

Youth Court Law

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YOUTH COURT LAW

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§ 43-21-45. Funds for payment of salaries and expenses of youth counsellors and clerk-reporters.

In any Class 1 county having a total population in excess of eighty thousand (80,000) according to the 1950 census and having a total assessed valuation in excess of Forty-eight Million Dollars (\$48,000,000.00), and in which there is both a youth court and a federal military base or encampment; and in any Class 1 county having a total population in excess of fifty-two thousand seven hundred twenty (52,720) in the 1960 federal decennial census and in which there is located both a state-supported university and a Mississippi National Guard Camp, the board of supervisors of any such county may, in its discretion, set aside, appropriate and expend moneys from the general fund to be used in the payment of salaries and/or travel expenses of a youth counsellor, or counsellors, and the salary of a clerk-reporter of the youth court of such county, and such funds shall be expended for no other purpose.

Sources: Codes, 1942, § 7185-21.5; Laws, 1956, ch. 207, §§ 1-3; Laws, 1968, ch. 371, § 1; Laws, 1986, ch. 400, § 28, eff from and after October 1, 1986.

ORGANIZATION, ADMINISTRATION AND OPERATION

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- § 43-21-125. Council of youth court judges.
- § 43-21-127. Cooperation.

§ 43-21-101. Short title.

This chapter shall be cited as the "Youth Court Law."

Sources: Laws, 1979, ch. 506, § 1, eff from and after July 1, 1979.

§ 43-21-103. Construction and purpose.

This chapter shall be liberally construed to the end that each child coming within the jurisdiction of the youth court shall become a responsible, accountable and productive citizen, and that each such child shall receive such care, guidance and control, preferably in such child's own home as is conducive toward that end and is in the state's and the child's best interest. It is the public policy of this state that the parents of each child shall be primarily responsible for the care, support, education and welfare of such children; however, when it is necessary that a child be removed from the control of such child's parents, the youth court shall secure proper care for such child.

Sources: Laws, 1979, ch. 506, § 2; Laws, 1980, ch. 550, § 1; Laws, 1989, ch. 441, § 1, eff from and after July 1, 1989.

§ 43-21-105. Definitions.

The following words and phrases, for purposes of this chapter, shall have the meanings ascribed herein unless the context clearly otherwise requires:

- (a) "Youth court" means the Youth Court Division.
- (b) "Judge" means the judge of the Youth Court Division.
- (c) "Designee" means any person that the judge appoints to perform a duty which this chapter requires to be done by the judge or his designee. The judge may not appoint a person who is involved in law enforcement to be his designee.
- (d) "Child" and "youth" are synonymous, and each means a person who has not reached his eighteenth birthday. A child who has not reached his eighteenth birthday and is on active duty for a branch of the armed services or is married is not considered a "child" or "youth" for the purposes of this chapter.
- (e) "Parent" means the father or mother to whom the child has been born, or the father or mother by whom the child has been legally adopted.
- (f) "Guardian" means a court-appointed guardian of the person of a child.
- (g) "Custodian" means any person having the present care or custody of a child whether such person be a parent or otherwise.
- (h) "Legal custodian" means a court-appointed custodian of the child.
- (i) "Delinquent child" means a child who has reached his tenth birthday and who has committed a delinquent act.
- (j) "Delinquent act" is any act, which if committed by an adult, is designated as a crime under state or federal law, or municipal or county ordinance other than offenses punishable by life imprisonment or death. A delinquent act includes escape from lawful detention and violations of the Uniform Controlled Substances Law and violent behavior.
- (k) "Child in need of supervision" means a child who has reached his seventh birthday and is in need of treatment or rehabilitation because the child:
 - (i) Is habitually disobedient of reasonable and lawful commands of his parent, guardian or custodian and is ungovernable; or
 - (ii) While being required to attend school, willfully and habitually violates the rules thereof or willfully and habitually absents himself therefrom; or
 - (iii) Runs away from home without good cause; or
 - (iv) Has committed a delinquent act or acts.
- (l) "Neglected child" means a child:
 - (i) Whose parent, guardian or custodian or any person responsible for his care or support, neglects or refuses, when able so to do, to provide for him proper and necessary care or support, or education as required by law, or medical, surgical, or other care necessary for his well-being; provided, however, a parent who withholds medical treatment from any child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall not, for that reason alone, be considered to be neglectful under any provision of this chapter; or
 - (ii) Who is otherwise without proper care, custody, supervision or support; or
 - (iii) Who, for any reason, lacks the special care made necessary for

him by reason of his mental condition, whether said mental condition be mentally retarded or mentally ill; or

- (iv) Who, for any reason, lacks the care necessary for his health, morals or well-being.
- (m) "Abused child" means a child whose parent, guardian or custodian or any person responsible for his care or support, whether legally obligated to do so or not, has caused or allowed to be caused upon said child sexual abuse, sexual exploitation, emotional abuse, mental injury, nonaccidental physical injury or other maltreatment. Provided, however, that physical discipline, including spanking, performed on a child by a parent, guardian or custodian in a reasonable manner shall not be deemed abuse under this section.
- (n) "Sexual abuse" means obscene or pornographic photographing, filming or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened.
- (o) "A child in need of special care" means a child with any mental or physical illness that cannot be treated with the dispositional alternatives ordinarily available to the youth court.
- (p) A "dependent child" means any child who is not a child in need of supervision, a delinquent child, an abused child or a neglected child, and which child has been voluntarily placed in the custody of the Department of Human Services by his parent, guardian or custodian.
- (q) "Custody" means the physical possession of the child by any person.
- (r) "Legal custody" means the legal status created by a court order which gives the legal custodian the responsibilities of physical possession of the child and the duty to provide him with food, shelter, education and reasonable medical care, all subject to residual rights and responsibilities of the parent or guardian of the person.
- (s) "Detention" means the care of children in physically restrictive facilities.
- (t) "Shelter" means care of children in physically nonrestrictive facilities.
- (u) "Records involving children" means any of the following from which the child can be identified:
 - (i) All youth court records as defined in Section 43-21-251;
 - (ii) All social records as defined in Section 43-21-253;
 - (iii) All law enforcement records as defined in Section 43-21-255;
 - (iv) All agency records as defined in Section 43-21-257; and
 - (v) All other documents maintained by any representative of the state, county, municipality or other public agency insofar as they relate to the apprehension, custody, adjudication or disposition of a child who is the subject of a youth court cause.
- (v) "Any person responsible for care or support" means the person who is providing for the child at a given time. This term shall include, but is not limited to, stepparents, foster parents, relatives, nonlicensed babysitters or other similar persons responsible for a child and staff of residential care facilities and group homes that are licensed by the Department of Human Services.
- (w) The singular includes the plural, the plural the singular and the masculine the feminine when consistent with the intent of this chapter.
- (x) "Out-of-home" setting means the temporary supervision or care of children

by the staff of licensed day care centers, the staff of public, private and state schools, the staff of juvenile detention facilities, the staff of unlicensed residential care facilities and group homes and the staff of, or individuals representing, churches, civic or social organizations.

- (y) "Durable legal custody" means the legal status created by a court order which gives the durable legal custodian the responsibilities of physical possession of the child and the duty to provide him with care, nurture, welfare, food, shelter, education and reasonable medical care. All these duties as enumerated are subject to the residual rights and responsibilities of the natural parent(s) or guardian(s) of the child or children.
- (z) "Status offense" means conduct subject to adjudication by the youth court that would not be a crime if committed by an adult.

Sources: Laws, 1979, ch. 506, § 3; Laws, 1980, ch. 550, § 2; Laws, 1985, ch. 486, § 2; Laws, 1986, ch. 416, § 1; Laws, 1991, ch. 537, § 1; Laws, 1991, ch. 539, § 7; Laws, 1993, ch. 560, § 1; Laws, 1994, ch. 591, § 5; Laws, 1994, ch. 607, § 17; Laws, 1996, ch. 323, § 1; Laws, 1998, ch. 516, § 6; Laws, 2001, ch. 358, § 1; Laws, 2005, ch. 471, § 4, eff from and after July 1, 2005.

§ 43-21-107. Establishment clause.

- (1) A youth court division is hereby created as a division of the county court of each county now or hereafter having a county court, and the county judge shall be the judge of the youth court unless another judge is named by the county judge as provided by this chapter.
- (2) A youth court division is hereby created as a division of the chancery court of each county in which no county court is maintained and any chancellor within a chancery court district shall be the judge of the youth court of that county within such chancery court district unless another judge is named by the senior chancellor of the county or chancery court district as provided by this chapter.
- (3) In any county where there is no county court or family court on July 1, 1979, there may be created a youth court division as a division of the municipal court in any city if the governing authorities of such city adopt a resolution to that effect. The cost of the youth court division of the municipal court shall be paid from any funds available to the municipality excluding county funds. No additional municipal youth court shall be formed after January 1, 2007.

Sources: Laws, 1979, ch. 506, § 4; Laws, 1982, ch. 476, § 4; Laws, 1983, ch. 334; Laws, 2007, ch. 557, § 5, eff from and after July 1, 2007.

§ 43-21-109. Youth court facilities.

Any county or municipality may separately or jointly establish and maintain detention facilities, shelter facilities, foster homes, or any other facility necessary to carry on the work of the youth court. For said purposes, the county or municipality may acquire necessary land by condemnation, by purchase or donation, may issue bonds as now provided by law for the purpose of purchasing, constructing, remodeling or maintaining such facilities; may expend necessary funds from the general fund to construct and maintain such facilities, and may employ architects to design or remodel such facilities. Such facilities may include a place for housing youth court facilities and personnel.

Sources: Laws, 1979, ch. 506, § 5; Laws, 1980, ch. 550, § 3, eff from and after July 1, 1980.

§ 43-21-111. Referee.

- (1) In any county not having a county court or family court the judge may appoint

as provided in Section 43-21-123 regular or special referees who shall be attorneys at law and members of the bar in good standing to act in cases concerning children within the jurisdiction of the youth court, and a regular referee shall hold office until removed by the judge. The requirement that regular or special referees appointed pursuant to this subsection be attorneys shall apply only to regular or special referees who were not first appointed regular or special referees prior to July 1, 1991.

- (2) Any referee appointed pursuant to subsection (1) of this section shall be required to receive judicial training approved by the Mississippi Judicial College and shall be required to receive regular annual continuing education in the field of juvenile justice. The amount of judicial training and annual continuing education which shall be satisfactory to fulfill the requirements of this section shall conform with the amount prescribed by the Rules and Regulations for Mandatory Continuing Judicial Education promulgated by the Supreme Court. The Administrative Office of Courts shall maintain a roll of referees appointed under this section, shall enforce the provisions of this subsection and shall maintain records on all such referees regarding such training. Should a referee miss two (2) consecutive training sessions sponsored or approved by the Mississippi Judicial College as required by this subsection or fail to attend one (1) such training session within six (6) months of their initial appointment as a referee, the referee shall be disqualified to serve and be immediately removed as a referee and another member of the bar shall be appointed as provided in this section.
- (3) The judge may direct that hearings in any case or class of cases be conducted in the first instance by the referee. The judge may also delegate his own administrative responsibilities to the referee.
- (4) All hearings authorized to be heard by a referee shall proceed in the same manner as hearings before the youth court judge. A referee shall possess all powers and perform all the duties of the youth court judge in the hearings authorized to be heard by the referee.
- (5) An order entered by the referee shall be mailed immediately to all parties and their counsel. A rehearing by the judge shall be allowed if any party files a written motion for a rehearing or on the court's own motion within three (3) days after notice of referee's order. The youth court may enlarge the time for filing a motion for a rehearing for good cause shown. Any rehearing shall be upon the record of the hearing before the referee, but additional evidence may be admitted in the discretion of the judge. A motion for a rehearing shall not act as a supersedeas of the referee's order, unless the judge shall so order.
- (6) The salary for the referee shall be fixed on order of the judge as provided in Section 43-21-123 and shall be paid by the county out of any available funds budgeted for the youth court by the board of supervisors.
- (7) Upon request of the boards of supervisors of two (2) or more counties, the judge of the chancery court may appoint a suitable person as referee to two (2) or more counties within his district, and the payment of salary may be divided in such ratio as may be agreed upon by the boards of supervisors.

Sources: Laws, 1979, ch. 506, § 6; Laws, 1991, ch. 537, § 2; Laws, 1997, ch. 440, § 2; Laws, 1998, ch. 367, § 1, eff from and after July 1, 1998.

§ 43-21-113. Special judge.

When a judge shall certify in writing that he is unable to serve because of

illness or absence from the county or district, the judge may appoint as provided in Section 43-21-123 a special judge to serve in his stead. A special judge shall possess all the powers and perform all the duties of the regular judge. The compensation for the special judge shall be fixed on order of the judge as provided in Section 43-21-123 on the basis of a statement as to the time and expense incurred by the special judge and shall be paid by the county out of any available funds. In the case of recusal, a judge shall be selected as provided by law.

Sources: Laws, 1979, ch. 506, § 7; Laws, 1993, ch. 560, § 2, eff from and after July 1, 1993.

§ 43-21-115. Intake unit.

In every youth court division the judge shall appoint as provided in Section 43-21-123 one or more persons to function as the intake unit for the youth court division. The youth court intake unit shall perform all duties specified by this chapter. If the person serving as the youth court intake unit is not already a salaried public employee, the salary for such person shall be fixed on order of the judge as provided in Section 43-21-123 and shall be paid by the county or municipality, as the case may be, out of any available funds budgeted for the youth court by the board of supervisors.

Sources: Laws, 1979, ch. 506, § 8; Laws, 1997, ch. 440, § 3, eff from and after July 1, 1997.

§ 43-21-117. Youth court prosecutor.

- (1) The youth court prosecutor shall represent the petitioner in all proceedings in the youth court.
- (2) The county prosecuting attorney shall serve as the youth court prosecutor; however, if funds are available pursuant to Section 43-21-123, the court may designate, as provided in subsection (3) of this section, a prosecutor or prosecutors in lieu of or in addition to the county prosecuting attorney. Where there is a municipal youth court division, the city prosecutor shall serve as youth court prosecutor; provided that the district attorney may participate in transfer proceedings.
- (3) The judge may designate as provided in Section 43-21-123 some suitable attorney or attorneys to serve as youth court prosecutor or prosecutors in lieu of or in conjunction with the youth court prosecutor provided in subsection (2) of this section. The designated youth court prosecutor or prosecutors shall be paid a fee or salary fixed on order of the judge as provided in Section 43-21-123 and shall be paid by the county out of any available funds budgeted for the youth court by the board of supervisors, unless the designated youth court prosecutor or prosecutors serves in a municipal youth court division, in which case he shall be paid a fee or salary fixed on order of the judge from the funds available to the municipality.
- (4) All youth court prosecutors and county prosecuting attorneys who serve as youth court prosecutors shall be required to receive juvenile justice training approved by the Mississippi Attorney General's office and regular annual continuing education in the field of juvenile justice. The Mississippi Attorney General's office shall determine the amount of juvenile justice training and annual continuing education which shall be satisfactory to fulfill the requirements of this subsection. The Administrative Office of Courts shall maintain a roll of youth court prosecutors, shall enforce the provisions of this subsection and shall maintain records on all such youth court prosecutors regarding such training. Should a youth court prosecutor miss two (2)

consecutive training sessions sponsored by the Mississippi Attorney General's office as required by this subsection or fail to attend one (1) such training session within six (6) months of their designation as youth court prosecutor, the youth court prosecutor shall be disqualified to serve and be immediately removed from the office of youth court prosecutor and another youth court prosecutor shall be designated.

Sources: Laws, 1979, ch. 506, § 9; Laws, 1980, ch. 550, § 4; Laws, 1997, ch. 440, § 4; Laws, 1998, ch. 367, § 2, eff from and after July 1, 1998.

§ 43-21-119. Youth court personnel.

The judge or his designee shall appoint as provided in Section 43-21-123 sufficient personnel, responsible to and under the control of the youth court, to carry on the professional, clerical and other work of the youth court. The cost of these persons appointed by the youth court shall be paid as provided in Section 43-21-123 out of any available funds budgeted for the youth court by the board of supervisors.

Sources: Laws, 1979, ch. 506, § 10, eff from and after July 1, 1979.

§ 43-21-121. Guardian ad litem.

- (1) The youth court shall appoint a guardian ad litem for the child:
 - (a) When a child has no parent, guardian or custodian;
 - (b) When the youth court cannot acquire personal jurisdiction over a parent, a guardian or a custodian;
 - (c) When the parent is a minor or a person of unsound mind;
 - (d) When the parent is indifferent to the interest of the child or if the interests of the child and the parent, considered in the context of the cause, appear to conflict;
 - (e) In every case involving an abused or neglected child which results in a judicial proceeding; or
 - (f) In any other instance where the youth court finds appointment of a guardian ad litem to be in the best interest of the child.
- (2) The guardian ad litem shall be appointed by the court when custody is ordered or at the first judicial hearing regarding the case, whichever occurs first.
- (3) In addition to all other duties required by law, a guardian ad litem shall have the duty to protect the interest of a child for whom he has been appointed guardian ad litem. The guardian ad litem shall investigate, make recommendations to the court or enter reports as necessary to hold paramount the child's best interest. The guardian ad litem is not an adversary party and the court shall insure that guardians ad litem perform their duties properly and in the best interest of their wards. The guardian ad litem shall be a competent person who has no adverse interest to the minor. The court shall insure that the guardian ad litem is adequately instructed on the proper performance of his duties.
- (4) The court may appoint either a suitable attorney or a suitable layman as guardian ad litem. In cases where the court appoints a layman as guardian ad litem, the court shall also appoint an attorney to represent the child. From and after January 1, 1999, in order to be eligible for an appointment as a guardian ad litem, such attorney or lay person must have received child protection and juvenile justice training provided by or approved by the Mississippi Judicial College within the year immediately preceding such appointment. The Mississippi Judicial College shall determine the amount of child protection and juvenile justice training which shall be satisfactory to fulfill the requirements of

this section. The Administrative Office of Courts shall maintain a roll of all attorneys and laymen eligible to be appointed as a guardian ad litem under this section and shall enforce the provisions of this subsection.

- (5) Upon appointment of a guardian ad litem, the youth court shall continue any pending proceedings for a reasonable time to allow the guardian ad litem to familiarize himself with the matter, consult with counsel and prepare his participation in the cause.
- (6) Upon order of the youth court, the guardian ad litem shall be paid a reasonable fee as determined by the youth court judge or referee out of the county general fund as provided under Section 43-21-123. To be eligible for such fee, the guardian ad litem shall submit an accounting of the time spent in performance of his duties to the court.
- (7) The court, in its sound discretion, may appoint a volunteer trained layperson to assist children subject to the provisions of this section in addition to the appointment of a guardian ad litem.

Sources: Laws, 1979, ch. 506, § 11; Laws, 1980, ch. 550, § 5; Laws, 1997, ch. 440, § 5; Laws, 1998, ch. 367, § 3; Laws, 1998, ch. 516, § 9; Laws, 1999, ch. 329, § 1, eff from and after July 1, 1999.

§ 43-21-123. Expenditures by the youth court.

Except for expenses provided by state funds and/or other monies, the board of supervisors, or the municipal governing board where there is a municipal youth court, shall adequately provide funds for the operation of the youth court division of the chancery court in conjunction with the regular chancery court budget, or the county or family courts where said courts are constituted. In preparation for said funding, on an annual basis at the time requested, the youth court judge or administrator shall prepare and submit to the board of supervisors, or the municipal governing board of the youth court wherever the youth court is a municipal court, an annual budget which will identify the number, staff position, title and amount of annual or monthly compensation of each position as well as provide for other expenditures necessary to the functioning and operation of the youth court. When the budget of the youth court or youth court judge is approved by the board of supervisors or the governing authority of the municipality, then the youth court or youth court judge may employ such persons as provided in the budget from time to time.

The board of supervisors of any county in which there is located a youth court, and the governing authority of any municipality in which there is located a municipal youth court, are each authorized to reimburse the youth court judges and other youth court employees or personnel for reasonable travel and expenses incurred in the performance of their duties and in attending educational meetings offering professional training to such persons as budgeted.

Sources: Laws, 1979, ch. 506, § 12; Laws, 1989, ch. 441, § 2, eff from and after July 1, 1989.

§ 43-21-125. Council of youth court judges.

- (1) There shall be a Mississippi Council of Youth Court Judges which shall be the official organization of the judges having youth court jurisdiction in this state. The membership of the council shall consist of all the judges and referees of youth courts in the state of Mississippi.
- (2) The Mississippi Council of Youth Court Judges is authorized to adopt and, from time to time, amend such rules, regulations or bylaws as it considers necessary to the conduct of its affairs.

- (3) The council may elect officers and provide for such meetings of the council as it deems necessary. The council shall meet at least annually for the consideration of:
 - (a) any and all matters pertaining to the discharge of the official duties and obligations of its members; and
 - (b) problems that have arisen in connection with the operation of the youth courts in any county or in all counties in order to improve the administration of juvenile justice in the state.
- (4) The council shall publish and submit to the governor, the chief justice of the supreme court, and the Mississippi Judicial Council an annual report of the operations which shall include financial and statistical data and may include suggestions and recommendations for legislation.
- (5) The council is authorized to receive and expend any funds which may become available from the federal government to carry out any of the purposes of this chapter, and to this end the council may meet any federal requirements not contrary to state law which may be conditions precedent to receiving such federal funds.
- (6) The council may cooperate with the federal government in a program for training personnel employed or preparing for employment by the youth court and may receive and expend funds from federal or state sources or from private donations for such purposes. The council may contract with public or nonprofit institutions of higher learning for the training of such personnel, may conduct short-term training courses of its own, may hire experts on a temporary basis for such purpose and may cooperate with the department of youth services or other state departments or agencies in personnel training programs.

