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Chapter No. 349

10/HR40/R1319

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HOUSE BILL NO. 768

Originated in House Don Richardson Clerk

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AN ACT TO AMEND SECTION 43-21-261, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE ADMINISTRATIVE OFFICE OF COURTS TO DISCLOSE TO THE DEPARTMENT OF PUBLIC SAFETY INFORMATION INVOLVING CHILDREN THAT IS CONTAINED IN THE OFFICE'S YOUTH COURT DATA MANAGEMENT SYSTEM KNOWN AS THE MISSISSIPPI YOUTH COURT INFORMATION DELIVERY SYSTEM OR "MYCIDS"; TO AMEND SECTION 43-21-561, MISSISSIPPI CODE OF 1972, TO AUTHORIZE YOUTH COURTS TO ADJUDICATE THE STATUS OF A CHILD AS A CHILD IN NEED OF SPECIAL CARE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 43-21-261, Mississippi Code of 1972, is amended as follows:

43-21-261. (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) The Administrative Office of Courts may, in its discretion, disclose to the Department of Public Safety any or all of the information involving children contained in the office's

youth court data management system known as Mississippi Youth Court Information Delivery System or "MYCIDS."

(17) 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.

(18) 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.

(19) 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.

(20) 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.

SECTION 2. Section 43-21-561, Mississippi Code of 1972, is amended as follows:

43-21-561. (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, an abused child, a dependent child or a child in need of special care the youth court shall enter an order adjudicating the child to be a neglected child, an abused child, dependent child or a child in need of special care.

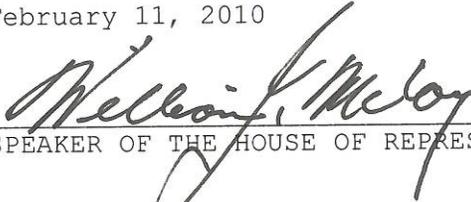
(4) No decree or order of adjudication concerning any child shall recite that a child has been found guilty; but it shall recite that a child is found to be a delinquent child or a child in need of supervision or a neglected child or an abused child or a sexually abused child or a dependent child or a child in need of special care. 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, a child in need of supervision, a neglected child, an abused child, a dependent child or a child in need of special care.

(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.

SECTION 3. This act shall take effect and be in force from and after July 1, 2010.

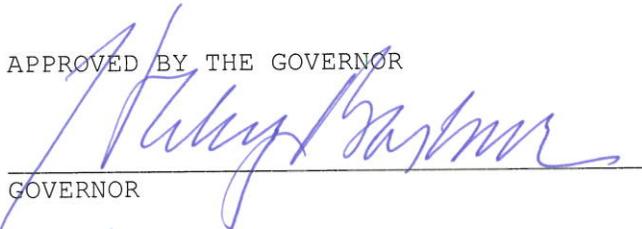
PASSED BY THE HOUSE OF REPRESENTATIVES
February 11, 2010


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 3, 2010


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR



