

1 HB28  
2 96595-3  
3 By Representative Irons  
4 RFD: Judiciary  
5 First Read: 05-FEB-08  
6 PFD: 01/07/2008



1 and 12-15-103; to add Section 12-15-137; to amend and renumber  
2 Sections 12-15-150, 12-15-151, 12-15-152, 12-15-153,  
3 12-15-154, 12-15-155, and 12-15-156; to add Sections 12-15-201  
4 and 12-15-202; to amend and renumber Sections 12-15-34,  
5 12-15-34.1, 12-15-35, 12-15-36, 12-15-60, 12-15-61, 12-15-62,  
6 12-15-63, and 12-15-64; to add Section 12-15-212; to amend and  
7 renumber Sections 12-15-66, 12-15-69, 12-15-71, 12-15-104,  
8 12-15-105, 12-15-11.1, 12-15-71.1, 12-15-72, and 12-15-74; to  
9 add Sections 12-15-301, 12-15-302, and 12-15-303; to amend and  
10 renumber Section 12-15-8; to add Sections 12-15-305,  
11 12-15-306, 12-15-307, 12-15-308, 12-15-309, 12-15-310,  
12 12-15-311, 12-15-312, 12-15-313, 12-15-314, 12-15-315, and  
13 12-15-316; to amend and renumber Sections 26-18-5, 26-18-6,  
14 26-18-7, 26-18-8, 26-18-9, and 26-18-10; to add Section  
15 12-15-323, to add Section 12-15-401; to amend and renumber  
16 Section 12-15-90; to add Sections 12-15-403, 12-15-404,  
17 12-15-405, 12-15-406, 12-15-407, 12-15-408, 12-15-409,  
18 12-15-410, 12-15-411, 12-15-412, and 12-15-413; to add  
19 Sections 12-15-501, 12-15-502, and 12-15-503; to amend and  
20 renumber Sections 12-15-170, 12-15-171, 12-15-172, 12-15-173,  
21 12-15-174, 12-15-175, and 12-15-120; to amend and renumber  
22 Sections 12-15-130, 12-15-131, 12-15-132, 12-15-133,  
23 12-15-134, and 12-15-135; and to repeal Sections 12-15-9,  
24 12-15-10.1, 12-15-14, 12-15-33, 12-15-68, 12-15-76, 12-15-176,  
25 26-18-1, 26-18-2, 26-18-3, and 26-18-4; and in connection  
26 therewith would have as its purpose or effect the requirement  
27 of a new or increased expenditure of local funds within the

1 meaning of Amendment 621 of the Constitution of Alabama of  
2 1901, now appearing as Section 111.05 of the Official  
3 Recompilation of the Constitution of Alabama of 1901, as  
4 amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 12-15-1.1, 12-15-1, 12-15-2,  
7 12-15-4, 12-15-5, 12-15-6, 12-15-7, 12-15-10, 12-15-11,  
8 12-15-12, 12-15-13, and 12-15-15 of the Code of Alabama 1975,  
9 are amended and renumbered to read as follows:

10 "~~§12-15-1.1.~~

11 "§12-15-101. Purpose of the Alabama Juvenile Justice  
12 Act; short title; ~~purpose clause~~; goals for the juvenile  
13 court.

14 "(a) This chapter shall be known as the Alabama  
15 Juvenile Justice Act. The purpose of this chapter is to  
16 facilitate the care, protection, and discipline of children  
17 who come ~~within~~ under the jurisdiction of the juvenile court,  
18 while acknowledging the responsibility of the juvenile court  
19 to preserve the public peace and security.

20 "(b) In furtherance of this purpose, the following  
21 goals have been established for the juvenile court:

22 "(1) To preserve and strengthen the ~~child's~~ family  
23 of the child whenever possible, including improvement of the  
24 home environment of the child.

25 "(2) To remove the child from the custody of his or  
26 her parent or parents only when it is judicially determined to

1 be in his or her best ~~interest~~ interests or for the safety and  
2 protection of the public.

3 "(3) To reunite a child with his or her parent or  
4 parents as quickly and as safely as possible when the child  
5 has been removed from the custody of his or her parent or  
6 parents unless reunification is judicially determined not to  
7 be in the best interests of the child.

8 "(4) To secure for any child removed from parental  
9 custody the necessary treatment, care, guidance, and  
10 discipline to assist him or her in becoming a responsible,  
11 productive member of society.

12 "(5) To promote a continuum of services for children  
13 and their families from prevention to aftercare, considering  
14 wherever possible, prevention, diversion, and early  
15 intervention.

16 "(6) To promote the use of community-based  
17 alternatives as deterrents to acts of juvenile delinquency and  
18 as least restrictive dispositional alternatives.

19 "(7) To hold a child found to be delinquent  
20 accountable for his or her actions to the extent of the  
21 ~~child's~~ age, education, mental and physical condition, and  
22 background of the child, and all other relevant factors and to  
23 provide a program of supervision, care, and rehabilitation,  
24 including restitution by the child to the victim of his or her  
25 delinquent acts.

26 "(8) To achieve the foregoing goals in the least  
27 restrictive setting necessary, with a preference at all times

1 for the preservation of the family and the integration of  
2 parental accountability and participation in treatment and  
3 counseling programs.

4 "(c) Judicial procedures through which these goals  
5 are accomplished will assure the parties a fair hearing where  
6 their constitutional and other statutory rights are recognized  
7 and enforced.

8 "(d) This chapter shall be liberally construed to  
9 the end that each child coming ~~within~~ under the jurisdiction  
10 of the juvenile court shall receive the care, guidance, and  
11 control, preferably in his or her own home, necessary for the  
12 welfare of the child and the best ~~interest~~ interests of the  
13 state.

14 "~~§12-15-1.~~

15 "§12-15-102. Definitions. When used in this chapter,  
16 the following words and phrases ~~shall~~ have the following  
17 meanings:

18 "(1) ADULT. An individual 19 years of age or older.

19 "(2) AFTERCARE. Conditions and supervision as the  
20 juvenile court orders after release of legal custody from the  
21 Department of Youth Services.

22 "(3) CHILD. An individual under the age of 18, ~~or~~  
23 under 19 years, or under 21 years of age and before the  
24 juvenile court for a delinquency matter arising before that  
25 individual's 18th birthday. Where a delinquency petition  
26 alleges that an individual, prior to the individual's 18th  
27 birthday, has committed an offense for which there is no

1 statute of limitation pursuant to Section 15-3-5, the term  
2 child also shall include the individual subject to the  
3 petition, regardless of the age of the individual at the time  
4 of filing. of age and before the juvenile court for a matter  
5 arising before that individual's 18th birthday.

6 "(4) CHILD IN NEED OF SUPERVISION. A child who has  
7 been adjudicated by a juvenile court for doing ~~does~~ any of the  
8 following and who is in need of care, rehabilitation, or  
9 supervision:

10 "a. Being subject to the requirement of compulsory  
11 school attendance, is habitually truant from school as defined  
12 by the State Board of Education in the Alabama Administrative  
13 Code. Notwithstanding the foregoing, a child shall not be  
14 found in need of supervision pursuant to this subdivision if  
15 the juvenile court determines that the parent, legal guardian,  
16 or legal custodian of the child was solely responsible for the  
17 nonattendance of the child.

18 "b. Disobeys the reasonable and lawful demands of  
19 the child's his or her parent ~~parents~~, legal guardian, or  
20 legal custodian ~~other custodian~~ and is beyond ~~their~~ the  
21 control of the parent, legal guardian, or legal custodian.

22 "c. Leaves, or remains away from, the home without  
23 the permission of the parent, legal guardian, legal custodian,  
24 or person with whom he or she resides.

25 "c d. Has ~~committed~~ Commits an offense established  
26 by law but not classified as criminal ~~or one applicable only~~  
27 to children.

1           ~~"d. In any of the foregoing, is in need of care or~~  
2 ~~rehabilitation.~~

3           "(5) CHILD'S ATTORNEY. A licensed attorney who  
4 provides legal services for a child, or for a minor in a  
5 mental commitment proceeding, and who owes the same duties of  
6 undivided loyalty, confidentiality, and competent  
7 representation to the child or minor as is due an adult  
8 client.

9           ~~"(5) COMMIT. Transfer legal and physical custody.~~

10          ~~"(6) CONSENT DECREE. An order, entered after the~~  
11 ~~filing of a delinquency petition and before the entry of an~~  
12 ~~adjudication order, suspending the proceedings and continuing~~  
13 ~~the case of the child under supervision in the child's own~~  
14 ~~home, under terms and conditions agreed to by all parties~~  
15 ~~concerned.~~

16          ~~"(7)(12) COURT or JUVENILE COURT. The juvenile or~~  
17 ~~family court division of the circuit or district court or the~~  
18 ~~juvenile division of the circuit court having jurisdiction~~  
19 ~~over matters as established provided by this chapter.~~

20          ~~"(8)(6) DELINQUENT ACT. An act committed by a child~~  
21 ~~that is designated a violation, misdemeanor, or felony offense~~  
22 ~~under pursuant to the law of the municipality, county, or this~~  
23 ~~state or of another state if in which the act was committed~~  
24 ~~occurred in another state or under pursuant to federal law or~~  
25 ~~a violation of a municipal ordinance except violations of~~  
26 ~~municipal curfew ordinances. The term shall not include~~  
27 ~~traffic offenses committed by one 16 years of age or older,~~



1 ~~other than those charged pursuant to Section 32-5A-191 or a~~  
2 ~~municipal ordinance prohibiting the same conduct.~~

3 ~~Additionally, the term shall not include any criminal act,~~  
4 ~~offense, or violation committed by a child who has previously~~  
5 ~~been transferred for criminal prosecution pursuant to Section~~  
6 ~~12-15-34 and convicted or adjudicated a youthful offender on~~  
7 ~~the criminal charge. This term shall not apply to any of the~~  
8 ~~following:~~

9 "a. An offense when committed by a child 16 or 17  
10 years of age as follows:

11 "1. A nonfelony traffic offense or water safety  
12 offense other than one charged pursuant to Section 32-5A-191  
13 or 32-5A-191.3 or a municipal ordinance prohibiting the same  
14 conduct.

15 "2. A capital offense.

16 "3. A Class A felony.

17 "4. A felony which has as an element the use of a  
18 deadly weapon.

19 "5. A felony which has as an element the causing of  
20 death or serious physical injury.

21 "6. A felony which has as an element the use of a  
22 dangerous instrument against any person who is one of the  
23 following:

24 "(i) A law enforcement officer or official.

25 "(ii) A correctional officer or official.

26 "(iii) A parole or probation officer or official.

1           "(iv) A juvenile court probation officer or  
2 official.

3           "(v) A district attorney or other prosecuting  
4 officer or official.

5           "(vi) A judge or judicial official.

6           "(vii) A court officer or official.

7           "(viii) A person who is a grand juror, juror, or  
8 witness in any legal proceeding of whatever nature when the  
9 offense stems from, is caused by, or is related to the role of  
10 the person as a juror, grand juror, or witness.

11           "(ix) A teacher, principal, or employee of the  
12 public education system of Alabama.

13           "7. Trafficking in drugs in violation of Section  
14 13A-12-231, or as the same may be amended.

15           "8. Any lesser included offense of the offenses in  
16 subparagraphs 1 to 7, inclusive, charged or any lesser felony  
17 offense charged arising from the same facts and circumstances  
18 and committed at the same time as the offenses listed in  
19 subparagraphs 1 to 7, inclusive.

20           "b. Any criminal act, offense, or violation  
21 committed by a child under the age of 18 years who has been  
22 previously convicted or adjudicated a youthful offender.

23           "~~(9)~~(7) DELINQUENT CHILD. A child who has committed  
24 been adjudicated for a delinquent act and is in need of care  
25 or rehabilitation.

26           "~~(10)~~(8) DEPENDENT CHILD. a. A child who has been  
27 adjudicated dependent by a juvenile court and is in need of

1 care or supervision and meets any of the following  
2 circumstances:

3 ~~"a. Who, for any reason is destitute, homeless, or~~  
4 ~~dependent on the public for support; or~~

5 "1. Whose parent, legal guardian, legal custodian,  
6 or other custodian subjects the child or any other child in  
7 the household to abuse, as defined in subdivision (2) of  
8 Section 12-15-301 or neglect as defined in subdivision (4) of  
9 Section 12-15-301, or allows the child to be so subjected.

10 ~~"b. 2. Who is without a parent or, legal guardian,~~  
11 ~~or legal custodian willing and able to provide for the child's~~  
12 ~~care, support, training, or education; or of the child.~~

13 ~~"c. Whose custody is the subject of controversy; or~~

14 ~~"d. Whose home, by reason of neglect, cruelty, or~~  
15 ~~depravity on the part of the parent, parents, guardian, or~~  
16 ~~other person in whose care the child may be, is an unfit and~~  
17 ~~improper place for the child; or~~

18 ~~"e 3. Whose parent, parents, legal guardian, legal~~  
19 ~~custodian, or other custodian neglects or refuses, when able~~  
20 ~~to do so or when ~~such~~ the service is offered without charge,~~  
21 ~~to provide or allow medical, surgical, or other care necessary~~  
22 ~~for the ~~child's~~ health or well-being; ~~or~~ of the child.~~

23 ~~"f. Who is in a condition or surroundings or is~~  
24 ~~under improper or insufficient guardianship or control as to~~  
25 ~~endanger the morals, health, or general welfare of the child;~~  
26 ~~or~~

1           ~~"g. Who has no proper parental care or guardianship;~~  
2     ~~or~~

3           "h 4. Whose parent, parents, legal guardian, legal  
4     custodian, or other custodian fails, refuses, or neglects to  
5     send the child to school in accordance with the terms of the  
6     compulsory school attendance laws of this state;~~or.~~

7           ~~"i 5. Who~~ Whose parent, legal guardian, legal  
8     custodian, or other custodian has been abandoned the child, as  
9     defined in subdivision (1) of Section 12-15-301 by the child's  
10    ~~parents, guardian, or other custodian; or.~~

11          ~~"j. Who is physically, mentally, or emotionally~~  
12    ~~abused by the child's parents, guardian, or other custodian or~~  
13    ~~who is without proper parental care and control necessary for~~  
14    ~~the child's well-being because of the faults or habits of the~~  
15    ~~child's parents, guardian, or other custodian or their neglect~~  
16    ~~or refusal, when able to do so, to provide them; or~~

17          "k 6. Whose parents, parent, legal guardian, legal  
18    custodian, or other custodian are is unable or unwilling to  
19    discharge ~~their~~ his or her responsibilities to and for the  
20    child;~~or.~~

21          ~~"l 7. Who has been placed for care or adoption in~~  
22    ~~violation of the law; or.~~

23          "m 8. Who, for any other cause, is in need of the  
24    care and protection of the state;~~and.~~

25          ~~"n. In any of the foregoing, is in need of care or~~  
26    ~~supervision.~~

1           **"b. The commission of one or more status offenses as**  
2 **defined in subdivision (4) of Section 12-15-201 is not a**  
3 **sufficient basis for an adjudication of dependency.**

4           ~~"(11)(9) DETENTION CARE.~~ The temporary placement of  
5 ~~care of delinquent children or children alleged or adjudicated~~  
6 to be delinquent in secure custody as defined herein pending  
7 juvenile court disposition or transfer to a residential  
8 facility ~~or~~ for further care of a child adjudicated a  
9 delinquent.

10           ~~"(12)(10) GUARDIAN AD LITEM.~~ A licensed attorney  
11 appointed by a juvenile court ~~to defend or represent a child~~  
12 ~~in any action to which the child may be a party to protect the~~  
13 ~~best interests of an individual without being bound by the~~  
14 ~~expressed wishes of that individual.~~

15           ~~"(13)(11) INTAKE OFFICE OFFICER.~~ ~~The office in the~~  
16 ~~probation service or designee of the judge with the duty of~~  
17 ~~primary contact with the law enforcement agency and~~  
18 ~~complainants of children coming under the jurisdiction of the~~  
19 ~~court.~~ A juvenile probation officer or an employee of the  
20 judicial branch of government, who is neutral and detached  
21 from executive and legislative branch activities, designated  
22 by the juvenile court judge to initiate original delinquency,  
23 dependency, and child in need of supervision cases, as well as  
24 cases designated in Section 12-15-132 before the juvenile  
25 court. The juvenile court intake officer shall be appointed a  
26 magistrate pursuant to Rule 18, Alabama Rules of Judicial  
27 Administration, to issue warrants of arrest for individuals 18

1 years of age or older committing criminal offenses under the  
2 jurisdiction of the juvenile court.

3 ~~"(14) JUDGE. Judge of the juvenile court as~~  
4 ~~prescribed by this chapter.~~

5 "(13) JUVENILE DETENTION FACILITY. Any facility  
6 owned or operated by the state, any county, or other legal  
7 entity licensed by and contracted with the Department of Youth  
8 Services for the detention of children.

9 ~~"(15)(14) LAW ENFORCEMENT OFFICER. Any person,~~  
10 ~~however denominated, who is authorized by law to exercise the~~  
11 ~~police powers of the state, a county, or local governments.~~

12 ~~"(16)(15) LEGAL CUSTODIAN. A parent, person, agency,~~  
13 ~~or department, other than a parent or legal guardian, to whom~~  
14 ~~legal custody of the a child under the jurisdiction of the~~  
15 ~~juvenile court pursuant to this chapter has been given awarded~~  
16 ~~by court order of the juvenile court or other court of~~  
17 ~~competent jurisdiction or who is acting in loco parentis.~~

18 ~~"(17)(16) LEGAL CUSTODY. A legal status created by~~  
19 ~~court order of the juvenile court which vests in a legal~~  
20 ~~custodian the right to have physical custody of the a child~~  
21 ~~under the jurisdiction of the juvenile court pursuant to this~~  
22 ~~chapter and to determine where and with whom the child shall~~  
23 ~~live within the state and the right and duty to protect,~~  
24 ~~train, and discipline the child and to provide the child with~~  
25 ~~food, shelter, clothing, education, and ordinary medical care,~~  
26 ~~all subject to the powers, rights, duties, and~~  
27 ~~responsibilities of the legal guardian of the person of the~~

1 child and subject to any residual parental rights and  
2 responsibilities. ~~An individual~~ A parent, person, agency, or  
3 department granted legal custody shall exercise the rights and  
4 responsibilities personally, unless otherwise ~~authorized~~  
5 restricted by the juvenile court.

6 "(17) LEGAL GUARDIAN. A person who has been  
7 appointed by a probate court pursuant to the Alabama Uniform  
8 Guardianship and Protective Proceedings Act, Chapter 2A  
9 (commencing with Section 26-2A-1) of Title 26 to be a guardian  
10 of a person under 19 years of age who has not otherwise had  
11 the disabilities of minority removed. This term does not  
12 include a guardian ad litem as defined in this section.

13 "(18) MINOR. An individual who is under the age of  
14 19 years and who is not a "child" within the meaning of this  
15 chapter.

16 "(19) PARENT. The legal mother or the legal father  
17 of a child under the jurisdiction of the juvenile court  
18 pursuant to this chapter.

19 ~~"(19) MULTIPLE NEEDS CHILD. A child coming to the~~  
20 ~~attention of the court or one of the entities listed herein~~  
21 ~~who is at imminent risk of out-of-home placement or a~~  
22 ~~placement in a more restrictive environment, as a result of~~  
23 ~~the conditions of emotional disturbance, behavior disorder,~~  
24 ~~mental retardation, mental illness, dependency, chemical~~  
25 ~~dependency, educational deficit, lack of supervision,~~  
26 ~~delinquency, or physical illness or disability, or any~~  
27 ~~combination thereof, and whose needs require the services of~~

1 ~~two or more of the following entities: Department of Youth~~  
2 ~~Services, public school system (services for exceptional~~  
3 ~~needs), Department of Human Resources, Department of Public~~  
4 ~~Health, juvenile court probation services, or Department of~~  
5 ~~Mental Health and Mental Retardation.~~

6 "(20) PICK-UP ORDER. In any case before the juvenile  
7 court, an order directing any law enforcement officer or other  
8 person authorized by this chapter to take a child into custody  
9 and to deliver the child to a place of detention, shelter, or  
10 other care designated by the juvenile court.

