at a program site certified by the Department of Mental
288 Health. Such person shall be eligible for reinstatement of his
289 driving privileges upon the successful completion of such
290 treatment after a period of six (6) months after such person's
291 driver's license is suspended. Each person who receives a
292 diagnostic assessment shall pay a fee representing the cost of

293 such assessment. Each person who participates in a treatment
294 program shall pay a fee representing the cost of such treatment.

295 * * *

296 (e) The court shall have the discretion to rule that a
297 first offense of this subsection by a person under the age of
298 twenty-one (21) years shall be nonadjudicated. Such person shall
299 be eligible for nonadjudication only once. The Department of
300 Public Safety shall maintain a confidential registry of all cases
301 which are nonadjudicated as provided in this paragraph. A judge
302 who rules that a case is nonadjudicated shall forward such ruling
303 to the Department of Public Safety. Judges and prosecutors
304 involved in implied consent violations shall have access to the
305 confidential registry for the purpose of determining
306 nonadjudication eligibility. A record of a person who has been
307 nonadjudicated shall be maintained for five (5) years or until
308 such person reaches the age of twenty-one (21) years. Any person
309 whose confidential record has been disclosed in violation of this
310 paragraph shall have a civil cause of action against the person
311 and/or agency responsible for such disclosure.

312 (f) Any person under the age of eighteen (18) years
313 convicted of a first or second violation of subsection (1) of this
314 section shall be transferred to the youth court for disposition in
315 accordance with Section 43-21-605.

316 (4) In addition to the other penalties provided in this
317 section, every person refusing a law enforcement officer's request
318 to submit to a chemical test of his breath as provided in this
319 chapter, or who was unconscious at the time of a chemical test and
320 refused to consent to the introduction of the results of such test
321 in any prosecution, shall suffer an additional suspension of
322 driving privileges as follows:

323 The Commissioner of Public Safety or his authorized agent
324 shall suspend the driver's license or permit to drive or deny the
325 issuance of a license or permit to such person as provided for

326 first, second and third or subsequent offenders in subsection (2)
327 of this section. Such suspension shall be in addition to any
328 suspension imposed pursuant to subsection (1) of Section 63-11-23.
329 The minimum suspension imposed under this subsection shall not be
330 reduced and no prosecutor is authorized to offer a reduction of
331 such suspension as part of a plea bargain.

332 (5) Every person who operates any motor vehicle in violation
333 of the provisions of subsection (1) of this section and who in a
334 negligent manner causes the death of another or mutilates,
335 disfigures, permanently disables or destroys the tongue, eye, lip,
336 nose or any other limb, organ or member of another shall, upon
337 conviction, be guilty of a separate felony for each such death,
338 mutilation, disfigurement or other injury and shall be committed
339 to the custody of the State Department of Corrections for a period
340 of time of not less than five (5) years and not to exceed
341 twenty-five (25) years for each such death, mutilation,
342 disfigurement or other injury, and the imprisonment for the second
343 or each subsequent conviction, in the discretion of the court,
344 shall commence either at the termination of the imprisonment for
345 the preceding conviction or run concurrently with the preceding
346 conviction. Any person charged with causing the death of another
347 as described in this subsection shall be required to post bail
348 before being released after arrest.

349 (6) Upon conviction of any violation of subsection (1) of
350 this section, the trial judge shall sign in the place provided on
351 the traffic ticket, citation or affidavit stating that the person
352 arrested either employed an attorney or waived his right to an
353 attorney after having been properly advised. If the person
354 arrested employed an attorney, the name, address and telephone
355 number of the attorney shall be written on the ticket, citation or
356 affidavit. The judge shall cause a copy of the traffic ticket,
357 citation or affidavit, and any other pertinent documents
358 concerning the conviction, to be sent to the Commissioner of

359 Public Safety. A copy of the traffic ticket, citation or
360 affidavit and any other pertinent documents, having been attested
361 as true and correct by the Commissioner of Public Safety, or his
362 designee, shall be sufficient proof of the conviction for purposes
363 of determining the enhanced penalty for any subsequent convictions
364 of violations of subsection (1) of this section.