Sources: Laws, 1979, ch. 506, § 13, eff from and after July 1, 1979.

§ 43-21-127. Cooperation.

It is hereby made the duty of every public official or department to render all assistance and cooperation within his or its jurisdictional power which may further the objects of this chapter. The youth court is authorized to seek the cooperation of all societies, organizations or agencies having for their object the protection or aid of children.

Sources: Laws, 1979, ch. 506, § 14, eff from and after July 1, 1979.

JURISDICTION

§ 43-21-151. Jurisdiction.

§ 43-21-153. Powers of youth court; contempt.

§ 43-21-155. Venue.

§ 43-21-157. Transfer of jurisdiction to other courts.

§ 43-21-159. Transfer of cases from other courts.

§ 43-21-151. Jurisdiction.

- (1) The youth court shall have exclusive original jurisdiction in all proceedings concerning a delinquent child, a child in need of supervision, a neglected child, an abused child or a dependent child except in the following circumstances:
 - (a) Any act attempted or committed by a child, which if committed by an adult would be punishable under state or federal law by life imprisonment or death, will be in the original jurisdiction of the

circuit court;

- (b) Any act attempted or committed by a child with the use of a deadly weapon, the carrying of which concealed is prohibited by Section 97-37-1, or a shotgun or a rifle, which would be a felony if committed by an adult, will be in the original jurisdiction of the circuit court; and
- (c) When a charge of abuse of a child first arises in the course of a custody action between the parents of the child already pending in the chancery court and no notice of such abuse was provided prior to such chancery proceedings, the chancery court may proceed with the investigation, hearing and determination of such abuse charge as a part of its hearing and determination of the custody issue as between the parents, notwithstanding the other provisions of the Youth Court Law. The proceedings in chancery court on the abuse charge shall be confidential in the same manner as provided in youth court proceedings.

When a child is expelled from the public schools, the youth court shall be notified of the act of expulsion and the act or acts constituting the basis for expulsion.

- (2) Jurisdiction of the child in the cause shall attach at the time of the offense and shall continue thereafter for that offense until the child's twentieth birthday, unless sooner terminated by order of the youth court. The youth court shall not have jurisdiction over offenses committed by a child on or after his eighteenth birthday, or over offenses committed by a child on or after his seventeenth birthday where such offenses would be a felony if committed by an adult.
- (3) No child who has not reached his thirteenth birthday shall be held criminally responsible or criminally prosecuted for a misdemeanor or felony; however, the parent, guardian or custodian of such child may be civilly liable for any criminal acts of such child. No child under the jurisdiction of the youth court shall be held criminally responsible or criminally prosecuted by any court for any act designated as a delinquent act, unless jurisdiction is transferred to another court under Section 43-21-157.
- (4) The youth court shall also have jurisdiction of offenses committed by a child which have been transferred to the youth court by an order of a circuit court of this state having original jurisdiction of the offense, as provided by Section 43-21-159.
- (5) The youth court shall regulate and approve the use of teen court as provided in Section 43-21-753.

Sources: Laws, 1979, ch. 506, § 15; Laws, 1985, ch. 486, § 1; Laws, 1989, ch. 441, § 3; Laws, 1990, ch. 452, § 1; Laws, 1993, ch. 558, § 1; Laws, 1994, ch. 595, § 1; Laws, 1996, ch. 514, § 3, eff from and after July 1, 1996.

§ 43-21-153. Powers of youth court; contempt.

- (1) The youth court shall have full power and authority to issue all writs and processes including injunctions necessary to the exercise of jurisdiction and to carrying out the purpose of this chapter.
- (2) Any person who wilfully violates, neglects or refuses to obey, perform or comply with any order of the youth court shall be in contempt of court and punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in jail not to exceed ninety (90) days, or by both such fine and imprisonment.

Sources: Laws, 1979, ch. 506, § 16, eff from and after July 1, 1979.

§ 43-21-155. Venue.

- (1) If a child is alleged to be a delinquent child or a child in need of supervision, the proceedings shall be commenced in any county where any of the alleged acts are said to have occurred. After adjudication, the youth court may, in the best interest of the child, transfer the case at any stage of the proceeding for disposition to the county where the child resides or to a county where a youth court has previously acquired jurisdiction.
- (2) If a child is alleged to be an abused or neglected child, the proceedings shall be commenced in the county where the child's custodian resides or in the county where the child is present when the report is made to the intake unit.

Sources: Laws, 1979, ch. 506, § 17; Laws, 1999, ch. 329, § 2, eff from and after July 1, 1999.

§ 43-21-157. Transfer of jurisdiction to other courts.

- (1) If a child who has reached his thirteenth birthday is charged by petition to be a delinquent child, the youth court, either on motion of the youth court prosecutor or on the youth court's own motion, after a hearing as hereinafter provided, may, in its discretion, transfer jurisdiction of the alleged offense described in the petition or a lesser included offense to the criminal court which would have trial jurisdiction of such offense if committed by an adult. The child shall be represented by counsel in transfer proceedings.
- (2) A motion to transfer shall be filed on a day prior to the date set for the adjudicatory hearing but not more than ten (10) days after the filing of the petition. The youth court may order a transfer study at any time after the motion to transfer is filed. The transfer study and any other social record which the youth court will consider at the transfer hearing shall be made available to the child's counsel prior to the hearing. Summons shall be served in the same manner as other summons under this chapter with a copy of the motion to transfer and the petition attached thereto.
- (3) The transfer hearing shall be bifurcated. At the transfer hearing, the youth court shall first determine whether probable cause exists to believe that the child committed the alleged offense. For the purpose of the transfer hearing only, the child may, with the assistance of counsel, waive the determination of probable cause.
- (4) Upon such a finding of probable cause, the youth court may transfer jurisdiction of the alleged offense and the youth if the youth court finds by clear and convincing evidence that there are no reasonable prospects of rehabilitation within the juvenile justice system.
- (5) The factors which shall be considered by the youth court in determining the reasonable prospects of rehabilitation within the juvenile justice system are:
 - (a) Whether or not the alleged offense constituted a substantial danger to the public;
 - (b) The seriousness of the alleged offense;
 - (c) Whether or not the transfer is required to protect the community;
 - (d) Whether or not the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
 - (e) Whether the alleged offense was against persons or against property, greater weight being given to the offense against persons, especially if personal injury resulted;
 - (f) The sophistication, maturity and educational background of the child;
 - (g) The child's home situation, emotional condition and life-style;

- (h) The history of the child, including experience with the juvenile justice system, other courts, probation, commitments to juvenile institutions or other placements;
 - (i) Whether or not the child can be retained in the juvenile justice system long enough for effective treatment or rehabilitation;
 - (j) The dispositional resources available to the juvenile justice system;
 - (k) Dispositional resources available to the adult correctional system for the child if treated as an adult;
 - (l) Whether the alleged offense was committed on school property, public or private, or at any school-sponsored event, and constituted a substantial danger to other students;
 - (m) Any other factors deemed relevant by the youth court; and
 - (n) Nothing in this subsection shall prohibit the transfer of jurisdiction of an alleged offense and a child if that child, at the time of the transfer hearing, previously has not been placed in a juvenile institution.
- (6) If the youth court transfers jurisdiction of the alleged offense to a criminal court, the youth court shall enter a transfer order containing:
- (a) Facts showing that the youth court had jurisdiction of the cause and of the parties;
 - (b) Facts showing that the child was represented by counsel;
 - (c) Facts showing that the hearing was held in the presence of the child and his counsel;
 - (d) A recital of the findings of probable cause and the facts and reasons underlying the youth court's decision to transfer jurisdiction of the alleged offense;
 - (e) The conditions of custody or release of the child pending criminal court proceedings, including bail or recognizance as the case may justify, as well as a designation of the custodian for the time being; and
 - (f) A designation of the alleged offense transferred and of the court to which the transfer is made and a direction to the clerk to forward for filing in such court a certified copy of the transfer order of the youth court.
- (7) The testimony of the child respondent at a transfer hearing conducted pursuant to this chapter shall not be admissible against the child in any proceeding other than the transfer hearing.
- (8) When jurisdiction of an offense is transferred to the circuit court, or when a youth has committed an act which is in original circuit court jurisdiction pursuant to Section 43-21-151, the jurisdiction of the youth court over the youth is forever terminated, except that such jurisdiction is not forever terminated if the circuit court transfers or remands the transferred case to the youth court or if a child who has been transferred to the circuit court or is in the original jurisdiction of the circuit court is not convicted. However, when jurisdiction of an offense is transferred to the circuit court pursuant to this section or when an offense committed by a youth is in original circuit court jurisdiction pursuant to Section 43-21-151, the circuit court shall thereafter assume and retain jurisdiction of any felony offenses committed by such youth without any additional transfer proceedings. Any misdemeanor offenses committed by youth who are in circuit court jurisdiction pursuant to this section or Section 43-21-151 shall be prosecuted in the court which would have jurisdiction over that offense if committed by an adult without any additional

transfer proceedings. The circuit court may review the transfer proceedings on motion of the transferred child. Such review shall be on the record of the hearing in the youth court. The circuit court shall remand the offense to the youth court if there is no substantial evidence to support the order of the youth court. The circuit court may also review the conditions of custody or release pending criminal court proceedings.

- (9) When any youth has been the subject of a transfer to circuit court for an offense committed in any county of the state or has committed any act which is in the original jurisdiction of the circuit court pursuant to Section 43-21-151, that transfer or original jurisdiction shall be recognized by all other courts of the state and no subsequent offense committed by such youth in any county of the state shall be in the jurisdiction of the youth court unless transferred to the youth court pursuant to Section 43-21-159(3). Transfers from youth courts of other states shall be recognized by the courts of this state and no youth who has a pending charge or a conviction in the adult court system of any other state shall be in the jurisdiction of the youth courts of this state, but such youths shall be in the jurisdiction of the circuit court for any felony committed in this state or in the jurisdiction of the court of competent jurisdiction for any misdemeanor committed in this state.

Sources: Laws, 1979, ch. 506, § 18; Laws, 1980, ch. 550, § 6; Laws, 1986, ch. 467, § 1; Laws, 1994, ch. 595, § 2; Laws, 1999, ch. 329, § 7, eff from and after July 1, 1999.

§ 43-21-159. Transfer of cases from other courts.

- (1) When a person appears before a court other than the youth court, and it is determined that the person is a child under jurisdiction of the youth court, such court shall, unless the jurisdiction of the offense has been transferred to such court as provided in this chapter, or unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted, immediately dismiss the proceeding without prejudice and forward all documents pertaining to the cause to the youth court; and all entries in permanent records shall be expunged. The youth court shall have the power to order and supervise the expunction or the destruction of such records in accordance with Section 43-21-265. Upon petition therefor, the youth court shall expunge the record of any case within its jurisdiction in which an arrest was made, the person arrested was released and the case was dismissed or the charges were dropped or there was no disposition of such case. In cases where the child is charged with a hunting or fishing violation or a traffic violation whether it be any state or federal law, a violation of the Mississippi Implied Consent Law, or municipal ordinance or county resolution or where the child is charged with a violation of Section 67-3-70, the appropriate criminal court shall proceed to dispose of the same in the same manner as for other adult offenders and it shall not be necessary to transfer the case to the youth court of the county. Unless the cause has been transferred, or unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult, except for violations under the Implied Consent Law, and was convicted, the youth court shall have power on its own motion to remove jurisdiction from any criminal court of any offense including a hunting or fishing violation, a traffic violation, or a violation of Section 67-3-70, committed by a child in a matter under the jurisdiction of the youth court and proceed therewith in accordance with the provisions of this chapter.

- (2) After conviction and sentence of any child by any other court having original jurisdiction on a misdemeanor charge, and within the time allowed for an appeal of such conviction and sentence, the youth court of the county shall have the full power to stay the execution of the sentence and to release the child on good behavior or on other order as the youth court may see fit to make unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted. When a child is convicted of a misdemeanor and is committed to, incarcerated in or imprisoned in a jail or other place of detention by a criminal court having proper jurisdiction of such charge, such court shall notify the youth court judge or the judge's designee of the conviction and sentence prior to the commencement of such incarceration. The youth court shall have the power to order and supervise the destruction of any records involving children maintained by the criminal court in accordance with Section 43-21-265. However, the youth court shall have the power to set aside a judgment of any other court rendered in any matter over which the youth court has exclusive original jurisdiction, to expunge or destroy the records thereof in accordance with Section 43-21-265, and to order a refund of fines and costs.
- (3) Nothing in subsection (1) or (2) shall apply to a youth who has a pending charge or a conviction for any crime over which circuit court has original jurisdiction.
- (4) In any case wherein the defendant is a child as defined in this chapter and of which the circuit court has original jurisdiction, the circuit judge, upon a finding that it would be in the best interest of such child and in the interest of justice, may at any stage of the proceedings prior to the attachment of jeopardy transfer such proceedings to the youth court for further proceedings unless the child has previously been the subject of a transfer from the youth court to the circuit court for trial as an adult and was convicted or has previously been convicted of a crime which was in original circuit court jurisdiction, and the youth court shall, upon acquiring jurisdiction, proceed as provided in this chapter for the adjudication and disposition of delinquent child proceeding proceedings. If the case is not transferred to the youth court and the youth is convicted of a crime by any circuit court, the trial judge shall sentence the youth as though such youth was an adult. The circuit court shall not have the authority to commit such child to the custody of the Department of Youth Services for placement in a state-supported training school.
- (5) In no event shall a court sentence an offender over the age of eighteen (18) to the custody of the Division of Youth Services for placement in a state-supported training school.
- (6) When a child's driver's license is suspended by the youth court for any reason, the clerk of the youth court shall report the suspension, without a court order under Section 43-21-261, to the Commissioner of Public Safety in the same manner as such suspensions are reported in cases involving adults.
- (7) No offense involving the use or possession of a firearm by a child who has reached his fifteenth birthday and which, if committed by an adult would be a felony, shall be transferred to the youth court.

Sources: Laws, 1979, ch. 506, § 19; Laws, 1980, ch. 550, § 7; Laws, 1983, ch. 435, § 9; Laws, 1985, ch. 431, § 5; Laws, 1986, ch. 467, § 2; Laws, 1994, ch. 595, § 3; Laws, 1996, ch. 454, § 2; Laws, 1996, ch. 527, § 17; Laws, 2003, ch. 557, § 1, eff from and after passage (approved Apr. 24, 2003.)

PROVISIONS APPLICABLE TO ALL PROCEEDINGS

- § 43-21-201. Representation by counsel; youth court-appointed attorneys required to receive juvenile justice training; exemption.
- § 43-21-203. Conduct of proceedings.
- § 43-21-205. Court costs and fees.

§ 43-21-201. Representation by counsel; youth court-appointed attorneys required to receive juvenile justice training; exemption.

- (1) Each party shall have the right to be represented by counsel at all stages of the proceedings including, but not limited to, detention, adjudicatory and disposition hearings and parole or probation revocation proceedings. In delinquency matters the court shall appoint legal defense counsel who is not also a guardian ad litem for the same child. If the party is a child, the child shall be represented by counsel at all critical stages. If indigent, the child shall have the right to have counsel appointed for him by the youth court.
- (2) When a party first appears before the youth court, the judge shall ascertain whether he is represented by counsel and, if not, inform him of his rights including his right to counsel.
- (3) An attorney appointed to represent a delinquent child shall be required to complete annual juvenile justice training that is approved by the Mississippi Judicial College or the Mississippi Commission on Continuing Legal Education. The Mississippi Judicial College and the Mississippi Commission on Continuing Legal Education shall determine the amount of juvenile justice training and continuing education required to fulfill the requirements of this subsection. The Administrative Office of Courts shall maintain a roll of attorneys who have complied with the training requirements and shall enforce the provisions of this subsection. Should an attorney fail to complete the annual training requirement or fail to attend the required training within six (6) months of being appointed to a youth court case, the attorney shall be disqualified to serve and the youth court shall immediately terminate the representation and appoint another attorney. Attorneys appointed by a youth court to five (5) or fewer cases a year are exempt from the requirements of this subsection.
- (4) An attorney shall enter his appearance on behalf of a party in the proceeding by filing a written notice of appearance with the youth court, by filing a pleading, notice or motion signed by counsel or by appearing in open court and advising the youth court that he is representing a party. After counsel has entered his appearance, he shall be served with copies of all subsequent pleadings, motions and notices required to be served on the party he represents. An attorney who has entered his appearance shall not be permitted to withdraw from the case until a timely appeal if any has been decided, except by leave of the court then exercising jurisdiction of the cause after notice of his intended withdrawal is served by him on the party he represents.
- (5) Each designee appointed by a youth court judge shall be subject to the Code of Judicial Conduct and shall govern himself or herself accordingly.

Sources: Laws, 1979, ch. 506, § 20; Laws, 1980, ch. 550, § 8; Laws, 2006, ch. 539, § 1; Laws, 2007, ch. 347, § 1; Laws, 2007, ch. 481, § 1, eff from and after July 1, 2007.

§ 43-21-203. Conduct of proceedings.

- (1) The youth court shall be in session at all times.
- (2) All cases involving children shall be heard at any place the judge deems

- suitable but separately from the trial of cases involving adults.
- (3) Hearings in all cases involving children shall be conducted without a jury and may be recessed from time to time.
 - (4) All hearings shall be conducted under such rules of evidence and rules of court as may comply with applicable constitutional standards.
 - (5) No proceeding by the youth court in cases involving children shall be a criminal proceeding but shall be entirely of a civil nature.
 - (6) The general public shall be excluded from the hearing, and only those persons shall be admitted who are found by the youth court to have a direct interest in the cause or work of the youth court. Any person found by the youth court to have a direct interest in the cause shall have the right to appear and be represented by legal counsel.
 - (7) In all hearings, except detention and shelter hearings under Section 43-21-309, a complete record of all evidence shall be taken by stenographic reporting, by mechanical or electronic device or by some combination thereof.
 - (8) The youth court may exclude the attendance of a child from a hearing in neglect and abuse cases with consent of the child's counsel. The youth court may exclude the attendance of a child from any portion of a disposition hearing that would be injurious to the best interest of the child in delinquency and children in need of supervision cases with consent of the child's counsel.
 - (9) All parties to a youth court cause shall have the right at any hearing in which an investigation, record or report is admitted in evidence:
 - (a) to subpoena, confront and examine the person who prepared or furnished data for the report; and
 - (b) to introduce evidence controverting the contents of the report.
 - (10) Except as provided by Section 43-21-561(5) or as otherwise provided by this chapter, the disposition of a child's cause or any evidence given in the youth court in any proceedings concerning the child shall not be admissible against the child in any case or proceeding in any court other than a youth court.

Sources: Laws, 1979, ch. 506, § 21; Laws, 1980, ch. 550, § 9, eff from and after July 1, 1980.

§ 43-21-205. Court costs and fees.

In proceedings under this chapter, no court costs shall be charged against any party to a petition, and no salaried officer of the state, county or any municipality, nor any youth court counselor, nor any witness other than an expert witness shall be entitled to receive any fee for any service rendered to the youth court or for attendance in the youth court in any proceedings under this chapter; but the fees of the circuit and chancery clerks in youth court cases originating by petition shall be paid as is provided by law for like services in other cases and shall be paid by the county on allowance of the board of supervisors on an itemized cost bill approved by the judge. These costs shall be paid out of the general fund. No clerk shall be allowed compensation for attendance in youth court.

Sources: Laws, 1979, ch. 506, § 22; Laws, 1999, ch. 400, § 1, eff from and after July 1, 1999.

RECORDS

- § 43-21-251. Court records.
- § 43-21-253. Repealed
- § 43-21-255. Law enforcement records.
- § 43-21-257. Agency records.

- § 43-21-259. Confidentiality of other records involving children.
- § 43-21-261. Disclosure of records.
- § 43-21-263. Sealing of records.
- § 43-21-265. Destruction of records.
- § 43-21-267. Penalty for violation.

§ 43-21-251. Court records.

- (1) The court records of the youth court shall include:
 - (a) A general docket in which the clerk of the youth court shall enter the names of the parties in each cause, the date of filing the petition, any other pleadings, all other papers in the cause, issuance and return of process, and a reference by the minute book and page to all orders made therein. The general docket shall be duly indexed in the alphabetical order of the names of the parties.
 - (b) All the papers and pleadings filed in a cause. The papers in every cause shall be marked with the style and number of the cause and the date when filed. All the papers filed in a cause shall be kept in the same file, and all the files shall be kept in numerical order.
 - (c) All social records of a youth court, which shall include all intake records, social summaries, medical examinations, mental health examinations, transfer studies and all other information obtained and prepared in the discharge of official duty for the youth court.
 - (i) A "social summary" is an investigation of the personal and family history and the environment of a child who is the subject of a youth court cause. The social summary should describe all reasonable appropriate alternative dispositions. The social summary should contain a specific plan for the care and assistance to the child with a detailed explanation showing the necessity for the proposed plan of disposition.
 - (ii) A "medical examination" is an examination by a physician of a child who is the subject of a youth court cause or of his parent. The youth court may order a medical examination at any time after the intake unit has received a written complaint. Whenever possible, a medical examination shall be conducted on an outpatient basis. A medical examination of a parent of the child who is the subject of the cause shall not be ordered unless the physical or mental ability of the parent to care for the child is a relevant issue in the particular cause and the parent to be examined consents to the examination.
 - (iii) A "mental health examination" is an examination by a psychiatrist or psychologist of a child who is the subject of a youth court cause or of his parent. The youth court may order a mental health examination at any time after the intake unit has received a written complaint. Whenever possible, a mental health examination shall be conducted on an outpatient basis. A mental health examination of a parent of the child who is the subject of a cause shall not be ordered unless the physical or mental ability of the parent to care for the child is a relevant issue in the particular cause and the parent to be examined consents to the examination.