11 ~~"(20)(21) PROBATION. The legal status created by~~  
12 ~~court order of the juvenile court following an adjudication of~~  
13 ~~delinquency or in need of supervision whereby a child is~~  
14 ~~permitted to remain in a community subject to supervision and~~  
15 ~~return to the juvenile court for violation of probation at any~~  
16 ~~time during the period of probation.~~

17 ~~"(21) PROBATION SERVICES. The performance of any of~~  
18 ~~the following:~~

19 ~~"a. The making of investigations, reports, and~~  
20 ~~recommendations to the court as directed by law.~~

21 ~~"b. The receiving and examining of complaints and~~  
22 ~~charges of delinquency for the purpose of considering the~~  
23 ~~commencement of proceedings under law.~~

24 ~~"c. The supervision of a child placed on probation~~  
25 ~~by order of the court.~~

26 ~~"d. The supervision of a child placed on aftercare~~  
27 ~~by order of the court.~~



1           ~~"e. The making of appropriate referrals to other~~  
2 ~~private or public agencies of the community, if their~~  
3 ~~assistance appears to be needed or desirable.~~

4           ~~"f. The taking into custody and detaining of a youth~~  
5 ~~who is under the supervision and care of the Department of~~  
6 ~~Youth Services as a delinquent where there is reasonable cause~~  
7 ~~to believe that the health or safety of the youth or that of~~  
8 ~~another is in imminent danger, or that he or she may abscond~~  
9 ~~or be moved from the jurisdiction of the court, or when~~  
10 ~~ordered by the court pursuant to the Juvenile Code.~~

11           ~~"g. The performing of all other functions designated~~  
12 ~~by the Juvenile Code or by order of the court pursuant~~  
13 ~~thereto.~~

14           ~~"(22) PROTECTIVE SUPERVISION. A legal status created~~  
15 ~~by court order following an adjudication of dependency whereby~~  
16 ~~a child is permitted to remain in the child's home subject to~~  
17 ~~supervision and to return to the court for violation of~~  
18 ~~protective supervision at any time during the period of~~  
19 ~~protective supervision.~~

20           ~~"(23) (22) RESIDENTIAL FACILITY. A dwelling, other~~  
21 ~~than a detention or shelter care facility, providing living~~  
22 ~~accommodations, care, treatment, and maintenance for children,~~  
23 ~~including, but not limited to, institutions, foster family~~  
24 ~~homes, group homes, half-way houses, and forestry camps, ~~and,~~~~  
25 ~~where not operated by a public agency, licensed, or approved~~  
26 ~~to provide the care operated, accredited, or licensed by a~~  
27 ~~federal or state department or agency.~~

1                   "~~(24)~~(23) RESIDUAL PARENTAL RIGHTS AND  
2 RESPONSIBILITIES. Those rights and responsibilities remaining  
3 with ~~the~~ a parent after ~~the~~ a transfer of legal custody ~~or~~  
4 ~~guardianship of the person~~ a child under the jurisdiction of  
5 the juvenile court pursuant to this chapter, including, but  
6 not necessarily limited to, the right of visitation, the right  
7 to withhold consent to adoption, the right to determine  
8 religious affiliation, and the responsibility for support,  
9 unless determined by order of the juvenile court not to be in  
10 the best interests of the child.

11                   "(24) SECURE CUSTODY. As used with regard to  
12 juvenile detention facilities and the Department of Youth  
13 Services, this term means residential facilities with  
14 construction features designed to physically restrict the  
15 movements and activities of persons in custody such as locked  
16 rooms and buildings, including rooms and buildings that  
17 contain alarm devices that prevent departure, fences, or other  
18 physical structures. This term does not include facilities  
19 where physical restriction of movement or activity is provided  
20 solely through facility staff.

21                   "(25) SHELTER CARE. The temporary care of children  
22 in group homes, foster care, relative placement, or other  
23 nonpenal facilities.

24                   "~~§12-15-2.~~

25                   "~~§12-15-103. Circuit courts and district courts to~~  
26 ~~exercise original concurrent juvenile jurisdiction~~ Juvenile  
27 court judges may be circuit or district court judges;

1 maintenance of separate juvenile ~~docket and entry of orders~~  
2 ~~and decrees as to juvenile cases in separate minute book~~ case  
3 action summaries; promulgation of rules of procedure for  
4 juvenile courts; powers of judges of juvenile courts as to  
5 issuance of writs and processes ~~generally; powers of judges of~~  
6 ~~courts as to issuance of writs generally; jurisdiction and as~~  
7 to equity powers generally.

8 "(a) ~~The circuit court and the district court shall~~  
9 ~~exercise original concurrent juvenile jurisdiction sitting as~~  
10 ~~the juvenile court~~ A circuit or district court judge may be  
11 designated as a juvenile court judge.

12 "(b) The juvenile court shall ~~keep a docket which~~  
13 ~~shall be~~ maintain a separate and distinct from any other  
14 ~~docket kept in said court, and the orders and decrees of the~~  
15 ~~court relating to such cases shall be entered in a separate~~  
16 ~~minute book~~ docketing and case filing system.

17 "(c) The Supreme Court of Alabama shall promulgate  
18 rules governing procedure in the juvenile court.

19 "(d) The juvenile court shall ~~have full power and~~  
20 ~~authority to~~ issue all writs and processes necessary to the  
21 exercise of ~~such~~ its jurisdiction and to ~~carrying out of~~  
22 fulfill the purposes of this chapter.

23 "(e) The judge of the juvenile court shall ~~have~~  
24 ~~power to~~ issue writs warrants of arrest, pick-up orders, and  
25 writs of habeas corpus to have individuals brought before the  
26 juvenile court ~~children alleged to be dependent, delinquent or~~

1 ~~in need of supervision to be dealt with by said court under~~  
2 ~~the terms of~~ pursuant to this chapter.

3 "(f) The juvenile court shall have and exercise ~~the~~  
4 ~~jurisdiction and equity power possessed by courts in this~~  
5 ~~state.~~

6 "~~§12-15-4.~~

7 "§12-15-104. Advisory boards.

8 "(a) The presiding juvenile court judge ~~of the~~  
9 ~~juvenile court~~ may appoint not less than five nor more than 25  
10 citizens of the ~~district~~ county, known for their interest in  
11 the welfare of children, who shall serve without compensation,  
12 to constitute and be the advisory board of the juvenile court  
13 in matters relating to the welfare of children. The membership  
14 of the advisory board shall be inclusive and reflect the  
15 racial, gender, geographic, urban or rural, and economic  
16 diversity of the county. ~~Such~~ The advisory board shall  
17 organize by electing ~~such~~ officers and by adopting ~~such~~  
18 bylaws, rules, and regulations for its government as it shall  
19 deem best for the purposes of this chapter. ~~Such~~ The board  
20 shall hold office at the pleasure of the juvenile court or of  
21 the judge thereof.

22 "(b) The duties of the advisory board shall be as  
23 follows:

24 "(1) To assist the juvenile court in securing the  
25 services of volunteer juvenile probation officers when the  
26 services of ~~such~~ those officers shall be deemed necessary or  
27 desirable~~7.~~

1           "(2) To visit institutions which are charged with  
2 caring for children and, whenever practicable, other  
3 institutions to which the juvenile court, from time to time,  
4 may ~~make commitments~~, award legal custody.

5           "(3) To advise and cooperate with the juvenile court  
6 upon all matters relating to the welfare of children~~,~~.

7           "(4) To recommend to the juvenile court any and all  
8 needful measures for the purpose of carrying out the  
9 provisions and intent of this chapter and to make themselves  
10 familiar with the work of the juvenile court ~~under~~ pursuant to  
11 this chapter~~, and~~.

12           "(5) To make, from time to time, a report to the  
13 public of the work of ~~such~~ the juvenile court.

14           "~~§12-15-5.~~

15           "§12-15-105. Exercise of authority by district  
16 ~~attorney~~ attorneys in juvenile court proceedings generally;  
17 ~~assistance of juvenile court~~ by district ~~attorney~~ attorneys in  
18 the juvenile courts; representation of the state by district  
19 ~~attorney~~ attorneys in cases appealed by from juvenile courts.

20           "(a) The district attorney of the judicial circuit  
21 in which ~~the case is pending~~ may delinquency or child in need  
22 of supervision cases are filed may exercise his or her  
23 authority in all delinquency and child in need of supervision  
24 cases arising ~~under~~ pursuant to this chapter.

25           "(b) The juvenile court may call upon the district  
26 attorney to assist the juvenile court in any proceeding ~~under~~  
27 pursuant to this chapter. It shall be the duty of ~~such~~ the

1 district attorney to render ~~such~~ this assistance when so  
2 requested.

3 "(c) Notwithstanding Title 36, the said district  
4 attorney shall represent the state in all delinquency and  
5 child in need of supervision cases ~~arising under this chapter~~  
6 appealed from the juvenile court.

7 "~~§12-15-6.~~

8 " §12-15-106. Juvenile court referees'  
9 qualifications ~~Qualifications~~ and appointment ~~of referees;~~  
10 conduct of hearings of cases by juvenile court referees;  
11 transmission of findings and recommendations for disposition  
12 of juvenile court referees to juvenile court judges; provision  
13 of notice and written copies of findings and recommendations  
14 of juvenile court referees to parties; rehearing of cases by  
15 juvenile court judges; when findings and recommendations of  
16 juvenile court referees become decree of the juvenile court.

17 "~~(a) The judge may appoint one or more persons to~~  
18 ~~serve as referees on a full-time or part-time basis subject to~~  
19 ~~approval of the administrative director of courts. Referees~~  
20 ~~shall be licensed to practice law in this state; provided,~~  
21 ~~that referees serving as such for 10 or more years on January~~  
22 ~~16, 1977, will not be required to be members of the bar of~~  
23 ~~this state.~~

24 "~~(b) The judge may direct that hearings in any case~~  
25 ~~or class of cases be conducted in the first instance by a~~  
26 ~~referee unless:~~

1           ~~"(1) The hearing is one to determine whether a case~~  
2 ~~shall be transferred for criminal prosecution; or~~

3           ~~"(2) A party objects to the hearing being held by a~~  
4 ~~referee.~~

5           ~~"(c) Upon the conclusion of a hearing before a~~  
6 ~~referee, he shall transmit in writing his findings and~~  
7 ~~recommendations for disposition to the judge. Written notice~~  
8 ~~of the findings and recommendations together with copies~~  
9 ~~thereof shall be given to the parties to the proceeding. The~~  
10 ~~written notice shall also inform them of the right to a~~  
11 ~~rehearing before the judge.~~

12           ~~"(d) A rehearing before the judge may be ordered by~~  
13 ~~the judge at any time and shall be ordered if any party files~~  
14 ~~a written request therefor within 14 days after receipt of the~~  
15 ~~referee's written notice. Upon rehearing, when adequate~~  
16 ~~records have been kept in the proceedings before the referee,~~  
17 ~~the court shall review the record and, in the discretion of~~  
18 ~~the judge, may admit new evidence. If the referee has not kept~~  
19 ~~adequate records, the rehearing shall be de novo.~~

20           ~~"(e) If a hearing before the judge is not requested~~  
21 ~~or ordered or the right thereto is waived, the findings and~~  
22 ~~recommendations of the referee, if confirmed by an order of~~  
23 ~~the judge or as modified by the judge, shall become the decree~~  
24 ~~of the court.~~

25           "(a) Appointment of Referees. The Administrative  
26 Director of Courts may authorize one or more referee positions  
27 in any judicial circuit on either a full-time or a part-time

1 basis upon submission of a written request by the presiding  
2 juvenile court judge and upon consideration of funding and the  
3 juvenile and child-support caseload in the circuit. Once the  
4 Administrative Director of Courts approves the request, the  
5 presiding judge of the juvenile court may appoint an attorney  
6 the judge believes to be qualified to fill the position,  
7 subject to the approval of the Administrative Director of  
8 Courts. The amount to be paid the referee and the manner of  
9 payment shall be determined by the Administrative Director of  
10 Courts.

11 "(b) Cases Handled by Referees. The presiding judge  
12 of the juvenile court may direct that the referee handle  
13 various kinds of juvenile and child-support cases unless any  
14 of the following occurs:

15 "(1) The referee has agreed to hear certain juvenile  
16 and child-support cases pursuant to an agreement or a  
17 contract.

18 "(2) The hearing in a particular case is one to  
19 determine whether the case will be transferred for criminal  
20 prosecution.

21 "(3) The hearing involves the termination of  
22 parental rights as defined in subdivision (10) of Section  
23 12-15-301.

24 "(4) A party objects to a hearing being held by a  
25 referee.



1           "(c) Duties of Referees. Referees shall perform one  
2 or more of the following duties in juvenile and child-support  
3 cases:

4           "(1) Take testimony in hearings.

5           "(2) Evaluate evidence and make findings of fact and  
6 recommendations to determine paternity and to establish and  
7 enforce child-support orders.

8           "(3) Accept voluntary acknowledgments of  
9 child-support liability or paternity and stipulated agreements  
10 setting the amount of child support to be paid.

11           "(4) Prepare a default order upon a showing that  
12 process has been served on the defendant and that the  
13 defendant failed to respond to service in accordance with the  
14 Alabama Rules of Juvenile Procedure or the Alabama Rules of  
15 Civil Procedure.

16           "(5) Order genetic tests in contested paternity  
17 cases without the necessity of obtaining an order from a  
18 judge.

19           "(6) Enter orders relating to the administration of  
20 the docket of the juvenile court to which the referee is  
21 assigned without the necessity of obtaining a signature of a  
22 judge.

23           "(7) All other duties as authorized by law or rule.

24           "(d) Duty to Inform Parties of Right to Object to  
25 Referee. Before conducting a hearing in a juvenile or  
26 child-support case, the referee shall inform all of the  
27 parties that the referee is not a judge and that the hearing

1 may be conducted before a judge if any party objects to the  
2 hearing being held by the referee.

3 "(e) Written Findings and Recommendations of the  
4 Referee.

5 "(1) After conducting a hearing in a juvenile or  
6 child-support case, if the referee has made a decision at the  
7 conclusion of the hearing, the referee shall immediately  
8 reduce his or her findings and recommendations to writing and  
9 then transmit those written findings and recommendations to  
10 the clerk of the juvenile court for filing and to a judge with  
11 authority over juvenile matters for his or her signature  
12 pursuant to subsection (g). If the parties are present at the  
13 hearing, copies of the written findings and recommendations  
14 shall be given to the parties in open court. The written  
15 findings and recommendations shall contain a notice that any  
16 party has a right to request a rehearing within 14 days of the  
17 date those findings and recommendations were filed in the  
18 office of the clerk of juvenile court.

19 "(2) If the referee has not made a decision on the  
20 matter at the conclusion of the hearing or if the parties are  
21 not present in open court, the referee, within three business  
22 days of making his or her decision, shall transmit his or her  
23 written findings and recommendations to the clerk of the  
24 juvenile court for filing and to a judge with authority over  
25 juvenile matters for his or her signature pursuant to  
26 subsection (g). Once the clerk files the written findings and  
27 recommendations, the clerk shall send to the parties, by first

1 class mail, copies of the findings and recommendations  
2 containing a notice informing them that they have the right to  
3 request a rehearing within 14 days of the date the findings  
4 and recommendations were filed in the office of the clerk of  
5 the juvenile court.

6 "(3) Notice to a party represented by counsel shall  
7 be given to counsel rather than the party and the notice shall  
8 be sufficient as notice to the party unless the juvenile court  
9 orders otherwise.

10 "(f) Rehearing Before the Juvenile Court. A  
11 rehearing before a judge with authority over juvenile court  
12 matters concerning the matter heard by the referee shall be  
13 scheduled if any party files a written request therefor within  
14 the time frames provided in subsection (e). Once a rehearing  
15 is scheduled, the parties shall be notified of the date, time,  
16 and the place of the rehearing. Notice to a party represented  
17 by counsel shall be given to counsel, and this notice shall be  
18 sufficient unless the juvenile court orders otherwise. When an  
19 adequate record has been made in the proceeding before the  
20 referee, the judge shall review the record before rehearing  
21 and may admit new evidence at the rehearing. If the record is  
22 not adequate, the rehearing shall be de novo.

23 "(g) Ratification by the Judge. The findings and  
24 recommendations of the referee shall become the order of the  
25 juvenile court when ratified by the original signature of a  
26 judge with authority over juvenile matters.

1           "(h) Matters Before the Referee Needing Immediate  
2 Action. If a matter before a referee requires immediate  
3 action, the referee shall state in his or her written findings  
4 and recommendations why the recommendations should be  
5 effective immediately. These matters for immediate action may  
6 include, but are not limited to, matters of contempt, the  
7 physical safety of the child, or the safety of others, or when  
8 the personal liberty of the child may be infringed. In such  
9 event, the written recommendations of the referee shall be  
10 effective and binding, upon the consent of the parties, for a  
11 period not exceeding 72 hours. In the event the parties do not  
12 consent to immediate action, the recommendations shall be  
13 reviewed immediately by any judge with authority over juvenile  
14 matters, who may order an appropriate temporary order based on  
15 the findings and recommendations, which order will be  
16 effective for a period not exceeding 72 hours. In any event,  
17 the findings and recommendations of the referee and any  
18 temporary orders in a matter needing immediate attention shall  
19 be reviewed by a judge with authority over juvenile matters  
20 within 72 hours after being made. Upon such review, the judge  
21 shall rescind, modify, or continue the order in effect and  
22 conduct such further proceedings as may be permitted under  
23 subsection (f).

24           "~~§12-15-7.~~

25           "~~§12-15-107. Juvenile probation officers: Duties~~  
26 ~~Appointment, terms of office, etc., of probation officers;~~  
27 ~~designation of chief probation officer, etc.; duties of~~

1 juvenile probation officers generally; powers of juvenile  
2 probation officers ~~and representatives of Department of Human~~  
3 ~~Resources~~ as to taking into custody and placing in shelter or  
4 detention care of children generally; procedure upon taking  
5 into custody of child by juvenile probation officer ~~or~~  
6 ~~representative of Department of Human Resources~~ generally.

7 "(a) For the purpose of carrying out the objectives  
8 and purposes of this chapter and subject to the limitations of  
9 this chapter or imposed by the juvenile court, a juvenile  
10 probation officer shall perform ~~all of~~ the following duties:

11 "(1) Make investigations, reports, and  
12 recommendations to the juvenile court.

13 "(2) Serve as a juvenile court intake officer when  
14 designated by the juvenile court judge. ~~Receive and examine~~  
15 ~~complaints and allegations of delinquency, in need of~~  
16 ~~supervision, or dependency of a child for the purpose of~~  
17 ~~considering the commencement of proceedings under this~~  
18 ~~chapter.~~

19 "~~(3) Refer to the Department of Human Resources for~~  
20 ~~investigations, reports, and recommendations those complaints~~  
21 ~~and allegations of dependency or other appropriate matters and~~  
22 ~~may refer to the Department of Human Resources for~~  
23 ~~investigations, reports, and recommendations those complaints~~  
24 ~~on children in need of supervision.~~

25 "~~(4)~~ (3) Supervise and assist a child placed on  
26 probation or ~~in his or her protective supervision or aftercare~~  
27 by order of the juvenile court or other authority of law until

1 the terms of probation or aftercare expire or are otherwise  
2 terminated.

3 ~~"(5)~~ (4) Make appropriate referrals to other private  
4 or public departments or agencies of the community if their  
5 assistance appears to be needed or desirable.

6 ~~"(6)~~ (5) Make predisposition studies and submit  
7 reports and recommendations to the juvenile court as required  
8 by this chapter, ~~except as provided in subdivision (3) of this~~  
9 ~~subsection.~~

10 ~~"(7)~~ (6) Collect and compile statistical data and  
11 file ~~such~~ reports as may be required by the Administrative  
12 Director of Courts pursuant to subdivision (1) of Section  
13 12-5-10. The reports may include, but shall not be limited to,  
14 statistical data, case studies, and research materials.

15 "(7) Notify the state and either the parent, legal  
16 guardian, or legal custodian of a juvenile criminal sex  
17 offender, or the child's attorney for the juvenile criminal  
18 sex offender, of the pending release of the sex offender and  
19 provide them with a copy of the risk assessment pursuant to  
20 Section 15-20-28 (b).

21 ~~"(8) Collect and compile data and file reports~~  
22 ~~required by the Department of Youth Services.~~

23 ~~"(9)~~ (8) Perform other functions as are designated  
24 by this chapter or directed by the juvenile court.

25 "(b) For the purposes of this chapter, a juvenile  
26 probation officer ~~or representative of the Department of Human~~  
27 ~~Resources,~~ with the approval of the juvenile court, shall have

1 the power to take into custody and place in shelter or  
2 detention, subject to Section 12-15-208 ~~care~~ a child who is on  
3 probation or aftercare under his or her supervision ~~as a~~  
4 ~~delinquent, in need of supervision, or dependent~~ when the  
5 juvenile probation officer ~~or representative of the Department~~  
6 ~~of Human Resources~~ has reasonable cause to believe that the  
7 child has violated the conditions of his or her probation, or  
8 ~~aftercare, or terms of protective supervision~~ or that he or  
9 she may flee from the jurisdiction of the juvenile court. A  
10 juvenile probation officer does not have the powers of a law  
11 enforcement officer ~~with respect to a person who is not on~~  
12 ~~probation or otherwise under his or her supervision.~~

13 ~~"(c) If a probation officer or representative of the~~  
14 ~~Department of Human Resources takes a child into custody, he~~  
15 ~~or she shall proceed as provided for in Section 12-15-58.~~

16 ~~"§12-15-10.~~

17 ~~"§12-15-108. Liability of counties for expenses of~~  
18 ~~maintenance and care of children under the jurisdiction of the~~  
19 ~~juvenile court pursuant to this chapter; reimbursement.~~

20 ~~"Except as otherwise provided in this chapter, all~~  
21 ~~All~~ expenses necessary or appropriate to the carrying out of  
22 the purposes and intent of this chapter and all expenses of  
23 maintenance and care of children under the jurisdiction of the  
24 juvenile court pursuant to this chapter that may be incurred  
25 by order of the juvenile court in carrying out the provisions  
26 and intent of this chapter, ~~(except costs paid by parents,~~  
27 legal guardians, legal custodians, or trustees, and court

1 costs as provided by law) ~~and attorney fees~~ shall be valid  
2 charges and preferred claims against the county ~~and~~. These  
3 claims shall be paid by the county treasurer when itemized and  
4 sworn to by the creditor or other persons knowing the facts in  
5 the case and when approved by the juvenile court.

6 Notwithstanding the foregoing, a municipality shall reimburse  
7 the county the actual costs of housing, maintenance, and  
8 medical expenses of those ~~juveniles~~ children held in a  
9 facility utilized by the county for housing ~~juveniles~~  
10 children, or other facility licensed by the Department of  
11 Youth Services utilized by the county, as a result of a  
12 ~~juvenile~~ child being cited or detained for an alleged  
13 violation of an ordinance of the municipality that is not  
14 based on a state criminal statute adopted by the municipality  
15 as a municipal ordinance.

16 "~~§12-15-11.~~

17 "§12-15-109. Issuance of ~~order~~ orders to parents,  
18 ~~etc.~~, for payment of court costs, ~~attorney's~~ fees of  
19 attorneys, and expenses for support, treatment, ~~etc.~~, of  
20 children under the jurisdiction of the juvenile court pursuant  
21 to this chapter; manner of payment, etc.; proceedings upon  
22 failure of parents, etc., to pay amounts directed.

23 "If, after ~~due notice to the parents or other~~  
24 ~~persons legally obligated to care for and support the child~~  
25 making a parent or other person legally obligated to care for  
26 and support a child a party to the action pursuant to this  
27 chapter and the Alabama Rules of Juvenile Procedure and after



1 a hearing, the juvenile court finds that ~~they are the parent~~  
2 ~~or other person is~~ financially able to pay all or part of the  
3 court costs, as provided by law, attorney fees, and expenses  
4 with respect to examination, treatment, care, detention, or  
5 support of the child incurred from the commencement of the  
6 proceeding in carrying out ~~the provisions of~~ this chapter, the  
7 juvenile court shall order them to pay the same and may  
8 prescribe the manner of payment. Unless otherwise ordered,  
9 payment shall be made to the clerk of the juvenile court for  
10 remittance to those to whom compensation is due. If the child  
11 shall have an estate in the hands of a legal guardian,  
12 conservator, or trustee, ~~such the legal~~ guardian, conservator,  
13 or trustee may be required to pay in a like manner. The  
14 juvenile court shall also order the parent or other person  
15 legally obligated to care for and support the child to apply  
16 for insurance and Medicaid. If the parent or other legally  
17 obligated person willfully fails or refuses to pay ~~such the~~  
18 sum, the juvenile court may proceed against him or her for  
19 civil or criminal contempt or both ~~or,~~ and the order may be  
20 filed and shall constitute a civil judgment.

21 ~~"§12-15-12.~~

22 ~~"§12-15-110. Punishment for contempt of court of~~  
23 ~~persons disobeying orders of the juvenile court, etc.,~~  
24 ~~generally; limitation upon powers of courts with respect to~~  
25 ~~children violating terms and conditions of orders of~~  
26 ~~protective supervision.~~

1           "(a) Subject to the laws relating to the procedures  
2 therefor and the limitations thereon, the juvenile court may  
3 punish a person for contempt of court for disobeying an order  
4 of the juvenile court or for obstructing or interfering with  
5 the proceedings of the juvenile court or the enforcement of  
6 its orders.

7           "(b) Notwithstanding the provisions of subsection  
8 (a) ~~of this section~~, the juvenile court shall be limited in  
9 the actions it may take with respect to a child violating the  
10 terms and conditions of the order of protective supervision as  
11 this term is defined in subdivision (5) of Section 12-15-301,  
12 to those which the juvenile court could have taken at the time  
13 of the ~~court's~~ original disposition under of the juvenile  
14 court pursuant to subsection (a) of Section ~~12-15-71~~  
15 12-15-314.

16           "(c) A finding of indirect contempt not based on a  
17 delinquency petition does not constitute an adjudication of  
18 delinquency.

19           "~~§12-15-13.~~

20           "~~§12-15-111. Causing, etc., of~~ Contributing to the  
21 delinquency, dependency, or need of supervision of children.

22           "(a) It shall be unlawful for any parent, legal  
23 guardian, legal custodian, or other person to do any of the  
24 following:

25           "(1) To willfully aid, encourage, or cause any child  
26 to become or remain delinquent, dependent, or in need of  
27 supervision ~~or by words, acts, threats, commands or~~

1 ~~persuasions, to induce or endeavor to induce, aid or encourage~~  
2 ~~any child to do or perform any act or to follow any course of~~  
3 ~~conduct which would cause or manifestly tend to cause such~~  
4 ~~child to become or remain delinquent, dependent or in need of~~  
5 ~~supervision or by the neglect of any lawful duty or in any~~  
6 ~~other manner contribute to the delinquency, dependency or need~~  
7 ~~of supervision of a child.~~

8           "(2) To permit or encourage the ~~The~~ employment of  
9 any child in violation of any of the provisions of the child  
10 labor law, ~~or permitting, conniving at, aiding or abetting~~  
11 ~~such employment shall be held to be encouraging, causing and~~  
12 ~~contributing to the delinquency, dependency or need of~~  
13 ~~supervision of such child.~~

14           "(3) To Failure on the part of any parent, guardian  
15 ~~or other person having custody of the child to cause such a~~  
16 ~~child to fail to attend school as required by the compulsory~~  
17 ~~school attendance law shall be held to be encouraging, causing~~  
18 ~~and contributing to the delinquency, dependency or need of~~  
19 ~~supervision of such child.~~

20           "(b) Whenever, in the course of any proceedings  
21 ~~under pursuant to this chapter,~~ or when, by affidavit as  
22 provided in this subsection, it shall appear to the juvenile  
23 court that a parent, legal guardian, legal custodian, or other  
24 person having custody, control, or supervision of a child or  
25 any other person not standing in any ~~such~~ relation to ~~such~~ the  
26 child has aided, encouraged, or caused ~~such~~ the child to  
27 become delinquent, dependent, or in need of supervision, ~~as~~

1 defined in this chapter, or has by words, act or omission  
2 contributed thereto or has, by threats, commands or  
3 persuasion, induced or endeavored to induce, aided or  
4 encouraged such child to do or perform any act or to follow  
5 any course of conduct which would cause or manifestly tend to  
6 cause such child to become or remain delinquent, dependent or  
7 in need of supervision, the juvenile court shall, for the  
8 protection of ~~such~~ the child from ~~such~~ these influences, shall  
9 have jurisdiction in ~~such~~ these matters, as provided in this  
10 section. The juvenile court shall cause ~~such~~ the parent, legal  
11 guardian, legal custodian, or other person to be brought  
12 before ~~it~~ the juvenile court upon either summons or a warrant,  
13 affidavit of probable cause having first been made.

14 "(c) Whoever violates any provision of this section  
15 shall be guilty of a Class A misdemeanor and shall be punished  
16 accordingly, ~~upon conviction thereof, shall be fined not more~~  
17 ~~than \$500.00 or sentenced to hard labor for the county for a~~  
18 ~~period not to exceed 12 months or both.~~

19 "(d) Upon conviction, the juvenile court ~~shall have~~  
20 ~~the power to~~ may suspend any sentence, remit any fine, or  
21 place ~~such~~ the person on probation ~~under~~ pursuant to such  
22 orders, directives, or conditions for his or her discipline  
23 and supervision as the juvenile court deems fit.

24 "~~§12-15-15.~~

25 "~~§12-15-112. Removal, concealment, etc., of~~  
26 ~~delinquent or dependent child or child in need of supervision,~~

1 ~~etc.; interference~~ Interference with performance of duties by  
2 juvenile probation officers ~~officer, etc.~~

3 ~~"(a) It shall be unlawful for any person to remove,~~  
4 ~~conceal or cause to be removed or concealed, or attempt so to~~  
5 ~~do, any delinquent or dependent child or one in need of~~  
6 ~~supervision, as defined in this chapter, or one alleged in a~~  
7 ~~petition or order of transfer filed in said court to be so or~~  
8 ~~any child whose custody is the subject of controversy in said~~  
9 ~~court, or for any person to interfere with the custody of or~~  
10 ~~remove or attempt to remove any delinquent or dependent child~~  
11 ~~or one in need of supervision or one alleged so to be or any~~  
12 ~~child whose custody is the subject of controversy in said~~  
13 ~~court who is in the custody of the court or of a probation~~  
14 ~~officer or any other officer or person designated by the court~~  
15 ~~as a special officer or any such child who has been by said~~  
16 ~~court committed to a department of state government, any~~  
17 ~~person, persons, institution, association or corporation,~~  
18 ~~under the terms of this chapter or by virtue of its general~~  
19 ~~equity jurisdiction.~~

20 ~~"(b)~~ (a) It shall be unlawful for any person to  
21 interfere knowingly with or oppose or otherwise obstruct any  
22 juvenile probation officer or representative of the ~~department~~  
23 ~~of human resources~~ Department of Human Resources in the  
24 performance of his or her duties ~~under~~ pursuant to this  
25 chapter.

26 ~~"(c)~~ (b) Any person violating any of the provisions  
27 of this section shall be guilty of a Class A misdemeanor

1 and shall be punished accordingly, ~~upon conviction thereof,~~  
2 ~~shall be fined not more than \$500.00 or sentenced to hard~~  
3 ~~labor for the county for a period not to exceed 12 months or~~  
4 ~~both.~~

5 "~~(d)~~(c) The juvenile court ~~shall~~, however, shall  
6 have the power to suspend any sentence, remit any fine, or  
7 place ~~such~~ the person on probation ~~under such~~ pursuant to  
8 orders, directives, or conditions for his or her discipline  
9 and supervision as the juvenile court deems fit."

10 Section 2. Section 12-15-113 is added to the Code of  
11 Alabama 1975, to read as follows:

12 §12-15-113. Jurisdiction to make a parent or  
13 parents, legal guardians, or legal custodians parties to  
14 juvenile court proceedings.

15 A juvenile court shall have the authority to make a  
16 parent, legal guardian, or legal custodian a party to a  
17 juvenile court proceeding pursuant to procedures established  
18 by the Alabama Rules of Juvenile Procedure.

19 Section 3. Section 12-15-30 of the Code of Alabama  
20 1975, is amended and renumbered to read as follows:

21 "~~§12-15-30.~~

22 "§12-15-114. Original jurisdiction ~~generally~~  
23 ~~Children - Juvenile.~~

24 "(a) ~~The~~ A juvenile court shall exercise exclusive  
25 original jurisdiction of juvenile court proceedings in which a  
26 child is alleged to ~~be~~ have committed a delinquent act, to be  
27 dependent, or to be in need of supervision. A dependency

1 action shall not include a custody dispute between parents.  
2 Juvenile cases before the juvenile court shall be initiated  
3 through the juvenile court intake office pursuant to this  
4 chapter.

5 "(b) A juvenile court shall not have jurisdiction  
6 over any delinquent act committed by an individual before his  
7 or her 18th birthday for which a petition has not been filed  
8 before the individual reaches 21 years of age, except when the  
9 delinquent act is an offense having no statute of limitation  
10 as provided in Section 15-3-5.

11 ~~"(b)~~ (c) A juvenile court shall also exercise  
12 exclusive original jurisdiction of proceedings arising out of  
13 the above juvenile court proceedings, including, but not  
14 limited to each of the following:

15 "(1) Proceedings pursuant to the Interstate Compact  
16 on Juveniles and the Interstate Compact on Placement of  
17 Children pursuant to Chapter 2 of Title 44.

18 "(2) Proceedings for termination of parental rights,  
19 as this term is defined in subdivision (10) of Section  
20 12-15-301.

21 ~~"The court shall also exercise exclusive original~~  
22 ~~jurisdiction of the following proceedings, which shall be~~  
23 ~~governed by the laws relating thereto:~~

24 ~~"(1) Proceedings to determine custody or to appoint~~  
25 ~~a legal custodian or guardian of the person of a child when~~  
26 ~~the child is otherwise before the court. This provision,~~  
27 ~~however, shall not be construed to deprive other courts of the~~

1 ~~right to determine the custody or guardianship of the person~~  
2 ~~of children when such custody or guardianship is incidental to~~  
3 ~~the determination of cases pending in those courts. Such~~  
4 ~~courts, however, may certify said questions to the juvenile~~  
5 ~~court for hearing and determination or recommendation;~~

6 ~~"(2) Removal of disabilities of nonage, including~~  
7 ~~judicial consent to marriage, employment, withdrawal from~~  
8 ~~school, or enlistment when such consent is required by law;~~

9 ~~"(3) Proceedings under the interstate compact on~~  
10 ~~juveniles;~~

11 ~~"(4) Proceedings for the commitment of a mentally~~  
12 ~~ill or mentally retarded child;~~

13 ~~"(5) Proceedings for the adoption of a child when~~  
14 ~~such proceedings have been removed from probate court on~~  
15 ~~motion of any party to the proceedings; and~~

16 ~~"(6) Termination of parental rights.~~

17 ~~"(c) The court shall have original jurisdiction in~~  
18 ~~proceedings:~~

19 ~~"(1) Concerning any child:~~

20 ~~"a. Who is in a situation subjecting him to~~  
21 ~~physical, mental or emotional abuse or is in clear and present~~  
22 ~~danger of suffering lasting or permanent damage; or~~

23 ~~"b. Who requires emergency medical treatment in~~  
24 ~~order to preserve his life, prevent permanent physical~~  
25 ~~impairment or deformity or alleviate prolonged agonizing pain;~~



1           ~~"(2) Where it is alleged that a child's rights are~~  
2 ~~improperly denied or infringed in proceedings resulting in~~  
3 ~~suspension, expulsion or exclusion from a public school."~~

4           Section 4. Section 12-15-115 is added to the Code of  
5 Alabama 1975, to read as follows:

6           §12-15-115. Original jurisdiction - Civil.

7           (a) A juvenile court shall also exercise original  
8 jurisdiction of the following civil proceedings:

9           (1) Removal of disabilities of nonage pursuant to  
10 Chapter 13 of Title 26.

11           (2) Proceedings for judicial consent for a person  
12 under the respective legal age to marry, to be employed,  
13 withdraw from school, or enlist in military service when this  
14 consent is required by law.

15           (3) Proceedings for the commitment of a mentally ill  
16 or mentally retarded minor or child to the Department of  
17 Mental Health and Mental Retardation, as provided in Article 4  
18 (commencing with Section 12-15-401).

19           (4) Proceedings for the adoption of a child when  
20 these proceedings have been removed from probate court on  
21 motion of any party to the proceedings.

22           (5) Proceedings for waiver of parental consent for a  
23 minor to have an abortion pursuant to Chapter 21 of Title 26.

24           (6) Proceedings to establish paternity or maternity  
25 of a child pursuant to the Alabama Uniform Parentage Act,  
26 Chapter 17 of Title 26.

1           (7) Proceedings to establish child and spousal  
2 support, or both, in cases brought pursuant to Title IV-D of  
3 the Social Security Act, including the Alabama Uniform  
4 Interstate Family Support Act, commencing at Section  
5 30-3A-101, when an equivalent court of another state issued an  
6 order.

7           (8) Proceedings filed pursuant to the Uniform Child  
8 Custody Jurisdiction and Enforcement Act, commencing at  
9 Section 30-3B-101, when an equivalent court of another state  
10 issued an order.

11           (9) Proceedings to establish grandparent visitation  
12 when filed as part of a juvenile court case involving the same  
13 child.

14           (b) A juvenile court also shall have original  
15 jurisdiction in proceedings concerning any child in either of  
16 the following instances:

17           (1) The child requires emergency medical treatment  
18 in order to preserve his or her life, prevent permanent  
19 physical impairment or deformity, or alleviate prolonged  
20 agonizing pain.

21           (2) Where it is alleged that the rights of a child  
22 are improperly denied or infringed in proceedings resulting in  
23 suspension, expulsion, or exclusion from a public school.

24           (c) All civil cases before the juvenile court shall  
25 be governed by the laws relating thereto and shall be  
26 initiated by filing a petition or complaint with the clerk of  
27 the juvenile court, with the exception that the proceedings

1 provided in Section 12-15-132 shall be initiated through the  
2 juvenile court intake office.

3 Section 5. Sections 12-15-31 and 12-15-32 of the  
4 Code of Alabama 1975, are amended and renumbered to read as  
5 follows:

6 ~~"§12-15-31.~~

7 ~~"§12-15-116. Original jurisdiction generally—~~  
8 ~~Minors and adults— Criminal.~~

9 ~~"(a) The A juvenile court shall have exclusive~~  
10 ~~original jurisdiction to try any individual committing any of~~  
11 ~~the following offenses while 18 years of age or older:~~

12 ~~"(1) To try any minor or adult charged with:~~

13 ~~"a. Aiding, encouraging or causing any child to~~  
14 ~~become or remain delinquent, in need of supervision or~~  
15 ~~dependent;~~

16 ~~"b. Disregarding or failing to obey any lawful order~~  
17 ~~made by the judge of the juvenile court or interfering with~~  
18 ~~the custody of any child under the jurisdiction of the~~  
19 ~~juvenile court;~~

20 ~~"c. Interfering with the custody of or removal or~~  
21 ~~attempting to remove any dependent or delinquent child or one~~  
22 ~~in need of supervision or one so alleged to be or any child~~  
23 ~~whose custody is the subject of controversy in said court or~~  
24 ~~who is in the custody of the court or of a probation officer~~  
25 ~~or any other officer or person designated by the court as a~~  
26 ~~special officer, or any child who has been by said court~~  
27 ~~committed to any person, persons, institutions, associations,~~

1 ~~corporation, agency, the Department of Youth Services or the~~  
2 ~~Department of Human Resources under the terms of this chapter;~~

3 ~~"d. Knowingly interfering with, opposing or~~  
4 ~~otherwise obstructing any probation officer or representative~~  
5 ~~of the Department of Human Resources in the performance of his~~  
6 ~~duties under this chapter; or~~

7 ~~"e. Any offenses proscribed in Sections 12-15-100,~~  
8 ~~12-15-101 or 12-15-102;~~

9 ~~"(2) In proceedings to establish paternity of a~~  
10 ~~child born out of wedlock;~~

11 ~~"(3) To try any minor or adult charged with~~  
12 ~~desertion and nonsupport in violation of law;~~

13 ~~"(4) In proceedings for the commitment of a mentally~~  
14 ~~ill or mentally retarded minor;~~

15 ~~"(5) To make parents or guardians of a child parties~~  
16 ~~to all juvenile court actions.~~

17 "(1) Contributing to the delinquency, in need of  
18 supervision, or dependency of a child in violation of Section  
19 12-15-111.

20 "(2) Opposing or interfering with a juvenile  
21 probation officer or a representative of the Department of  
22 Human Resources in violation of Section 12-15-112.

23 "(3) Violating any of the confidentiality provisions  
24 of Sections 12-15-133, 12-15-134, 12-15-135, or 12-15-217.

25 "(4) Nonsupport in violation of Section 13A-13-4.

26 "(5) Violating any of the juvenile criminal sex  
27 offender provisions of Section 15-20-28(g)(1).

1           "(6) Violating any of the provisions of the  
2 compulsory school attendance laws in Section 16-28-12.

3           "(b) All criminal cases before the juvenile court  
4 shall be governed by the laws relating thereto and shall be  
5 initiated by complaint made before a judge or magistrate  
6 according to criminal procedure.

7           "~~§12-15-32.~~

8           "§12-15-117. Retention and termination of  
9 jurisdiction generally.