365 (7) Convictions in other states of violations for driving or
366 operating a vehicle while under the influence of an intoxicating
367 liquor or while under the influence of any other substance that
368 has impaired the person's ability to operate a motor vehicle
369 occurring after July 1, 1992, shall be counted for the purposes of
370 determining if a violation of subsection (1) of this section is a
371 first, second, third or subsequent offense and the penalty that
372 shall be imposed upon conviction for a violation of subsection (1)
373 of this section.

374 (8) For the purposes of determining how to impose the
375 sentence for a second, third or subsequent conviction under this
376 section, the indictment shall not be required to enumerate
377 previous convictions. It shall only be necessary that the
378 indictment state the number of times that the defendant has been
379 convicted and sentenced within the past five (5) years under this
380 section to determine if an enhanced penalty shall be imposed. The
381 amount of fine and imprisonment imposed in previous convictions
382 shall not be considered in calculating offenses to determine a
383 second, third or subsequent offense of this section.

384 (9) Any person under the legal age to obtain a license to
385 operate a motor vehicle convicted under this section shall not be
386 eligible to receive such license until the person reaches the age
387 of eighteen (18) years.

388 (10) Suspension of driving privileges for any person
389 convicted of violations of Section 63-11-30(1) shall run
390 consecutively.

391 (11) The court may order the use of any ignition interlock
392 device as provided in Section 63-11-31.

393 **SECTION 2.** Section 43-21-159, Mississippi Code of 1972, is
394 amended as follows:

395 43-21-159. (1) When a person appears before a court other
396 than the youth court, and it is determined that the person is a
397 child under jurisdiction of the youth court, such court shall,
398 unless the jurisdiction of the offense has been transferred to
399 such court as provided in this chapter, or unless the child has
400 previously been the subject of a transfer from the youth court to
401 the circuit court for trial as an adult and was convicted,
402 immediately dismiss the proceeding without prejudice and forward
403 all documents pertaining to the cause to the youth court; and all
404 entries in permanent records shall be expunged. The youth court
405 shall have the power to order and supervise the expunction or the
406 destruction of such records in accordance with Section 43-21-265.
407 Upon petition therefor, the youth court shall expunge the record
408 of any case within its jurisdiction in which an arrest was made,
409 the person arrested was released and the case was dismissed or the
410 charges were dropped or there was no disposition of such case. In
411 cases where the child is charged with a hunting or fishing
412 violation or a traffic violation whether it be any state or
413 federal law, a violation of the Mississippi Implied Consent Law,
414 or municipal ordinance or county resolution or where the child is
415 charged with a violation of Section 67-3-70, the appropriate
416 criminal court shall proceed to dispose of the same in the same
417 manner as for other adult offenders and it shall not be necessary
418 to transfer the case to the youth court of the county, except for
419 transfers ordered pursuant to Section 63-11-30(2)(c) or Section
420 63-11-30(3). Unless the cause has been transferred, or unless the
421 child has previously been the subject of a transfer from the youth
422 court to the circuit court for trial as an adult, except for
423 violations under the Implied Consent Law, and was convicted, the

424 youth court shall have power on its own motion to remove
425 jurisdiction from any criminal court of any offense including a
426 hunting or fishing violation, a traffic violation, or a violation
427 of Section 67-3-70, committed by a child in a matter under the
428 jurisdiction of the youth court and proceed therewith in
429 accordance with the provisions of this chapter.

430 (2) After conviction and sentence of any child by any other
431 court having original jurisdiction on a misdemeanor charge, and
432 within the time allowed for an appeal of such conviction and
433 sentence, the youth court of the county shall have the full power
434 to stay the execution of the sentence and to release the child on
435 good behavior or on other order as the youth court may see fit to
436 make unless the child has previously been the subject of a
437 transfer from the youth court to the circuit court for trial as an
438 adult and was convicted. When a child is convicted of a
439 misdemeanor and is committed to, incarcerated in or imprisoned in
440 a jail or other place of detention by a criminal court having
441 proper jurisdiction of such charge, such court shall notify the
442 youth court judge or the judge's designee of the conviction and
443 sentence prior to the commencement of such incarceration. The
444 youth court shall have the power to order and supervise the
445 destruction of any records involving children maintained by the
446 criminal court in accordance with Section 43-21-265. However, the
447 youth court shall have the power to set aside a judgment of any
448 other court rendered in any matter over which the youth court has
449 exclusive original jurisdiction, to expunge or destroy the records
450 thereof in accordance with Section 43-21-265, and to order a
451 refund of fines and costs.