- (iv) A "transfer study" is a social summary which addresses the factors set forth in Section 43-21-157(5). A transfer study shall not be admissible evidence nor shall it be considered by the court at any adjudicatory hearing. It shall be admissible evidence at a transfer or disposition hearing.
- (d) A minute book in which the clerk shall record all the orders of the youth court.
- (e) Proceedings of the youth court and evidence.
- (f) All information obtained by the youth court from the Administrative Office of Courts pursuant to a request under Section 43-21-261(15).
- (2) The records of the youth court and the contents thereof shall be kept confidential and shall not be disclosed except as provided in Section 43-21-261.
- (3) The court records of the youth court may be kept on computer in the manner provided for storing circuit court records and dockets as provided in Section 9-7-171.

Sources: Laws, 1979, ch. 506, § 23; Laws, 1994, ch. 458, § 9; Laws, 1997, ch. 440, § 6, eff from and after July 1, 1997.

§ 43-21-253. Repealed.

Repealed by Laws, 1997, ch. 440, § 7, eff from and after July 1, 1997.

[Laws, 1979, ch. 506, § 24]

§ 43-21-255. Law enforcement records.

- (1) Except as otherwise provided by this section, all records involving children made and retained by law enforcement officers and agencies or by the youth court prosecutor and the contents thereof shall be kept confidential and shall not be disclosed except as provided in Section 43-21-261.
- (2) A child in the jurisdiction of the youth court and who has been taken into custody for an act, which if committed by an adult would be considered a felony or offenses involving possession or use of a dangerous weapon or any firearm, may be photographed or fingerprinted or both. Any law enforcement agency taking such photographs or fingerprints shall immediately report the existence and location of the photographs and fingerprints to the youth court. Copies of fingerprints known to be those of a child shall be maintained on a local basis only. Such copies of fingerprints may be forwarded to another local, state or federal bureau of criminal identification or regional depository for identification purposes only. Such copies of fingerprints shall be returned promptly and shall not be maintained by such agencies.
- (3) Any law enforcement record involving children who have been taken into custody for an act, which if committed by an adult would be considered a felony and/or offenses involving possession or use of a dangerous weapon including photographs and fingerprints, may be released to a law enforcement agency supported by public funds, youth court officials and appropriate school officials without a court order under Section 43-21-261. Law enforcement records shall be released to youth court officials and to appropriate school officials upon written request. Except as provided in subsection (4) of this section, any law enforcement agency releasing such records of children in the jurisdiction of the youth court shall immediately report the release and location of the records to the youth court. The law enforcement agencies, youth court officials and school officials receiving such records are prohibited from using

the photographs and fingerprints for any purpose other than for criminal law enforcement and juvenile law enforcement. Each law enforcement officer or employee, each youth court official or employee and each school official or employee receiving the records shall submit to the sender a signed statement acknowledging his or her duty to maintain the confidentiality of the records. In no instance shall the fact that such records of children in the jurisdiction of the youth court exist be conveyed to any private individual, firm, association or corporation or to any public or quasi-public agency the duties of which do not include criminal law enforcement or juvenile law enforcement.

- (4) When a child's driver's license is suspended for refusal to take a test provided under the Mississippi Implied Consent Law, the law enforcement agency shall report such refusal, without a court order under Section 43-21-261, to the Commissioner of Public Safety in the same manner as such suspensions are reported in cases involving adults.
- (5) All records involving a child convicted as an adult or who has been twice adjudicated delinquent for a sex offense as defined by Section 45-33-23, Mississippi Code of 1972, shall be public and shall not be kept confidential.

Sources: Laws, 1979, ch. 506, § 25; Laws, 1980, ch. 550, § 10; Laws, 1994, ch. 595, § 4; Laws, 1995, ch. 595, § 10; Laws, 2000, ch. 499, § 22, eff from and after July 1, 2000.

§ 43-21-257. Agency records.

- (1) Unless otherwise provided in this section, any record involving children, including valid and invalid complaints, and the contents thereof maintained by the Department of Human Services, or any other state agency, shall be kept confidential and shall not be disclosed except as provided in Section 43-21-261.
- (2) The Office of Youth Services shall maintain a state central registry containing the number and disposition of all cases together with such other useful information regarding those cases as may be requested and is obtainable from the records of the youth court. The Office of Youth Services shall annually publish a statistical record of the number and disposition of all cases, but the names or identity of any children shall not be disclosed in the reports or records. The Office of Youth Services shall adopt such rules as may be necessary to carry out this subsection. The central registry files and the contents thereof shall be confidential and shall not be open to public inspection. Any person who discloses or encourages the disclosure of any record involving children from the central registry shall be subject to the penalty in Section 43-21-267. The youth court shall furnish, upon forms provided by the Office of Youth Services, the necessary information, and these completed forms shall be forwarded to the Office of Youth Services.
- (3) The Department of Human Services shall maintain a state central registry on neglect and abuse cases containing (a) the name, address and age of each child, (b) the nature of the harm reported, (c) the name and address of the person responsible for the care of the child, and (d) the name and address of the substantiated perpetrator of the harm reported. "Substantiated perpetrator" shall be defined as an individual who has committed an act(s) of sexual abuse or physical abuse that would otherwise be deemed as a felony or any child neglect that would be deemed as a threat to life, as determined upon investigation by the Office of Family and Children's Services. "Substantiation" for the purposes of the Mississippi Department of Human Services Central Registry shall require a criminal conviction or an adjudication by a youth court judge or court of competent jurisdiction, ordering that the name of the perpetrator be listed on the

central registry, pending due process. The Department of Human Services shall adopt such rules and administrative procedures, especially those procedures to afford due process to individuals who have been named as substantiated perpetrators before the release of their name from the central registry, as may be necessary to carry out this subsection. The central registry shall be confidential and shall not be open to public inspection. Any person who discloses or encourages the disclosure of any record involving children from the central registry without following the rules and administrative procedures of the department shall be subject to the penalty in Section 43-21-267. The Department of Human Services and its employees are exempt from any civil liability as a result of any action taken pursuant to the compilation and/or release of information on the central registry under this section and any other applicable section of the code, unless determined that an employee has willfully and maliciously violated the rules and administrative procedures of the department, pertaining to the central registry or any section of this code. If an employee is determined to have willfully and maliciously performed such a violation, said employee shall not be exempt from civil liability in this regard.

- (4) The Mississippi State Department of Health may release the findings of investigations into allegations of abuse within licensed day care centers made under the provisions of Section 43-21-353(8) to any parent of a child who is enrolled in the day care center at the time of the alleged abuse or at the time the request for information is made. The findings of any such investigation may also be released to parents who are considering placing children in the day care center. No information concerning those investigations may contain the names or identifying information of individual children. The Department of Health shall not be held civilly liable for the release of information on any findings, recommendations or actions taken pursuant to investigations of abuse that have been conducted under Section 43-21-353(8).

Sources: Laws, 1979, ch. 506, § 26; Laws, 1993, ch. 450, § 1; Laws, 1994, ch. 591, § 1; Laws, 1999, ch. 329, § 3; Laws, 2000, ch. 436, § 1; Laws, 2002, ch. 509, § 2; Laws, 2003, ch. 489, § 1, eff from and after passage (approved Mar. 28, 2003.)

§ 43-21-259. Confidentiality of other records involving children.

All other records involving children and the contents thereof shall be kept confidential and shall not be disclosed except as provided in section 43-21-261.

Sources: Laws, 1979, ch. 506, § 27, eff from and after July 1, 1979.

§ 43-21-261. Disclosure of records.

- (1) Except as otherwise provided in this section, records involving children shall not be disclosed, other than to necessary staff of the youth court, except pursuant to an order of the youth court specifying the person or persons to whom the records may be disclosed, the extent of the records which may be disclosed and the purpose of the disclosure. Such court orders for disclosure shall be limited to those instances in which the youth court concludes, in its discretion, that disclosure is required for the best interests of the child, the public safety or the functioning of the youth court and then only to the following persons:
- (a) The judge of another youth court or member of another youth court staff;
 - (b) The court of the parties in a child custody or adoption cause in another

court;

- (c) A judge of any other court or members of another court staff;
- (d) Representatives of a public or private agency providing supervision or having custody of the child under order of the youth court;
- (e) Any person engaged in a bona fide research purpose, provided that no information identifying the subject of the records shall be made available to the researcher unless it is absolutely essential to the research purpose and the judge gives prior written approval, and the child, through his or her representative, gives permission to release the information;
- (f) The Mississippi Department of Employment Security, or its duly authorized representatives, for the purpose of a child's enrollment into the Job Corps Training Program as authorized by Title IV of the Comprehensive Employment Training Act of 1973 (29 USCS Section 923 et seq.). However, no records, reports, investigations or information derived therefrom pertaining to child abuse or neglect shall be disclosed; and
- (g) To any person pursuant to a finding by a judge of the youth court of compelling circumstances affecting the health or safety of a child and that such disclosure is in the best interests of the child.

Law enforcement agencies may disclose information to the public concerning the taking of a child into custody for the commission of a delinquent act without the necessity of an order from the youth court. The information released shall not identify the child or his address unless the information involves a child convicted as an adult.

- (2) Any records involving children which are disclosed under an order of the youth court or pursuant to the terms of this section and the contents thereof shall be kept confidential by the person or agency to whom the record is disclosed unless otherwise provided in the order. Any further disclosure of any records involving children shall be made only under an order of the youth court as provided in this section.
- (3) Upon request, the parent, guardian or custodian of the child who is the subject of a youth court cause or any attorney for such parent, guardian or custodian, shall have the right to inspect any record, report or investigation which is to be considered by the youth court at a hearing, except that the identity of the reporter shall not be released, nor the name of any other person where the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of such person.
- (4) Upon request, the child who is the subject of a youth court cause shall have the right to have his counsel inspect and copy any record, report or investigation which is filed with the youth court or which is to be considered by the youth court at a hearing.
- (5) (a) The youth court prosecutor or prosecutors, the county attorney, the district attorney, the youth court defender or defenders, or any attorney representing a child shall have the right to inspect and copy any law enforcement record involving children.
- (b) The Department of Human Services shall disclose to a county prosecuting attorney or district attorney any and all records resulting from an investigation into suspected child abuse or neglect when the case has been referred by the Department of Human Services to the county prosecuting attorney or district attorney for criminal prosecution.

- (c) Agency records made confidential under the provisions of this section may be disclosed to a court of competent jurisdiction.
- (d) Records involving children shall be disclosed to the Division of Victim Compensation of the Office of the Attorney General upon the division's request without order of the youth court for purposes of determination of eligibility for victim compensation benefits.
- (6) Information concerning an investigation into a report of child abuse or child neglect may be disclosed by the Department of Human Services without order of the youth court to any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, public or private school employee making that report pursuant to Section 43-21-353(1) if the reporter has a continuing professional relationship with the child and a need for such information in order to protect or treat the child.
- (7) Information concerning an investigation into a report of child abuse or child neglect may be disclosed without further order of the youth court to any interagency child abuse task force established in any county or municipality by order of the youth court of that county or municipality.
- (8) Names and addresses of juveniles twice adjudicated as delinquent for an act which would be a felony if committed by an adult or for the unlawful possession of a firearm shall not be held confidential and shall be made available to the public.
- (9) Names and addresses of juveniles adjudicated as delinquent for murder, manslaughter, burglary, arson, armed robbery, aggravated assault, any sex offense as defined in Section 45-33-23, for any violation of Section 41-29-139(a) (1) or for any violation of Section 63-11-30, shall not be held confidential and shall be made available to the public.
- (10) The judges of the circuit and county courts, and presentence investigators for the circuit courts, as provided in Section 47-7-9, shall have the right to inspect any youth court records of a person convicted of a crime for sentencing purposes only.
- (11) The victim of an offense committed by a child who is the subject of a youth court cause shall have the right to be informed of the child's disposition by the youth court.
- (12) A classification hearing officer of the State Department of Corrections, as provided in Section 47-5-103, shall have the right to inspect any youth court records, excluding abuse and neglect records, of any offender in the custody of the department who as a child or minor was a juvenile offender or was the subject of a youth court cause of action, and the State Parole Board, as provided in Section 47-7-17, shall have the right to inspect such records when the offender becomes eligible for parole.
- (13) The youth court shall notify the Department of Public Safety of the name, and any other identifying information such department may require, of any child who is adjudicated delinquent as a result of a violation of the Uniform Controlled Substances Law.
- (14) The Administrative Office of Courts shall have the right to inspect any youth court records in order that the number of youthful offenders, abused, neglected, truant and dependent children, as well as children in need of special care and children in need of supervision, may be tracked with specificity through the youth court and adult justice system, and to utilize tracking forms for such purpose.
- (15) Upon a request by a youth court, the Administrative Office of Courts shall disclose all information at its disposal concerning any previous youth court intakes alleging that a child was a delinquent child, child in need of supervision, child in need of special care, truant child, abused child or neglected child, as well as any previous youth court adjudications for the same and all dispositional information concerning a child who at the time of such request comes under the jurisdiction of the youth court making such request.
- (16) In every case where an abuse or neglect allegation has been made, the confidentiality provisions of this section shall not apply to prohibit access to a child's records by any state regulatory agency, any state or local prosecutorial agency or law enforcement agency; however, no identifying information concerning the child in question may be released to the public by such agency except as otherwise provided herein.
- (17) In every case where there is any indication or suggestion of either abuse or neglect and a child's physical condition is medically labeled as medically "serious" or "critical" or a child dies, the confidentiality provisions of this section shall not apply. In cases of child deaths, the following information may be released by the Mississippi Department of Human Services: (a) child's name; (b) address or location; (c) verification from the Department of Human Services of case status (no case or involvement, case exists, open or active case, case closed); (d) if a case exists, the type of report or case (physical abuse, neglect, etc.), date of intake(s) and investigation(s), and case disposition (substantiated or unsubstantiated). Notwithstanding the aforesaid, the confidentiality provisions of this section shall continue if there is a pending or planned investigation by any local, state or federal governmental agency or institution.
- (18) Any member of a foster care review board designated by the Department of Human Services shall have the right to inspect youth court records relating to the abuse, neglect or child in need of supervision cases assigned to such member for review.
- (19) Information concerning an investigation into a report of child abuse or child neglect may be disclosed without further order of the youth court in any administrative or due process hearing held, pursuant to Section 43-21-257, by the Department of Human Services for individuals whose names will be placed on the central registry as substantiated perpetrators.

Sources: Laws, 1979, ch. 506, § 28; Laws, 1980, ch. 550, § 4; Laws, 1986, ch. 422, § 1; Laws, 1988, ch. 459; Laws, 1989, ch. 433, § 1; Laws, 1991, ch. 468 § 6; Laws, 1994, ch. 591, § 2; Laws, 1994, ch. 595, § 5; Laws, 1995, ch. 547, § 3; Laws, 1997, ch. 440, § 8; Laws, 1998, ch. 447, § 1; Laws, 1998, ch. 516, § 19; Laws, 2000, ch. 436, § 2; Laws, 2000, ch. 499, § 23; Laws, 2001, ch. 360, § 1; Laws, 2001, ch. 393, § 12; Laws, 2004, ch. 489, § 2; Laws, 2006, ch. 600, § 3; Laws, 2007, ch. 478, § 1; Laws, 2007, ch. 587, § 11, eff from and after July 1, 2007.

§ 43-21-263. Sealing of records.

- (1) The youth court may order the sealing of records involving children:
 - (a) if the child who was the subject of the cause has attained twenty (20) years of age;
 - (b) if the youth court dismisses the cause; or
 - (c) if the youth court sets aside an adjudication in the cause.
- (2) The youth court may, at any time, upon its own motion or upon application of a party to a youth court cause, order the sealing or unsealing of the records involving children.

Sources: Laws, 1979, ch. 506, § 29; Laws, 1980, ch. 550, § 12, eff from and after July 1, 1980.

§ 43-21-265. Destruction of records.

The youth court, in its discretion, may order the destruction of any records involving children except medical or mental health examinations as defined in section 43-21-253. This order shall be directed to all persons maintaining the records, shall order their physical destruction by an appropriate means specified by the youth court and shall require the persons to file with the youth court a written report of compliance with the order. No records, however, may be destroyed without the approval of the director of the department of archives and history.

Sources: Laws, 1979, ch. 506, § 30; Laws, 1980, ch. 550, § 13; Laws, 1981, ch. 501, § 24, eff from and after July 1, 1981.

§ 43-21-267. Penalty for violation.

- (1) Any person who shall disclose or encourage the disclosure of any records involving children or the contents thereof without the proper authorization under this chapter shall be guilty of a misdemeanor and punished, upon conviction, by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail of not more than one (1) year or by both such fine and imprisonment.
- (2) Nothing herein shall prevent the youth court from finding in civil contempt, as provided in section 43-21-153, any person who shall disclose any records involving children or the contents thereof without the proper authorization under this chapter.

Sources: Laws, 1979, ch. 506, § 31, eff from and after July 1, 1979.

CUSTODY AND DETENTION

§ 43-21-301. Custody orders.

§ 43-21-303. Taking into custody without a custody order.

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§ 43-21-307. Temporary custody.

§ 43-21-309. Detention and shelter hearings.

§ 43-21-311. Rights in custody.

§ 43-21-313. Release from custody upon change of circumstances.

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§ 43-21-317. Repealed.

§ 43-21-319. Correctional facility for juveniles in need of supervision authorized to be built in Tallahatchie County.

§ 43-21-321. Health screening required upon admission to juvenile detention center; development of written procedures for admission; programs and services.

§ 43-21-323. Juvenile Detention Facilities Monitoring Unit established; duty to conduct inspections of all juvenile detention facilities; additional duties.

§ 43-21-301. Custody orders.

- (1) No court other than the youth court shall issue an arrest warrant or custody order for a child in a matter in which the youth court has exclusive original jurisdiction but shall refer the matter to the youth court.
- (2) Except as otherwise provided, no child in a matter in which the youth court has exclusive original jurisdiction shall be taken into custody by a law enforcement

officer, the Department of Human Services, or any other person unless the judge or his designee has issued a custody order to take the child into custody.

- (3) The judge or his designee may issue an order to a law enforcement officer, the Department of Human Services, or any suitable person to take a child into custody for a period not longer than forty-eight (48) hours, excluding Saturdays, Sundays, and statutory state holidays if it appears that there is probable cause to believe that:
 - (a) The child is within the jurisdiction of the court; and
 - (b) Custody is necessary; custody shall be deemed necessary:
 - (i) When a child is endangered or any person would be endangered by the child; or
 - (ii) To insure the child's attendance in court at such time as required; or
 - (iii) When a parent, guardian or custodian is not available to provide for the care and supervision of the child; and
 - (c) There is no reasonable alternative to custody.
- (4) The judge or his designee may order, orally or in writing, the immediate release of any child in the custody of any person or agency. Custody orders as provided by this chapter and authorizations of temporary custody may be written or oral, but, if oral, reduced to writing as soon as practicable. The written order shall:
 - (a) Specify the name and address of the child, or, if unknown, designate him or her by any name or description by which he or she can be identified with reasonable certainty;
 - (b) Specify the age of the child, or, if unknown, that he or she is believed to be of an age subject to the jurisdiction of the youth court;
 - (c) Except in cases where the child is alleged to be a delinquent child or a child in need of supervision, state that the effect of the continuation of the child's residing within his or her own home would be contrary to the welfare of the child, that the placement of the child in foster care is in the best interests of the child, and unless the reasonable efforts requirement is bypassed under Section 43-21-603(7)(c), also state that (i) reasonable efforts have been made to maintain the child within his or her own home, but that the circumstances warrant his removal and there is no reasonable alternative to custody; or (ii) the circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home, and that there is no reasonable alternative to custody. If the court makes a finding in accordance with (ii) of this paragraph, the court shall order that reasonable efforts be made towards the reunification of the child with his or her family.
 - (d) State that the child shall be brought immediately before the youth court or be taken to a place designated by the order to be held pending review of the order;
 - (e) State the date issued and the youth court by which the order is issued; and
 - (f) Be signed by the judge or his designee with the title of his office.
- (5) The taking of a child into custody shall not be considered an arrest except for evidentiary purposes.
- (6) (a) No child who has been accused or adjudicated of any offense that would not be a crime if committed by an adult shall be placed in an adult jail or

lockup. An accused status offender shall not be held in secure detention longer than twenty-four (24) hours prior to and twenty-four (24) hours after an initial court appearance, excluding Saturdays, Sundays and statutory state holidays, except under the following circumstances: a status offender may be held in secure detention for violating a valid court order pursuant to the criteria as established by the federal Juvenile Justice and Delinquency Prevention Act of 2002, and any subsequent amendments thereto, and out-of-state runaways may be detained pending return to their home state.