10           "~~(a) For the purposes of this chapter, Once a child~~  
11 ~~has been adjudicated dependent, delinquent, or in need of~~  
12 ~~supervision, jurisdiction obtained by of the juvenile court in~~  
13 ~~any case of a child shall be retained by it until terminate~~  
14 ~~when the child becomes 21 years of age unless, prior thereto,~~  
15 ~~the judge of the juvenile court terminates its jurisdiction~~  
16 ~~over the case involving the child. terminated prior thereto by~~  
17 ~~order of the judge of the juvenile court except that the~~  
18 ~~juvenile court shall retain jurisdiction until the child~~  
19 ~~complies with any order of the juvenile court requiring the~~  
20 ~~payment of fines, costs, restitution, or other court ordered~~  
21 ~~monies. This section shall not be construed to affect the~~  
22 ~~jurisdiction of other courts over offenses committed by the~~  
23 ~~child after he reaches the age of 18 years.~~

24           "(b) The jurisdiction of the juvenile court shall  
25 terminate when the child is convicted or adjudicated a  
26 youthful offender as provided in Section 12-15-203(i) and  
27 Section 12-15-204(b). If a person already under the

1 jurisdiction of the juvenile court is convicted or adjudicated  
2 a youthful offender in a criminal court of a crime committed  
3 at the age of 18 or older, the conviction or adjudication  
4 shall terminate the jurisdiction of the juvenile court.

5 ~~"(b) If a person already under the jurisdiction of~~  
6 ~~the juvenile court is convicted or adjudicated a youthful~~  
7 ~~offender in a criminal court of a crime committed after the~~  
8 ~~age of 18, the conviction or adjudication shall terminate the~~  
9 ~~jurisdiction of the juvenile court except that the juvenile~~  
10 ~~court shall retain jurisdiction until the child complies with~~  
11 ~~any order of the juvenile court requiring the payment of~~  
12 ~~finest, costs, restitution, or other court ordered monies.~~

13 ~~"(c) Nothing in this section or Section 12-15-34.1~~  
14 ~~is intended to terminate the jurisdiction of a juvenile court~~  
15 ~~regarding In any case over which the juvenile court has~~  
16 ~~jurisdiction, the juvenile court shall retain jurisdiction~~  
17 ~~over an individual of any age for the enforcement of an order~~  
18 ~~any prior orders of the juvenile court requiring the payment~~  
19 ~~of fines, court costs, restitution, or other ~~court ordered~~~~  
20 ~~monies money ordered by the juvenile court until paid in full.~~

21 ~~"(d) For purposes of this chapter, any order of a~~  
22 ~~juvenile court requiring payment of fines, costs, restitution,~~  
23 ~~or other court ordered monies shall remain effective with~~  
24 ~~regard to the payments until the fines, costs, restitution, or~~  
25 ~~other court ordered monies are paid in full.~~

26 ~~"(e)~~ (d) For purposes of enforcing any order of the  
27 juvenile court requiring the payment of fines, court costs,

1 restitution, or other money ordered by the juvenile court  
2 ~~ordered monies~~, the remedies with regard to punishment for  
3 contempt, including incarceration in jail of individuals 18  
4 years of age or older, shall be available to the juvenile  
5 court."

6 Section 6. Section 12-15-118 is added to the Code of  
7 Alabama 1975, to read as follows:

8 §12-15-118. Duties of juvenile court intake  
9 officers.

10 A person employed by the judicial branch of  
11 government who is designated by a juvenile court as a juvenile  
12 court intake officer shall perform the following duties:

13 (1) Receive and examine written complaints or  
14 petitions, made under oath, of allegations of delinquency, in  
15 need of supervision, or dependency or concerning proceedings  
16 filed pursuant to Section 12-15-132.

17 (2) Refer to the Department of Human Resources for  
18 investigations, reports, and recommendations those complaints  
19 and allegations of dependency or other appropriate matters and  
20 may refer to the Department of Human Resources for  
21 investigations, reports, and recommendations those complaints  
22 on children in need of supervision.

23 Section 7. Sections 12-15-50, 12-15-51, 12-15-52,  
24 12-15-53, 12-15-54, 12-15-55, 12-15-56, 12-15-57, 12-15-58,  
25 12-15-59, 12-15-65, 12-15-70, 12-15-73, 12-15-75, 12-15-100,  
26 12-15-101, 12-15-102, and 12-15-103 of the Code of Alabama  
27 1975, are amended and renumbered to read as follows:

1           "~~§12-15-51.~~

2           "§12-15-119. Informal adjustment of certain cases  
3 prior to filing of juvenile petition.

4           " After a verified complaint has been filed and  
5 before ~~Before~~ a petition alleging delinquency or in need of  
6 supervision is filed, the ~~probation~~ juvenile court intake  
7 ~~officer or other officer of the court designated by it,~~  
8 subject to ~~its~~ the direction of the juvenile court, may give  
9 counsel and advice to the parties for the purpose of an  
10 informal adjustment pursuant to rules of procedure adopted by  
11 the Supreme Court of Alabama.

12           "~~§12-15-50.~~

13           "§12-15-120. Cases initiated by filing of petitions  
14 by juvenile court intake officers.

15           "(a) Delinquency, child in need of supervision, and  
16 dependency cases and proceedings pursuant to Section 12-15-132  
17 ~~Cases~~ before the juvenile court shall be initiated by the  
18 filing of a petition by the juvenile court intake officer who  
19 shall receive verified complaints and proceed thereon pursuant  
20 to rules of procedure adopted by the Supreme Court of Alabama.

21           "(b) A petition alleging that a child is a  
22 delinquent child, dependent child, or a child in need of  
23 supervision shall not be filed by a juvenile court intake  
24 officer unless the juvenile court intake officer has  
25 determined and endorsed upon the petition that the juvenile  
26 court has subject matter jurisdiction and venue over the case



1 and that the filing of the petition is in the best interests  
2 of the public and the child.

3 ~~"§12-15-52.~~

4 "§12-15-121. Form, contents, and execution of  
5 juvenile petitions.

6 "(a) A juvenile petition alleging delinquency, in  
7 need of supervision, or dependency may be signed by any person  
8 18 years of age or older, other than a juvenile court intake  
9 officer, who has knowledge of the facts alleged or is informed  
10 of them and believes that they are true. However, the person  
11 signing a dependency petition, in the petition or in an  
12 attached affidavit, shall give information, if reasonably  
13 ascertainable, as required in Section 30-3B-209.

14 "(b) A petition shall be entitled "In the matter of  
15 \_\_\_\_\_, a child" and shall be ~~verified by the person who signs~~  
16 it made under oath.

17 (c) The petition shall set forth with specificity  
18 all of the following:

19 "(1) The facts which bring the child ~~within~~ under  
20 the jurisdiction of the juvenile court, the facts constituting  
21 the alleged dependency, delinquency, or need of supervision  
22 and the facts showing that the child is in need of  
23 supervision, treatment, rehabilitation, care, or the  
24 protection of the state, as the case may be.

25 "(2) The name, age, and residence address, if ~~any~~  
26 known, of the child on whose behalf the petition is brought.

1           (3) The names and residence addresses, if known to  
2 the petitioner, of the ~~parents~~ parent, legal guardian, or  
3 legal custodian of the child. If no parent, legal guardian, or  
4 legal custodian resides or can be found within the state or if  
5 their respective places of residence are unknown, the name of  
6 any known adult relative residing within the ~~district~~ county  
7 or, if there be none, the known adult relative residing  
8 nearest to the location of the juvenile court; ~~and.~~

9           "(4) The place of ~~the child's~~ detention of the child  
10 and the time he or she was taken into custody, if the child in  
11 custody is alleged to be delinquent or in need of supervision.

12           "(d) When any of the facts required by subsection  
13 (c) ~~of this section~~ are not known, except the facts required  
14 by subdivision (4) of subsection (c) ~~of this section~~, the  
15 petition shall so state.

16           "~~§12-15-53.~~

17           "§12-15-122. Issuance and service of summonses  
18 generally; ~~endorsements upon summonses~~; waiver of service of  
19 summonses.

20           "(a) After a petition alleging delinquency, in need  
21 of supervision, or dependency has been filed, the juvenile  
22 court shall direct the issuance of summonses, ~~one~~ to be  
23 directed to the child if ~~the child~~ he or she is 12 or more  
24 years of age, ~~another~~ to the parents, legal guardian, or other  
25 legal custodian, and to ~~others to such~~ other persons ~~as~~ who  
26 appear to the juvenile court to be proper or necessary parties  
27 to the proceedings, requiring them to appear personally before

1 the juvenile court at the time fixed to answer or testify as  
2 to the allegations of the petition. Where the legal custodian  
3 is summoned, the parent or legal guardian, or both, shall also  
4 be served with a summons.

5 "(b) A copy of the petition shall be attached to  
6 each summons.

7 "~~the court may endorse upon the summons an order~~  
8 ~~directing~~ shall direct the parents, legal guardian, or other  
9 legal custodian having the custody or control of the child to  
10 bring ~~the child~~ him or her to the hearing.

11 "~~(d) If it appears from an affidavit or sworn~~  
12 ~~statement presented to the court that the child needs to be~~  
13 ~~placed in detention or shelter or other care, the court may~~  
14 ~~endorse upon the summons an order that an officer serving the~~  
15 ~~summons shall at once take the child into custody and take the~~  
16 ~~child to the place of detention or shelter or other care~~  
17 ~~designated by the court. In any case where a child is alleged~~  
18 ~~to be delinquent for possessing a pistol, short-barreled~~  
19 ~~rifle, or short-barreled shotgun, the child shall be detained~~  
20 ~~in a detention facility until the hearing required by Section~~  
21 ~~12-15-60. "Pistol" as used in this section is defined in~~  
22 ~~Section 13A-11-70(1). "Short-barreled rifle and~~  
23 ~~short-barreled shotgun" as used in this section are defined in~~  
24 ~~Section 13A-11-62.~~

25 "~~(e)~~ (d) A An adult who is a party, ~~other than the~~  
26 ~~child,~~ may waive service of the summons by written stipulation  
27 or by voluntary appearance at the hearing.

1                   "~~§12-15-54.~~

2                   "§12-15-123. Manner of service of summons.

3                   Service of ~~summons~~ summonses in cases filed in the  
4 jurisdiction of the juvenile court ~~coming within this chapter~~  
5 shall be pursuant to rules of procedure adopted by the Supreme  
6 Court of Alabama.

7                   "~~§12-15-55.~~

8                   "§12-15-124. Authority of juvenile court to make  
9 interlocutory or final dispositional orders in cases where  
10 parties served by publication.

11                   The juvenile court shall ~~have authority to~~ make  
12 interlocutory and final dispositional orders in those cases in  
13 which a party or parties have been served by publication in  
14 accordance with rules adopted by the Supreme Court of Alabama.

15                   "~~§12-15-56.~~

16                   "§12-15-125. Taking into custody of children  
17 generally.

18                   "(a) A child or minor may be taken into custody for  
19 any of the following reasons:

20                   "(1) Pursuant to an order of the juvenile court  
21 ~~under Sections 12-15-53 and 12-15-57,~~

22                   "~~(2) For a delinquent act pursuant to the laws of~~  
23 ~~arrest,~~

24                   "~~(3)~~ (2) By a law enforcement officer having  
25 reasonable grounds to believe that the child or minor has run  
26 away from a juvenile detention, residential, shelter, or other  
27 care facility.

1           "~~(4)~~(3) By a law enforcement officer having  
2 reasonable grounds to believe that the child or minor is  
3 suffering from an illness or injury or is in immediate danger  
4 from the ~~child's~~ surroundings of the child or minor and that  
5 the ~~child's~~ immediate removal of the child or minor from ~~such~~  
6 those surroundings is necessary for the protection of the  
7 health and safety of ~~such~~ the child, ~~or~~ minor.

8           "~~(5)~~ By a law enforcement officer who has reasonable  
9 grounds to believe that the child has run away from his  
10 parents, guardian or other custodian;

11           "~~(6)~~ By a law enforcement officer who has reasonable  
12 grounds to believe that the child has no parent, guardian,  
13 custodian or other suitable person willing and able to provide  
14 supervision and care for such child;

15           "(b) In addition to the grounds listed in subsection  
16 (a), a child may also be taken into custody for any of the  
17 following reasons:

18           "(1) By a law enforcement officer for an alleged  
19 delinquent act pursuant to the laws of arrest;

20           "(2) By a law enforcement officer who has reasonable  
21 grounds to believe that the child has run away from his or her  
22 parents, legal guardian, or other legal custodian;

23           "(3) By a law enforcement officer who has reasonable  
24 grounds to believe that the child has no parent, legal  
25 guardian, legal custodian, or other suitable person willing  
26 and able to provide supervision and care for the child; or

1           ~~"(7)(4) By a juvenile probation officer or~~  
2 ~~representative of the Department of Human Resources,~~ pursuant  
3 to Section ~~12-15-7,~~ or 12-15-107.

4           ~~"(8) By a law enforcement officer pursuant to an~~  
5 ~~order of the court directing that a child be taken into~~  
6 ~~custody pending hearing on allegations that the child is~~  
7 ~~suffering from illness or injury or is in immediate danger~~  
8 ~~from his surroundings and ordering that the child's immediate~~  
9 ~~removal from such surroundings is necessary for the protection~~  
10 ~~of the health and safety of such child.~~

11           ~~"§12-15-57.~~

12           ~~"§12-15-126. Issuance of pick-up order for taking~~  
13 ~~into custody and bringing before court of child upon failure~~  
14 ~~of parents, etc., to bring child before court upon request.~~

15           ~~"If a parent, guardian or other custodian fails,~~  
16 ~~when requested, to bring the child before the court as~~  
17 ~~provided in subdivision (2) of subsection (a) of Section~~  
18 ~~12-15-58, the court may issue its order directing that the~~  
19 ~~child be taken into custody and brought before the court.~~

20           ~~"If it appears from a sworn statement, written or~~  
21 ~~verbal, presented to the juvenile court that a child needs to~~  
22 ~~be placed in detention or shelter or other care, the juvenile~~  
23 ~~court may issue a pick-up order that a law enforcement officer~~  
24 ~~or other person authorized by this chapter shall at once take~~  
25 ~~the child into custody and take him or her to the place of~~  
26 ~~detention or shelter or other care designated by the juvenile~~  
27 ~~court.~~

1                   "~~§12-15-58.~~

2                   "§12-15-127. Release, delivery to detention or  
3 shelter care facility, medical facility, ~~etc.,~~ of children  
4 taken into custody generally.

5                   "(a) A person taking a child into custody without an  
6 order of the juvenile court shall, with all possible speed,  
7 and in accordance with this chapter and the rules of court  
8 pursuant thereto:

9                   "(1) Release the child to the ~~child's~~ parents, legal  
10 guardian, or legal custodian of the child or other suitable  
11 person able ~~and willing~~ to provide supervision and care for  
12 the child and issue ~~oral~~ verbal counsel and warning as may be  
13 appropriate.

14                   "(2) Release the child to the ~~child's~~ parents, legal  
15 guardian, or legal custodian of the child upon ~~their~~ his or  
16 her promise to bring the child before the juvenile court when  
17 requested, unless the ~~child's~~ placement of the child in  
18 detention or shelter care appears required. If a parent, legal  
19 guardian, or other legal custodian fails, when requested, to  
20 bring the child before the juvenile court as provided in this  
21 section, the juvenile court may issue an order directing that  
22 the child be taken into custody and brought before the  
23 juvenile court.

24                   "(3) Bring the child, if not released, to the ~~intake~~  
25 ~~office of probation services or deliver the child to a place~~  
26 ~~of detention or shelter care~~ place designated by the juvenile  
27 court and, ~~in the most expeditious manner possible,~~ give

1 ~~written~~ notice of the action taken, ~~together with a statement~~  
2 ~~of and~~ the reasons for taking the child into custody, ~~in~~  
3 ~~writing to the~~ juvenile court intake office officer, ~~to the~~  
4 ~~court and to the parent,~~ legal guardian, ~~or other~~ legal  
5 ~~custodian of the child,~~ and, in the case of dependency, to the  
6 Department of Human Resources, ~~except in the case of a~~  
7 ~~juvenile being taken into custody for a violation of a~~  
8 ~~municipal curfew ordinance. In curfew violation cases, if the~~  
9 ~~child is not released, the child may be taken to a facility~~  
10 ~~which has been previously approved by the court as a curfew~~  
11 ~~detention facility. A child taken to a curfew detention~~  
12 ~~facility shall be released within eight hours.~~

13 " (b) ~~Whenever a child, taken into custody pursuant~~  
14 ~~to this chapter, is brought to a shelter or other care~~  
15 ~~facility established or approved by the Department of Human~~  
16 ~~Resources or the Department of Youth Services or to the intake~~  
17 ~~office, the person in charge of the intake office or the~~  
18 ~~representative of the Department of Human Resources, prior~~  
19 Prior to admitting authorizing the admission of the child to  
20 detention, shelter, or other for care, the juvenile court  
21 intake officer, on an allegation of delinquency or in need of  
22 supervision or of dependency, shall review the need for  
23 detention or shelter care, including reviewing the written  
24 notice of the person who took the child into custody without  
25 an order of the juvenile court, and shall direct the law  
26 enforcement officer or other person currently having the child  
27 in custody to release the child unless detention or shelter



1 care is required ~~under~~ pursuant to Section 12-15-59 12-15-128.  
2 The juvenile court intake officer may allow release with or  
3 without electronic or telephone monitoring pending the 72-hour  
4 hearing requirement ~~or has been ordered by the court.~~

5 "(c) A person taking a child or minor into custody  
6 pursuant to ~~subdivisions (1) and (7) of Section 12-15-56~~  
7 subdivision (3) of Section 12-15-125 shall bring the child or  
8 minor to the ~~place of detention or shelter care or to the~~  
9 ~~intake office which shall thereupon proceed in accordance with~~  
10 ~~this chapter~~ a medical or mental health facility if the child  
11 or minor is believed to be suffering from a serious mental  
12 health condition, illness, or injury which requires either  
13 prompt treatment or prompt diagnosis for the welfare of the  
14 child or minor or for evidentiary purposes, and, in the most  
15 expeditious manner possible, give notice of the action taken  
16 together with a statement of taking the child or minor into  
17 custody in writing to the court, the parents, legal guardian  
18 or other legal custodian and to the intake office and to the  
19 Department of Human Resources in the case of a dependency  
20 allegation.

21 "~~(d) A person taking a child into custody pursuant~~  
22 ~~to subdivision (4) of Section 12-15-56 shall bring the child~~  
23 ~~to a medical or mental health facility designated by the court~~  
24 ~~if the child is believed to be suffering from a serious mental~~  
25 ~~health condition, illness, or injury which requires either~~  
26 ~~prompt treatment or prompt diagnosis for the child's welfare~~  
27 ~~or for evidentiary purposes, and, in the most expeditious~~

1 ~~manner possible, give notice of the action taken together with~~  
2 ~~a statement of taking the child into custody in writing to the~~  
3 ~~court, the parents, guardian or other custodian and to the~~  
4 ~~intake office and to the Department of Human Resources in the~~  
5 ~~case of a dependency allegation.~~

6 "~~§12-15-59.~~

7 "§12-15-128. Authority and criteria for continuation  
8 of detention or shelter care of children taken into custody  
9 beyond 72 hours.

10 "(a) ~~Unless otherwise ordered by the court pursuant~~  
11 ~~to the provisions of this chapter, a~~ An allegedly delinquent  
12 child, dependent child, or child in need of supervision  
13 lawfully taken into custody as an allegedly dependent or  
14 delinquent child or a child in need of supervision shall  
15 immediately be released, upon the ascertainment of the  
16 necessary facts, to the care, custody, and control of such  
17 child's the parent, legal guardian, or legal custodian of the  
18 child or other suitable person able and willing to provide  
19 supervision and care for such the child, except in situations  
20 where unless the juvenile court or juvenile court intake  
21 officer, subject to the limitations in Section 12-15-208,  
22 finds any of the following:

23 "(1) The child has no parent, legal guardian, legal  
24 custodian, or other suitable person able ~~and willing~~ to  
25 provide supervision and care for ~~such the child,~~

26 "(2) The release of the child would present a clear  
27 and substantial threat of a serious nature to the person or

1 property of others and where the child is alleged to be  
2 delinquent~~7~~.

3 "(3) The release of ~~such~~ the child would present a  
4 serious threat of substantial harm to ~~such~~ the child~~7~~~~or~~.

5 "(4) The child has a history of failing to appear  
6 for hearings before the juvenile court.

7 "(5) The child is alleged to be delinquent for  
8 possessing a pistol, short-barreled rifle, or short-barreled  
9 shotgun, in which case the child may be detained in a juvenile  
10 detention facility until the hearing required by Section  
11 12-15-207. Pistol as used in this section shall be as defined  
12 in subdivision (1) of Section 13A-11-70. Short-barreled rifle  
13 and short-barreled shotgun as used in this section shall be as  
14 defined in Section 13A-11-62.

