

By: Representative Holland

To: Public Health and Human Services; Juvenile Justice

HOUSE BILL NO. 1528

1 AN ACT TO AMEND SECTION 43-21-603, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE TRANSFER OF COPIES OF A CHILD'S ORIGINAL
3 CUMULATIVE SCHOOL RECORD AS A PREREQUIREMENT TO COMMITMENT TO A
4 STATE TRAINING SCHOOL, AND TO DELETE THE AUTOMATIC REVERTER ON THE
5 CODE SECTION PROVIDING YOUTH COURT DISPOSITION HEARING PROCEDURES
6 AND ALTERNATIVES IN DELINQUENCY, CHILD ABUSE AND CHILD NEGLECT
7 MATTERS; AND FOR RELATED PURPOSES.

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

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

11 * * *

12 43-21-603. (1) At the beginning of each disposition
13 hearing, the judge shall inform the parties of the purpose of the
14 hearing.

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

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

- 24 (a) The nature of the offense;
- 25 (b) The manner in which the offense was committed;
- 26 (c) The nature and number of a child's prior
27 adjudicated offenses;
- 28 (d) The child's need for care and assistance;

29 (e) The child's current medical history, including
30 medication and diagnosis;

31 (f) The child's mental health history, which may
32 include, but not be limited to, the Massachusetts Youth Screening
33 Instrument version 2 (MAYSI-2);

34 (g) Copies of cumulative record from the last school of
35 record, including special education records, if applicable;

36 (h) Recommendation from the school of record based on
37 areas of remediation needed;

38 (i) Disciplinary records from the school of record; and

39 (j) Records of disciplinary actions outside of the
40 school setting.

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

44 (a) The nature and history of the child's conduct;

45 (b) The family and home situation; and

46 (c) The child's need of care and assistance.

47 (5) If the child has been adjudicated a neglected child or
48 an abused child, before entering a disposition order, the youth
49 court shall consider, among others, the following relevant
50 factors:

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

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

53 (c) The manner in which the parent, guardian or
54 custodian participated in, tolerated or condoned the abuse,
55 neglect or abandonment of the child;

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

58 (e) Relevant testimony and recommendations, where
59 available, from the foster parent of the child, the grandparents
60 of the child, the guardian ad litem of the child, representatives
61 of any private care agency that has cared for the child, the

62 social worker or child protection specialist assigned to the case,
63 and any other relevant testimony pertaining to the case.

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

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

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

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

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

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

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

93 (ii) The parent has been convicted of murder of
94 another child of that parent, voluntary manslaughter of another

95 child of that parent, aided or abetted, attempted, conspired or
96 solicited to commit that murder or voluntary manslaughter, or a
97 felony assault that results in the serious bodily injury to the
98 surviving child or another child of that parent; or

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

101 (iv) That the effect of the continuation of the
102 child's residence within his own home would be contrary to the
103 welfare of the child and that placement of the child in foster
104 care is in the best interests of the child.

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

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

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

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

117 (c) Copies of the child's cumulative record from the
118 last school of record, including special education records, if
119 reasonably available;

120 (d) Recommendation from the school of record based on
121 areas of remediation needed;

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

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

125 Only individuals who are permitted under the Health Insurance
126 Portability and Accountability Act of 1996 (HIPAA) shall have
127 access to a child's medical records which are contained in an

128 admission packet. The youth court shall provide the admission
129 packet to the training school at or before the child's arrival at
130 the training school. The admittance of any child to a training
131 school shall take place between the hours of 8:00 a.m. and 3:00
132 p.m. on designated admission days.

133 (9) When a child in the jurisdiction of the Youth Court is
134 committed to the custody of the Mississippi Department of Human
135 Services and is believed to be in need of treatment for a mental
136 or emotional disability or infirmity, the Department of Human
137 Services shall file an affidavit alleging that the child is in
138 need of mental health services with the Youth Court. The Youth
139 Court shall refer the child to the appropriate community mental
140 health center for evaluation pursuant to Section 41-21-67. If
141 said pre-screening evaluation recommends residential care, the
142 Youth Court shall proceed with civil commitment pursuant to
143 Sections 41-21-61 et seq., 43-21-315 and 43-21-611, and the
144 Department of Mental Health, once commitment is ordered, shall
145 provide appropriate care, treatment and services for at least as
146 many adolescents as were provided services in fiscal year 2004 in
147 its facilities.

148 * * *

149 **SECTION 2.** This act shall take effect and be in force from
150 and after July 1, 2005.