- (b) No accused or adjudicated juvenile offender, except for an accused or adjudicated juvenile offender in cases where jurisdiction is waived to the adult criminal court, shall be detained or placed into custody of any adult jail or lockup for a period in excess of six (6) hours.
- (c) If any county violates the provisions of paragraph (a) or (b) of this subsection, the state agency authorized to allocate federal funds received pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, 88 Stat. 2750 (codified in scattered Sections of 5, 18, 42 USCS), shall withhold the county's share of such funds.
- (d) Any county that does not have a facility in which to detain its juvenile offenders in compliance with the provisions of paragraphs (a) and (b) of this subsection may enter into a contractual agreement with any county or municipality that does have such a facility, or with the State of Mississippi, or with any private entity that maintains a juvenile correctional facility, or with the State of Mississippi, to detain or place into custody the juvenile offenders of the county not having such a facility.
- (e) Notwithstanding the provisions of paragraphs (a), (b), (c) and (d) of this subsection, all counties shall be allowed a one-year grace period from March 27, 1993, to comply with the provisions of this subsection.

Sources: Laws, 1979, ch. 506, § 32; Laws, 1985, ch. 486, § 4; Laws, 1993, ch. 439, § 1; Laws, 2004, ch. 417, § 1; Laws, 2006, ch. 539, § 2, eff from and after July 1, 2006.

§ 43-21-303. Taking into custody without a custody order.

- (1) No child in a matter in which the youth court has original exclusive jurisdiction shall be taken in custody by any person without a custody order except that:
 - (a) a law enforcement officer may take a child in custody if:
 - (i) grounds exist for the arrest of an adult in identical circumstances; and
 - (ii) such law enforcement officer has probable cause to believe that custody is necessary as defined in Section 43-21-301(3)(b); and
 - (iii) such law enforcement officer can find no reasonable alternative to custody; or
 - (b) a law enforcement officer or an agent of the department of public welfare may take a child into custody if:
 - (i) there is probable cause to believe that the child is in immediate danger of personal harm; and
 - (ii) such law enforcement officer or agent has probable cause to believe that immediate custody is necessary as defined in Section 43-21-301(3)(b); and
 - (iii) such law enforcement officer or agent can find no reasonable alternative to custody.

- (c) Any other person may take a child in custody if grounds exist for the arrest of an adult in identical circumstances. Such other person shall immediately surrender custody of the child to the proper law enforcement officer who shall thereupon continue custody only as provided in subsection (1)(a) of this section.
- (2) When it is necessary to take a child into custody, the least restrictive custody should be selected.
- (3) Unless the child is immediately released, the person taking the child into custody shall immediately notify the judge or his designee. A person taking a child into custody shall also make continuing reasonable efforts to notify the child's parent, guardian or custodian and invite the parent, guardian or custodian to be present during any questioning.
- (4) A child taken into custody shall not be held in custody for a period longer than reasonably necessary, but not to exceed twenty-four (24) hours, and shall be released to his parent, guardian or custodian unless the judge or his designee authorizes temporary custody.

Sources: Laws, 1979, ch. 506, § 33; Laws, 1980, ch. 550, § 14, eff from and after July 1, 1980.

§ 43-21-305. Noncustodial interrogation.

A law enforcement officer may stop any child abroad in a public place whom the officer has probable cause to believe is within the jurisdiction of the youth court and may question the child as to his name, address and explanation of his actions.

Sources: Laws, 1979, ch. 506, § 34, eff from and after July 1, 1979.

§ 43-21-307. Temporary custody.

The judge or his designee may authorize the temporary custody of a child taken into custody for a period of not longer than forty-eight (48) hours, excluding Saturdays, Sundays, and statutory state holidays if the judge or his designee finds there are grounds to issue a custody order as defined in Section 43-21-301 and such custody order complies with the detention requirements provided in Section 43-21-301(6).

Sources: Laws, 1979, ch. 506, § 35; Laws, 1993, ch. 439, § 2, eff from and after passage (approved March 27, 1993).

§ 43-21-309. Detention and shelter hearings.

- (1) A child who has been ordered or taken into custody may be held in custody for longer than temporary custody if:
 - (a) A written complaint or petition has been filed; and
 - (b) A court order has been entered for continued custody following a review of that custody at a detention hearing in delinquency and child in need of supervision cases and at a shelter hearing in abuse and neglect cases.
- (2) Reasonable oral or written notice of the time, place and purpose of the hearing shall be given to the child; to his or her parent, guardian or custodian; to his or her guardian ad litem, if any; and to his or her counsel. If the parent, guardian or custodian cannot be found, the youth court may hold the hearing in the absence of the child's parent, guardian or custodian.
- (3) At the detention or shelter hearing, all parties present shall have the right to present evidence and cross-examine witnesses produced by others. The youth

court may, in its discretion, limit the extent but not the right or presentation of evidence and cross-examination of witnesses. The youth court may receive any testimony and other evidence relevant to the necessity for the continued custody of the child without regard to the formal rules of evidence, including hearsay and opinion evidence. All testimony shall be made under oath and may be in narrative form.

- (4) (a) At the conclusion of the detention or shelter hearing, the youth court shall order that the child be released to the custody of the child's parent, guardian or custodian unless the youth court finds and the detention or shelter hearing order recites that:
 - (i) There is probable cause that the youth court has jurisdiction; and
 - (ii) Custody is necessary as defined in Section 43-21-301(3)(b).
- (b) In the case of a shelter hearing, the shelter hearing order shall further recite that the effect of the continuation of the child's residing within his or her own home would be contrary to the welfare of the child, that the placement of the child in foster care is in the best interest of the child, and, unless the reasonable efforts requirement is bypassed under Section 43-21-603(7)(c), the order also must state:
 - (i) Reasonable efforts have been made to maintain the child within his own home, but that the circumstances warrant his removal and there is no reasonable alternative to custody; or
 - (ii) The circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home, and there is no reasonable alternative to custody.
- (c) In the event that the court makes a finding in accordance with subparagraph (ii), the court shall order that reasonable efforts be made towards the reunification of the child with his or her family.
- (5) The child with advice of counsel may waive in writing the time of the detention hearing or the detention hearing itself. The child's guardian ad litem, and parent, guardian or custodian, and child may waive in writing the time of the shelter hearing or the shelter hearing itself. If the child has not reached his tenth birthday, the child's consent shall not be required.
- (6) Any order placing a child into custody shall comply with the requirements provided in Section 43-21-301.

Sources: Laws, 1979, ch. 506, § 36; Laws, 1980, ch. 550, § 15; Laws, 1985, ch. 486, § 5; Laws, 1993, ch. 439, § 3; Laws, 1997, ch. 440, § 9; Laws, 1998, ch. 516, § 20; Laws, 2004, ch. 417, § 2, eff from and after July 1, 2004.

§ 43-21-311. Rights in custody.

- (1) When a child is taken into custody, he shall immediately be informed of:
 - (a) The reason for his custody;
 - (b) The time within which review of the custody shall be held;
 - (c) His rights during custody including his right to counsel;
 - (d) All rules and regulations of the place at which he is held;
 - (e) The time and place of the detention hearing when the time and place is set; and
 - (f) The conditions of his custody which shall be in compliance with the detention requirements provided in Section 43-21-301(6).

These rights shall be posted where the child may read them, and such rights must be read to the child when he or she is taken into custody.

- (2) When a child is taken into custody, the child may immediately telephone his parent, guardian or custodian; his counsel; and personnel of the youth court.

Thereafter, he shall be allowed to telephone his counsel or any personnel of the youth court at reasonable intervals. Unless the judge or his designee finds that it is against the best interest of the child, he may telephone his parent, guardian or custodian at reasonable intervals.

- (3) When a child is taken into custody, the child may be visited by his counsel and authorized personnel of the youth court at any time. Unless the judge or his designee finds it to be against the best interest of the child, he may be visited by his parent, guardian or custodian during visiting hours which shall be regularly scheduled at least three (3) days per week. The youth court may establish rules permitting visits by other persons.
- (4) Except for the child's counsel, guardian ad litem and authorized personnel of the youth court, no person shall interview or interrogate a child held in a detention or shelter facility unless approval therefor has first been obtained from the judge or his designee. When a child in a detention or shelter facility is represented by counsel or has a guardian ad litem, no person may interview or interrogate the child concerning the violation of a state or federal law, or municipal or county ordinance by the child unless in the presence of his counsel or guardian ad litem or with their consent.

Sources: Laws, 1979, ch. 506, § 37; Laws, 1993, ch. 439, § 4; Laws, 2006, ch. 539, § 3, eff from and after July 1, 2006.

§ 43-21-313. Release from custody upon change of circumstances.

- (1) A child held in custody under order of the youth court shall be released upon a finding that a change of circumstances makes continued custody unnecessary.
- (2) A written request for the release of the child from custody, setting forth the changed circumstances, may be filed by the child; by the child's parent, guardian or custodian; by the child's counsel; or by the child's guardian ad litem, if any.
- (3) Based upon the facts stated in the request, the judge may direct that a hearing be held at a date, time and place as fixed by the youth court. Reasonable notice of the hearing shall be given to the child; his parent, guardian or custodian; his counsel; and his guardian ad litem, if any, prior to the hearing. At the hearing, upon receiving evidence, the youth court may grant or deny the request.
- (4) A child held in custody in violation of Section 43-21-301(6) shall be immediately transferred to a proper juvenile facility.

Sources: Laws, 1979, ch. 506, § 38; Laws, 1993, ch. 439, § 5, eff from and after passage (approved March 27, 1993).

§ 43-21-315. Designation of facilities.

- (1) The youth court shall, by general order or rule of court, designate the available detention or shelter facilities to which children shall be delivered when taken into custody. Copies of the order or rule shall be made available to the Department of Human Services and all law enforcement agencies within the territorial jurisdiction of the youth court.
- (2) Except as otherwise provided in this chapter, unless jurisdiction is transferred, no child shall be placed in any jail or place of detention of adults by any person or court unless the child shall be physically segregated from other persons not subject to the jurisdiction of the youth court and the physical arrangement of such jail or place of detention of adults prevents such child from having substantial contact with and substantial view of such other persons; but in any

event, the child shall not be confined anywhere in the same cell with persons not subject to the jurisdiction of the youth court. Any order placing a child into custody shall comply with the detention requirements provided in Section 43-21-301(6). This subsection shall not be construed to apply to commitments to the training school under Section 43-21-605(1)(g)(iii).

- (3) Any child who is charged with a hunting or fishing violation, a traffic violation, or any other criminal offense for which the youth court shall have power on its own motion to remove jurisdiction from any criminal court, may be detained only in the same facilities designated by the youth court for children within the jurisdiction of the youth court.
- (4) After a child is ordered into custody, the youth court may arrange for the custody of the child with any private institution or agency caring for children, may commit the child to the Department of Mental Health pursuant to Section 41-21-61 et seq., or may order the Department of Human Services or any other public agency to provide for the custody, care and maintenance of such child. Provided, however, that the care, custody and maintenance of such child shall be within the statutory authorization and the budgetary means of such institution or facility.

Sources: Laws, 1979, ch. 506, § 39; Laws, 1980, ch. 550, § 16; Laws, 1993, ch. 439, § 6; Laws, 1996, ch. 430, § 1, eff from and after passage (approved March 25, 1996).

§ 43-21-317. Repealed.

Repealed by Laws, 2000, ch. 570, § 2, eff from and after July 1, 2001.

[Laws, 1994, ch. 359, § 1; Laws, 1995, ch. 546, § 1; reenacted and amended, Laws, 1998, ch. 379, § 1; Laws, 1999, ch. 554, § 1; Laws, 2000, ch. 570, § 1, eff from and after July 1, 2000.]

§ 43-21-319. Correctional facility for juveniles in need of supervision authorized to be built in Tallahatchie County.

In addition to any other provisions of law, it shall be lawful for a correctional facility constructed in Tallahatchie County to house juveniles who have been found delinquent or in need of supervision. The juveniles shall be housed in a correctional facility constructed in Tallahatchie County. The juveniles housed under the provisions of this section and sentenced under the laws of the federal government or its territories or another state shall be under the jurisdiction of the youth or juvenile court or committing jurisdiction in which the juvenile was found to be delinquent or in need of supervision.

Sources: Laws, 1999, ch. 586, § 2, eff from and after passage (approved April 22, 1999).

§ 43-21-321. Health screening required upon admission to juvenile detention center; development of written procedures for admission; adherence to certain minimum juvenile detention standards; provision of educational services to detained students; other programs and services.

- (1) All juveniles shall undergo a health screening within one (1) hour of admission to any juvenile detention center, or as soon thereafter as reasonably possible. Information obtained during the screening shall include, but shall not be limited to, the juvenile's:
 - (a) Mental health;
 - (b) Suicide risk;
 - (c) Alcohol and other drug use and abuse;
 - (d) Physical health;

- (e) Aggressive behavior;
- (f) Family relations;
- (g) Peer relations;
- (h) Social skills;
- (i) Educational status; and
- (j) Vocational status.

- (2) If the screening instrument indicates that a juvenile is in need of emergency medical care or mental health intervention services, the detention staff shall refer those juveniles to the proper health care facility or community mental health service provider for further evaluation, as soon as reasonably possible. If the screening instrument, such as the Massachusetts Youth Screening Instrument version 2 (MAYSI-2) or other comparable mental health screening instrument indicates that the juvenile is in need of emergency medical care or mental health intervention services, the detention staff shall refer the juvenile to the proper health care facility or community mental health service provider for further evaluation, recommendation and referral for treatment, if necessary, within forty-eight (48) hours, excluding Saturdays, Sundays and statutory state holidays.
- (3) All juveniles shall receive a thorough orientation to the center's procedures, rules, programs and services. The intake process shall operate twenty-four (24) hours per day.
- (4) The directors of all of the juvenile detention centers shall amend or develop written procedures for admission of juveniles who are new to the system. These shall include, but are not limited to, the following:
 - (a) Determine that the juvenile is legally committed to the facility;
 - (b) Make a complete search of the juvenile and his possessions;
 - (c) Dispose of personal property;
 - (d) Require shower and hair care, if necessary;
 - (e) Issue clean, laundered clothing, as needed;
 - (f) Issue personal hygiene articles;
 - (g) Perform medical, dental and mental health screening;
 - (h) Assign a housing unit for the juvenile;
 - (i) Record basic personal data and information to be used for mail and visiting lists;
 - (j) Assist juveniles in notifying their families of their admission and procedures for mail and visiting;
 - (k) Assign a registered number to the juvenile; and
 - (l) Provide written orientation materials to the juvenile.
- (5) If a student's detention will cause him or her to miss one or more days of school the detention center staff shall notify school district officials where the detainee last attended school by the first school day following the student's placement in the facility. Detention center staff shall not disclose youth court records to the school district, except as provided by Section 43-21-261.
- (6) All juvenile detention centers shall adhere to the following minimum standards:
 - (a) Each center shall have a manual that states the policies and procedures for operating and maintaining the facility, and the manual shall be reviewed annually and revised as needed;
 - (b) Each center shall have a policy that specifies support for a drug-free workplace for all employees, and the policy shall, at a minimum, include the following:
 - (i) The prohibition of the use of illegal drugs;

- (ii) The prohibition of the possession of any illegal drugs except in the performance of official duties;
 - (iii) The procedure used to ensure compliance with a drug-free workplace policy;
 - (iv) The opportunities available for the treatment and counseling for drug abuse; and
 - (v) The penalties for violation of the drug-free workplace policy;
- (c) Each center shall have a policy, procedure and practice that ensures that personnel files and records are current, accurate and confidential;
 - (d) Each center shall promote the safety and protection of juvenile detainees from personal abuse, corporal punishment, personal injury, disease, property damage and harassment;
 - (e) Each center shall have written policies that allow for mail and telephone rights for juvenile detainees, and the policies are to be made available to all staff and reviewed annually;
 - (f) Center food service personnel shall implement sanitation practices based on State Department of Health food codes;
 - (g) Each center shall provide juveniles with meals that are nutritionally adequate and properly prepared, stored and served according to the State Department of Health food codes;
 - (h) Each center shall offer special diet food plans to juveniles under the following conditions:
 - (i) When prescribed by appropriate medical or dental staff; or
 - (ii) As directed or approved by a registered dietitian or physician; and
 - (iii) As a complete meal service and not as a supplement to or choice between dietary meals and regular meals;
 - (i) Each center shall serve religious diets when approved and petitioned in writing by a religious professional on behalf of a juvenile and approved by the juvenile detention center director;
 - (j) Juvenile detention center directors shall provide a written method of ensuring regular monitoring of daily housekeeping, pest control and sanitation practices, and centers shall comply with all federal, state and local sanitation and health codes;
 - (k) Juvenile detention center staff shall screen detainees for medical, dental and mental health needs during the intake process. If medical, dental or mental health assistance is indicated by the screening, or if the intake officer deems it necessary, the detainee shall be provided access to appropriate health care professionals for evaluation and treatment. Youth who are held less than seventy-two (72) hours shall receive treatment for emergency medical, dental or mental health assistance or chronic conditions if a screening indicates such treatment is needed. A medical history of all detainees shall be completed by the intake staff of the detention center immediately after arrival at the facility by using a medical history form which shall include, but not be limited to, the following:
 - (i) Any medical, dental and mental health treatments and medications the juvenile is taking;
 - (ii) Any chronic health problems such as allergies, seizures, diabetes, hearing or sight loss, hearing conditions or any

- other health problems; and
 - (iii) Documentation of all medications administered and all health care services rendered;
- (l) Juvenile detention center detainees shall be provided access to medical care and treatment while in custody of the facility;
 - (m) Each center shall provide reasonable access by youth services or county counselors for counseling opportunities. The youth service or county counselor shall visit with detainees on a regular basis;
 - (n) Juvenile detention center detainees shall be referred to other counseling services when necessary including: mental health services; crisis intervention; referrals for treatment of drugs and alcohol and special offender treatment groups;
 - (o) Local school districts shall work collaboratively with juvenile detention center staff to provide special education services as required by state and federal law. Upon the written request of the youth court judge for the county in which the detention center is located, a local school district in the county in which the detention center is located, or a private provider agreed upon by the youth court judge and sponsoring school district, shall provide a certified teacher to provide educational services to detainees. The youth court judge shall designate said school district which shall be defined as the sponsoring school district. The local home school district shall be defined as the school district where the detainee last attended prior to detention. Teacher selection shall be in consultation with the youth court judge. The Legislature shall annually appropriate sufficient funds for the provision of educational services, as provided under this act, to detainees in detention centers.
 - (p) The sponsoring school district, or a private provider agreed upon by the youth court judge and sponsoring school district, shall be responsible for providing the necessary instructional program for the student. After forty-eight (48) hours of detention, excluding legal holidays and weekends, the detainee shall receive the following services which may be computer-based:
 - (i) Diagnostic assessment of grade-level mastery of reading and math skills;
 - (ii) Individualized instruction and practice to address any weaknesses identified in the assessment conducted under subparagraph (i), provided such detainee is in the center for more than forty-eight (48) hours; and
 - (iii) Character education to improve behavior.
 - (q) No later than the tenth day of detention, the detainee shall begin an extended detention education program. A team consisting of a certified teacher provided by the local sponsoring school district or a private provider agreed upon by the youth court judge and sponsoring school district, the appropriate official from the local home school district, and the youth court counselor or representative will develop an individualized education program for the detainee, where appropriate as determined by the teacher of the sponsoring school district, or a private provider agreed upon by the youth court judge and sponsoring school district. The detainee's parent or guardian shall participate on the team unless excused by the youth court judge.

Failure of any party to participate shall not delay implementation of this education program.

- (r) The sponsoring school district, or a private provider agreed upon by the youth court judge and sponsoring school district, shall provide the detention center with an appropriate and adequate computer lab to serve detainees. The Legislature shall annually appropriate sufficient funds to equip and maintain the computer labs. The computer lab shall become the property of the detention centers and the sponsoring school districts shall maintain and update the labs.
- (s) The Mississippi Department of Education will collaborate with the appropriate state and local agencies, juvenile detention centers and local school districts to ensure the provision of educational services to every student placed in a juvenile detention center. Such services may include, but not be limited to: assessment and math and reading instruction, character education and behavioral counseling. The Mississippi Department of Education shall work with the appropriate state and local agencies, juvenile detention centers and local school districts to annually determine the proposed costs for educational services to youth placed in juvenile detention centers and annually request sufficient funding for such services as necessary.
- (t) Recreational services shall be made available to juvenile detainees for purpose of physical exercise;
- (u) Juvenile detention center detainees shall have the opportunity to participate in the practices of their religious faith as long as such practices do not violate facility rules and are approved by the director of the juvenile detention center;
- (v) Each center shall provide sufficient space for a visiting room, and the facility shall encourage juveniles to maintain ties with families through visitation, and the detainees shall be allowed the opportunity to visit with the social workers, counselors and lawyers involved in the juvenile's care;
- (w) Juvenile detention centers shall ensure that staffs create transition planning for youth leaving the facilities. Plans shall include providing the youth and his or her parents or guardian with copies of the youth's detention center education and health records, information regarding the youth's home community, referrals to mental and counseling services when appropriate, and providing assistance in making initial appointments with community service providers; the transition team will work together to help the detainee successfully transition back into the home school district once released from detention. The transition team will consist of a certified teacher provided by the local sponsoring school district, or a private provider agreed upon by the youth court judge and sponsoring school district, the appropriate official from the local home school district, the school attendance officer assigned to the local home school district, and the youth court counselor or representative. The detainee's parent or guardian shall participate on the team unless excused by the youth court judge. Failure of any party to participate shall not delay implementation of this education program; and
- (x) The Juvenile Detention Facilities Monitoring Unit shall monitor the detention facilities for compliance with these minimum standards, and

no child shall be housed in a detention facility the monitoring unit determines is substantially out of compliance with the standards prescribed in this subsection.