452 (3) Nothing in subsection (1) or (2) shall apply to a youth
453 who has a pending charge or a conviction for any crime over which
454 circuit court has original jurisdiction.

455 (4) In any case wherein the defendant is a child as defined
456 in this chapter and of which the circuit court has original

457 jurisdiction, the circuit judge, upon a finding that it would be
458 in the best interest of such child and in the interest of justice,
459 may at any stage of the proceedings prior to the attachment of
460 jeopardy transfer such proceedings to the youth court for further
461 proceedings unless the child has previously been the subject of a
462 transfer from the youth court to the circuit court for trial as an
463 adult and was convicted or has previously been convicted of a
464 crime which was in original circuit court jurisdiction, and the
465 youth court shall, upon acquiring jurisdiction, proceed as
466 provided in this chapter for the adjudication and disposition of
467 delinquent child proceeding proceedings. If the case is not
468 transferred to the youth court and the youth is convicted of a
469 crime by any circuit court, the trial judge shall sentence the
470 youth as though such youth was an adult. The circuit court shall
471 not have the authority to commit such child to the custody of the
472 Department of Youth Services for placement in a state-supported
473 training school.

474 (5) In no event shall a court sentence an offender over the
475 age of eighteen (18) to the custody of the Division of Youth
476 Services for placement in a state-supported training school.

477 (6) When a child's driver's license is suspended by the
478 youth court for any reason, the clerk of the youth court shall
479 report the suspension, without a court order under Section
480 43-21-261, to the Commissioner of Public Safety in the same manner
481 as such suspensions are reported in cases involving adults.

482 (7) No offense involving the use or possession of a firearm
483 by a child who has reached his fifteenth birthday and which, if
484 committed by an adult would be a felony, shall be transferred to
485 the youth court.

486 **SECTION 3.** Section 43-21-605, Mississippi Code of 1972, is
487 amended as follows:

488 43-21-605. (1) In delinquency cases, the disposition order
489 may include any of the following alternatives:

- 490 (a) Release the child without further action;
- 491 (b) Place the child in the custody of the parents, a
492 relative or other persons subject to any conditions and
493 limitations, including restitution, as the youth court may
494 prescribe;
- 495 (c) Place the child on probation subject to any
496 reasonable and appropriate conditions and limitations, including
497 restitution, as the youth court may prescribe;
- 498 (d) Order terms of treatment calculated to assist the
499 child and the child's parents or guardian which are within the
500 ability of the parent or guardian to perform;
- 501 (e) Order terms of supervision which may include
502 participation in a constructive program of service or education or
503 civil fines not in excess of Five Hundred Dollars (\$500.00), or
504 restitution not in excess of actual damages caused by the child to
505 be paid out of his own assets or by performance of services
506 acceptable to the victims and approved by the youth court and
507 reasonably capable of performance within one (1) year;
- 508 (f) Suspend the child's driver's license by taking and
509 keeping it in custody of the court for not more than one (1) year;
- 510 (g) Give legal custody of the child to any of the
511 following:
- 512 (i) The Department of Human Services for
513 appropriate placement; or
- 514 (ii) Any public or private organization,
515 preferably community-based, able to assume the education, care and
516 maintenance of the child, which has been found suitable by the
517 court; or
- 518 (iii) The Department of Human Services for
519 placement in a wilderness training program or a state-supported
520 training school, except that no child under the age of ten (10)
521 years shall be committed to a state training school. The training
522 school may retain custody of the child until the child's twentieth

523 birthday but for no longer. The superintendent of a state
524 training school may parole a child at any time he may deem it in
525 the best interest and welfare of such child. Twenty (20) days
526 prior to such parole, the training school shall notify the
527 committing court of the pending release. The youth court may then
528 arrange subsequent placement after a reconvened disposition
529 hearing except that the youth court may not recommit the child to
530 the training school or any other secure facility without an
531 adjudication of a new offense or probation or parole violation.
532 Prior to assigning the custody of any child to any private
533 institution or agency, the youth court through its designee shall
534 first inspect the physical facilities to determine that they
535 provide a reasonable standard of health and safety for the child.
536 The youth court shall not place a child in the custody of a state
537 training school for truancy, unless such child has been
538 adjudicated to have committed an act of delinquency in addition to
539 truancy;