15 "(b) The criteria for continuing the allegedly  
16 delinquent child or child in need of supervision in detention  
17 or shelter or other care, or for continuing the allegedly  
18 dependent child in shelter or other care, as set forth in  
19 subsection (a) ~~of this section~~ shall govern the decisions of  
20 all persons involved in determining whether the continued  
21 detention or shelter care is warranted pending juvenile court  
22 disposition and ~~such~~ those criteria shall be supported by  
23 clear and convincing evidence in support of the decision not  
24 to release the child.

25 "(c) In releasing a child, a juvenile court or the  
26 juvenile court intake officer may impose restrictions on the  
27 travel, association, or place of abode of the child or place

1 the child under the supervision of a department, agency, or  
2 organization agreeing to supervise him or her, and may place  
3 the child under supervision such as electronic or telephone  
4 monitoring, if available. A child, once placed in detention,  
5 may also be released pursuant to the same conditions should  
6 there be a need to release the child from a juvenile detention  
7 facility because of an overcrowded population.

8 ~~"§12-15-65.~~

9 ~~"§12-15-129. Conduct of hearings and disposition of~~  
10 ~~cases generally; special procedure for possible multiple needs~~  
11 ~~child; reasonable efforts.~~

12 ~~"(a) Hearings under~~ All hearings pursuant to this  
13 chapter shall be conducted by the juvenile court without a  
14 jury and separate from other proceedings. The general public  
15 shall be excluded from delinquency, in need of supervision, or  
16 dependency hearings and only the parties, their counsel,  
17 witnesses, and other persons requested by a party shall be  
18 admitted. Other persons as the juvenile court finds to have a  
19 proper interest in the case or in the work of the juvenile  
20 court may be admitted by the juvenile court on condition that  
21 the persons refrain from divulging any information which would  
22 identify the child under the jurisdiction of the juvenile  
23 court or family involved. If the juvenile court finds that it  
24 is in the best interest interests of the child under the  
25 jurisdiction of the juvenile court, the child may be  
26 temporarily excluded from the hearings, except while  
27 allegations of delinquency or in need of supervision are being

1 heard. ~~Relatives, pre-adoptive parents, or foster parents who~~  
2 ~~have been approved by the Department of Human Resources~~  
3 ~~providing care to a child shall be given notice and an~~  
4 ~~opportunity to be heard in any hearing to be held with respect~~  
5 ~~to a child in their care, except that no such person shall be~~  
6 ~~made a party to the case by virtue solely of such notice and~~  
7 ~~opportunity to be heard.~~

8 ~~"(b) After the filing of a petition when the~~  
9 ~~petition alleges or evidence reveals to the court that a child~~  
10 ~~may be a multiple needs child, and that previous plans~~  
11 ~~developed by an agency, or agencies, have not met the needs of~~  
12 ~~the child, the court, on its own motion or motion of a party~~  
13 ~~or party's parent or guardian or upon motion of the Department~~  
14 ~~of Youth Services, a school system, the Department of Human~~  
15 ~~Resources, the Department of Public Health, the Department of~~  
16 ~~Mental Health and Mental Retardation, or juvenile court~~  
17 ~~probation services, may refer the child to the county~~  
18 ~~children's services facilitation team for evaluation and~~  
19 ~~review. This evaluation may occur prior to any hearing, or the~~  
20 ~~court may suspend proceedings during the hearing or prior to~~  
21 ~~disposition to review the findings and recommendations of the~~  
22 ~~county children's services facilitation team.~~

23 ~~"(c) The parties shall be advised of their rights~~  
24 ~~under law in their first appearance at intake and before the~~  
25 ~~court. They shall be informed of the specific allegations in~~  
26 ~~the petition and given an opportunity to admit or deny the~~  
27 ~~allegations.~~

1           ~~"(d) If the allegations are denied, the court shall~~  
2 ~~proceed to hear evidence on the petition. The court shall~~  
3 ~~record its findings on whether or not the child is a dependent~~  
4 ~~child or, if the petition alleges delinquency or in need of~~  
5 ~~supervision, as to whether or not the acts ascribed to the~~  
6 ~~child were committed by the child. If the court finds that the~~  
7 ~~allegations in the petition have not been established, it~~  
8 ~~shall dismiss the petition and order the child discharged from~~  
9 ~~any detention or temporary care, theretofore ordered in the~~  
10 ~~proceedings.~~

11           ~~"(e) If the court finds on proof beyond a reasonable~~  
12 ~~doubt, based upon competent, material, and relevant evidence,~~  
13 ~~that a child committed the acts by reason of which the child~~  
14 ~~is alleged to be delinquent or in need of supervision it may~~  
15 ~~proceed immediately to hear evidence as to whether the child~~  
16 ~~is in need of care or rehabilitation and to file its findings~~  
17 ~~thereon. In the absence of evidence to the contrary, evidence~~  
18 ~~of the commission of an act which constitutes a felony is~~  
19 ~~sufficient to sustain a finding that the child is in need of~~  
20 ~~care or rehabilitation. If the court finds that the child is~~  
21 ~~not in need of care or rehabilitation, it shall dismiss the~~  
22 ~~proceedings and discharge the child from any detention or~~  
23 ~~other temporary care theretofore ordered.~~

24           ~~"(f) If the court finds from clear and convincing~~  
25 ~~evidence, competent, material, and relevant in nature, that~~  
26 ~~the child is dependent and in need of care or supervision or~~  
27 ~~from clear and convincing evidence, competent, relevant, and~~

1 ~~material in nature, that the child is in need of care or~~  
2 ~~rehabilitation as a delinquent child or a child in need of~~  
3 ~~supervision, or from clear and convincing evidence, competent,~~  
4 ~~relevant, and material in nature that parental rights should~~  
5 ~~be terminated, the court may proceed immediately, in the~~  
6 ~~absence of objection showing good cause or at a postponed~~  
7 ~~hearing, to make proper disposition of the case.~~

8 ~~"(g) If the court enters an order removing a child~~  
9 ~~from his or her home or continuing a child in a placement~~  
10 ~~outside of his or her home pursuant to this title, the order~~  
11 ~~shall contain as specific findings, if warranted by the~~  
12 ~~evidence, all of the following:~~

13 ~~"(1) That continuing the placement of a child in his~~  
14 ~~or her home would be contrary to the best interests of the~~  
15 ~~child.~~

16 ~~"(2) That reasonable efforts have been made to~~  
17 ~~prevent or eliminate the need for removal of the child from~~  
18 ~~his or her home, or that an emergency situation exists which~~  
19 ~~requires the immediate temporary removal of the child from his~~  
20 ~~or her home and that it is reasonable not to make efforts to~~  
21 ~~prevent removal of the child from his or her home due to the~~  
22 ~~emergency situation.~~

23 ~~"(3) That reasonable efforts have been made or will~~  
24 ~~be made to reunite the child and his or her family, or that~~  
25 ~~efforts to reunite the child and his or her family have~~  
26 ~~failed.~~

1           ~~"(h) In disposition hearings all relevant and~~  
2 ~~material evidence helpful in determining the questions~~  
3 ~~presented, including oral and written reports, may be received~~  
4 ~~by the court and may be relied upon to the extent of its~~  
5 ~~probative value, even though not competent in a hearing on the~~  
6 ~~petition. The parties or their counsel shall be afforded an~~  
7 ~~opportunity to examine and controvert written reports so~~  
8 ~~received and to cross-examine individuals making reports.~~

9           ~~"(i) A statement made by a child under the age of 12~~  
10 ~~describing any act of sexual conduct performed with or on the~~  
11 ~~child by another, not otherwise admissible by statute or court~~  
12 ~~rule, is admissible in all dependency cases brought by the~~  
13 ~~State of Alabama acting by and through a local department of~~  
14 ~~human resources if:~~

15           ~~"(1) The statement was made to a social worker,~~  
16 ~~child sex abuse therapist or counselor, licensed psychologist,~~  
17 ~~physician, or school or kindergarten teacher or instructor,~~  
18 ~~and~~

19           ~~"(2) The court finds that the time, content, and~~  
20 ~~circumstances of the statement provide sufficient indicia of~~  
21 ~~reliability. In making its determination the court may~~  
22 ~~consider the physical and mental age and maturity of the~~  
23 ~~child, the nature and duration of the abuse or offense, the~~  
24 ~~relationship of the child to the offender, and any other~~  
25 ~~factor deemed appropriate.~~

26           ~~"A statement may not be admitted under this section~~  
27 ~~unless the proponent of the statement makes known to the~~



1 ~~adverse party the proponent's intention to offer the statement~~  
2 ~~and the particulars of the statement sufficiently in advance~~  
3 ~~of the proceedings to provide the adverse party with a fair~~  
4 ~~opportunity to rebut the statement. This child hearsay~~  
5 ~~exception applies to all hearings involving dependency~~  
6 ~~including, but not limited to, the 72-hour hearing, the~~  
7 ~~dependency hearing, and the disposition hearing.~~

8 ~~"(j) This exception contained herein shall not apply~~  
9 ~~to a criminal proceeding or charge.~~

10 ~~"(k) On its own motion or that of a party, the court~~  
11 ~~may continue the disposition hearing under this section for a~~  
12 ~~reasonable period to receive reports and other evidence~~  
13 ~~bearing on the disposition or need for care or rehabilitation.~~  
14 ~~In this event, the court shall make an appropriate order for~~  
15 ~~detention or temporary care for the child, or the child's~~  
16 ~~release for detention or temporary care during the period of~~  
17 ~~the continuance, subject to such conditions as the court may~~  
18 ~~impose.~~

19 ~~"(l) A proceeding to allow a child to withdraw from~~  
20 ~~school shall be commenced by petition. The petition shall be~~  
21 ~~granted only upon a showing of good cause for withdrawal. No~~  
22 ~~child shall be deemed incorrigible, in need of supervision, or~~  
23 ~~unamenable to treatment based on the filing of the petition.~~

24 ~~"In the case of any child 14 years of age or older,~~  
25 ~~where the court finds that the school officials have made a~~  
26 ~~diligent effort to meet the child's educational needs and,~~  
27 ~~after study, the court further finds that the child is not~~

1 able to benefit appreciably from further schooling, the court  
2 may excuse the child from further compliance with any legal  
3 requirement of compulsory school attendance and authorize the  
4 child, notwithstanding the provisions of any other law, to be  
5 employed in any occupation which is not legally declared  
6 hazardous for children under the age of 18.

7 "(m) As used in this chapter, "reasonable efforts"  
8 refers to efforts made to preserve and reunify families prior  
9 to the placement of a child in foster care, to prevent or  
10 eliminate the need for removing the child from the child's  
11 home, and to make it possible for a child to return safely to  
12 the child's home. In determining the reasonable efforts to be  
13 made with respect to a child, and in making such reasonable  
14 efforts, the child's health and safety shall be the paramount  
15 concern. If continuation of reasonable efforts is determined  
16 to be inconsistent with the permanency plan for the child,  
17 reasonable efforts shall be made to place the child and to  
18 complete whatever steps are necessary to finalize the  
19 permanent placement of the child. Reasonable efforts shall not  
20 be required to be made where the parental rights to a sibling  
21 have been involuntarily terminated or where a court of  
22 competent jurisdiction has determined that a parent has done  
23 any of the following:

24 "(1) Subjected the child to an aggravated  
25 circumstance, including, but not limited to, abandonment,  
26 torture, chronic abuse, substance abuse, or sexual abuse.

1           ~~"(2) Committed murder or voluntary manslaughter of~~  
2 ~~another child of such parent.~~

3           ~~"(3) Aided or abetted, attempted, conspired, or~~  
4 ~~solicited to commit murder or voluntary manslaughter of~~  
5 ~~another child of such parent.~~

6           ~~"(4) Committed a felony assault which resulted in~~  
7 ~~the serious bodily injury to the child or another child of~~  
8 ~~such parent. The term "serious bodily injury" means bodily~~  
9 ~~injury which involves substantial risk of death, extreme~~  
10 ~~physical pain, protracted and obvious disfigurement, or~~  
11 ~~protracted loss or impairment of the function of a bodily~~  
12 ~~member, organ, or mental faculty.~~

13           ~~"Nothing in the exceptions to making reasonable~~  
14 ~~efforts listed in this subsection shall be interpreted to~~  
15 ~~require the reunification of a child with a stepparent or~~  
16 ~~paramour of a parent under similar circumstances.~~

17           ~~"(n) If reasonable efforts are not made with respect~~  
18 ~~to a child as a result of a determination made by a court of~~  
19 ~~competent jurisdiction in situations as described above, a~~  
20 ~~permanency hearing, as provided in Section 12-15-62, shall be~~  
21 ~~held for the child within 30 days after the determination.~~  
22 ~~Reasonable efforts shall be made to place the child and to~~  
23 ~~complete whatever steps are necessary to finalize the~~  
24 ~~permanent placement of the child. Reasonable efforts to place~~  
25 ~~a child for adoption or with a legal guardian or custodian may~~  
26 ~~be made concurrently with other reasonable efforts.~~

27           ~~"§12-15-70.~~

1           "§12-15-130. Ordering, conduct, and certification of  
2 findings of mental and physical examinations of children;  
3 proceedings as to minors or children believed to be mentally  
4 ill or retarded generally; ordering of treatment or care for  
5 children found in need of medical treatment, dental care,  
6 ~~etc.~~, and payment therefor; granting by juvenile court of  
7 authority to order emergency medical care for children.

8           "(a) Where there are indications that a child may be  
9 physically ill, mentally ill, or mentally retarded, or an  
10 evaluation of a child is needed to help determine issues of  
11 competency to understand judicial proceedings, mental state at  
12 the time of the offense, or the ability of the child to assist  
13 his or her attorney, the juvenile court, on its own motion or  
14 motion by the prosecutor, or that of the child's attorney or  
15 guardian ad litem for the child, may order the child to be  
16 examined at a suitable place by a physician, psychiatrist,  
17 psychologist, or other qualified examiner, under the  
18 supervision of a physician, psychiatrist, or psychologist who  
19 shall certify the findings of the examiner in writing, or a  
20 qualified examiner approved by the Department of Mental Health  
21 and Mental Retardation prior to a hearing on the merits of the  
22 petition.

23           "(b) The examinations made prior to a hearing as  
24 provided for in subsection (a) shall be conducted on an  
25 outpatient basis unless the juvenile court finds that  
26 placement in a hospital or other appropriate facility is  
27 necessary.

1           "(c) The juvenile court, after a hearing, may order  
2 an examination, as described in subsection (a), of a parent,  
3 legal guardian, or legal custodian who gives his or her  
4 consent and whose ability to care for or supervise a child  
5 before the juvenile court is at issue.

6           "(d) The juvenile court in its discretion may,  
7 either before or after a hearing, may cause any child within  
8 its under the jurisdiction of the juvenile court to be given a  
9 physical or mental examination, or both, by a competent  
10 physician, psychiatrist, psychologist, or other qualified  
11 examiner, under the supervision of a physician, psychiatrist, or  
12 or psychologist who shall certify to the ~~examiner's~~ findings  
13 of the examiner in writing, or an examiner approved by the  
14 Department of Mental Health and Mental Retardation, to be  
15 designated by the juvenile court, ~~having jurisdiction of the~~  
16 ~~child~~ and the physician, psychiatrist, psychologist, or mental  
17 examiner shall certify to the juvenile court the condition in  
18 which the child is found.

19           "(e) If, upon such the examination, ~~or upon~~  
20 ~~procedure as provided in Section 12-15-90,~~ the court has there  
21 is reason to believe that a minor or child is mentally ill or  
22 mentally retarded, as defined by the Department of Mental  
23 Health and Mental Retardation, ~~in this chapter,~~ the court  
24 ~~shall proceed in the manner set out in a petition for mental~~  
25 commitment of the minor or child may be filed pursuant to  
26 Article 4, commencing with Section 12-15-90 12-15-401.

1           "(f) Upon examination, if it appears that the child  
2 is in need of surgery, medical treatment or care, hospital  
3 care, or dental care, the juvenile court may cause the child  
4 to be treated by a competent physician, surgeon, or dentist or  
5 placed in a public hospital or other institution for training  
6 or care or in an approved private home, hospital, or  
7 institution, which will receive ~~it~~ him or her for like  
8 purposes. The expense of ~~such~~ the treatment shall be a valid  
9 charge against the county unless otherwise provided for.

10           "(g) The juvenile court may grant authority to order  
11 emergency medical care to any such person, agency, or  
12 department charged with the detention, temporary shelter care,  
13 or other care of a child ~~within its~~ under the jurisdiction of  
14 the juvenile court.

15           "~~§12-15-73.~~

16           "§12-15-131. Issuance of orders restraining conduct  
17 of parties to proceedings.

18           "In any proceeding commenced ~~under~~ pursuant to this  
19 chapter, on ~~application~~ motion of the juvenile court or on  
20 motion of a party ~~or the court's own motion~~, the juvenile  
21 court may make an order restraining the conduct of any party  
22 over whom the juvenile court has obtained jurisdiction, if all  
23 of the following occur:

24           "(1) An order of disposition of a delinquent child,  
25 ~~or~~ dependent child, or a child in need of supervision has been  
26 made in a proceeding ~~under~~ pursuant to this chapter~~7.~~

1           "(2) The juvenile court finds that the ~~person's~~  
2       conduct of the party is or may be detrimental or harmful to  
3       the delinquent child, dependent child, or child in need of  
4       supervision and will tend to defeat the execution of the order  
5       of disposition made, ~~and.~~

6           "(3) Notice of the ~~application or~~ motion and the  
7       grounds ~~therefor~~ therein and an opportunity to be heard  
8       thereon have been given to the ~~person~~ party against whom the  
9       order is directed.

10           "~~§12-15-75.~~

11           "§12-15-132. Proceedings against children violating  
12       terms of probation, or aftercare ~~or protective supervision;~~  
13       disposition of ~~such~~ these children.

14           "(a) A child on probation or aftercare incident to  
15       an adjudication as a delinquent child or a child in need of  
16       supervision who violates the terms of his or her probation or  
17       aftercare ~~or a child under protective supervision who fails to~~  
18       ~~conform to the terms of his protective supervision~~ may be  
19       proceeded against for a revocation of ~~such~~ the order.

20           "(b) A proceeding to revoke probation, or aftercare  
21       ~~or protective supervision~~ shall be commenced by the filing of  
22       a petition entitled "petition to revoke probation," or  
23       "petition to revoke aftercare." ~~or "petition to revoke~~  
24       ~~protective supervision."~~ Except as otherwise provided, ~~such~~  
25       these petitions shall be screened, reviewed, and prepared in  
26       the same manner and shall contain the same information as  
27       provided in Sections ~~12-15-50 and 12-15-52~~ 12-15-120 and

1 12-15-121. The petition shall recite the date that the child  
2 was placed on probation, or aftercare ~~or under protective~~  
3 ~~supervision~~ and shall state the time and manner in which  
4 notice of the terms of probation, or aftercare ~~or protective~~  
5 ~~supervision~~ was given.

6 "(c) Probation, or aftercare ~~or protective~~  
7 ~~supervision~~ revocation proceedings shall require clear and  
8 convincing evidence. In all other respects, proceedings to  
9 revoke probation, or aftercare ~~or protective supervision~~ shall  
10 be governed by the procedures, safeguards, and rights and  
11 duties applicable to delinquency, and child in need of  
12 supervision ~~and dependency~~ cases contained in this chapter.

13 "(d) If a child is found to have violated the terms  
14 of his or her probation or aftercare pursuant to a revocation  
15 hearing, the juvenile court may extend the period of probation  
16 or aftercare or make any other order of disposition specified  
17 for a child adjudicated delinquent or in need of supervision.  
18 ~~If a child is found to have violated the terms of his~~  
19 ~~protective supervision pursuant to a revocation hearing, the~~  
20 ~~court may extend the period of protective supervision or may~~  
21 ~~make any order of disposition specified for a child~~  
22 ~~adjudicated dependent.~~

23 "(e) A violation of probation for a child in need of  
24 supervision is not an adjudication of delinquency.

25 "~~§12-15-100.~~

26 "§12-15-133. Filing and inspection of records, ~~etc.~~



1           ~~"(a) Social, medical, and psychiatric or~~  
2 ~~psychological records, including reports of preliminary~~  
3 ~~inquiries and predisposition studies, of delinquent, in need~~  
4 ~~of supervision and dependent children, including supervision~~  
5 ~~records of such children, shall be filed separate from other~~  
6 ~~files and records of the court and shall be open to inspection~~  
7 ~~and copying, only by the following: The following records,~~  
8 ~~reports, and information acquired or generated in juvenile~~  
9 ~~courts concerning children shall be confidential and shall not~~  
10 ~~be released to any person, department, agency, or entity,~~  
11 ~~except as provided elsewhere in this section:~~

12           "(1) Juvenile legal files (including formal  
13 documents as petitions, notices, motions, legal memoranda,  
14 orders, and decrees).

15           "(2) Social records, including but not limited to:

16           "a. Records of juvenile probation officers.

17           "b. Records of the Department of Human Resources.

18           "c. Records of the Department of Youth Services.