- (7) Programs and services shall be initiated for all juveniles once they have completed the admissions process.
- (8) Programs and professional services may be provided by the detention staff, youth court staff or the staff of the local or state agencies, or those programs and professional services may be provided through contractual arrangements with community agencies.
- (9) Persons providing the services required in this section must be qualified or trained in their respective fields.
- (10) All directors of juvenile detention centers shall amend or develop written procedures to fit the programs and services described in this section.

Sources: Laws, 2002, ch. 602, § 1; Laws, 2005, ch. 471, § 5; Laws, 2006, ch. 539, § 4; Laws, 2007, ch. 568, § 1; Laws, 2008, ch. 481, § 1, eff from and after July 1, 2008.

§ 43-21-323. Juvenile Detention Facilities Monitoring Unit established; duty to conduct inspections of all juvenile detention facilities; additional duties.

- (1) There is established the Juvenile Detention Facilities Monitoring Unit within the Department of Public Safety to work in cooperation with the Juvenile Justice Advisory Committee described in Section 45-1-33. The unit shall inspect all juvenile detention facilities including, but not limited to, the state training schools on a quarterly basis. The inspections shall encompass the following:
 - (a) Ensuring and certifying that the juvenile detention facilities are in compliance with the minimum standards of operation, as established in Section 43-21-321;
 - (b) Providing technical assistance and advice to juvenile detention facilities, which will assist the facilities in complying with the minimum standards.
- (2) Additional duties of the monitoring unit are as follows:
 - (a) To conduct an assessment of all juvenile detention facilities and to determine how far each is from coming into compliance with the minimum standards, as established in Section 43-21-301(6) and Section 43-21-321; and
 - (b) To develop a strategic plan and a timeline for each juvenile detention facility to come into compliance with the minimum standards as described in this subsection.

Sources: Laws, 2005, ch. 471, § 1, eff from and after July 1, 2005.

INTAKE

- § 43-21-351. Reception of information.
- § 43-21-353. Duty to inform state agencies and officials; duty to inform individual about whom report has been made of specific allegations.
- § 43-21-354. Statewide incoming wide area telephone service to be maintained on twenty-four hour seven days a week basis.
- § 43-21-355. Immunity for reporting information.
- § 43-21-357. Intake procedure.

§ 43-21-351. Reception of information.

Any person or agency having knowledge that a child residing or being within the county is within the jurisdiction of the youth court may make a written report to the intake unit alleging facts sufficient to establish the jurisdiction of the youth court. The report shall bear a permanent number that will be assigned by the court in accordance with the standards established by the Administrative Office of Courts pursuant to Section 9-21-9(d), and shall be preserved until destroyed on order of the court.

Sources: Laws, 1979, ch. 506, § 40; Laws, 1998, ch. 367, § 4, eff from and after July 1, 1998.

§ 43-21-353. Duty to inform state agencies and officials; duty to inform individual about whom report has been made of specific allegations.

- (1) Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, public or private school employee or any other person having reasonable cause to suspect that a child is a neglected child or an abused child, shall cause an oral report to be made immediately by telephone or otherwise and followed as soon thereafter as possible by a report in writing to the Department of Human Services, and immediately a referral shall be made by the Department of Human Services to the youth court intake unit, which unit shall promptly comply with Section 43-21-357. In the course of an investigation, at the initial time of contact with the individual(s) about whom a report has been made under this Youth Court Act or with the individual(s) responsible for the health or welfare of a child about whom a report has been made under this chapter, the Department of Human Services shall inform the individual of the specific complaints or allegations made against the individual. Consistent with subsection (4), the identity of the person who reported his or her suspicion shall not be disclosed. Where appropriate, the Department of Human Services shall additionally make a referral to the youth court prosecutor.
Upon receiving a report that a child has been sexually abused, or burned, tortured, mutilated or otherwise physically abused in such a manner as to cause serious bodily harm, or upon receiving any report of abuse that would be a felony under state or federal law, the Department of Human Services shall immediately notify the law enforcement agency in whose jurisdiction the abuse occurred and shall notify the appropriate prosecutor within forty-eight (48) hours, and the Department of Human Services shall have the duty to provide the law enforcement agency all the names and facts known at the time of the report; this duty shall be of a continuing nature. The law enforcement agency and the Department of Human Services shall investigate the reported abuse immediately and shall file a preliminary report with the appropriate prosecutor's office within twenty-four (24) hours and shall make additional reports as new or additional information or evidence becomes available. The Department of Human Services shall advise the clerk of the youth court and the youth court prosecutor of all cases of abuse reported to the department within seventy-two (72) hours and shall update such report as information becomes available.
- (2) Any report to the Department of Human Services shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries and any other information that might be

- (3) helpful in establishing the cause of the injury and the identity of the perpetrator.
- (3) The Department of Human Services shall maintain a statewide incoming wide-area telephone service or similar service for the purpose of receiving reports of suspected cases of child abuse; provided that any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer or public or private school employee who is required to report under subsection (1) of this section shall report in the manner required in subsection (1).
- (4) Reports of abuse and neglect made under this chapter and the identity of the reporter are confidential except when the court in which the investigation report is filed, in its discretion, determines the testimony of the person reporting to be material to a judicial proceeding or when the identity of the reporter is released to law enforcement agencies and the appropriate prosecutor pursuant to subsection (1). Reports made under this section to any law enforcement agency or prosecutorial officer are for the purpose of criminal investigation and prosecution only and no information from these reports may be released to the public except as provided by Section 43-21-261. Disclosure of any information by the prosecutor shall be according to the Mississippi Uniform Rules of Circuit and County Court Procedure. The identity of the reporting party shall not be disclosed to anyone other than law enforcement officers or prosecutors without an order from the appropriate youth court. Any person disclosing any reports made under this section in a manner not expressly provided for in this section or Section 43-21-261, shall be guilty of a misdemeanor and subject to the penalties prescribed by Section 43-21-267.
- (5) All final dispositions of law enforcement investigations described in subsection (1) of this section shall be determined only by the appropriate prosecutor or court. All final dispositions of investigations by the Department of Human Services as described in subsection (1) of this section shall be determined only by the youth court. Reports made under subsection (1) of this section by the Department of Human Services to the law enforcement agency and to the district attorney's office shall include the following, if known to the department:
 - (a) The name and address of the child;
 - (b) The names and addresses of the parents;
 - (c) The name and address of the suspected perpetrator;
 - (d) The names and addresses of all witnesses, including the reporting party if a material witness to the abuse;
 - (e) A brief statement of the facts indicating that the child has been abused and any other information from the agency files or known to the family protection worker or family protection specialist making the investigation, including medical records or other records, which may assist law enforcement or the district attorney in investigating and/or prosecuting the case; and
 - (f) What, if any, action is being taken by the Department of Human Services.
- (6) In any investigation of a report made under this chapter of the abuse or neglect of a child as defined in Section 43-21-105(m), the Department of Human Services may request the appropriate law enforcement officer with jurisdiction to accompany the department in its investigation, and in such cases the law enforcement officer shall comply with such request.
- (7) Anyone who willfully violates any provision of this section shall be, upon

being found guilty, punished by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in jail not to exceed one (1) year, or both.

- (8) If a report is made directly to the Department of Human Services that a child has been abused or neglected in an out-of-home setting, a referral shall be made immediately to the law enforcement agency in whose jurisdiction the abuse occurred and the department shall notify the district attorney's office within forty-eight (48) hours of such report. The Department of Human Services shall investigate the out-of-home setting report of abuse or neglect to determine whether the child who is the subject of the report, or other children in the same environment, comes within the jurisdiction of the youth court and shall report to the youth court the department's findings and recommendation as to whether the child who is the subject of the report or other children in the same environment require the protection of the youth court. The law enforcement agency shall investigate the reported abuse immediately and shall file a preliminary report with the district attorney's office within forty-eight (48) hours and shall make additional reports as new information or evidence becomes available. If the out-of-home setting is a licensed facility, an additional referral shall be made by the Department of Human Services to the licensing agency. The licensing agency shall investigate the report and shall provide the Department of Human Services, the law enforcement agency and the district attorney's office with their written findings from such investigation as well as that licensing agency's recommendations and actions taken.

Sources: Laws, 1979, ch. 506, § 41; Laws, 1980, ch. 550, § 17; Laws, 1984, ch. 342; Laws, 1985, ch. 360; Laws, 1993, ch. 522, § 1; Laws, 1994, ch. 387, § 1; Laws, 1994, ch. 591, § 3; Laws, 1995, ch. 335, § 1; Laws, 1996, ch. 323, § 2; Laws, 1997, ch. 440, § 10; Laws, 1998, ch. 340, § 1; Laws, 1998, ch. 557, § 1; Laws, 2004, ch. 489, § 3; Laws, 2006, ch. 600, § 4; Laws, 2007, ch. 337, § 3, eff from and after July 1, 2007.

§ 43-21-354. Statewide incoming wide area telephone service to be maintained on twenty-four-hour seven days a week basis.

The statewide incoming wide area telephone service established pursuant to Section 43-21-353, Mississippi Code of 1972, shall be maintained by the Department of Public Welfare, or its successor, on a twenty-four-hour seven (7) days a week basis.

Sources: Laws, 1989, ch. 566, § 2, eff from and after passage (approved April 21, 1989).

§ 43-21-355. Immunity for reporting information.

Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, school attendance officer, public school district employee, nonpublic school employee, licensed professional counselor or any other person participating in the making of a required report pursuant to Section 43-21-353 or participating in the judicial proceeding resulting therefrom shall be presumed to be acting in good faith. Any person or institution reporting in good faith shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

Sources: Laws, 1979, ch. 506, § 42; Laws, 1980, ch. 550, § 18; Laws, 1982, Ex Sess, ch. 17, § 22; Laws, 1993, ch. 522, § 2; Laws, 1994, ch. 591, § 4; Laws, 2004, ch. 489, § 4; Laws, 2006, ch. 430, § 1; Laws, 2006, ch. 600, § 5, eff from and after July 1, 2006.

§ 43-21-357. Intake procedure.

- (1) After receiving a report, the youth court intake unit shall promptly make a preliminary inquiry to determine whether the interest of the child, other children in the same environment or the public requires the youth court to take further action. As part of the preliminary inquiry, the youth court intake unit may request or the youth court may order the Department of Human Services, the Department of Youth Services, any successor agency or any other qualified public employee to make an investigation or report concerning the child and any other children in the same environment, and present the findings thereof to the youth court intake unit. If the youth court intake unit receives a neglect or abuse report, the youth court intake unit shall immediately forward the complaint to the Department of Human Services to promptly make an investigation or report concerning the child and any other children in the same environment and promptly present the findings thereof to the youth court intake unit. If it appears from the preliminary inquiry that the child or other children in the same environment are within the jurisdiction of the court, the youth court intake unit shall recommend to the youth court:
- (a) That the youth court take no action;
 - (b) That an informal adjustment be made;
 - (c) The Department of Human Services, Division of Family and Children Services, monitor the child, family and other children in the same environment;
 - (d) That the child is warned or counseled informally; or
 - (e) That a petition be filed.
- (2) The youth court shall then, without a hearing:
- (a) Order that no action be taken;
 - (b) Order that an informal adjustment be made;
 - (c) Order that the Department of Human Services, Division of Family and Children Services, monitor the child, family and other children in the same environment;
 - (d) Order that the child is warned or counseled informally; or
 - (e) Order that a petition be filed.
- (3) If the preliminary inquiry discloses that a child needs emergency medical treatment, the judge may order the necessary treatment.

Sources: Laws, 1979, ch. 506, § 43; Laws, 1986, ch. 416, § 2; Laws, 1997, ch. 440, § 11; Laws, 1998, ch. 367, § 5, eff from and after July 1, 1998.

INFORMAL PROCEEDINGS

§ 43-21-401. Informal adjustment.

§ 43-21-403. Notice to parties.

§ 43-21-405. Informal adjustment process.

§ 43-21-407. Termination of informal adjustment.

§ 43-21-401. Informal adjustment.

- (1) Informal adjustment pursuant to the informal adjustment agreement provided in Section 43-21-405 shall include:
- (a) the giving of counsel and advice to the child and his parent, guardian or custodian;
 - (b) referrals to public and private agencies which may provide benefits, guidance or services to the child and his parent, guardian or custodian;
 - (c) temporary placement of the child or supervision by the youth court

counselor with the consent of the child and his parent, guardian or custodian, subject to youth court review.

- (2) If authorized by the youth court, informal adjustment may be commenced after the filing of a petition.
- (3) If the child and his parent, guardian or custodian agree to participate in an informal adjustment process, the defense of a failure to provide a speedy trial is waived and a petition may be filed if the informal adjustment process is unsuccessfully terminated under Section 43-21-407.

Sources: Laws, 1979, ch. 506, § 44, eff from and after July 1, 1979.

§ 43-21-403. Notice to parties.

When it is determined to make an informal adjustment, the child and his parent, guardian or custodian shall be requested by letter, telephone or otherwise to attend a conference at a designated date, time and place. At the time the request to attend the conference is made, the child and his parent, guardian or custodian shall be informed that attendance at the conference is voluntary and that they may be represented by counsel or other person of their choice at the conference.

Sources: Laws, 1979, ch. 506, § 45, eff from and after July 1, 1979.

§ 43-21-405. Informal adjustment process.

- (1) The informal adjustment process shall be initiated with an informal adjustment conference conducted by an informal adjustment counselor appointed by the judge or his designee.
- (2) If the child and his parent, guardian or custodian appear at the informal adjustment conference without counsel, the informal adjustment counselor shall, at the commencement of the conference, inform them of their right to counsel, the child's right to appointment of counsel and the right of the child to remain silent. If either the child or his parent, guardian or custodian indicates a desire to be represented by counsel, the informal adjustment counselor shall adjourn the conference to afford an opportunity to secure counsel.
- (3) At the beginning of the informal adjustment conference, the informal adjustment counselor shall inform the child and his parent, guardian or custodian:
 - (a) That information has been received concerning the child which appears to establish jurisdiction of the youth court;
 - (b) The purpose of the informal adjustment conference;
 - (c) That during the informal adjustment process no petition will be filed;
 - (d) That the informal adjustment process is voluntary with the child and his parent, guardian or custodian and that they may withdraw from the informal adjustment at any time; and
 - (e) The circumstances under which the informal adjustment process can be terminated under Section 43-21-407.
- (4) The informal adjustment counselor shall then discuss with the child and his parent, guardian or custodian:
 - (a) Recommendations for actions or conduct in the interest of the child to correct the conditions of behavior or environment which may exist;
 - (b) Continuing conferences and contacts with the child and his parent, guardian or custodian by the informal adjustment counselor or other authorized persons; and
 - (c) The child's general behavior, his home and school environment and

other factors bearing upon the proposed informal adjustment.

- (5) After the parties have agreed upon the appropriate terms and conditions of informal adjustment, the informal adjustment counselor and the child and his parent, guardian or custodian shall sign a written informal adjustment agreement setting forth the terms and conditions of the informal adjustment. The informal adjustment agreement may be modified at any time upon the consent of all parties to the informal adjustment conference.
- (6) The informal adjustment process shall not continue beyond a period of six (6) months from its commencement unless extended by the youth court for an additional period not to exceed six (6) months by court authorization prior to the expiration of the original six-month period. In no event shall the custody or supervision of a child which has been placed with the Department of Public Welfare be continued or extended except upon a written finding by the youth court judge or referee that reasonable efforts have been made to maintain the child within his own home, but that the circumstances warrant his removal and there is no reasonable alternative to custody, and that reasonable efforts will continue to be made towards reunification of the family.

Sources: Laws, 1979, ch. 506, § 46; Laws, 1985, ch. 486, § 6, eff from and after passage (approved April 10, 1985).

§ 43-21-407. Termination of informal adjustment.

- (1) If it appears to the informal adjustment counselor that the child and his parent, guardian or custodian:
 - (a) have complied with the terms and conditions of the informal adjustment agreement; and
 - (b) have received the maximum benefit from the informal adjustment process, the informal adjustment counselor shall terminate the informal adjustment process and dismiss the child without further proceedings. The informal adjustment counselor shall notify the child and his parent, guardian or custodian in writing of the satisfactory completion of the informal adjustment and report such action to the youth court.
- (2) If it appears to the informal adjustment counselor that further efforts at informal adjustment would not be in the best interests of the child or the community, or that the child or his parent, guardian or custodian:
 - (a) denies the jurisdiction of the youth court;
 - (b) declines to participate in the informal adjustment process;
 - (c) expresses a desire that the facts be determined by the youth court;
 - (d) fails without reasonable excuse to attend scheduled meetings;
 - (e) appears unable or unwilling to benefit from the informal adjustment process, the informal adjustment counselor shall terminate the informal adjustment process. If the informal adjustment process is so terminated, the intake unit shall reinstate the intake procedure under Section 43-21-357. Even if the informal adjustment process has been so terminated, the intake unit shall not be precluded from reinitiating the informal adjustment process.

Sources: Laws, 1979, ch. 506, § 47, eff from and after July 1, 1979.

PETITION

- § 43-21-451. Commencement of formal proceedings.
- § 43-21-453. Style of petition.
- § 43-21-455. Content of petition.
- § 43-21-457. Amendment to the petition.
- § 43-21-459. Responsive pleadings.

§ 43-21-451. Commencement of formal proceedings.

All proceedings seeking an adjudication that a child is a delinquent child, a child in need of supervision, a neglected child or an abused child shall be initiated by the filing of a petition. Upon authorization of the youth court, the petition shall be drafted and filed by the youth court prosecutor unless the youth court has designated some other person to draft and file the petition. The petition shall be filed within five (5) days from the date of a detention hearing or shelter hearing continuing custody. Unless another period of time is authorized by the youth court or its designee, in noncustody cases the petition shall be filed within ten (10) days of the court order authorizing the filing of a petition. The court may, in its discretion, dismiss the petition for failure to comply with the time schedule contained herein.

Sources: Laws, 1979, ch. 506, § 48; Laws, 1980, ch. 550, § 19; Laws, 1997, ch. 440, § 12, eff from and after July 1, 1997.

§ 43-21-453. Style of petition.

The petition shall be entitled "IN THE INTEREST OF _____."

Sources: Laws, 1979, ch. 506, § 49, eff from and after July 1, 1979.

§ 43-21-455. Content of petition.

- (1) The petition shall set forth plainly and concisely with particularity:
 - (a) identification of the child, including his full name, birth date, age, sex and residence;
 - (b) identification of the parent, guardian or custodian including the name and residence of the child's parents, the name and residence of the child's legal guardian, if there be one, any person or agency in whose custody the child may be and the child's nearest relative if no parent or guardian be known;
 - (c) a statement of the facts, including the facts which bring the child within the jurisdiction of the youth court and which show the child is a delinquent child, a child in need of supervision, a neglected child or an abused child;
 - (d) in petitions alleging delinquency, a citation of the statute or ordinance which the child is alleged to have violated. Error in or omission of the citation shall not be grounds for dismissing the petition or for a reversal of the adjudication based thereon if the error or omission did not mislead the child to his prejudice.
 - (e) a prayer for the type of adjudicatory relief sought; and
 - (f) if any of the facts herein required are not known by the petitioner.
- (2) Two (2) or more offenses may, in the discretion of the youth court, be alleged in the same petition in a separate count for each offense.
- (3) Two (2) or more children may be the subject of the same petition if:
 - (a) they are siblings; and
 - (b) they are alleged to be neglected or abused from a common source of mistreatment or neglect.

- (4) Where the child is alleged to be a delinquent child, the petition must recite factual allegations with the same particularity required in a criminal indictment but need not have the technical form of a criminal indictment.
- (5) The petition may contain a motion to transfer.

Sources: Laws, 1979, ch. 506, § 50; Laws, 1980, ch. 550, § 20, eff from and after July 1, 1980.

§ 43-21-457. Amendment to the petition.

A petition may be amended at any time on order of the youth court for good cause shown so long as there is no prejudice to the parties.

Sources: Laws, 1979, ch. 506, § 51, eff from and after July 1, 1979.

§ 43-21-459. Responsive pleadings.

No party shall be required to file a responsive pleading.

Sources: Laws, 1979, ch. 506, § 52, eff from and after July 1, 1979.

SUMMONS

- § 43-21-501. Persons on whom served.
- § 43-21-503. Form of summons.
- § 43-21-505. Method of service.
- § 43-21-507. Time of service.
- § 43-21-509. Warrant for failure to obey summons.

§ 43-21-501. Persons on whom served.

- (1) When a petition has been filed and the date of hearing has been set by the youth court, the judge or his designee shall order the clerk of the youth court to issue a summons to the following to appear personally at such hearing:
 - (a) the child named in the petition;
 - (b) the person or persons who have custody or control of the child;
 - (c) the parent or guardian of the child if such parent or guardian does not have custody of the child; and
 - (d) any other person whom the court deems necessary.

Sources: Laws, 1979, ch. 506, § 53, eff from and after July 1, 1979.

§ 43-21-503. Form of summons.

