

Chapter No. 371  
10/SS26/R1316PS  
JW / LH/TB

**SENATE BILL NO. 2984**

Originated in Senate *Renald Guynes* Secretary

SENATE BILL NO. 2984

AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT NO CHILD WHO HAS BEEN ADJUDICATED DELINQUENT FOR A NONVIOLENT FELONY OR FEWER THAN 3 MISDEMEANORS SHALL BE COMMITTED TO THE TRAINING SCHOOL; TO DECREASE FROM 20 DAYS TO 10 DAYS THE TIME PERIOD THAT THE TRAINING SCHOOL MUST GIVE NOTICE TO THE COMMITTING COURT WHEN A YOUTH IS ABOUT TO BE RELEASED FROM THE TRAINING SCHOOL; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 43-21-605, Mississippi Code of 1972, is amended as follows:

43-21-605. (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 the least restrictive environment, except that no child under the age of ten (10) years shall be committed to the state training school. Only a child who has been adjudicated delinquent for a felony or who has been adjudicated delinquent three (3) or more times for a misdemeanor offense may be committed to the training school. For the purposes of this section, a misdemeanor offense does not include contempt of court for a probation violation, unless the probation violation constitutes a charge that would be a crime if committed by an adult. In the event a child is committed to the Oakley Training School by the court, the child shall be deemed to be committed to the custody of the Department of Human Services which may place the child in the Oakley Training School or another appropriate facility.

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 the 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 the state training school, in consultation with

the treatment team, may parole a child at any time he or she may deem it in the best interest and welfare of such child. Ten (10) business 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 the 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 or her 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 or she 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. At that time the youth court counselor shall review the status of the youth in detention and shall report any concerns to the court. 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 in excess 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 by a preponderance of the evidence by assessing what is in the best rehabilitative interest of the child and the public safety of communities and that there is no reasonable alternative to a nonsecure setting and therefore commitment to a detention center is appropriate.

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;

(1) 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; or

(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 the 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.

**SECTION 2.** This act shall take effect and be in force from and after July 1, 2010.

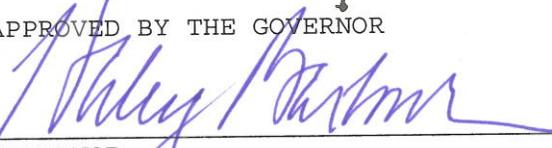
PASSED BY THE SENATE  
February 10, 2010

  
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PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 4, 2010

  
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SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
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GOVERNOR

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