19           "d. Medical records.

20           "e. Psychiatric or psychological records.

21           "f. Reports of preliminary inquiries and  
22 predisposition studies.

23           "g. Supervision records.

24           "h. Birth certificates.

25           "i. Individualized service plans.

26           "j. Education records, including, but not limited  
27 to, individualized education plans.

1           "k. Detention records.

2           "l. Demographic information that identifies a child  
3 or the family of a child.

4           "(3) State Criminal Justice Information System  
5 records.

6           "(4) Juvenile criminal sex offender notification  
7 records.

8           "(b) The records, reports, and information described  
9 in subsection (a) shall be filed separately from other files  
10 and records of the court. The juvenile legal files described  
11 in subdivision (1) of subsection (a) shall be maintained in a  
12 separate file from all other juvenile records, reports, and  
13 information.

14           "(c) Subject to applicable federal law, the records,  
15 reports, and information described in subsection (a) shall be  
16 open to inspection and copying only by the following, under  
17 the specified circumstances:

18           "(1) The judge and, juvenile probation officers, and  
19 professional staff assigned to serve or contracted for service  
20 to the juvenile court.

21           "(2) Representatives of a public or private agency  
22 or department providing supervision or having legal custody of  
23 the child.

24           ~~"(3) Any other person or agency that the juvenile~~  
25 ~~court determines, after a hearing has a legitimate interest in~~  
26 ~~the case or in the work of the court.~~

1           ~~"(4) The probation and other professional staff~~  
2 ~~assigned to serve a criminal court, including the prosecutor~~  
3 ~~and the attorney for the defendant, for use in considering the~~  
4 ~~sentence to be imposed upon a convicted person, or one~~  
5 ~~adjudicated a youthful offender, who, prior thereto, had been~~  
6 ~~a party to the proceedings in court.~~

7           "(3) The parent (except when parental rights have  
8 been terminated), the legal guardian of the child, and the  
9 legal custodian of the child.

10           "(4) The subject of the proceedings and his or her  
11 counsel and guardian ad litem. As used in this section, the  
12 term counsel means a child's attorney and an attorney for a  
13 criminal defendant who was formerly a child subject to  
14 proceedings in juvenile court.

15           "(5) The judge, probation, and other professional  
16 staff assigned to serve serving a criminal court when handling  
17 criminal cases for investigating or considering youthful  
18 offender applications for an individual, who, prior thereto,  
19 had been the subject of proceedings in juvenile court.

20           ~~"(6) The parent of the child, except when parental~~  
21 ~~rights have been terminated, or guardian and the counsel and~~  
22 ~~the guardian ad litem of the child.~~

23           "(6) The judge, probation, and other professional  
24 staff, including the prosecutor and the attorney for the  
25 defendant, serving a court handling criminal cases for  
26 completing sentencing standards worksheets and considering the  
27 sentence upon a person charged with a criminal offense who,

1 prior thereto, had been the subject of proceedings in juvenile  
2 court.

3 "(7) The principal of the school in which the child  
4 is enrolled, or the representative of the principal, ~~and other~~  
5 ~~school officials as the principal deems necessary,~~ upon  
6 written petition to the juvenile court setting forth the  
7 reasons why the safety or welfare, or both, of the school, its  
8 students, or personnel, necessitate production of the  
9 information and without which the safety and welfare of the  
10 school, its students, and personnel, would be threatened;  
11 provided, however, certain information concerning children  
12 adjudicated delinquent of certain offenses shall be provided  
13 as set forth in Section 12-15-217.

14 "(8) The Alabama Sentencing Commission, as set forth  
15 in Section 12-25-11.

16 "~~(b) All or any part of the records enumerated in~~  
17 ~~subsection (a) or information secured from the records, when~~  
18 ~~presented to and used by the judge in court or otherwise in a~~  
19 ~~proceeding under this chapter, shall also be made available to~~  
20 ~~the parties to the proceedings and their counsel and~~  
21 ~~representatives.~~

22 "~~(c) All other court records, including the docket,~~  
23 ~~petitions, motions, and other papers filed with a case,~~  
24 ~~transcripts of testimony, findings, verdicts, orders, and~~  
25 ~~decrees shall be open to inspection by those persons and~~  
26 ~~agencies designated in subsections (a) and (b).~~

1           "(d) Upon determining a legitimate need for access,  
2 and subject to applicable federal law, the juvenile court may  
3 also grant access to specific records, reports, and  
4 information to another person, department, entity, or agency.  
5 The determination of legitimate need by the juvenile court  
6 shall be based upon a written request filed with the juvenile  
7 court stating the following:

8           "(1) The reason the person, department, entity, or  
9 agency is requesting the information.

10          "(2) The use to be made of the information.

11          "(3) The names of those persons or entities that  
12 will have access to the information.

13          "~~(d)~~(e) Petitions, motions, juvenile court notices,  
14 or dispositions shall be open to inspection and copying by the  
15 victim or the victim's representatives.

16          "(f) Subject to applicable confidentiality  
17 disclosure and case restrictions imposed by federal or state  
18 law, confidential juvenile legal files, as described in  
19 subdivision (1) of subsection (a), may be placed on an  
20 automated information sharing system to be shared by those  
21 persons, departments, agencies, or entities who are entitled  
22 to access pursuant to this section.

23          "~~(e)~~(g) Whoever, except Except for the purposes  
24 permitted and in the manner provided by this section, whoever  
25 discloses or makes use of or knowingly permits the use of  
26 information concerning identifying a child before, or the  
27 family of a child, who is or was under the jurisdiction of the

1 juvenile court, where this information is directly or  
2 indirectly derived from the records of the juvenile court or  
3 acquired in the course of official duties, upon conviction  
4 thereof, shall be guilty of a Class A misdemeanor within under  
5 the jurisdiction of the juvenile court and also may be subject  
6 to civil sanctions. Provided, however, that nothing in this  
7 section shall be construed to prohibit or otherwise limit  
8 counsel from disclosing confidential information obtained from  
9 the juvenile court file of the child as needed to investigate  
10 the case of the client or prepare a defense for that client,  
11 provided that the disclosure is in furtherance of counsel's  
12 representation of the party.

13 "(h) Anytime that a child commits a violent offense  
14 and is adjudicated delinquent, if that child as an adult  
15 commits the same or a similar offense, the court records  
16 pertaining to the juvenile offense may be used in the  
17 prosecution of the adult offense."

18 ~~"§12-15-101.~~

19 ~~"§12-15-134. Maintenance and inspection of law~~  
20 ~~enforcement records, etc.~~

21 ~~"(a) The court shall, by rule, require all law~~ Law  
22 enforcement agencies to shall take special precautions to  
23 ~~insure~~ ensure that law enforcement records and files  
24 concerning a child will be maintained in a manner and ~~under~~  
25 ~~such~~ pursuant to those safeguards that will protect against  
26 disclosure to any unauthorized person, department, agency, or  
27 entity. Unless a charge of delinquency is transferred for

1 criminal prosecution ~~under~~ pursuant to Section ~~12-15-34~~  
2 12-15-203 or the juvenile court otherwise orders in the  
3 ~~interest~~ interests of the child or of national security, the  
4 law enforcement records and files with respect to the child  
5 shall not be open to public inspection nor their contents  
6 disclosed to the public.

7 "(b) Law enforcement records and files described in  
8 subsection (a) shall be open to inspection and copying by the  
9 following:

10 "(1) A juvenile court having ~~the~~ a child currently  
11 before it in any proceeding.

12 "(2) ~~The officers~~ Personnel of the Department of  
13 Human Resources, the Department of Youth Services, public and  
14 ~~nongovernmental~~ private institutions or agencies ~~to~~ of which  
15 the child ~~is currently committed~~ under the jurisdiction of the  
16 juvenile court has been placed into the legal custody and  
17 those responsible for his or her supervision after release.

18 "~~(3) Any other person, agency, or institution, upon~~  
19 ~~written request, that the juvenile court determines to have a~~  
20 ~~legitimate interest in the case or in the work of the law~~  
21 ~~enforcement agency.~~

22 "~~(4)~~ (3) Law enforcement officers of other  
23 jurisdictions when necessary for the discharge of their  
24 current official duties.

25 "~~(5)~~ (4) The probation and other professional staff  
26 of a court in which the child is subsequently convicted of a  
27 criminal offense or adjudicated as a youthful offender for the

1 purpose of a presentence report or other dispositional  
2 proceedings, officials of penal institutions and other penal  
3 facilities ~~to~~ into which the child is ~~committed~~ placed or a  
4 parole board in considering his or her parole or discharge or  
5 in exercising supervision over him or her.

6 ~~"(6)(5)~~ The probation and other professional staff  
7 serving a ~~criminal~~ court handling criminal cases when  
8 investigating or considering youthful offender applications.

9 ~~"(7)(6)~~ The parent, except when parental rights have  
10 been terminated, or legal guardian of the child or other  
11 custodian and counsel for the child the child's attorney and  
12 guardian ad litem.

13 ~~"(8)(7)~~ The principal of the school in which the  
14 child is enrolled, or the representative of the principal, ~~and~~  
15 ~~other school officials as the principal deems necessary,~~ upon  
16 written petition to the juvenile court setting forth the  
17 reasons why the safety or welfare, or both, of the school, its  
18 students, or personnel, necessitate production of the  
19 information and without which the safety and welfare of the  
20 school, its students, and personnel, would be threatened.

21 "(c) Law enforcement records may be viewed by  
22 victims during the investigation of a crime at the discretion  
23 of the investigating officer.

24 "(d) All law enforcement agencies shall report to  
25 the Alabama Criminal Justice Information Center that a child  
26 has been charged with an act of delinquency along with any



1 pertinent identifying information or historical data  
2 concerning that child, when either of the following occurs:

3 "(1) The child is taken into custody and charged  
4 with an act of delinquency for an act which would constitute a  
5 felony if committed by an adult, ~~or.~~

6 "(2) The child is taken into custody and charged  
7 with an act of delinquency for an act which would constitute a  
8 misdemeanor, according to subdivision (2) of Section 41-9-622  
9 if committed by an adult.

10 "(e) Nothing in this section shall be construed to  
11 prohibit or otherwise limit counsel from disclosing  
12 confidential law enforcement records relating to a client as  
13 needed to investigate the case of the client or prepare a  
14 defense for that client, provided that the disclosure is in  
15 furtherance of counsel's representation of the party.

16 "~~(e)(f) Whoever, except~~ Except as provided in  
17 ~~subsections (a), (b), and (c) this section, whoever~~ directly  
18 or indirectly discloses or makes use of or knowingly permits  
19 the use of information ~~concerning~~ described in this section  
20 that identifies a child described in those subsections, or the  
21 family of a child, who is or was under the jurisdiction of the  
22 juvenile court, upon conviction thereof, shall be guilty of a  
23 Class A misdemeanor ~~within~~ under the jurisdiction of the  
24 juvenile court.

25 "~~§12-15-102.~~

26 "§12-15-135. Taking and disposition of fingerprints,  
27 photographs, blood samples, ~~etc.~~

1           "(a) Fingerprints of a child who has been charged  
2 with ~~an a delinquent act of delinquency~~ shall be taken by the  
3 law enforcement agency taking the child into custody. The  
4 prints may be retained in a local file and a copy shall be  
5 filed with the Alabama Bureau of Investigation.

6           "(b) If latent fingerprints are found during the  
7 investigation of ~~an offense~~ a delinquent act and a law  
8 enforcement officer has reason to believe that they are those  
9 of the child in custody, the officer may fingerprint the child  
10 regardless of age or ~~offense~~ delinquent act for purpose of  
11 immediate comparison with the latent fingerprints. The prints  
12 may be retained in a local file and copies shall be sent to  
13 the Alabama Bureau of Investigation.

14           "(c) ~~The court shall, by rule, require special~~  
15 Special precautions shall be taken to ~~insure~~ ensure that the  
16 fingerprints will be maintained in a manner and ~~under~~ pursuant  
17 to safeguards as to limit their use to inspection for  
18 comparison purposes by law enforcement officers or by staff of  
19 the depository only in the investigation of a crime.

20           "(d) A child who is charged with ~~an a delinquent act~~  
21 ~~of delinquency~~ shall be photographed by the law enforcement  
22 agency taking the child into custody for criminal  
23 identification purposes. A child in custody for any other  
24 reason shall not be photographed for criminal identification  
25 purposes without the consent of the juvenile court. The  
26 photographs shall be retained in a local file with the same  
27 safeguards in place as for fingerprints.

1           "(e) Blood or other samples necessary for DNA  
2 testing may be taken for criminal identification purposes from  
3 a child who is charged with ~~an~~ a delinquent act that would  
4 constitute a Class A or B felony if committed by an adult. The  
5 samples, if taken, shall be submitted for DNA testing and the  
6 DNA records shall be filed with the ~~Alabama~~ Department of  
7 Forensic Sciences. ~~The court shall, by rule, require special~~  
8 Special precautions shall be taken to ensure that the DNA  
9 records will be maintained in a manner and ~~under~~ pursuant to  
10 safeguards that will limit their use to inspection for  
11 identification purposes by law enforcement officers or by  
12 staff of the testing facility only in the investigation of a  
13 crime.

14           "(f) Any person who willfully violates this section  
15 ~~shall~~, upon conviction thereof, shall be guilty of a Class A  
16 misdemeanor ~~within~~ under the jurisdiction of the juvenile  
17 court.

18           "~~§12-15-103.~~

19           "§12-15-136. Proceedings for sealing ~~and destruction~~  
20 ~~of~~ legal and social files and records of courts, ~~probation~~  
21 ~~services, etc.~~, pertaining to certain persons and effect  
22 thereof.

23           "(a) On motion of ~~the part of~~ a person who has been  
24 the subject of a delinquency or child in need of supervision  
25 petition ~~or on the court's own motion~~, the juvenile court  
26 ~~shall vacate its order and findings and~~ may order the sealing  
27 of the legal and social files and records of the juvenile

1 court, ~~probation services and of any other agency in the case~~  
2 pertaining to the person if it finds that:

3 "(1) Two years have elapsed since the final  
4 discharge of the person from legal custody or supervision or  
5 two years after the entry of any other ~~court~~ order of the  
6 juvenile court not involving custody or supervision; and

7 "(2) ~~He~~ The person has not been convicted ~~of a~~  
8 ~~felony or misdemeanor involving moral turpitude~~ or adjudicated  
9 delinquent or a youthful offender of any felony or a  
10 misdemeanor involving sexual offenses, drugs, weapons, or  
11 violence, or threats of violence, prior to the filing of the  
12 motion and no proceeding is pending seeking ~~such~~ the  
13 conviction or adjudication.

14 "(b) The motion and the order may include the ~~files~~  
15 ~~and records,~~ reports, or information specified in Section  
16 ~~12-15-100~~ 12-15-133.

17 "(c) ~~Reasonable notice~~ Notice of the motion shall be  
18 given by the clerk of the juvenile court to all of the  
19 following:

20 "(1) The prosecutor~~;~~.

21 "(2) The authority granting the discharge if the  
22 final discharge was from an institution, parole~~,~~. or probation~~;~~  
23 ~~and.~~.

24 "(3) The law enforcement officers, department~~,~~  
25 agency, and central depository having custody of the files and  
26 records specified in Section ~~12-15-100~~ 12-15-133 and included  
27 in the motion.

1           "(d) Upon the entry of the order, the proceedings in  
2 the case shall be sealed. ~~treated as if they never occurred~~  
3 ~~and all index references shall be deleted and the court and~~  
4 ~~law enforcement officers and departments shall reply and the~~  
5 ~~person may reply to any inquiry that no record exists with~~  
6 ~~respect to such person. Inspection of the files and records~~  
7 ~~included in the order may thereafter be permitted by the court~~  
8 ~~only upon motion by the person who is the subject of such~~  
9 ~~records and only to those persons named in the motion;~~  
10 ~~provided, however, that the The juvenile court, in its~~  
11 ~~discretion may by special order in an individual case, may~~  
12 ~~permit inspection by or release of information in the records~~  
13 ~~to any clinic, hospital, or agency which has the person under~~  
14 ~~care.~~

15           "(e) Any adjudication of delinquency or youthful  
16 offender or conviction of a felony or ~~a crime involving moral~~  
17 ~~turpitude~~ misdemeanor involving sexual offenses, drugs,  
18 weapons, or violence, or threats of violence, subsequent to  
19 sealing shall have the effect of nullifying the sealing order.

20           "~~(f) A person who has been the subject of a~~  
21 ~~delinquency petition and has met the conditions stipulated in~~  
22 ~~subdivision (2) of subsection (a) of this section may, five~~  
23 ~~years after reaching the age of majority, file a motion~~  
24 ~~requesting the destruction of all records pertaining to his~~  
25 ~~case. If the court grants the motion, copies of the order~~  
26 ~~shall be sent to all offices or agencies that are repositories~~

1 of such records and all such offices and agencies shall comply  
2 with the order.

3 ~~"(g) Upon the entry of a sealing order or a  
4 destruction order, all references including arrest, complaint,  
5 referrals, petitions, reports and orders shall be removed from  
6 all agency, official and institutional files and sealed or  
7 destroyed as aforesaid and a finding of delinquency shall be  
8 deemed never to have occurred. No child who has been the  
9 subject of such a sealing or destruction order shall be deemed  
10 to have been arrested ab initio within the meaning of the  
11 general statutes with respect to proceedings so sealed or  
12 destroyed and, in response to any inquiry or on any  
13 application or in any proceeding, the person may state that he  
14 has never been arrested, taken into custody, committed or  
15 adjudicated a delinquent with regard to the proceedings so  
16 sealed or destroyed.~~

17 ~~"(h) A person who has been the subject of a  
18 delinquency petition shall be notified of his rights under  
19 subsections (a) and (f) of this section at the time of his  
20 final discharge."~~

21 Section 8. Section 12-15-137 is added to the Code of  
22 Alabama 1975, to read as follows:

23 §12-15-137. Proceedings for destruction of legal and  
24 social files and records of juvenile courts pertaining to  
25 certain persons and effect thereof.

26 (a) A person who has been the subject of a  
27 delinquency petition and has met the conditions stipulated in

1 subdivision (2) of subsection (a) of Section 12-15-136, five  
2 years after reaching the age of majority, may file a motion  
3 requesting the destruction of all records pertaining to his or  
4 her case. If the juvenile court grants the motion, copies of  
5 the order shall be sent to all offices, departments, or  
6 agencies that are repositories of the records, and all the  
7 offices, departments, and agencies shall comply with the  
8 order.

9 (b) Upon the entry of a destruction order, all  
10 references including arrest, complaints, referrals, petitions,  
11 reports, and orders shall be removed from all department or  
12 agency official and institutional files and destroyed.

13 (c) A person who has been the subject of a  
14 delinquency petition shall be notified of his or her rights  
15 under subsection (a) of Section 12-15-136 and subsection (a)  
16 of this section and at the time of his or her final discharge.

17 Section 9. Sections 12-15-150, 12-15-151, 12-15-152,  
18 12-15-153, 12-15-154, 12-15-155, and 12-15-156 of the Code of  
19 Alabama 1975, are amended and renumbered to read as follows:

20 "~~§12-15-150.~~

21 "§12-15-138. Power of juvenile courts ~~exercising~~  
22 ~~juvenile jurisdiction~~ to enter protection or restraint ex  
23 parte order; when order may be entered; purpose of order.

24 "~~Any~~ The juvenile court ~~exercising juvenile~~  
25 ~~jurisdiction under Chapter 15 of Title 12 may,~~ at any time,  
26 after a dependency petition has been filed, or on an emergency  
27 basis, may enter an order of protection or restraint to

1 protect the health or safety of ~~the~~ a child subject to the  
2 proceeding.

3 ~~"§12-15-151.~~

4 "§12-15-139. Requisites for order; notice and  
5 hearing; evidentiary standard; showing of necessity to protect  
6 health or safety of child subject to a juvenile court  
7 proceeding, child's best interest interests of the child.

8 "A protection or restraint order may be ~~entered~~  
9 issued by the juvenile court, after notice and a hearing, upon  
10 proper showing by a preponderance of the evidence that ~~such~~ an  
11 order is necessary to protect the health or safety of the  
12 child subject to a juvenile court proceeding or is otherwise  
13 in the ~~child's best interest~~ interests of the child.

14 ~~"§12-15-152.~~

15 "§12-15-140. Content of order; order may set forth  
16 reasonable conditions of behavior for parents, persons  
17 responsible for care, ~~etc.~~; enumeration of certain specific  
18 requirements which may be included in order.

19 "(a) The protection or restraint order may set forth  
20 reasonable conditions of behavior to be observed by a person  
21 who is a parent, legal guardian, legal custodian, or other  
22 person legally responsible for the ~~child's care~~ of the child  
23 subject to a juvenile court proceeding, or the spouse of the  
24 parent, or spouse of any other person legally responsible for  
25 the ~~child's care~~ of the child, or relatives of any of the  
26 above, or residents of the ~~child's home~~ of the child, or any  
27 other person.