The form of the summons shall be substantially as follows:

State of Mississippi
 County of _____
 In the _____ Court of _____ County
 Youth Court Division
 No. _____
 In the Interest of _____.

SUMMONS

TO: _____

You are required to serve the following:

TO: _____

You _____ are commanded to appear personally before the _____ Court of _____ County at the Courthouse in _____, Mississippi, at _____ o'clock on _____, the _____ day of _____, 2_____, for a _____ hearing for the purpose set forth in the petition. _____ is required to produce _____ at the above-named hearing. You have a right to be represented by an attorney. You are requested to immediately notify the youth court of the name of your attorney. If indigent, the above-named child has a right to have an attorney appointed for him _____ free of charge, and should immediately apply to the youth court for such appointed counsel. You have a right to subpoena witnesses in your behalf.

GIVEN under hand and seal of court, at _____, Mississippi, this the _____ day of _____, 2_____.

_____, Clerk

_____, D.C.

Sources: Laws, 1979, ch. 506, § 54, eff from and after July 1, 1979.

§ 43-21-505. Method of service.

- (1) Unless otherwise provided in this chapter, service of summons shall be made personally by delivery of a copy of the summons with a copy of the petition in a sealed envelope attached to the summons. A child may be served in the same manner as an adult.
- (2) Service of the summons and petition, motions, notices and all other papers upon a child who has not reached his fourteenth birthday shall be effectuated by making service upon his parent, guardian or custodian and guardian ad litem, if any.
- (3) If any parent or guardian does not reside within the state or cannot be located therein, the clerk shall issue summons to the guardian ad litem. If the name and post office address of the parent or guardian who does not reside within the state or cannot be located therein can be ascertained, the clerk shall mail by "certified mail" ten (10) days before the date set for the hearing a copy of the summons with a copy of the petition attached to the summons to such parent or guardian. The clerk shall note the fact of such mailing upon the court docket. Ten (10) days after the summons has been mailed, the youth court may take jurisdiction as if summons had been personally served as herein provided.
- (4) The service of summons as required by this chapter shall be made by any person appointed by the youth court judge. Such person, for this purpose, shall be an officer of the youth court.
- (5) Unless otherwise provided in this chapter, notice of the time, date, place and purpose of any hearing other than adjudicatory and transfer hearings shall be given to all parties in person in court or by mail, or in any other manner as the youth court may direct.

Sources: Laws, 1979, ch. 506, § 55, eff from and after July 1, 1979.

§ 43-21-507. Time of service.

- (1) Summons shall be served not less than three (3) days before the date set for the adjudicatory hearing of proceedings concerning the child.
- (2) A party other than the child may waive service of summons on himself by

written stipulation or by voluntary appearance at the hearing and in the case of written stipulation or voluntary appearance, the youth court may, in its discretion, proceed to a hearing regardless of the date set for the hearing if all other parties are properly before the youth court. At the time of the waiver, a copy of the petition shall be given to the party.

- (3) If a child is served with process, the child may waive the three (3) days' time before the hearing, and the youth court may, in its discretion, proceed to a hearing regardless of the date set for the hearing if all other parties are properly before the youth court and the youth court finds all of the following:
 - (a) the child fully understands his rights and fully understands the potential consequences of the hearing;
 - (b) the child voluntarily, intelligently, and knowingly waives his rights to three (3) days' time before the hearing;
 - (c) the child is effectively represented by counsel; and
 - (d) the child has had in fact sufficient time to prepare.

Sources: Laws, 1979, ch. 506, § 56, eff from and after July 1, 1979.

§ 43-21-509. Warrant for failure to obey summons.

If any person summoned as herein provided shall without reasonable cause (the judge to determine what is reasonable cause) fails to appear, he may be proceeded against for contempt of court. In case the summons cannot be served or the parties served with summons fail to obey the same, or in any case when it shall be made to appear to the youth court that the service of summons will be ineffectual or the welfare of a child requires that he shall be brought forthwith into the custody of the youth court, a warrant or custody order may be issued against the parent, parents, guardian or custodian or against the child.

Sources: Laws, 1979, ch. 506, § 57, eff from and after July 1, 1979.

ADJUDICATION

§ 43-21-551. Scheduling of adjudicatory hearings.

§ 43-21-553. Uncontested adjudications.

§ 43-21-555. Plea bargaining prohibited.

§ 43-21-557. Order of proceedings.

§ 43-21-559. Evidence admissible.

§ 43-21-561. Adjudication of status, standard of proof, and findings.

§ 43-21-551. Scheduling of adjudicatory hearings.

- (1) Unless the hearing is continued upon a showing of good cause or the person who is a subject to the cause has admitted the allegations of the petition, an adjudicatory hearing shall be held within ninety (90) days after the filing of the petition to determine whether there is legally sufficient evidence to find that the child is a delinquent child, a child in need of supervision, a neglected child or an abused child. If the adjudicatory hearing is not held within the ninety (90) days, the petition shall be dismissed with prejudice.
- (2) If the child is in detention, the hearing shall be held as soon as possible but not later than twenty-one (21) days after the child is first detained by the youth court unless the hearing be postponed:
 - (a) upon motion of the child;
 - (b) where process cannot be completed; or

- (c) upon a judicial finding that a material witness is not presently available. If the adjudicatory hearing is not held or postponed for the aforesaid reasons, the child may be released from detention.
- (3) If the child is held in shelter, the hearing shall be held as soon as possible but not later than thirty (30) days after the child is first taken into custody unless the hearing is postponed:
- (a) upon motion of the child;
 - (b) where process cannot be completed; or
 - (c) upon a judicial finding that a material witness is not presently available. If the adjudicatory hearing is not held or postponed for the aforesaid reasons, the child may be released from shelter.

Sources: Laws, 1979, ch. 506, § 58; Laws, 1980, ch. 550, § 21, eff from and after July 1, 1980.

§ 43-21-553. Uncontested adjudications.

At any time after the petition has been filed, all parties to the cause may appear before the judge and admit the allegations of the petition. The judge may accept this admission as proof of the allegations if the judge finds that:

- (a) the parties making the admission fully understand their rights and fully understand the potential consequences of their admission to the allegations;
- (b) the parties making the admission voluntarily, intelligently and knowingly admit to all facts necessary to constitute a basis for court action under this chapter;
- (c) the parties making the admission have not in the reported admission to the allegation set forth facts that, if found to be true, constitute a defense to the allegation; and
- (d) the child making the admission is effectively represented by counsel.

Sources: Laws, 1979, ch. 506, § 59, eff from and after July 1, 1979.

§ 43-21-555. Plea bargaining prohibited.

Under no circumstances shall the party or the prosecutor engage in discussion for the purpose of agreeing to exchange concessions by the prosecutor for the party's admission to the petition.

Sources: Laws, 1979, ch. 506, § 60, eff from and after July 1, 1979.

§ 43-21-557. Order of proceedings.

- (1) At the beginning of each adjudicatory hearing, the youth court shall:
 - (a) verify the name, age and residence of the child who is the subject of the cause and ascertain the relationship of the parties, each to the other;
 - (b) ascertain whether all necessary parties are present and identify all persons participating in the hearing;
 - (c) ascertain whether the notice requirements have been complied with and, if not, whether the affected parties intelligently waived compliance in accordance with Section 43-21-507;
 - (d) explain to the parties the purpose of the hearing and the possible dispositional alternatives thereof; and
 - (e) explain to the parties:
 - (i) the right to counsel;

- (ii) the right to remain silent;
- (iii) the right to subpoena witnesses;
- (iv) the right to cross-examine witnesses testifying against him; and
- (v) the right to appeal.

- (2) The youth court should then ascertain whether the parties before the youth court are represented by counsel. If a party before the youth court is not represented by counsel, the youth court shall ascertain whether the party understands his right to counsel. If the party wishes to retain counsel, the youth court shall continue the hearing for a reasonable time to allow the party to obtain and consult with counsel of his choosing. If an indigent child does not have counsel, the youth court shall appoint counsel to represent the child and shall continue the hearing for a reasonable time to allow the child to consult with his appointed counsel.
- (3) The youth court may then inquire whether the parties admit or deny the allegations in the petition as provided in Section 43-21-553.
- (4) The youth court may at any time terminate the proceedings and dismiss the petition if the youth court finds such action to be conducive to the welfare of the child and in the best interest of the state.

Sources: Laws, 1979, ch. 506, § 61, eff from and after July 1, 1979.

§ 43-21-559. Evidence admissible.

- (1) In arriving at its adjudicatory decision, the youth court shall consider only evidence which has been formally admitted at the adjudicatory hearing. All testimony shall be under oath and may be in narrative form. In proceedings to determine whether a child is a delinquent child or a child in need of supervision, the youth court shall admit any evidence that would be admissible in a criminal proceeding. In proceedings to determine whether a child is a neglected child or an abused child, the youth court shall admit any evidence that would be admissible in a civil proceeding.
- (2) An out-of-court admission by the child, even if otherwise admissible, shall be insufficient to support an adjudication that the child is a delinquent child unless the admission is corroborated in whole or in part by other competent evidence.
- (3) Members of the youth court staff may appear as witnesses except that no member of the youth court staff may testify as to an admission or confession made to him.
- (4) At the conclusion of the evidence, the youth court shall give the parties an opportunity to present oral argument.

Sources: Laws, 1979, ch. 506, § 62, eff from and after July 1, 1979.

§ 43-21-561. Adjudication of status, standard of proof, and findings.

- (1) If the youth court finds on proof beyond a reasonable doubt that a child is a delinquent child or a child in need of supervision, the youth court shall enter an order adjudicating the child to be a delinquent child or a child in need of supervision.
- (2) Where the petition alleges that the child is a delinquent child, the youth court may enter an order that the child is a child in need of supervision on proof beyond a reasonable doubt that the child is a child in need of supervision.
- (3) If the court finds from a preponderance of the evidence that the child is a neglected child or an abused child, the youth court shall enter an order

- adjudicating the child to be a neglected child or an abused child.
- (4) No decree or order of adjudication concerning any child shall recite that a child has been found guilty; but it shall recite that a child is found to be a delinquent child or a child in need of supervision or a neglected child or an abused child or a sexually abused child or a dependent child. Upon a written motion by a party, the youth court shall make written findings of fact and conclusions of law upon which it relies for the adjudication that the child is a delinquent child or a child in need of supervision or a neglected child or an abused child.
 - (5) No adjudication upon the status of any child shall operate to impose any of the civil disabilities ordinarily imposed on an adult because of a criminal conviction, nor shall any child be deemed a criminal by reason of adjudication, nor shall that adjudication be deemed a conviction. A person in whose interest proceedings have been brought in the youth court may deny, without any penalty, the existence of those proceedings and any adjudication made in those proceedings. Except for the right of a defendant or prosecutor in criminal proceedings and a respondent or a youth court prosecutor in youth court proceedings to cross-examine a witness, including a defendant or respondent, to show bias or interest, no adjudication shall be used for impeachment purposes in any court.

Sources: Laws, 1979, ch. 506, § 63; Laws, 1980, ch. 550, § 22; Laws, 2002, ch. 410, § 1, eff from and after July 1, 2002.

DISPOSITION

- § 43-21-601. Scheduling of disposition hearing.
- § 43-21-603. Disposition hearing procedure.
- § 43-21-605. Disposition alternatives in delinquency cases.
- § 43-21-607. Dispositional alternatives in children in need of supervision cases.
- § 43-21-609. Dispositional alternatives in neglect and abuse cases.
- § 43-21-611. Dispositional alternatives for children in need of special care.
- § 43-21-613. Modification of disposition orders, probation or parole.
- § 43-21-615. Costs of conveying and treatment.
- § 43-21-617. Protective orders.
- § 43-21-619. Power to order parents to pay child's expenses and restitution or to participate in counseling or family treatment program; orders to constitute civil judgment.
- § 43-21-621. Power to order public school to enroll child; placement in alternative school program; school-related conditions of probation; notification of principal.
- § 43-21-623. Testing of Juvenile delinquents under the jurisdiction of the Youth Court for HIV and AIDS.
- § 43-21-625. Wilderness training program for certain juvenile offenders.
- § 43-21-627. Alternative work program; qualified offenders; volunteers; supervision; removal from program.

§ 43-21-601. Scheduling of disposition hearing.

- (1) If the child has been adjudicated a delinquent child, a child in need of supervision, a neglected child or an abused child, the youth court shall immediately set a time and place for a disposition hearing which shall be separate, distinct and subsequent to the adjudicatory hearing. The disposition

hearing, however, may be held immediately following the adjudicatory hearing unless a continuance is necessary to allow the parties to prepare for their participation in the proceedings.

- (2) If the child has been taken into custody, a disposition hearing shall be held within fourteen (14) days after the adjudicatory hearing unless good cause be shown for postponement.

Sources: Laws, 1979, ch. 506, § 64, eff from and after July 1, 1979.

§ 43-21-603. Disposition hearing procedure.

- (1) At the beginning of each disposition hearing, the judge shall inform the parties of the purpose of the hearing.
- (2) All testimony shall be under oath unless waived by all parties and may be in narrative form. The court may consider any evidence that is material and relevant to the disposition of the cause, including hearsay and opinion evidence. At the conclusion of the evidence, the youth court shall give the parties an opportunity to present oral argument.
- (3) If the child has been adjudicated a delinquent child, before entering a disposition order, the youth court should consider, among others, the following relevant factors:
 - (a) The nature of the offense;
 - (b) The manner in which the offense was committed;
 - (c) The nature and number of a child's prior adjudicated offenses;
 - (d) The child's need for care and assistance;
 - (e) The child's current medical history, including medication and diagnosis;
 - (f) The child's mental health history, which may include, but not be limited to, the Massachusetts Youth Screening Instrument version 2 (MAYSI-2);
 - (g) Copies of the child's cumulative record from the last school of record, including special education records, if applicable;
 - (h) Recommendation from the school of record based on areas of remediation needed;
 - (i) Disciplinary records from the school of record; and
 - (j) Records of disciplinary actions outside of the school setting.
- (4) If the child has been adjudicated a child in need of supervision, before entering a disposition order, the youth court should consider, among others, the following relevant factors:
 - (a) The nature and history of the child's conduct;
 - (b) The family and home situation; and
 - (c) The child's need of care and assistance.
- (5) If the child has been adjudicated a neglected child or an abused child, before entering a disposition order, the youth court shall consider, among others, the following relevant factors:
 - (a) The child's physical and mental conditions;
 - (b) The child's need of assistance;
 - (c) The manner in which the parent, guardian or custodian participated in, tolerated or condoned the abuse, neglect or abandonment of the child;
 - (d) The ability of a child's parent, guardian or custodian to provide proper supervision and care of a child; and
 - (e) Relevant testimony and recommendations, where available, from the

foster parent of the child, the grandparents of the child, the guardian ad litem of the child, representatives of any private care agency that has cared for the child, the family protection worker or family protection specialist assigned to the case, and any other relevant testimony pertaining to the case.

- (6) After consideration of all the evidence and the relevant factors, the youth court shall enter a disposition order that shall not recite any of the facts or circumstances upon which the disposition is based, nor shall it recite that a child has been found guilty; but it shall recite that a child is found to be a delinquent child, a child in need of supervision, a neglected child or an abused child.
- (7) If the youth court orders that the custody or supervision of a child who has been adjudicated abused or neglected be placed with the Department of Human Services or any other person or public or private agency, other than the child's parent, guardian or custodian, the youth court shall find and the disposition order shall recite that:
 - (a) (i) Reasonable efforts have been made to maintain the child within his own home, but that the circumstances warrant his removal and there is no reasonable alternative to custody; or
 - (ii) The circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home, and that there is no reasonable alternative to custody; and
- (b) That the effect of the continuation of the child's residence within his own home would be contrary to the welfare of the child and that the placement of the child in foster care is in the best interests of the child; or
- (c) Reasonable efforts to maintain the child within his home shall not be required if the court determines that:
 - (i) The parent has subjected the child to aggravated circumstances, including, but not limited to, abandonment, torture, chronic abuse and sexual abuse; or
 - (ii) The parent has been convicted of murder of another child of that parent, voluntary manslaughter of another child of that parent, aided or abetted, attempted, conspired or solicited to commit that murder or voluntary manslaughter, or a felony assault that results in the serious bodily injury to the surviving child or another child of that parent; or
 - (iii) The parental rights of the parent to a sibling have been terminated involuntarily; and
 - (iv) That the effect of the continuation of the child's residence within his own home would be contrary to the welfare of the child and that placement of the child in foster care is in the best interests of the child.

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

- (8) Upon a written motion by a party, the youth court shall make written findings of fact and conclusions of law upon which it relies for the disposition order. If the disposition ordered by the youth court includes placing the child in the custody of a training school, an admission packet shall be prepared for the child

that contains the following information:

- (a) The child's current medical history, including medications and diagnosis;
- (b) The child's mental health history;
- (c) Copies of the child's cumulative record from the last school of record, including special education records, if reasonably available;
- (d) Recommendation from the school of record based on areas of remediation needed;
- (e) Disciplinary records from the school of record; and
- (f) Records of disciplinary actions outside of the school setting, if reasonably available.

Only individuals who are permitted under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) shall have access to a child's medical records which are contained in an admission packet. The youth court shall provide the admission packet to the training school at or before the child's arrival at the training school. The admittance of any child to a training school shall take place between the hours of 8:00 a.m. and 3:00 p.m. on designated admission days.

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

Sources: Laws, 1979, ch. 506, § 65; Laws, 1985, ch. 486, § 7; Laws, 1997, ch. 440, § 13; Laws, 1998, ch. 516, § 12; Laws, 1999, ch. 569, § 2; Laws, 2004, ch. 443, § 1; Laws, 2004, ch. 489, § 5; Laws, 2004, ch. 549, § 1; Laws, 2005, ch. 535, § 1; Laws, 2006, ch. 600, § 6, eff from and after July 1, 2006.

§ 43-21-605. Disposition alternatives in delinquency cases.

- (1) In delinquency cases, the disposition order may include any of the following alternatives:
 - (a) Release the child without further action;
 - (b) Place the child in the custody of the parents, a relative or other persons subject to any conditions and limitations, including restitution, as the youth court may prescribe;
 - (c) Place the child on probation subject to any reasonable and appropriate conditions and limitations, including restitution, as the youth court may prescribe;
 - (d) Order terms of treatment calculated to assist the child and the child's parents or guardian which are within the ability of the parent or guardian to perform;
 - (e) Order terms of supervision which may include participation in a constructive program of service or education or civil fines not in excess of Five Hundred Dollars (\$500.00), or restitution not in excess of actual damages caused by the child to be paid out of his own assets

or by performance of services acceptable to the victims and approved by the youth court and reasonably capable of performance within one (1) year;

- (f) Suspend the child's driver's license by taking and keeping it in custody of the court for not more than one (1) year;
- (g) Give legal custody of the child to any of the following:
 - (i) The Department of Human Services for appropriate placement; or
 - (ii) Any public or private organization, preferably community-based, able to assume the education, care and maintenance of the child, which has been found suitable by the court; or
 - (iii) The Division of Youth Services for placement in a state-supported training school, except that no child under the age of ten (10) years shall be committed to a state training school, and no first-time nonviolent youth offenders shall be committed to a state training school until all other options provided for in this section have been considered and the court makes a specific finding of fact that commitment is appropriate.

