

By: Representatives Mims, Clarke

To: Juvenile Justice;
Judiciary A

HOUSE BILL NO. 1162

1 AN ACT TO REQUIRE A PARENT OR LEGAL GUARDIAN OF A CHILD WHO
2 HAS BEEN TWICE ADJUDICATED DELINQUENT TO SERVE 24 HOURS IN A
3 COUNTY JAIL; TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,
4 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** After a child has been twice adjudicated
7 delinquent for two (2) separate delinquent acts, a parent or legal
8 guardian of such child shall be required to be confined in a
9 county jail for a 24-hour period. If the child resides in a
10 single-parent home then the youth court shall provide supervision
11 for the delinquent child or other children that may reside in the
12 home while the single parent is incarcerated for the 24-hour
13 period.

14 **SECTION 2.** Section 43-21-605, Mississippi Code of 1972, is
15 amended as follows:

16 43-21-605. (1) In delinquency cases, the disposition order
17 may include any of the following alternatives:

18 (a) Release the child without further action;

19 (b) Place the child in the custody of the parents, a
20 relative or other persons subject to any conditions and
21 limitations, including restitution, as the youth court may
22 prescribe;

23 (c) Place the child on probation subject to any
24 reasonable and appropriate conditions and limitations, including
25 restitution, as the youth court may prescribe;

26 (d) Order terms of treatment calculated to assist the
27 child and the child's parents or guardian which are within the
28 ability of the parent or guardian to perform;

29 (e) Order terms of supervision which may include
30 participation in a constructive program of service or education or
31 civil fines not in excess of Five Hundred Dollars (\$500.00), or
32 restitution not in excess of actual damages caused by the child to
33 be paid out of his own assets or by performance of services
34 acceptable to the victims and approved by the youth court and
35 reasonably capable of performance within one (1) year;

36 (f) Suspend the child's driver's license by taking and
37 keeping it in custody of the court for not more than one (1) year;

38 (g) Give legal custody of the child to any of the
39 following:

40 (i) The Department of Human Services for
41 appropriate placement; or

42 (ii) Any public or private organization,
43 preferably community-based, able to assume the education, care and
44 maintenance of the child, which has been found suitable by the
45 court; or

46 (iii) The Department of Human Services for
47 placement in a wilderness training program or the Division of
48 Youth Services for placement in a state-supported training school,
49 except that no child under the age of ten (10) years shall be
50 committed to a state training school, and no first-time nonviolent
51 youth offenders shall be committed to a state training school
52 until all other options provided for in this section have been
53 considered and the court makes a specific finding of fact that
54 commitment is appropriate.

55 The training school may retain custody of the child until the
56 child's twentieth birthday but for no longer. When the child is
57 committed to a training school, the child shall remain in the
58 legal custody of the training school until the child has made
59 sufficient progress in treatment and rehabilitation and it is in
60 the best interest of the child to release the child. However, the
61 superintendent of a state training school, in consultation with

62 the treatment team, may parole a child at any time he may deem it
63 in the best interest and welfare of such child. Twenty (20) days
64 prior to such parole, the training school shall notify the
65 committing court of the pending release. The youth court may then
66 arrange subsequent placement after a reconvened disposition
67 hearing, except that the youth court may not recommit the child to
68 the training school or any other secure facility without an
69 adjudication of a new offense or probation or parole violation.
70 The Department of Human Services shall ensure that staffs create
71 transition planning for youth leaving the facilities. Plans shall
72 include providing the youth and his or her parents or guardian
73 with copies of the youth's training school education and health
74 records, information regarding the youth's home community,
75 referrals to mental and counseling services when appropriate, and
76 providing assistance in making initial appointments with community
77 service providers. Prior to assigning the custody of any child to
78 any private institution or agency, the youth court through its
79 designee shall first inspect the physical facilities to determine
80 that they provide a reasonable standard of health and safety for
81 the child. No child shall be placed in the custody of a state
82 training school for a status offense or for contempt of or
83 revocation of a status offense adjudication unless the child is
84 contemporaneously adjudicated for having committed an act of
85 delinquency that is not a status offense. A disposition order
86 rendered under this subparagraph shall meet the following
87 requirements:

88 1. The disposition is the least restrictive
89 alternative appropriate to the best interest of the child and the
90 community;

91 2. The disposition allows the child to be in
92 reasonable proximity to the family home community of each child
93 given the dispositional alternatives available and the best
94 interest of the child and the state; and

95 3. The disposition order provides that the
96 court has considered the medical, educational, vocational, social
97 and psychological guidance, training, social education,
98 counseling, substance abuse treatment and other rehabilitative
99 services required by that child as determined by the court;

100 (h) Recommend to the child and the child's parents or
101 guardian that the child attend and participate in the Youth
102 Challenge Program under the Mississippi National Guard, as created
103 in Section 43-27-203, subject to the selection of the child for
104 the program by the National Guard; however, the child must
105 volunteer to participate in the program. The youth court shall
106 not order any child to apply or attend the program;

107 (i) (i) Adjudicate the juvenile to the Statewide
108 Juvenile Work Program if the program is established in the court's
109 jurisdiction. The juvenile and his parents or guardians must sign
110 a waiver of liability in order to participate in the work program.
111 The judge will coordinate with the youth services counselors as to
112 placing participants in the work program;

113 (ii) The severity of the crime, whether or not the
114 juvenile is a repeat offender or is a felony offender will be
115 taken into consideration by the judge when adjudicating a juvenile
116 to the work program. The juveniles adjudicated to the work
117 program will be supervised by police officers or reserve officers.
118 The term of service will be from twenty-four (24) to one hundred
119 twenty (120) hours of community service. A juvenile will work the
120 hours to which he was adjudicated on the weekends during school
121 and weekdays during the summer. Parents are responsible for a
122 juvenile reporting for work. Noncompliance with an order to
123 perform community service will result in a heavier adjudication.
124 A juvenile may be adjudicated to the community service program
125 only two (2) times;

126 (iii) The judge shall assess an additional fine on
127 the juvenile which will be used to pay the costs of implementation

128 of the program and to pay for supervision by police officers and
129 reserve officers. The amount of the fine will be based on the
130 number of hours to which the juvenile has been adjudicated;

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

133 (k) Order the child into a juvenile detention center
134 operated by the county or into a juvenile detention center
135 operated by any county with which the county in which the court is
136 located has entered into a contract for the purpose of housing
137 delinquents. The time period for detention cannot exceed ninety
138 (90) days, and any detention exceeding forty-five (45) days shall
139 be administratively reviewed by the youth court no later than
140 forty-five (45) days after the entry of the order. The youth
141 court judge may order that the number of days specified in the
142 detention order be served either throughout the week or on
143 weekends only. No first-time nonviolent youth offender shall be
144 committed to a detention center for a period of ninety (90) days
145 until all other options provided for in this section have been
146 considered and the court makes a specific finding of fact that
147 commitment to a detention center is appropriate. However, if a
148 child is committed to a detention center ninety (90) consecutive
149 days, the disposition order shall meet the following requirements:

150 (i) The disposition order is the least restrictive
151 alternative appropriate to the best interest of the child and the
152 community;

153 (ii) The disposition order allows the child to be
154 in reasonable proximity to the family home community of each child
155 given the dispositional alternatives available and the best
156 interest of the child and the state; and

157 (iii) The disposition order provides that the
158 court has considered the medical, educational, vocational, social
159 and psychological guidance, training, social education,

160 counseling, substance abuse treatment and other rehabilitative
161 services required by that child as determined by the court; or

162 (1) Referral to A-team provided system of care
163 services.

164 (2) If a disposition order requires that a child miss school
165 due to other placement, the youth court shall notify a child's
166 school while maintaining the confidentiality of the youth court
167 process.

168 (3) In addition to any of the disposition alternatives
169 authorized under subsection (1) of this section, the disposition
170 order in any case in which the child is adjudicated delinquent for
171 an offense under Section 63-11-30 shall include an order denying
172 the driver's license and driving privileges of the child as
173 required under Section 63-11-30(9).

174 (4) If the youth court places a child in a state-supported
175 training school, the court may order the parents or guardians of
176 the child and other persons living in the child's household to
177 receive counseling and parenting classes for rehabilitative
178 purposes while the child is in the legal custody of the training
179 school. A youth court entering an order under this subsection (4)
180 shall utilize appropriate services offered either at no cost or
181 for a fee calculated on a sliding scale according to income unless
182 the person ordered to participate elects to receive other
183 counseling and classes acceptable to the court at the person's
184 sole expense.

185 (5) Fines levied under this chapter shall be paid into the
186 general fund of the county but, in those counties wherein the
187 youth court is a branch of the municipal government, it shall be
188 paid into the municipal treasury.

189 (6) Any institution or agency to which a child has been
190 committed shall give to the youth court any information concerning
191 the child as the youth court may at any time require.

192 (7) The youth court shall not place a child in another
193 school district who has been expelled from a school district for
194 the commission of a violent act. For the purpose of this
195 subsection, "violent act" means any action which results in death
196 or physical harm to another or an attempt to cause death or
197 physical harm to another.

198 (8) The youth court may require drug testing as part of a
199 disposition order. If a child tests positive, the court may
200 require treatment, counseling and random testing, as it deems
201 appropriate. The costs of such tests shall be paid by the parent,
202 guardian or custodian of the child unless the court specifically
203 finds that the parent, guardian or custodian is unable to pay.

204 (9) The Youth Court shall require the parent or legal
205 guardian of a child to be jailed, as provided in Section 1 of
206 House Bill No. _____, 2007 Regular Session, as part of the court's
207 disposition order, if a child has been twice adjudicated
208 delinquent.

209 (10) The Mississippi Department of Human Services, Division
210 of Youth Services, shall operate and maintain services for youth
211 adjudicated delinquent at Columbia and Oakley Training Schools.
212 The program shall be designed for children committed to the
213 training schools by the youth courts. The purpose of the program
214 is to promote good citizenship, self-reliance, leadership and
215 respect for constituted authority, teamwork, cognitive abilities
216 and appreciation of our national heritage. The Division of Youth
217 Services shall issue credit towards academic promotions and high
218 school completion. The Division of Youth Services may award
219 credits to each student who meets the requirements for a general
220 education development certification. The Division of Youth
221 Services must also provide to each special education eligible
222 youth the services required by that youth's individualized
223 education plan.

224 (11) There is created a study committee to determine what
225 entity should be responsible for providing the educational
226 services within detention centers to ensure that detained youth
227 receive adequate educational services. The study is also to
228 include, but is not limited to, the examination of the costs of
229 providing such educational services. The study committee shall
230 consist of the following ten (10) members:

231 (a) The Chairperson of the House of Representatives of
232 the Juvenile Justice Committee;

233 (b) The Chairperson of the Senate Judiciary B
234 Committee;

235 (c) The Chairperson of the House of Representatives
236 Education Committee or his or her designee;

237 (d) The Chairperson of the Senate Education Committee
238 or his or her designee;

239 (e) Three (3) members from the House of
240 Representatives, appointed by the Chairperson of the Juvenile
241 Justice Committee; and

242 (f) Three (3) members from the Senate, appointed by the
243 Chairperson of the Senate Judiciary B Committee.

244 At its first meeting the study committee shall elect a
245 chairperson and vice chairperson from its membership and shall
246 adopt rules for transacting its business and keeping its records.

247 By October 31, 2006, the study committee shall make a report
248 of its work and recommendations.

249 **SECTION 3.** This act shall take effect and be in force from
250 and after July 1, 2007.