1           "(b) The protection or restraint order may, among  
2 other things, may require any ~~such person(s)~~ person or persons  
3 to do any of the following:

4           "(1) ~~To stay~~ Stay away from the home in which the  
5 child subject to a juvenile court proceeding resides, the  
6 family or the child~~7.~~

7           "(2) ~~To vacate~~ Vacate the home in which the child  
8 subject to a juvenile court proceeding resides~~7.~~

9           "(3) ~~To permit~~ Permit a parent, legal guardian, or  
10 legal custodian to visit the child subject to a juvenile court  
11 proceeding at stated periods ~~under~~ pursuant to stated  
12 conditions or deny visitation~~7.~~

13           "(4) ~~To deny~~ Deny access to the home in which the  
14 child subject to a juvenile court proceeding resides to  
15 persons who have been harmful to the child~~7.~~

16           "(5) ~~To refrain~~ Refrain from acts of commission or  
17 omission that tend to make the home in which the child subject  
18 to a juvenile court proceeding resides an unsafe place for the  
19 child~~7.~~

20           "(6) ~~To cooperate~~ Cooperate with any treatment or  
21 Department of Human Resources service plan found necessary to  
22 the best interests of the child subject to a juvenile court  
23 proceeding~~7.~~

24           "(7) ~~To obtain~~ Obtain or participate in individual  
25 or family counseling~~7.~~

26           "(8) ~~To refrain~~ Refrain from abusive, disruptive, or  
27 harassing behavior toward the child subject to a juvenile

1 court proceeding, the other parent, legal guardian, or legal  
2 custodian, or toward any person to whom custody of the child  
3 is awarded,.

4 "(9) ~~To limit~~ Limit or refrain from contact or  
5 communication with the child subject to a juvenile court  
6 proceeding, family, children in the home, or any other child,  
7 and.

8 "(10) ~~To pay~~ Pay temporary support for the child  
9 subject to a juvenile court proceeding or other family  
10 members; ~~to~~ pay the costs of medical, psychiatric, or physical  
11 treatment or care of the child or other family members.

12 "~~§12-15-153.~~

13 "§12-15-141. Emergency ex parte orders authorized  
14 upon showing of verified evidence of abuse or neglect;  
15 evidence required; hearing required within 72 hours of  
16 issuance of order.

17 "The juvenile court may enter ~~a protection or~~  
18 ~~restraint~~ an ex parte order of protection or restraint on an  
19 emergency basis, without prior notice and a hearing, upon a  
20 showing of verified written or ~~oral~~ verbal evidence of abuse  
21 or neglect injurious to the health or safety of ~~the~~ a child  
22 subject to a juvenile court proceeding and the likelihood that  
23 ~~such~~ the abuse or neglect will continue unless the order is  
24 issued. If an emergency order is issued, a hearing, after  
25 notice, ~~must~~ shall be held within 72 hours of the written  
26 evidence or the next judicial business day thereafter, to  
27 either dissolve, continue, or modify the order.

1                   "~~§12-15-154.~~

2                   "§12-15-142. Modification, extension, or termination  
3 of order after notice and hearing for person subject thereto;  
4 findings required concerning ~~child's~~ best interests of the  
5 child subject to a juvenile court proceeding.

6                   "After notice and opportunity for a hearing afforded  
7 to a person subject to a ~~protective~~ protection or restraint  
8 order, the order may be modified or extended for a further  
9 specified period, or both, or may be terminated if the  
10 juvenile court finds that the best interests of the child  
11 subject to a juvenile court proceeding will be served thereby.

12                   "~~§12-15-155.~~

13                   "§12-15-143. Violations of orders punished as  
14 contempt; ~~wilful~~ willful conduct rendering violator  
15 responsible for court costs and attorney fees.

16                   "(a) Any person violating an order of protection or  
17 restraint shall be punishable for contempt of court, as in  
18 other cases, and ~~shall~~ upon a finding of ~~wilful~~ willful  
19 conduct, shall be responsible for the payment of court costs  
20 and attorney fees incurred by any person in seeking  
21 enforcement of the order.

22                   "(b) Any person may also be charged with a willful  
23 violation of a protection order pursuant to Section  
24 30-5A-3(c).

25                   "~~§12-15-156.~~

1                   "§12-15-144. Construction of ~~article~~ sections;  
2 ~~article~~ sections to be read in pari materia with certain other  
3 laws.

4                   "The provisions of ~~this article~~ Sections 12-15-138  
5 to 12-15-143, inclusive, shall be construed in pari materia  
6 with Sections 30-5-1 ~~through to~~ 30-5-11, inclusive, as  
7 amended, and other criminal laws relating to child abuse  
8 except to the extent that there is ~~no~~ conflict herewith."

9                   Section 10. The heading of Article 2 (commencing  
10 with Section 12-15-201) of Chapter 15 of Title 12 of the Code  
11 of Alabama 1975, is amended to read as follows:

12                   ARTICLE 2. ~~JURISDICTION AND VENUE~~

13                   DELINQUENCY AND CHILDREN IN NEED OF SUPERVISION.

14                   Section 11. Sections 12-15-201 and 12-15-202 are  
15 added to the Code of Alabama 1975, to read as follows:

16                   §12-15-201. Definitions.

17                   For purposes of this article, the following terms  
18 and phrases shall have the following meanings:

19                   (1) AVERAGE COST OF DETENTION. The average cost of  
20 detention of children as determined from experience in Alabama  
21 and as computed by the Department of Youth Services.

22                   (2) CONSENT DECREE. An order, entered after the  
23 filing of a delinquency or child in need of supervision  
24 petition and before the entry of an adjudication order,  
25 suspending the proceedings and placing the child under  
26 supervision pursuant to terms and conditions agreed to between

1 the child and his or her parent, legal guardian, or legal  
2 custodian and approved by the juvenile court.

3 (3) NONOFFENDER. A child who is subject to the  
4 jurisdiction of the juvenile court for reasons other than the  
5 legally prohibited conduct of the child.

6 (4) STATUS OFFENDER. A status offender is an  
7 individual who has been charged with or adjudicated for  
8 conduct that would not, pursuant to the law of the  
9 jurisdiction in which the offense was committed, be a crime if  
10 committed by an adult. An adjudicated status offender who  
11 violates the terms of his or her probation or aftercare  
12 remains a status offender for purposes of Section  
13 12-15-208(a)(1), unless the child is contemporaneously  
14 adjudicated for having committed a delinquent act that is not  
15 a status offense. Status offenses include, but are not limited  
16 to, the following:

17 a. Truancy.

18 b. Violations of municipal ordinances applicable  
19 only to children.

20 c. Runaway.

21 d. Beyond control.

22 e. Consumption or possession of tobacco products.

23 f. Possession and consumption of alcohol, which is a  
24 status offense by federal law, even though considered a  
25 delinquent act by state law.

1 g. Driving under the influence pursuant to Section  
2 32-5A-191(b), which is a status offense by federal law, even  
3 though considered a delinquent act by state law.

4 (5) VALID COURT ORDER. An order given by a juvenile  
5 court judge to a child who was brought before the juvenile  
6 court and made subject to the order; and who received, before  
7 the issuance of the order, the full due process rights  
8 guaranteed to the child by the Constitution of the United  
9 States.

10 §12-15-202. Rights of the child.

11 (a) Rights of the child when taken into custody.

12 When a child is taken into custody, the person taking the  
13 child into custody shall inform the child of all of the  
14 following, in language understandable to the child:

15 (1) The reason that the child is being taken into  
16 custody.

17 (2) That the child has the right to communicate with  
18 his or her parent, legal guardian, or legal custodian whether  
19 or not that person is present. If necessary, reasonable means  
20 will be provided for the child to do so.

21 (3) The child has the right to communicate with an  
22 attorney. If the child does not have an attorney, one will be  
23 appointed for him or her. If the child has an attorney who is  
24 not present, reasonable means shall be provided for the child  
25 to communicate with the attorney.

26 (b) Rights of the child before being questioned  
27 while in custody. Before the child is questioned about

1 anything concerning the charge on which the child was taken  
2 into custody, the person asking the questions shall inform the  
3 child of the following rights:

4 (1) That the child has the right to a child's  
5 attorney.

6 (2) That if the child is unable to pay for a child's  
7 attorney and if the parent, legal guardian, or legal custodian  
8 of the child has not provided a child's attorney, one will be  
9 appointed.

10 (3) That the child is not required to say anything  
11 and that anything the child says may be used against the  
12 child.

13 (4) That the child has a right to communicate with  
14 his or her parent, legal guardian, or legal custodian, whether  
15 or not that person is present. If necessary, reasonable means  
16 will be provided for the child to do so.

17 (5) That even if the child's attorney is not present  
18 or has not yet been appointed, the child has the right to  
19 communicate with him or her and that, if necessary, reasonable  
20 means will be provided for the child to do so.

21 (c) When a child is brought to the juvenile court  
22 intake office or delivered to a juvenile detention facility or  
23 shelter care facility, the juvenile court intake officer or  
24 person in charge of the facility shall immediately inform the  
25 child of the following:

26 (1) The reason for the detention of the child.

1           (2) The right of the child to a hearing to determine  
2 if continued detention or shelter care is needed as provided  
3 in this article.

4           (3) That the parent, legal guardian, or legal  
5 custodian will be informed of the whereabouts of the child and  
6 the reason for the detention of the child.

7           (d) Rights of the child upon detention in a juvenile  
8 court intake office or juvenile detention facility or shelter  
9 care facility. When a child is detained pursuant to subsection  
10 (c), the person in charge of the juvenile court intake office  
11 or the facility shall notify the child of the rights of the  
12 child as set out in subsection (b).

13           (1) The person in charge of the juvenile court  
14 intake office or the juvenile detention facility, in the most  
15 expeditious manner possible, shall ensure that the parent,  
16 legal guardian, or legal custodian of the child is notified of  
17 the whereabouts of the child and the reason for the detention  
18 of the child. Except in the situation provided herein, the  
19 person in charge shall also inform the parent, legal guardian,  
20 or legal custodian of the child of the rights of the child and  
21 of the right of the parent, legal guardian, or legal custodian  
22 to be represented by counsel. The parent, legal guardian, or  
23 legal custodian shall also be informed of the right of the  
24 child to remain silent. However, if the child has been read  
25 his or her rights, understands those rights, and knowingly,  
26 voluntarily, and intelligently waives those rights, then it is  
27 not necessary that the parent, legal guardian, or legal



1       custodian be notified of the rights of the child or be present  
2       during the interrogation. This notification to the parent,  
3       legal guardian, or legal custodian, if practicable, shall be  
4       made in person or by telephone; otherwise, the communication  
5       shall be by the best means practicable.

6               (2) A written statement containing the information  
7       in subdivision (1) shall be given to the parent, legal  
8       guardian, or legal custodian of the child at the first meeting  
9       with the juvenile court intake officer or person in charge of  
10      the facility. If the parent, legal guardian, or legal  
11      custodian does not appear at the facility within 24 hours  
12      after the placement of the child in the facility, or if the  
13      parent, legal guardian, or legal custodian fails to attend the  
14      detention or shelter care hearing, this written statement  
15      shall be mailed if an address may reasonably be ascertained.

16              (e) Rights of parties once a petition is filed. If a  
17      petition has been filed, the parties shall be informed of  
18      their rights as set out in subsections (b) and (d).  
19      Additionally, the juvenile court judge or referee shall inform  
20      the parties at the commencement of the detention or shelter or  
21      other care hearing of the contents of the petition and all of  
22      the parties shall be given an opportunity to admit or deny the  
23      allegations of the petition.

24              (f) Additional rights of the child include all of  
25      the following:

1           (1) The child has a right to be represented by a  
2 child's attorney at all stages of a juvenile court proceeding  
3 under this article.

4           a. In any proceeding in which there is a possibility  
5 that the child may be placed in an institution in which the  
6 freedom of the child may be curtailed, and in which proceeding  
7 a child's attorney has not been retained, a child's attorney  
8 shall be appointed for the child.

9           b. In all other juvenile court proceedings, the  
10 juvenile court may appoint a child's attorney in any case upon  
11 request or when it deems the appointment to be in the  
12 interests of justice.

13           c. In addition to those duties referenced in  
14 subdivision (5) of Section 12-15-102, the duties of a child's  
15 attorney include, but are not limited to, the following:

16           1. Irrespective of the age of the child, meet with  
17 the child prior to juvenile court hearings, when apprised of  
18 emergencies or significant events impacting on the child, and  
19 as necessary to prepare for the juvenile court proceeding. The  
20 child's attorney shall explain, in terms understandable to the  
21 child, what is expected to happen at each stage of the  
22 proceedings, as well as the rights of the child at each stage  
23 of the proceedings.

24           2. Conduct a prompt, thorough, and independent  
25 investigation of the facts, the health, family, social  
26 history, and educational background of the child, possible

1 defenses, and applicable law, and seek discovery from the  
2 prosecution.

3 3. Based upon the investigation, advise the child,  
4 in terms he or she can understand, as to his or her options  
5 for proceeding in the case and the likely outcomes of the  
6 various courses of action. Conduct the defense in accordance  
7 with the expressed interests of the client regarding whether  
8 to seek release from detention, whether to admit or deny the  
9 allegations, whether to testify, whether to enter into a  
10 negotiated settlement, whether to appeal, whether to accept or  
11 oppose a recommended disposition, and the overall goals of the  
12 representation.

13 4. Attend all hearings scheduled by the juvenile  
14 court and file all necessary pleadings and motions to promote  
15 the expressed interests of the child and protect his or her  
16 rights.

17 5. Maintain familiarity with the dispositional  
18 resources available through the juvenile court and in the  
19 community, and recommend appropriate services to the child and  
20 the family. Advocate in the dispositional process to protect  
21 the rights of the client, meet the goals of the  
22 representation, and ensure that the juvenile court is aware of  
23 any special needs of the child that should be addressed in the  
24 dispositional process.

25 (2) The child, through a child's attorney, has the  
26 right to cross-examine witnesses.

1           (3) The child has the right to confront all  
2 witnesses against the child, subject to limitations recognized  
3 by the United States Supreme Court.

4           (4) The child shall be furnished a transcript on  
5 appeal. If the child or the parent, legal guardian, or legal  
6 custodian of the child cannot afford a transcript, the  
7 juvenile court shall order that the transcript be paid for out  
8 of funds set aside for this purpose.

9           Section 12. Sections 12-15-34, 12-15-34.1, 12-15-35,  
10 12-15-36, 12-15-60, 12-15-61, 12-15-62, 12-15-63, and 12-15-64  
11 of the Code of Alabama 1975, are amended and renumbered to  
12 read as follows:

13           "~~§12-15-34.~~

14           "§12-15-203. Transfer of cases from juvenile court  
15 ~~to criminal court.~~

16           "(a) ~~The~~ A prosecutor ~~may,~~ before a hearing on ~~the~~ a  
17 delinquency petition on its merits and ~~following consultation~~  
18 ~~with~~ after notifying, verbally or in writing, the juvenile  
19 probation officer services, may file a motion requesting the  
20 juvenile court judge to transfer ~~the~~ a child for criminal  
21 prosecution to the circuit or district court, if the child was  
22 14 or more years of age at the time of the conduct charged and  
23 is alleged to have committed an act which would constitute a  
24 ~~crime~~ criminal offense as defined by this code if committed by  
25 an adult.

26           "(b) The juvenile court judge shall conduct a  
27 hearing on all motions for the purpose of determining whether

1 it is in the best ~~interest~~ interests of the child or the  
2 public to grant the motion. ~~If the court finds and~~ Only if  
3 there are no reasonable grounds to believe the child is  
4 committable to an institution, department, or agency for the  
5 mentally retarded or mentally ill, ~~it shall~~ may the juvenile  
6 court judge order the case transferred for criminal  
7 prosecution.

8 "(c) When there are grounds to believe that the  
9 child is committable to an institution, department, or agency  
10 for the mentally retarded or mentally ill, the juvenile court  
11 judge shall ~~proceed~~ order an examination pursuant to Section  
12 ~~12-15-70~~ 12-15-130.

13 "(d) Evidence of the following and other relevant  
14 factors shall be considered in determining whether the motion  
15 shall be granted:

16 "(1) The nature of the present alleged offense.

17 "(2) The extent and nature of the prior delinquency  
18 record of the child.

19 "(3) The nature of past treatment efforts and the  
20 nature of the response of the child to the efforts.

21 "(4) Demeanor.

22 "(5) The extent and nature of the physical and  
23 mental maturity of the child.

24 "(6) The interests of the community and of the child  
25 requiring that the child be placed under legal restraint or  
26 discipline.

1           "(e) Prior to a hearing on the motion by the  
2 prosecutor, a written study and report to the juvenile court,  
3 ~~in writing~~ judge, relevant to the factors listed in subsection  
4 (d) ~~of this section~~, shall be made by a juvenile probation  
5 ~~services~~ officer.

6           "(f) When a child is transferred for criminal  
7 prosecution, the juvenile court judge shall set forth in  
8 writing ~~its~~ his or her reasons for granting the motion, which  
9 shall include a finding of probable cause for believing that  
10 the allegations are true and correct.

11           "(g) The finding of probable cause by the juvenile  
12 court judge shall preclude the necessity for a preliminary  
13 hearing subsequent to the transfer of the case for criminal  
14 prosecution, and the court having jurisdiction of the offense  
15 or offenses charged may exercise any authority over the case  
16 and the child, subsequent to the transfer, which is otherwise  
17 applicable to cases involving adult offenders ~~under~~ pursuant  
18 to provisions of laws or rules of procedure adopted by the  
19 Supreme Court of Alabama.

20           "~~(h) A child whose case is transferred for criminal~~  
21 ~~prosecution shall not be granted youthful offender status and,~~  
22 ~~if convicted, shall be sentenced as an adult if the act which~~  
23 ~~if committed by an adult would constitute any of the~~  
24 ~~following:~~

25           "~~(1) A capital offense.~~

26           "~~(2) A Class A felony.~~

1           ~~"(3) A felony which has as an element the use of a~~  
2 ~~deadly weapon.~~

3           ~~"(4) A felony which has as an element the causing of~~  
4 ~~death or serious physical injury.~~

5           ~~"(5) A felony which has as an element the use of a~~  
6 ~~dangerous instrument against any person who is:~~

7           ~~"a. A law enforcement officer or official.~~

8           ~~"b. A correctional officer or official.~~

9           ~~"c. A parole or probation officer or official.~~

10          ~~"d. A juvenile court probation officer or official.~~

11          ~~"e. A district attorney or other prosecuting officer~~  
12 ~~or official.~~

13          ~~"f. A judge or judicial official.~~

14          ~~"g. A court officer or official.~~

15          ~~"h. A person who is a grand juror, juror, or witness~~  
16 ~~in any legal proceeding of whatever nature when the offense~~  
17 ~~stems from, is caused by, or is related to the role of the~~  
18 ~~person as a juror, grand juror, or witness.~~

19          ~~"i. A teacher, principal, or employee of the public~~  
20 ~~education system of Alabama.~~

21          ~~"(6) Trafficking in drugs in violation of Section~~  
22 ~~13A-12-231.~~

23          ~~"(i)(h) A child who is transferred to criminal a~~  
24 ~~court for criminal prosecution shall be tried as an adult for~~  
25 ~~the offense charged and all lesser included offenses of the~~  
26 ~~offense charged.~~

1           "~~(j)~~(i) A conviction or adjudication as a youthful  
2 offender ~~following the transfer of a child for criminal~~  
3 ~~prosecution as provided in this section~~ of a child of a  
4 criminal offense, with the exception of a nonfelony traffic  
5 offense, shall terminate the jurisdiction of the juvenile  
6 court over that child with respect to any future ~~criminal~~  
7 delinquent acts, ~~offenses, or violations of any nature~~ and  
8 with respect to any pending allegations of delinquency which  
9 have not been disposed of by the juvenile court at the time of  
10 the criminal conviction or adjudication as a youthful  
11 offender. Any pending or future criminal acts committed by the  
12 child shall be prosecuted as other criminal charges are  
13 prosecuted; ~~however, the juvenile court shall exercise~~  
14 ~~jurisdiction over the child for the purpose of obtaining~~  
15 ~~verification of a previous conviction or adjudication as a~~  
16 ~~youthful offender after being transferred for prosecution as~~  
17 ~~an adult, and for the purpose of authorizing release pending~~  
18 ~~trial on bond or as otherwise provided by law.~~ Termination of  
19 the ~~juvenile court's~~ jurisdiction of the juvenile court over  
20 the child with respect to future criminal charges and pending  
21 allegations of delinquency, as provided herein, shall not  
22 affect the ~~juvenile court's~~ jurisdiction of the juvenile court  
23 over the child with respect to any other matter provided in  
24 this chapter, specifically including any prior allegations of  
25 delinquency which, at the time of the criminal conviction, has  
26 been disposed of by the juvenile court either through informal  
27 adjustment, consent decree, or adjudication. The juvenile



1 court is specifically authorized, to the extent practicable,  
2 to continue exercising its jurisdiction over the child with  
3 respect to such previously disposed delinquency cases after  
4 the termination of its jurisdiction with respect to other  
5 criminal charges, including jurisdiction to enforce its order  
6 requiring the payment of fines, costs, restitution, or other  
7 money ordered by the juvenile court pursuant to Section  
8 12-15-117.