The training school may retain custody of the child until the child's twentieth birthday but for no longer. When the child is committed to a training school, the child shall remain in the legal custody of the training school until the child has made sufficient progress in treatment and rehabilitation and it is in the best interest of the child to release the child. However, the superintendent of a state training school, in consultation with the treatment team, may parole a child at any time he may deem it in the best interest and welfare of such child. Twenty (20) days prior to such parole, the training school shall notify the committing court of the pending release. The youth court may then arrange subsequent placement after a reconvened disposition hearing, except that the youth court may not recommit the child to the training school or any other secure facility without an adjudication of a new offense or probation or parole violation. The Department of Human Services shall ensure that staffs create transition planning for youth leaving the facilities. Plans shall include providing the youth and his or her parents or guardian with copies of the youth's training school education and health records, information regarding the youth's home community, referrals to mental and counseling services when appropriate, and providing assistance in making initial appointments with community service providers. Prior to assigning the custody of any child to any private institution or agency, the youth court through its designee shall first inspect the physical facilities to determine that they provide a reasonable standard of health and safety for the child. No child shall be placed in the custody of a state training school for a status offense or for contempt of or revocation of a status offense adjudication

unless the child is contemporaneously adjudicated for having committed an act of delinquency that is not a status offense. A disposition order rendered under this subparagraph shall meet the following requirements:

1. The disposition is the least restrictive alternative appropriate to the best interest of the child and the community;
 2. The disposition allows the child to be in reasonable proximity to the family home community of each child given the dispositional alternatives available and the best interest of the child and the state; and
 3. The disposition order provides that the court has considered the medical, educational, vocational, social and psychological guidance, training, social education, counseling, substance abuse treatment and other rehabilitative services required by that child as determined by the court;
- (h) Recommend to the child and the child's parents or guardian that the child attend and participate in the Youth Challenge Program under the Mississippi National Guard, as created in Section 43-27-203, subject to the selection of the child for the program by the National Guard; however, the child must volunteer to participate in the program. The youth court shall not order any child to apply for or attend the program;
 - (i) (i) Adjudicate the juvenile to the Statewide Juvenile Work Program if the program is established in the court's jurisdiction. The juvenile and his parents or guardians must sign a waiver of liability in order to participate in the work program. The judge will coordinate with the youth services counselors as to placing participants in the work program;
 - (ii) The severity of the crime, whether or not the juvenile is a repeat offender or is a felony offender will be taken into consideration by the judge when adjudicating a juvenile to the work program. The juveniles adjudicated to the work program will be supervised by police officers or reserve officers. The term of service will be from twenty-four (24) to one hundred twenty (120) hours of community service. A juvenile will work the hours to which he was adjudicated on the weekends during school and weekdays during the summer. Parents are responsible for a juvenile reporting for work. Noncompliance with an order to perform community service will result in a heavier adjudication. A juvenile may be adjudicated to the community service program only two (2) times;
 - (iii) The judge shall assess an additional fine on the juvenile which will be used to pay the costs of implementation of the program and to pay for supervision by police officers and reserve officers. The amount of the fine will be based on the number of hours to which the juvenile has been adjudicated;
 - (j) Order the child to participate in a youth court work program as provided in Section 43-21-627;
 - (k) Order the child into a juvenile detention center operated by the county

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

- (i) The disposition order is the least restrictive alternative appropriate to the best interest of the child and the community;
 - (ii) The disposition order allows the child to be in reasonable proximity to the family home community of each child given the dispositional alternatives available and the best interest of the child and the state; and
 - (iii) The disposition order provides that the court has considered the medical, educational, vocational, social and psychological guidance, training, social education, counseling, substance abuse treatment and other rehabilitative services required by that child as determined by the court; or
- (l) The judge may consider house arrest in an intensive supervision program as a reasonable prospect of rehabilitation within the juvenile justice system. The Department of Human Services shall promulgate rules regarding the supervision of juveniles placed in the intensive supervision program.
 - (m) Referral to A-team provided system of care services.
- (2) If a disposition order requires that a child miss school due to other placement, the youth court shall notify a child's school while maintaining the confidentiality of the youth court process. If a disposition order requires placement of a child in a juvenile detention facility, the facility shall comply with the educational services and notification requirements of Section 43-21-321.
 - (3) In addition to any of the disposition alternatives authorized under subsection (1) of this section, the disposition order in any case in which the child is adjudicated delinquent for an offense under Section 63-11-30 shall include an order denying the driver's license and driving privileges of the child as required under Section 63-11-30(9).
 - (4) If the youth court places a child in a state-supported training school, the court may order the parents or guardians of the child and other persons living in the child's household to receive counseling and parenting classes for rehabilitative purposes while the child is in the legal custody of the training school. A youth court entering an order under this subsection (4) shall utilize appropriate services offered either at no cost or for a fee calculated on a sliding scale

according to income unless the person ordered to participate elects to receive other counseling and classes acceptable to the court at the person's sole expense.

- (5) Fines levied under this chapter shall be paid into the general fund of the county but, in those counties wherein the youth court is a branch of the municipal government, it shall be paid into the municipal treasury.
- (6) Any institution or agency to which a child has been committed shall give to the youth court any information concerning the child as the youth court may at any time require.
- (7) The youth court shall not place a child in another school district who has been expelled from a school district for the commission of a violent act. For the purpose of this subsection, "violent act" means any action which results in death or physical harm to another or an attempt to cause death or physical harm to another.
- (8) The youth court may require drug testing as part of a disposition order. If a child tests positive, the court may require treatment, counseling and random testing, as it deems appropriate. The costs of such tests shall be paid by the parent, guardian or custodian of the child unless the court specifically finds that the parent, guardian or custodian is unable to pay.
- (9) The Mississippi Department of Human Services, Division of Youth Services, shall operate and maintain services for youth adjudicated delinquent at Oakley Training School. The program shall be designed for children committed to the training schools by the youth courts. The purpose of the program is to promote good citizenship, self-reliance, leadership and respect for constituted authority, teamwork, cognitive abilities and appreciation of our national heritage. The program must use evidenced-based practices and gender-specific programming and must develop an individualized and specific treatment plan for each female youth. The Division of Youth Services shall issue credit towards academic promotions and high school completion. The Division of Youth Services may award credits to each student who meets the requirements for a general education development certification. The Division of Youth Services must also provide to each special education eligible youth the services required by that youth's individualized education plan.

Sources: Laws, 1979, ch. 506, § 66; Laws, 1980, ch. 550, § 23; Laws, 1993, ch. 560, § 3; Laws, 1994, ch. 473, § 2; Laws, 1994, ch. 607, § 6; Laws, 1995, ch. 540, § 3; Laws, 1997, ch. 563, § 2; Laws, 1998, ch. 407, § 2; Laws, 1999, ch. 329, § 5; Laws, 2001, ch. 581, § 1; Laws, 2004, ch. 590, § 1; Laws, 2005, ch. 471, § 6; Laws, 2005, ch. 535, § 2; Laws, 2006, ch. 539, § 5; Laws, 2007, ch. 568, § 2; Laws, 2008, ch. 481, § 2; Laws, 2008, ch. 555, § 2, eff from and after July 1, 2008.

§ 43-21-607. Dispositional alternatives in children in need of supervision cases.

- (1) In children in need of supervision cases, the disposition order may include any of the following alternatives or combination of the following alternatives, giving precedence in the following sequence:
 - (a) Release the child without further action;
 - (b) Place the child in the custody of the parent, a relative or other person subject to any conditions and limitations as the youth court may prescribe;
 - (c) Place the child under youth court supervision subject to any conditions and limitations the youth court may prescribe;
 - (d) Order terms of treatment calculated to assist the child and the child's parent, guardian or custodian which are within the ability of the parent, guardian or custodian to perform;
 - (e) Order terms of supervision which may include participation in a

constructive program of service or education or restitution not in excess of actual damages caused by the child to be paid out of his own assets or by performance of services acceptable to the parties and reasonably capable of performance within one (1) year;

- (f) Give legal custody of the child to any of the following but in no event to any state training school:
 - (i) The Department of Human Services for appropriate placement which may include a wilderness training program; or
 - (ii) Any private or public organization, preferably community-based, able to assume the education, care and maintenance of the child, which has been found suitable by the court. Prior to assigning the custody of any child to any private institution or agency, the youth court through its designee shall first inspect the physical facilities to determine that they provide a reasonable standard of health and safety for the child; or
 - (g) Order the child to participate in a youth court work program as provided in Section 43-21-627.
- (2) The court may order drug testing as provided in Section 43-21-605(6).

Sources: Laws, 1979, ch. 506, § 67; Laws, 1980, ch. 550, § 24; Laws, 1994, ch. 473, § 3; Laws, 1998, ch. 407, § 3; Laws, 2001, ch. 581, § 2, eff from and after July 1, 2001.

§ 43-21-609. Dispositional alternatives in neglect and abuse cases.

In neglect and abuse cases, the disposition order may include any of the following alternatives, giving precedence in the following sequence:

- (a) Release the child without further action;
- (b) Place the child in the custody of his parents, a relative or other person subject to any conditions and limitations as the court may prescribe. If the court finds that temporary relative placement, adoption or foster care placement is inappropriate, unavailable or otherwise not in the best interest of the child, durable legal custody may be granted by the court to any person subject to any limitations and conditions the court may prescribe; such durable legal custody will not take effect unless the child or children have been in the physical custody of the proposed durable custodians for at least one (1) year under the supervision of the Department of Human Services. The requirements of Section 43-21-613 as to disposition review hearings does not apply to those matters in which the court has granted durable legal custody. In such cases, the Department of Human Services shall be released from any oversight or monitoring responsibilities;
- (c) Order terms of treatment calculated to assist the child and the child's parent, guardian or custodian which are within the ability of the parent, guardian or custodian to perform;
- (d) Order youth court personnel, the Department of Human Services or child care agencies to assist the child and the child's parent, guardian or custodian to secure social or medical services to provide proper supervision and care of the child;
- (e) Give legal custody of the child to any of the following but in no event to any state training school:
 - (i) The Department of Human Services for appropriate placement; or
 - (ii) Any private or public organization, preferably

community-based, able to assume the education, care and maintenance of the child, which has been found suitable by the court. Prior to assigning the custody of any child to any private institution or agency, the youth court through its designee shall first inspect the physical facilities to determine that they provide a reasonable standard of health and safety for the child;

- (f) If the court makes a finding that custody is necessary as defined in Section 43-21-301(3)(b), and that the child, in the action pending before the youth court had not previously been taken into custody, the disposition order shall recite that the effect of the continuation of the child's residing within his or her own home would be contrary to the welfare of the child, that the placement of the child in foster care is in the best interests of the child, and unless the reasonable efforts requirement is bypassed under Section 43-21-603(7)(c), the order also must state:
 - (i) That reasonable efforts have been made to maintain the child within his or her own home, but that the circumstances warrant his or her removal, and there is no reasonable alternative to custody; or
 - (ii) The circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his or her own home, and there is no reasonable alternative to custody; or
 - (iii) If the court makes a finding in accordance with (ii) of this paragraph, the court shall order that reasonable efforts be made towards the reunification of the child with his or her family.
- (g) If the court had, before the disposition hearing in the action pending before the court, taken the child into custody, the judge or referee shall determine, and the youth court order shall recite that reasonable efforts were made by the Department of Human Services to finalize the child's permanency plan that was in effect on the date of the disposition hearing.

Sources: Laws, 1979, ch. 506, § 68; Laws, 1980, ch. 550, § 25; Laws, 1998, ch. 516, § 7; Laws, 1999, ch. 569, § 3; Laws, 2004, ch. 417, § 3, eff from and after July 1, 2004.

§ 43-21-611. Dispositional alternatives for children in need of special care.

If the youth court finds at the disposition hearing that a delinquent child, a child in need of supervision, a neglected child, an abused child or a dependent child is also a child in need of special care, the youth court may, in its discretion, make any appropriate additional disposition designed for the treatment of the disability or infirmity, which may include civil commitment to a state institution providing care for that disability or infirmity. Any commitment, including one to a Department of Mental Health facility, ordered pursuant to this section shall be in compliance with the requirements for civil commitment as set forth in Section 41-21-61 et seq. Discharge from a Department of Mental Health facility shall be made pursuant to the provisions of Section 41-21-87. Nothing contained in this section shall require any state institution, department or agency to provide any service, treatment or facility if said service, treatment or facility is not available, nor shall this section be construed to authorize the youth court to overrule an expulsion or suspension decision of

appropriate school authorities.

Sources: Laws, 1979, ch. 506, § 73; Laws, 1980, ch. 550, § 26; Laws, 1985, ch. 486, § 3; Laws, 1992, ch. 322 § 1, eff from and after passage (approved April 20, 1992).

§ 43-21-613. Modification of disposition orders, probation or parole.

- (1) If the youth court finds, after a hearing which complies with the sections governing adjudicatory hearings, that the terms of a delinquency or child in need of supervision disposition order, probation or parole have been violated, the youth court may, in its discretion, revoke the original disposition and make any disposition which it could have originally ordered. The hearing shall be initiated by the filing of a petition that complies with the sections governing petitions in this chapter and that includes a statement of the youth court's original disposition order, probation or parole, the alleged violation of that order, probation or parole, and the facts which show the violation of that order, probation or parole. Summons shall be served in the same manner as summons for an adjudicatory hearing.
- (2) On motion of a child or a child's parent, guardian or custodian, the youth court may, in its discretion, conduct an informal hearing to review the disposition order. If the youth court finds a material change of circumstances relating to the disposition of the child, the youth court may modify the disposition order to any appropriate disposition of equal or greater precedence which the youth court could have originally ordered.
- (3) (a) Unless the youth court's jurisdiction has been terminated, all disposition orders for supervision, probation or placement of a child with an individual or an agency shall be reviewed by the youth court judge or referee at least annually to determine if continued placement, probation or supervision is in the best interest of the child or the public. For children who have been adjudicated abused or neglected, the youth court shall conduct a permanency hearing within twelve (12) months after the earlier of:
 - (i) An adjudication that the child has been abused or neglected; or
 - (ii) The date of the child's removal from the allegedly abusive or neglectful custodian/parent.

Notice of such hearing shall be given in accordance with the provisions of Section 43-21-505(5). In conducting the hearing, the judge or referee shall require a written report and may require information or statements from the child's youth court counselor, parent, guardian or custodian, which includes, but is not limited to, an evaluation of the child's progress and recommendations for further supervision or treatment. The judge or referee shall, at the permanency hearing determine the future status of the child, including, but not limited to, whether the child should be returned to the parent(s) or placed with suitable relatives, placed for adoption, placed for the purpose of establishing durable legal custody or should, because of the child's special needs or circumstances, be continued in foster care on a permanent or long-term basis. If the child is in an out-of-state placement, the hearing shall determine whether the out-of-state placement continues to be appropriate and in the best interest of the child. At the permanency hearing the judge or referee shall determine, and the youth court order shall recite that reasonable efforts were made by the Department of Human Services to finalize the child's permanency plan that was in effect on the date of the permanency hearing. The judge or referee may find that reasonable efforts to maintain the child within his home shall not be

required in accordance with Section 43-21-603(7)(c), and that the youth court shall continue to conduct permanency hearings for a child who has been adjudicated abused or neglected, at least annually thereafter, for as long as the child remains in the custody of the Mississippi Department of Human Services.

- (b) The court may find that the filing of a termination of parental rights petition is not in the child's best interest if:
 - (i) The child is being cared for by a relative; and/or
 - (ii) The Department of Human Services has documented compelling and extraordinary reasons why termination of parental rights would not be in the best interests of the child.
- (c) The provisions of this subsection shall also apply to review of cases involving a dependent child; however, such reviews shall take place not less frequently than once each one hundred eighty (180) days. A dependent child shall be ordered by the youth court judge or referee to be returned to the custody and home of the child's parent, guardian or custodian unless the judge or referee, upon such review, makes a written finding that the return of the child to the home would be contrary to the child's best interests.
- (d) Reviews are not to be conducted unless explicitly ordered by the youth court concerning those cases in which the court has granted durable legal custody. In such cases, the Department of Human Services shall be released from any oversight or monitoring responsibilities, and relieved of physical and legal custody and supervision of the child.

Sources: Laws, 1979, ch. 506, § 69; Laws, 1980, ch. 550, § 27; Laws, 1985, ch. 486, § 8; Laws, 1996, ch. 409, § 1; Laws, 1997, ch. 440, § 14; Laws, 1998, ch. 516, § 8; Laws, 1999, ch. 569, § 4; Laws, 2002, ch. 342, § 1; Laws, 2003, ch. 450, § 1; Laws, 2004, ch. 417, § 4, eff from and after July 1, 2004.

§ 43-21-615. Costs of conveying and treatment.

- (1) The costs of conveying any child committed to any institution or agency shall be paid by the county or municipality from which the child is committed out of the general treasury of the county or municipality upon approval of the court. No compensation shall be allowed beyond the actual and necessary expenses of the child and the person actually conveying the child. In the case of a female child, the youth court shall designate some suitable woman to accompany her to the institution or agency.
- (2) Whenever a child is committed by the youth court to the custody of any person or agency other than the custody of a state training school, the youth court, after giving the responsible parent or guardian a reasonable opportunity to be heard, may order that the parent or guardian pay, upon such terms or conditions as the youth court may direct, such sum or sums as will cover, in whole or in part, the support of the child including any necessary medical treatment. If the parent or guardian shall wilfully fail or refuse to pay such sum, he may be proceeded against for contempt of court as provided in this chapter.

Sources: Laws, 1979, ch. 506, § 71, eff from and after July 1, 1979.

§ 43-21-617. Protective orders.

In all cases where the child is found to be a delinquent child, a child in need of supervision, a neglected child or an abused child, the parent, guardian, custodian or any other person who, by any act or acts of wilful commission or omission, if found

after notice and a hearing by the youth court to be encouraging, causing or contributing to the neglect or delinquency of such child, may be required by the youth court to do or to omit to do any act or acts that the judge may deem reasonable and necessary for the welfare of the child.

Sources: Laws, 1979, ch. 506, § 72, eff from and after July 1, 1979.

§ 43-21-619. Power to order parents to pay child's expenses and restitution or to participate in counseling or family treatment program; orders to constitute civil judgment.

- (1) The youth court may order financially able parents to pay for court ordered medical and other examinations and treatment of a child; for reasonable attorney's fees and court costs; and for other expenses found necessary or appropriate in the best interest of the child as determined by the youth court. The youth court is authorized to enforce payments ordered under this subsection.
- (2) The youth court may order the parents, guardians or custodians who exercise parental custody and control of a child who is under the jurisdiction of the youth court and who has willfully or maliciously caused personal injury or damaged or destroyed property, to pay such damages or restitution through the court to the victim in an amount not to exceed the actual loss and to enforce payment thereof. Restitution ordered by the youth court under this section shall not preclude recovery of damages by the victim from such child or parent, guardian or custodian or other person who would otherwise be liable. The youth court also may order the parents, guardians or custodians of a child who is under the jurisdiction of the youth court and who willfully or maliciously has caused personal injury or damaged or destroyed property to participate in a counseling program or other suitable family treatment program for the purpose of preventing future occurrences of malicious destruction of property or personal injury.
- (3) Such orders under this section shall constitute a civil judgment and may be enrolled on the judgment rolls in the office of the circuit clerk of the county where such order was entered, and further, such order may be enforced in any manner provided by law for civil judgments.

Sources: Laws, 1989, ch. 441, § 4; Laws, 1993, ch. 560, § 4, eff from and after July 1, 1993.

§ 43-21-621. Power to order public school to enroll child; placement in alternative school program; school-related conditions of probation; notification of principal.

- (1) The youth court may, in compliance with the laws governing education of children, order any state-supported public school in its jurisdiction after notice and hearing to enroll or reenroll any compulsory-school-age child in school, and further order appropriate educational services. Provided, however, that the youth court shall not order the enrollment or reenrollment of a student that has been suspended or expelled by a public school pursuant to Section 37-9-71 or 37-7-301 for possession of a weapon on school grounds, for an offense involving a threat to the safety of other persons or for the commission of a violent act. For the purpose of this section "violent act" means any action which results in death or physical harm to another or an attempt to cause death or physical harm to another. The superintendent of the school district to which such child is ordered may, in his discretion, assign such child to the alternative

school program of such school established pursuant to Section 37-13-92, Mississippi Code of 1972. The court shall have jurisdiction to enforce school and education laws. Nothing in this section shall be construed to affect the attendance of a child in a legitimate home instruction program.

- (2) The youth court may specify the following conditions of probation related to any juvenile ordered to enroll or reenroll in school: That the juvenile maintain passing grades in up to four (4) courses during each grading period and meet with the court counselor and a representative of the school to make a plan for how to maintain those passing grades.
- (3) If the adjudication of delinquency was for an offense involving a threat to the safety of the juvenile or others and school attendance is a condition of probation, the youth court judge shall make a finding that the principal of the juvenile's school should be notified. If the judge orders that the principal be notified, the youth court counselor shall within five (5) days or before the juvenile begins to attend school, whichever occurs first, notify the principal of the juvenile's school in writing of the nature of the offense and the probation requirements related to school attendance. A principal notified by a juvenile court counselor shall handle the report according to the guidelines and rules adopted by the State Board of Education.
- (4) The Administrative Office of the Courts shall report to the Legislature on the number of juveniles reported to principals in accordance with this section no later than January 1, 1996.

Sources: Laws, 1989, ch. 441, § 5; Laws, 1993, ch. 543, § 2; Laws, 1994, ch. 607, § 7, eff from and after July 2, 1994.

§ 43-21-623. Testing of juvenile delinquents under the jurisdiction of the youth court for HIV and AIDS.

Any juvenile who is adjudicated a delinquent on or after July 1, 1994, as a result of committing a sex offense as defined in Section 45-33-23 or any offense involving the crime of rape and placed in the custody of the Mississippi Department of Human Services, Office of Youth Services, shall be tested for HIV and AIDS. Such tests shall be conducted by the State Department of Health in conjunction with the Office of Youth Services, Mississippi Department of Human Services at the request of the victim or the victim's parents or guardian if the victim is a juvenile. The results of any positive HIV or AIDS tests shall be reported to the victim or the victim's parents or guardian if the victim is a juvenile as well as to the adjudicated offender. The State Department of Health shall provide counseling and referral to appropriate treatment for victims of a sex offense when the adjudicated offender tested positive for HIV or AIDS if the victim so requests.

Sources: Laws, 1994, ch. 504, § 2; Laws, 2000, ch. 499, § 28, eff from and after July 1, 2000.

§ 43-21-625. Wilderness training program for certain juvenile offenders.

- (1) The Department of Human Services shall develop and implement a wilderness training program for first time youth offenders sentenced or classified as delinquency cases or as children in need of supervision.
- (2) The program shall include supervised camping trips, calisthenics, manual labor assignments, physical training with obstacle courses, training in decision-making and personal development and drug counseling and rehabilitation programs.
- (3) The department shall adopt rules requiring that wilderness training participants

- complete a structured disciplinary program and allowing for a restriction on general inmate population privileges.
- (4) Upon receipt of youth offenders, the department shall screen offenders for the wilderness training program. To participate, an offender must have no physical limitations which would preclude participation in strenuous activity, must not be impaired and must not have been previously incarcerated in a state or federal correctional facility. In screening offenders for the wilderness training program, the department shall consider the offender's criminal history and the possible rehabilitative benefits of the program. If an offender meets the specified criteria and space is available, the department shall request in writing from the sentencing court, approval to participate in the wilderness training program. If the person is classified by the court as a delinquent or child in need of supervision and the department is requesting approval from the sentencing court for placement in the program, the department shall, at the same time, notify the prosecuting attorney that the offender is being considered for placement in the wilderness training program. The notice shall explain that the purpose of such placement is diversion from lengthy incarceration when a wilderness training program could produce the same deterrent effect, and that the person given notice may, within fourteen (14) days of the mailing of the notice, notify the sentencing court in writing of objections, if any, to the placement of the offender in the wilderness training program. The sentencing court shall notify the department in writing of placement approval no later than twenty-one (21) days after receipt of the department's request for placement of the youthful offender in the wilderness training program. Failure to notify the department within twenty-one (21) days shall be considered an approval by the sentencing court for placing the youthful offender in the wilderness training program. The offices of the prosecuting attorneys may develop procedures for notifying each victim that the offender is being considered for placement in the wilderness training program.
 - (5) The program shall provide a period of rigorous training to offenders who require a greater degree of supervision than community control or probation provides. Wilderness training programs may be operated in secure areas in or adjacent to adult institutions or in any area approved by the department. The program is not intended to divert offenders away from probation or community control but to divert them from long periods of incarceration when a wilderness training program could produce the same deterrent effect.
 - (6) If an offender in the wilderness training program becomes unmanageable, the department may place him in an appropriate facility to complete the remainder of his sentence. Any period of time in which the offender is unable to participate in the wilderness training program activities may be excluded from the specified time requirements in the program. The portion of the sentence served prior to placement in the wilderness training program shall not be counted toward program completion. Upon the offender's completion of the wilderness training program, the department shall submit a report to the court that describes the offender's performance. If the offender's performance has been satisfactory, the court shall issue an order modifying the sentence imposed and placing the offender on probation. If the offender violates the conditions of probation, the court may revoke probation and impose any sentence which it might have originally imposed.
 - (7) The department shall provide a special training program for staff selected for the wilderness training program.

- (8) The department is authorized to contract with any private or public nonprofit organization or entity to carry out the purpose of this section.

Sources: Laws, 1994, ch. 473, § 1, eff from and after July 1, 1994.

§ 43-21-627. Alternative work program; qualified offenders; volunteers; supervision; removal from program.

Each youth court is authorized to establish a youth court work program as an alternative disposition for nonviolent offenders. The youth court work program shall be used only for first time nonviolent youth offenders. The court shall solicit and approve the assistance of volunteers from the area served by the youth court, including business and community volunteers. The court may require a nonviolent youth offender to work for a minimum of six (6) months with a court approved volunteer as part or all of a sentence imposed by the court. The volunteers shall provide a working environment as mentors to provide guidance and support and to teach the youth offender job skills. Each youth offender and volunteer shall be under the supervision of the court and shall make regular reports to the court as required by order of the court. If a youth offender violates the terms and conditions imposed by the court while participating in the youth court work program, the court is authorized to remove the offender from the program and impose any other disposition authorized by law.

Sources: Laws, 1998, ch. 407, § 1, eff from and after July 1, 1998.

APPEALS

§ 43-21-651. Appeals to supreme court.

§ 43-21-651. Appeals to supreme court.

- (1) The court to which appeals may be taken from final orders or decrees of the youth court shall be the supreme court of Mississippi. In any case wherein an appeal is desired, written notice of intention to appeal shall be filed with the youth court clerk within ten (10) days after the rendition of the final order or decree to be appealed from, and costs in the youth court and the filing fee in the supreme court shall be paid as is otherwise required by law for appeals to the supreme court. If the appellant shall make affidavit that he is unable to pay such costs and filing fee, he shall have an appeal without prepayment of court costs and filing fee. Only the initials of the child shall appear on the record on appeal.
- (2) The pendency of an appeal shall not suspend the order or decree of the youth court regarding a child, nor shall it discharge the child from the custody of that court or of the person, institution or agency to whose care such child shall have been committed, unless the youth court or supreme court shall so order. If appellant desires to appeal with supersedeas, the matter first shall be presented to the youth court. If refused, the youth court shall forthwith issue a written order stating the reasons for the denial, which order shall be subject to review by the supreme court. If the supreme court does not dismiss the proceedings and discharge the child, it shall affirm or modify or reverse the order of the youth court and remand the child to the jurisdiction of the youth court for placement and supervision in accordance with its order, and thereafter the child shall be and remain under the jurisdiction of the youth court in the same manner as if the youth court had made the order without an appeal having been taken.
- (3) Appeals from the youth court shall be preference cases in the supreme court.

MISSISSIPPI COMMISSION ON A UNIFORM YOUTH COURT SYSTEM AND PROCEDURES

§ 43-21-701. Mississippi Commission on a Uniform Youth Court Systems and Procedures established.

§ 43-21-703. Duties of Commission.

§ 43-21-701. Mississippi Commission on a Uniform Youth Court Systems and Procedures established.

- (1) There is hereby established the Mississippi Commission on a Uniform Youth Court System and Procedures. The commission shall consist of the following nineteen (19) members:
 - (a) One (1) circuit court judge appointed by the Chief Justice of the Mississippi Supreme Court;
 - (b) One (1) chancery court judge, appointed by the Chief Justice of the Mississippi Supreme Court;
 - (c) The President of the Mississippi Council of Youth Court Judges, or his designee;
 - (d) Two (2) who may be either family court judges or county court judges, appointed by the President of the Mississippi Council of Youth Court Judges;
 - (e) Two (2) youth court referees, appointed by the President of the Mississippi Council of Youth Court Judges;
 - (f) One (1) member of the Mississippi House of Representatives to be appointed by the Speaker of the House;
 - (g) One (1) member of the Mississippi Senate to be appointed by the Lieutenant Governor;
 - (h) The directors of the following state agencies or their designated representatives: the Mississippi Department of Youth Services and the Mississippi Department of Public Welfare;
 - (i) The director or his designated representative of the Governor's Office of Federal-State Programs;
 - (j) One (1) employee, other than the director, of the Department of Public Welfare who is a supervisor of social workers primarily assigned to youth cases, appointed by the Governor;
 - (k) One (1) municipal police chief, appointed by the Governor;
 - (l) One (1) county sheriff, appointed by the Governor;
 - (m) Two (2) lawyers experienced in youth court work, appointed by the Governor; and
 - (n) Two (2) prosecuting attorneys who prosecute cases in youth court, appointed by the Governor.
- (2) The members shall be appointed to the commission within fifteen (15) days of the effective date of Sections 43-21-701 and 43-21-703 and shall serve until the end of their respective terms of office, if applicable, or until October 1, 1989, whichever occurs first. Vacancies on the commission shall be filled in the manner of the original appointment. Members shall be eligible for reappointment provided that upon such reappointment they meet the qualifications required of a new appointee.
- (3) The commission may elect any officers from among its membership as it deems necessary for the efficient discharge of the commission's duties.
- (4) The commission shall adopt rules and regulations governing times and places

- (5) for meetings and governing the manner of conducting its business. Ten (10) or more members shall constitute a quorum for the purpose of conducting any business of the commission; provided, however, a vote of not less than twelve (12) members shall be required for any recommendations to the Legislature.
- (5) Members of the commission shall serve without compensation, except that state and county employees and officers shall receive any per diem as authorized by law from appropriations available to their respective agencies or political subdivisions. All commission members shall be entitled to receive reimbursement for any actual and reasonable expenses incurred as a necessary incident to service on the commission, including mileage as provided by law.
- (6) The commission may select and employ a research director who shall perform the duties which the commission directs, which duties shall include the hiring of such other employees for the commission as the commission may approve. The research director and all other employees of the commission shall be in the state service and their salaries shall be established by the commission subject to approval by the State Personnel Board. Employees of the commission shall be reimbursed for the expenses necessarily incurred in the performance of their official duties in the same manner as other state employees. The commission may also employ any consultants it deems necessary, including consultants to compile any demographic data needed to accomplish the duties of the commission.
- (7) The Governor's Office of Federal-State Programs shall support the Commission on a Uniform Youth Court System and shall act as agent for any funds made available to the commission for its use. In order to expedite the implementation of the Commission on a Uniform Youth Court System, any funds available to the Governor's Office of Federal-State Programs for the 1988-1989 fiscal year may be expended for the purpose of defraying the expenses of the commission created herein.
- (8) The commission may contract for suitable office space in accordance with the provisions of Section 29-5-2, Mississippi Code of 1972. In addition, the commission may utilize, with their consent, the services, equipment, personnel, information and resources of other state agencies; and may accept voluntary and uncompensated services, contract with individuals, public and private agencies, and request information, reports and data from any agency of the state, or any of its political subdivisions, to the extent authorized by law.
- (9) In order to conduct and carry out its purposes, duties and related activities as provided for in this act, the commission is authorized to apply for and accept gifts, grants, subsidies and other funds from persons, corporations, foundations, the United States Government or other entities, provided that the receipt of such gifts, grants, subsidies and funds shall be reported and otherwise accounted for in the manner provided by law.

Sources: Laws, 1988, ch. 601, § 1, eff from and after passage (approved May 25, 1988).

§ 43-21-703. Duties of Commission.

- (1) The commission shall study the youth court system in Mississippi, and prepare a report including any proposed changes in the youth court system and/or its procedures. It shall submit the report to the Legislature, on or before October 1, 1989, along with a report detailing any legislation which may be needed to implement the plan. In preparing the report, the commission shall evaluate the existing juvenile services in the state and may recommend changes in the organizational concepts, institutions, laws and resources.
- (2) In formulating its report, the commission shall take into consideration the

following:

- (a) Whether a uniform statewide youth court system would be desirable;
 - (b) How best the service needs of the state could be met in relation to the taxing and resource capacity of various multi-county districts now existing or proposed;
 - (c) Whether counties in a given service area or district may develop district shelters, detention centers and diagnostic centers to serve a multi-county area; and
 - (d) What proposals or alternatives would update or modernize the system to provide staffing for all counties and citizens.
- (3) The commission, in addition to recommending the plan described in this section, shall serve as a clearinghouse and information center for the collection, preparation, analysis and dissemination of information on the youth court system in Mississippi and shall conduct ongoing research relating to the improvement of the youth court system. Pursuant to its duties under this subsection, the commission may request the regular submission to it of such reports, information and statistics by the courts, judges, prosecuting attorneys and agencies of this state which the commission deems necessary for the development of its reports.

Sources: Laws, 1988, ch. 601, § 2, eff from and after passage (approved May 25, 1988).

TEEN COURT PILOT PROGRAM ACT

§ 43-21-751. Short title.

§ 43-21-753. Establishment; teen court program.

§ 43-21-755. Instructional time.

§ 43-21-751. Short title.

This article shall be known as the "Teen Court Pilot Program Act."

Sources: Laws, 1996, ch. 514, § 1, eff from and after July 1, 1996.

§ 43-21-753. Establishment; teen court program.

The youth court of any county in the state may establish a teen court program for the diversion of certain offenders who have waived all right of confidentiality and privilege against self-incrimination. The youth court of Rankin County may extend its teen court program within the city limits of Pearl. The offenders eligible to participate shall be those offenders who in the discretion of the youth court are suitable and compulsory-school-age children who have come into the jurisdiction of the youth court as a result of not attending school. The teen court shall be a preventive program for juveniles comprised of youth who are not less than thirteen (13) nor more than seventeen (17) years of age, which students shall serve as prosecutor, defense counsel, bailiff, court clerk and jurors. The program is to administer the "sentencing" or disposition phase of the proceedings against offenders who elect to participate, shall be under the guidance of the local youth court, and shall be approved by the local youth court. The youth court judge, or his designee who is a licensed attorney, shall preside. The teen court is authorized to require eligible offenders who choose to go to teen court in lieu of youth court to perform up to one hundred twelve (112) hours of community service, require offenders to make a personal apology to a victim, require offenders to submit a research paper on any relevant subject, attend counseling and make restitution or any other disposition authorized by the youth court. The youth court shall establish

rules and regulations, including sentencing guidelines, for the operation of a teen court. The teen court is authorized to accept monies from any available public or private source, including public or private donations, grants, gifts and appropriated funds for funding expenses of operating the court.

Teen court may be held at whatever location the youth court selects at whatever time or times. Eligible offenders shall be only those children who agree to participate in the teen court and to abide by the teen court's rulings, whose parents or legal guardian shall also so agree, and who are otherwise qualified to participate.

The youth court judge may require an offender who elects to participate in the teen court to pay a fee not to exceed Five Dollars (\$5.00); any such fees shall be used in administering this article, and the fee shall not be refunded, regardless of whether the child successfully completes the teen court program.

Sources: Laws, 1996, ch. 514, § 2; Laws, 1997, ch. 547, § 1; Laws, 2003, ch. 423, § 1, eff from and after July 1, 2003.

§ 43-21-755. Instructional time.

Any school participating in the Teen Court Program established by this article shall be allowed to credit the time of teachers and students spent in participating in teen court as instructional time.

Sources: Laws, 1996, ch. 514, § 2, eff from and after July 1, 1996.

YOUTH COURT SUPPORT PROGRAM

§ 43-21-801. Youth Court Support Fund established; purpose; eligibility for funding; appropriation of funds; annual continuing juvenile justice education requirement.

§ 43-21-803. Tony Gobar Individualized Assessment and Comprehensive Community Intervention Initiative (IACCII) Program established; purposes; eligibility for grants; programs and services; application for assistance; Tony Gobar "IACCII" Fund created [Repealed effective July 1, 2009].

§ 43-21-801. Youth Court Support Fund established; purpose; eligibility for funding; appropriation of funds; annual continuing juvenile justice education requirement.

- (1) There is established the Youth Court Support Program. The purpose of the program shall be to ensure that all youth courts have sufficient support funds to carry on the business of the youth court. The Administrative Office of Courts shall establish a formula consistent with this section for providing state support payable from the Youth Court Support Fund for the support of the youth courts.
 - (a) (i) Each regular youth court referee is eligible for youth court support funds so long as the senior chancellor does not elect to employ a youth court administrator as set forth in paragraph (b); a municipal youth court judge is also eligible. The Administrative Office of Courts shall direct any funds to the appropriate county or municipality, but each regular youth court referee or municipal youth court judge shall have the sole individual discretion to appropriate those funds as expense monies to assist in hiring secretarial staff and acquiring materials and equipment incidental to carrying on the business of the court within the private practice of law of the referee or judge, or may direct the use of those funds through the county or municipal budget for court support supplies or services. The regular youth court referee and municipal youth court judge shall be accountable for assuring

through private, county or municipal employees the proper preparation and filing of all necessary tracking and other documentation attendant to the administration of the youth court.

- (ii) Title to all tangible property, excepting stamps, stationery and minor expendable office supplies, procured with funds authorized by this section, shall be and forever remain in the county or municipality to be used by the judge or referee during the term of his office and thereafter by his successors.
- (b) (i) When permitted by the Administrative Office of Courts and as funds are available, the senior chancellor for Chancery Districts One, Two, Three, Four, Six, Seven, Nine, Ten, Thirteen, Fourteen, Fifteen and Eighteen may appoint a youth court administrator for the district whose responsibility will be to perform all reporting, tracking and other duties of a court administrator for all youth courts in the district that are under the chancery court system. Any chancery district listed in this paragraph in which a chancellor appoints a referee or special master to hear any youth court matter is ineligible for funding under this paragraph (b). The Administrative Office of Courts may allocate to an eligible chancery district a sum not to exceed Thirty Thousand Dollars (\$30,000.00) per year for the salary, fringe benefits and equipment of the youth court administrator, and an additional sum not to exceed One Thousand Nine Hundred Dollars (\$1,900.00) for the administrator's travel expenses.
- (ii) The appointment of a youth court administrator shall be evidenced by the entry of an order on the minutes of the court. The person appointed shall serve at the will and pleasure of the senior chancellor but shall be an employee of the Administrative Office of Courts.
- (iii) The Administrative Office of Courts must approve the position, job description and salary before the position can be filled. The Administrative Office of Courts shall not approve any plan that does not first require the expenditure of the funds from the Youth Court Support Fund before expenditure of county funds is authorized for that purpose.
- (iv) Title to any tangible property procured with funds authorized under this paragraph shall be and forever remain in the State of Mississippi.
- (c) (i) Each county court is eligible for youth court support funds, and the senior county court judge shall have discretion to direct the expenditure of those funds in hiring support staff to carry on the business of the court.
- (ii) For the purposes of this paragraph, "support staff" means court administrators, law clerks, legal research assistants, secretaries, resource administrators or case managers appointed by a youth court judge, or any combination thereof, but shall not mean school attendance officers.
- (iii) The appointment of support staff shall be evidenced by the entry of an order on the minutes of the court. The support staff so appointed shall serve at the will and pleasure of the senior county court judge but shall be an employee of the county.
- (iv) The Administrative Office of Courts must approve the positions, job descriptions and salaries before the positions may be filled. The Administrative Office of Courts shall not approve any plan that does not first require the expenditure of funds from the Youth Court Support Fund before expenditure of county funds is authorized for that purpose.
- (v) The Administrative Office of Courts may approve expenditure from the fund for additional equipment for support staff appointed pursuant to this paragraph if the additional expenditure falls within the formula. Title to any tangible property procured with funds authorized under this paragraph

shall be and forever remain in the county to be used by the youth court and support staff.

- (2) (a) (i) The formula developed by the Administrative Office of Courts for providing youth court support funds shall be devised so as to distribute appropriated funds proportional to caseload and other appropriate factors as set forth in regulations promulgated by the Administrative Office of Courts. The formula will determine a reasonable maximum amount per judge or referee per annum that will not be exceeded in allocating funds under this section.
- (ii) The formula shall be reviewed by the Administrative Office of Courts every two (2) years to ensure that the youth court support funds provided herein are proportional to each youth court's caseload and other specified factors.
- (iii) The Administrative Office of Courts shall have wide latitude in the first two-year cycle to implement a formula designed to maximize caseload data collection.
- (b) Application to receive funds under this section shall be submitted in accordance with procedures established by the Administrative Office of Courts.
- (c) Approval of the use of any of the youth court support funds distributed under this section shall be made by the Administrative Office of Courts in accordance with procedures established by the Administrative Office of Courts.
- (3) (a) There is created in the State Treasury a special fund to be designated as the "Youth Court Support Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be distributed to the youth courts by the Administrative Office of Courts for the purposes described in this section.
- (b) (i) During the regular legislative session held in calendar year 2007, the Legislature may appropriate an amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) to the Youth Court Support Fund.
- (ii) During each regular legislative session subsequent to the 2007 Regular Session, the Legislature shall appropriate Two Million Five Hundred Thousand Dollars (\$2,500,000.00) to the Youth Court Support Fund.
- (c) No youth court judge or youth court referee shall be eligible to receive funding from the Youth Court Support Fund who has not received annual continuing education in the field of juvenile justice in an amount to conform with the requirements of the Rules and Regulations for Mandatory Continuing Judicial Education promulgated by the Supreme Court. The Administrative Office of Courts shall maintain records of all referees and youth court judges regarding such training and shall not disburse funds to any county or municipality for the budget of a youth court judge or referee who is not in compliance with the judicial training requirements.
- (4) Any recipient of funds from the Youth Court Support Fund shall not be eligible for continuing disbursement of funds if the recipient is not in compliance with the terms, conditions and reporting requirements set forth in the procedures promulgated by the Administrative Office of Courts.

§ 43-21-803. Tony Gobar Individualized Assessment and Comprehensive Community Intervention Initiative (IACCII) Program established; purposes; eligibility for grants; programs and services; application for assistance; Tony Gobar "IACCII" Fund created [Repealed effective July 1, 2009].

- (1) There is established the Tony Gobar Individualized Assessment and Comprehensive Community Intervention Initiative (IACCII) Program for the purposes of:
 - (a) (i) Providing comprehensive strength-based needs assessments, individualized treatment plans and community-based services for certain youth who would otherwise be committed to the training schools. The IACCII ensures that youth and their families can access necessary services available in their home communities; and
 - (ii) Providing grants to faith-based organizations and nonprofit 501 (c)(3) organizations that develop and operate community-based alternatives to the training schools and detention centers. In order to be eligible for a grant under this paragraph, a faith-based or nonprofit 501(c) (3) organization in cooperation with a youth court must develop and operate a juvenile justice alternative sanction designed for delinquent youths. The program must be designed to decrease reliance on commitment in juvenile detention facilities and training schools.
 - (b) Programs established pursuant to this subsection must not duplicate existing programs or services and must incorporate best practices principles and positive behavioral interventions. The Department of Human Services shall have sole authority and power to determine the programs to be funded pursuant to this section.
- (2) A faith-based or nonprofit 501(c)(3) must submit an application to the Department of Human Services. The application must include a description of the purpose for which assistance is requested, the amount of assistance requested and any other information required by the Department of Human Services.
 - (3) The Department of Human Services shall have all powers necessary to implement and administer the program established under this section, and the department shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.
 - (4) (a) There is created in the State Treasury a special fund to be designated as the "Tony Gobar 'IACCII' Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the Division of Youth Services for the purposes described in this section.
 - (b) (i) During the regular legislative session held in calendar year 2007, the Legislature may appropriate an amount not to exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) to the Tony Gobar "IACCII" Fund.
 - (ii) During each regular legislative session subsequent to the 2007

Regular Session, the Legislature shall appropriate Two Million Five Hundred Thousand Dollars (\$2,500,000.00) to the Tony Gobar "IACCII" Fund.

- (5) This section shall stand repealed from and after July 1, 2009.