540 (h) Recommend to the child and the child's parents or
541 guardian that the child attend and participate in the Youth
542 Challenge Program under the Mississippi National Guard, as created
543 in Section 43-27-203, subject to the selection of the child for
544 the program by the National Guard; however, the child must
545 volunteer to participate in the program. The youth court may not
546 order any child to apply or attend the program;

547 (i) (i) Adjudicate the juvenile to the Statewide
548 Juvenile Work Program if the program is established in the court's
549 jurisdiction. The juvenile and his parents or guardians must sign
550 a waiver of liability in order to participate in the work program.
551 The judge will coordinate with the youth services counselors as to
552 placing participants in the work program;

553 (ii) The severity of the crime, whether or not the
554 juvenile is a repeat offender or is a felony offender will be
555 taken into consideration by the judge when adjudicating a juvenile

556 to the work program. The juveniles adjudicated to the work
557 program will be supervised by police officers or reserve officers.
558 The term of service will be from twenty-four (24) to one hundred
559 twenty (120) hours of community service. A juvenile will work the
560 hours to which he was adjudicated on the weekends during school
561 and week days during the summer. Parents are responsible for a
562 juvenile reporting for work. Noncompliance with an order to
563 perform community service will result in a heavier adjudication.
564 A juvenile may be adjudicated to the community service program
565 only two (2) times;

566 (iii) The judge shall assess an additional fine on
567 the juvenile which will be used to pay the costs of implementation
568 of the program and to pay for supervision by police officers and
569 reserve officers. The amount of the fine will be based on the
570 number of hours to which the juvenile has been adjudicated;

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

573 (k) Order the child into a juvenile detention center
574 operated by the county or into a juvenile detention center
575 operated by any county with which the county in which the court is
576 located has entered into a contract for the purpose of housing
577 delinquents. The time period for such detention cannot exceed
578 ninety (90) days. The youth court judge may order that the number
579 of days specified in the detention order be served either
580 throughout the week or on weekends only.

581 (2) In addition to any of the disposition alternatives
582 authorized under subsection (1) of this section, the disposition
583 order in any case in which the child is convicted of an offense
584 under Section 63-11-30 shall include an order denying the driver's
585 license and driving privileges of the child for:

586 (a) Ninety (90) days for a first conviction of
587 violating Section 63-11-30(1); or

588 (b) One (1) year for any second conviction of violating
589 Section 63-11-30(1).

590 (3) If the youth court places a child in a state-supported
591 training school, the court may order the parents or guardians of
592 the child and other persons living in the child's household to
593 receive counseling and parenting classes for rehabilitative
594 purposes while the child is in the legal custody of the training
595 school. A youth court entering an order under this subsection (3)
596 shall utilize appropriate services offered either at no cost or
597 for a fee calculated on a sliding scale according to income unless
598 the person ordered to participate elects to receive other
599 counseling and classes acceptable to the court at the person's
600 sole expense.

601 (4) Fines levied under this chapter shall be paid into the
602 general fund of the county but, in those counties wherein the
603 youth court is a branch of the municipal government, it shall be
604 paid into the municipal treasury.

605 (5) Any institution or agency to which a child has been
606 committed shall give to the youth court any information concerning
607 the child as the youth court may at any time require.

608 (6) The youth court shall not place a child in another
609 school district who has been expelled from a school district for
610 the commission of a violent act. For the purpose of this
611 subsection, "violent act" means any action which results in death
612 or physical harm to another or an attempt to cause death or
613 physical harm to another.

614 (7) The youth court may require drug testing as part of a
615 disposition order. If a child tests positive, the court may
616 require treatment, counseling and random testing, as it deems
617 appropriate. The costs of such tests shall be paid by the parent,
618 guardian or custodian of the child unless the court specifically
619 finds that the parent, guardian or custodian is unable to pay.

620 **SECTION 4.** This act shall take effect and be in force from
621 and after its passage.