9 ~~"§12-15-34.1.~~

10 "§12-15-204. Acts for which ~~minor~~ person who has  
11 attained age 16 shall be charged, arrested, and tried as  
12 adult; removal of person from jurisdiction of juvenile court.

13 "(a) Notwithstanding any other provision of law, any  
14 person who has attained the age of 16 years at the time of the  
15 conduct charged and who is charged with the commission of any  
16 act or conduct, which if committed by an adult would  
17 constitute any of the following, shall not be subject to the  
18 jurisdiction of juvenile court but shall be charged, arrested,  
19 and tried as an adult:

20 "(1) A capital offense.

21 "(2) A Class A felony.

22 "(3) A felony which has as an element thereof the  
23 use of a deadly weapon.

24 "(4) A felony which has as an element thereof the  
25 causing of death or serious physical injury.

1           "(5) A felony which has as an element thereof the  
2 use of a dangerous instrument against any person who is one of  
3 the following:

4           "a. A law enforcement officer or official.

5           "b. A correctional officer or official.

6           "c. A parole or probation officer or official.

7           "d. A juvenile court probation officer or official.

8           "e. A district attorney or other prosecuting officer  
9 or official.

10          "f. A judge or judicial official.

11          "g. A court officer or official.

12          "h. A person who is a grand juror, juror, or witness  
13 in any legal proceeding of whatever nature when the offense  
14 stems from, is caused by, or is related to the role of ~~such~~  
15 the person as a juror, grand juror, or witness.

16          "i. A teacher, principal, or employee of the public  
17 education system of Alabama.

18          "(6) Trafficking in drugs in violation of Section  
19 13A-12-231, or as the same may be amended.

20          "(7) Any lesser included offense of the above  
21 offenses charged or any lesser felony offense charged arising  
22 from the same facts and circumstances and committed at the  
23 same time as the offenses listed above. Provided, however,  
24 that the juvenile court shall maintain original jurisdiction  
25 over these lesser included offenses if the grand jury fails to  
26 indict for any of the offenses enumerated in subsections  
27 (a) (1) to (a) (6), inclusive. The juvenile court shall also

1 maintain original jurisdiction over these lesser included  
2 offenses, subject to double jeopardy limitations, if the court  
3 handling criminal offenses dismisses all charges for offenses  
4 enumerated in subsections (a) (1) to (a) (6), inclusive.

5 " (b) Notwithstanding any other provision of law, any  
6 person who has been ~~tried~~ convicted or adjudicated a youthful  
7 offender in ~~criminal~~ a court handling criminal offenses  
8 pursuant to the provisions of this section shall not  
9 thereafter be subject to the jurisdiction of juvenile court  
10 for any pending or subsequent offense. Provided, however, ~~the~~  
11 ~~provisions of this subsection shall not apply where the trial~~  
12 ~~in criminal court resulted in an acquittal of all charges~~  
13 pursuant to Section 12-15-117, the juvenile court shall retain  
14 jurisdiction over an individual of any age for the enforcement  
15 of any prior orders of the juvenile court requiring the  
16 payment of fines, court costs, restitution, or other money  
17 ordered by the juvenile court until paid in full.

18 " (c) This section shall apply to all cases in which  
19 the alleged criminal conduct occurred after April 14, 1994.  
20 All conduct occurring before April 14, 1994, shall be governed  
21 by pre-existing law.

22 "~~§12-15-35.~~

23 "§12-15-205. Venue generally.

24 "~~(a)~~ If delinquency or in need of supervision is  
25 alleged, proceedings shall be commenced in the ~~district~~ county  
26 where the acts constituting the allegation occurred.

1           ~~"(b) If dependency is alleged, proceedings shall be~~  
2 ~~commenced in the district where the child resides or in the~~  
3 ~~district where the child is present when the proceedings are~~  
4 ~~commenced.~~

5           ~~"§12-15-36.~~

6           "§12-15-206. Transfer of delinquent and child in  
7 need of supervision proceedings between juvenile courts within  
8 the state.

9           "If ~~the~~ a child resides in a ~~district~~ county of the  
10 state and the delinquency or child in need of supervision  
11 proceeding is commenced in a juvenile court of another  
12 ~~district~~ county, ~~that~~ the juvenile court in the county in  
13 which the proceeding was commenced, on its own motion or a  
14 motion of a party and after consultation with the receiving  
15 juvenile court, may transfer the proceeding to the ~~district~~  
16 county of the ~~child's~~ residence of the child for such further  
17 action or proceedings as the juvenile court receiving the  
18 transfer may deem proper.

19           ~~Like~~ A transfer may also be made if the residence  
20 of the child changes pending the proceeding.

21           "The proceeding shall be so transferred if the child  
22 has been adjudicated delinquent or in need of supervision and  
23 other proceedings involving the child are pending in the  
24 juvenile court of the ~~district~~ county of his or her residence.

25           "Certified copies of all legal and social records  
26 pertaining to the case shall accompany the transfer.

27           ~~"§12-15-60.~~

1           "§12-15-207. Filing of petition and conduct of  
2 hearing as to necessity for continuation of detention or  
3 shelter care of a child; violation of probation and aftercare.

4           "(a) When a child is not released from detention or  
5 shelter care as provided in Section ~~12-15-58~~ 12-15-127, a  
6 petition shall be filed and a hearing held within 72 hours of  
7 placement in detention or shelter care, Saturdays, Sundays,  
8 and holidays included, to determine probable cause and to  
9 determine whether or not continued detention or shelter care  
10 is required.

11           "(b) Notice of the detention or shelter care ~~or~~  
12 ~~other care~~ hearing, either ~~oral~~ verbal or written, stating the  
13 date, time, place, and purpose of the hearing and the right to  
14 counsel shall be given by a juvenile probation officer to the  
15 parent, legal guardian, or legal custodian if they can be  
16 found and to the child if ~~such~~ the child is over 12 years of  
17 age ~~or if delinquency is alleged. In every case of a dependent~~  
18 ~~child, the Department of Human Resources shall be notified.~~

19           "(c) At the commencement of the detention or shelter  
20 ~~or other~~ care hearing, the juvenile court shall advise the  
21 parent, legal guardian, legal custodian, and the parties of  
22 the right to counsel and shall appoint counsel if the juvenile  
23 court determines they are indigent ~~as required~~. The parties  
24 shall be informed of the ~~child's~~ right of the child to remain  
25 silent ~~with respect to any allegation of delinquency. They~~ The  
26 parent, legal guardian, legal custodian, and the parties shall  
27 also be informed of the contents of the petition and ~~shall~~,

1 except as provided herein, shall be given an opportunity to  
2 admit or deny the allegations of the petition. Prior to the  
3 acceptance of an admission of the allegations of the petition,  
4 the juvenile court shall: (1) ~~verify~~ Verify if the child was  
5 previously convicted or adjudicated a youthful offender  
6 pursuant to Section ~~12-15-34(h)~~ 12-15-203 or (2) rule on any  
7 motion of the prosecutor requesting the juvenile court to  
8 transfer the child for criminal prosecution. The juvenile  
9 court shall not accept a plea of guilt or an admission to the  
10 allegations of the petition in any case in which the child  
11 will be transferred for prosecution as an adult, either by  
12 grant of the ~~prosecutor's~~ of the prosecutor to transfer  
13 or pursuant to Section ~~12-15-34(h)~~ 12-15-203.

14 "(d) All relevant and material evidence helpful in  
15 determining the need for detention or shelter care may be  
16 admitted by the juvenile court even though not ~~competent in a~~  
17 ~~hearing on the petition~~ admissible in subsequent hearings.

18 "(e) If the child is not released and no parent,  
19 legal guardian, or other legal custodian has been notified and  
20 none appeared or waived appearance at the hearing, upon the  
21 filing of an affidavit by the parent, legal guardian, or legal  
22 custodian stating these facts and requesting a hearing, the  
23 juvenile court shall rehear the matter within 24 hours,  
24 ~~Saturdays, Sundays, and holidays included~~.

25 "(f) If a person 18 years of age or older is alleged  
26 to have violated a condition of probation or aftercare after  
27 the person was adjudicated to be delinquent, the juvenile

1 court may order that the person be confined in the appropriate  
2 jail or lockup for adults as ordered by the juvenile court.

3 ~~"§12-15-61.~~

4 ~~"§12-15-208. Definitions; facilities~~ Facilities to  
5 be used for detention or shelter care of children generally;  
6 when ~~delinquent child, etc.,~~ may be detained in jail or other  
7 facility for detention of adults; notification of juvenile  
8 court, ~~etc.,~~ when child received at facility for detention of  
9 adult offenders or persons charged with crimes; development of  
10 statewide system; ~~department~~ Department of Youth Services to  
11 subsidize detention in regional facilities, may contract for  
12 detention; transfer of child to detention facility, ~~etc.,~~ when  
13 case transferred from juvenile court for criminal prosecution.

14 ~~"(a) For the purpose of this section, the following~~  
15 ~~terms shall have the following meanings, respectively, unless~~  
16 ~~the context clearly indicates otherwise:~~

17 ~~"(1) AVERAGE COST OF DETENTION. The average cost of~~  
18 ~~detention of children as determined from experience in Alabama~~  
19 ~~and as computed by the department.~~

20 ~~"(2) DEPARTMENT. The Department of Youth Services.~~

21 ~~"(3) REGIONAL DETENTION FACILITY. Any facility owned~~  
22 ~~or operated by the state, any county or other legal entity~~  
23 ~~licensed by and contracting with the department for the~~  
24 ~~detention of children.~~

25 "(a) Persons who shall not be detained or confined  
26 in secure custody include all of the following:

1           "(1) Status offenders. Effective October 1, 2009,  
2           status offenders, as defined in this article, shall not be  
3           detained or confined in secure custody, except that a status  
4           offender who is charged with or who commits a violation of a  
5           valid court order may be detained in secure custody in a  
6           juvenile detention facility for up to 72 hours in any  
7           six-month period, provided that all conditions set forth in  
8           subdivision (3) of subsection (b) are satisfied. Short-term  
9           secure custody of accused status offenders may be necessary,  
10           such as detention in a juvenile detention facility for a brief  
11           period, not exceeding 24 hours, prior to formal juvenile court  
12           action, for investigative purposes, for identification  
13           purposes, or for the purpose of allowing return of a status  
14           offender to the parent, legal guardian, or legal custodian.  
15           Detention for a brief period of time pursuant to juvenile  
16           court authority may also be necessary in order to arrange for  
17           appropriate shelter care placement. If a petition regarding an  
18           alleged status offender is filed in juvenile court and if it  
19           is determined that the alleged status offender is at imminent  
20           risk of being placed in the legal or physical custody of the  
21           Department of Human Resources, the case shall be referred to  
22           the county children's services facilitation team, and the  
23           procedures in Article 5 shall be followed. Upon referral to  
24           the county children's services facilitation team, the juvenile  
25           probation officer shall continue to provide case management to  
26           the status offender unless the county children's services  
27           facilitation team appoints another person to act as case



1 manager. The juvenile probation officer shall participate in  
2 county children's services facilitation team meetings and  
3 share records information and reports on the status offender  
4 with the county children's services facilitation team.

5 "(2) Federal wards. Federal wards held beyond 24  
6 hours in secure custody in state and local juvenile detention  
7 facilities pursuant to a written contract or agreement with a  
8 federal agency and for the specific purpose of affecting a  
9 jurisdictional transfer or appearance as a material witness or  
10 for return to their lawful residence or country of citizenship  
11 shall be reported as violations of the deinstitutionalization  
12 of status offender requirement.

13 "(3) Nonoffenders. Nonoffenders, as defined in this  
14 article, shall not be detained or confined in secure custody.

15 "(4) Children 10 years of age and younger. Children  
16 10 years of age and younger shall not be detained or confined  
17 in secure custody, unless the children are charged with  
18 offenses causing death or serious bodily injury to persons or  
19 offenses that would be classified as Class A felonies if  
20 committed by adults. Children 11 or 12 years of age may only  
21 be detained or confined in secure custody by orders of  
22 juvenile courts, unless the children are charged with offenses  
23 causing death or serious bodily injury to persons or offenses  
24 that would be classified as Class A felonies if committed by  
25 adults.

26 "(b) Persons who may be detained or confined in  
27 secure custody include all of the following:

1           "(1) Persons who violate the federal law, which  
2 prohibits possession of a handgun by a child under the age of  
3 18 years, or who violate a similar state or municipal law, may  
4 be placed in secure custody in juvenile detention facilities.

5           "(2) Persons in custody pursuant to the Interstate  
6 Compact on Juveniles, contained in Section 44-2-1, et seq.,  
7 may be placed in secure custody in juvenile detention  
8 facilities.

9           "(3) Status offenders who violate a valid court  
10 order. A status offender who is charged with or has committed  
11 a violation of a valid court order may be detained in secure  
12 custody in a juvenile detention facility for up to 72 hours in  
13 any six-month period. Status offenders who violate valid court  
14 orders shall not be committed to the Department of Youth  
15 Services, nor shall they be held in jails or lockups for adult  
16 offenders. For this valid court order exception to apply, the  
17 following actions must occur whenever a status offender is  
18 taken into custody for violating a valid court order:

19           "a. The juvenile detention facility shall  
20 immediately notify the juvenile court intake or probation  
21 officer that the child is being held in secure custody for  
22 violating a valid court order. The notice shall include the  
23 date and time the child entered the juvenile detention  
24 facility.

25           "b. Within the first 24 hours during which a status  
26 offender is held in secure custody for violating a valid court  
27 order, not including weekends or holidays, a juvenile court

1 intake or probation officer, or an authorized representative  
2 of the department or agency having custody or supervision of  
3 the child, shall interview the child, in person.

4 "c. Within 48 hours of the admission of the status  
5 offender to secure custody for violating a valid court order,  
6 not including weekends or holidays:

7 "1. The individual who interviewed the child shall  
8 submit a written assessment report to the juvenile court  
9 regarding the immediate needs of the child; and

10 "2. If the juvenile court has not yet determined  
11 whether the child has, in fact, violated the order, the  
12 juvenile court shall conduct a hearing to determine whether  
13 there is reasonable cause to believe that the child violated  
14 the order and the appropriate placement of the child pending  
15 disposition of the alleged violation.

16 "(c) Compliance with jail removal. No person under  
17 the age of 18 years shall be detained or confined in any jail  
18 or lockup for adults except for the following exceptions:

19 "(1) A child may be detained in a jail or lockup for  
20 adults for up to 6 hours while processing the case of the  
21 child.

22 "(2) A child transferred for criminal prosecution  
23 pursuant to Section 12-15-203 may be detained in a jail or  
24 lockup for adults.

25 "(3) A person charged pursuant to Section 12-15-204  
26 may be detained in a jail or lockup for adults.

1           "When a case is transferred to another court for  
2 criminal prosecution, the person shall be transferred to the  
3 appropriate officer or jail or lockup in accordance with the  
4 law governing the detention of the person charged with the  
5 crime. Jails and lockups used for holding adults shall not  
6 hold status offenders in secure custody at any time. An  
7 accused status offender may be detained in a nonsecure area of  
8 a jail or lockup for processing while waiting transportation  
9 to a nonsecure shelter care facility or a juvenile detention  
10 facility or while waiting for release to a parent, legal  
11 guardian, or legal custodian.

12           Nothing in this subsection shall prohibit a circuit  
13 court judge exercising criminal jurisdiction from recommending  
14 that a child described in subdivision (2) or (3) should be  
15 placed in a juvenile detention center instead of an adult jail  
16 or lockup.

17           "(d) Compliance with separation. Accused or  
18 adjudicated delinquent children or status offenders shall not  
19 have contact with adult inmates, including trustees. Contact  
20 is defined to include any physical or sustained sight and  
21 sound contact. Sight contact is defined as clear visual  
22 contact between adult inmates and accused or adjudicated  
23 delinquent children or status offenders within close proximity  
24 to each other. Sound contact is defined as direct verbal  
25 communication between adult inmates and accused or adjudicated  
26 delinquent children or status offenders.

1           "No child shall enter pursuant to public authority,  
2           for any amount of time, in secure custody in a secure section  
3           of a jail, lockup, or correctional facility for adults as a  
4           disposition of an offense or as a means of modifying his or  
5           her behavior (e.g., Shock Incarceration or Scared Straight).

6           ~~"(b)(e) Except as provided in subsection (d) of this~~  
7           ~~section above,~~ in providing detention and shelter or other  
8           care for children referred to or coming under the jurisdiction  
9           of the juvenile court, the juvenile court shall utilize only  
10          ~~such~~ those facilities as have been established, licensed, or  
11          approved by the Department of Youth Services or Department of  
12          Human Resources for ~~such~~ those purposes.

13          ~~"(c)(f) After October 1, 1991, the Department of~~  
14          Youth Services shall accept all children committed to it  
15          within seven days of notice of disposition.

16          ~~"(d) A child alleged or adjudicated to be delinquent~~  
17          ~~may be detained in a jail or other facility for the detention~~  
18          ~~of adults for not more than 7 days pursuant to a court order~~  
19          ~~and only if all of the following conditions are met: (i) the~~  
20          ~~detention is approved by the official or officer in charge of~~  
21          ~~the jail; (ii) the jail contains, at the time of the order, an~~  
22          ~~available room in which the child can be detained separate and~~  
23          ~~removed from all contact with adult inmates; and (iii)~~  
24          ~~adequate supervision is available at the time detention in the~~  
25          ~~jail is ordered. A child who has been transferred for~~  
26          ~~criminal prosecution, or who is no longer subject to the~~  
27          ~~juvenile court's jurisdiction shall be detained as an adult.~~

1           "~~(e)~~(g) Except as provided in ~~subsection (d)~~ above,  
2 the official in charge of a jail or ~~other facility~~ lockup for  
3 the detention of adult offenders or persons charged with ~~crime~~  
4 crimes shall inform the juvenile court immediately when a  
5 child, who is or appears to be a child as defined by this  
6 chapter, is received at the ~~facility~~, and jail or lockup. Upon  
7 request, the official shall deliver the child to the juvenile  
8 court ~~upon request~~ or transfer him or her to a juvenile  
9 detention facility designated by the juvenile court.

10           "~~(f)~~(h) The ~~department~~ Department of Youth Services  
11 shall continue to develop ~~prior to October 1, 1991~~, and  
12 implement a statewide system of ~~regional~~ juvenile detention  
13 ~~centers~~ facilities which shall be licensed by the Department  
14 of Youth Services for the detention of children.

15           "~~(g)~~(i) The ~~department~~ Department of Youth Services  
16 shall subsidize the detention of children in the ~~regional~~  
17 juvenile detention facilities in an amount up to one half the  
18 average cost of detention, which term is defined in this  
19 article, the amount depending on the provision of funds by the  
20 Legislature to the ~~department~~ Department of Youth Services.  
21 ~~Regional~~ Juvenile detention facilities may contract with the  
22 ~~department~~ Department of Youth Services or other counties for  
23 the detention of children.

24           "~~(h)~~(j) When a case is transferred to another court  
25 for criminal prosecution, the child shall be transferred to  
26 the appropriate officer or ~~detention facility~~ jail or lockup

1 in accordance with the law governing the detention of the  
2 person charged with ~~crime~~ criminal offenses.

3 ~~"(i)(k)~~ Any law enforcement ~~official shall~~ officer,  
4 at the direction of the juvenile court, shall provide security  
5 and transportation services for the juvenile court in  
6 transporting children to and from ~~secure~~ juvenile detention  
7 facilities.

8 ~~"§12-15-62.~~

9 ~~"§12-15-209. Child~~ Children to be released when  
10 full-time detention or shelter care not required; conditions  
11 imposed upon release; amendment of conditions or return of  
12 child to custody upon failure to conform to conditions  
13 imposed; ~~permanency hearing.~~

14 "(a) When the juvenile court finds that ~~a child's~~  
15 full-time detention or shelter care of a child is not  
16 required, the juvenile court shall order ~~his~~ the release of  
17 the child, and in so doing, may impose one or more of the  
18 following conditions ~~singly or in combination:~~

19 "(1) Place the child in the custody of a parent,  
20 legal guardian, legal custodian, or any other person whom the  
21 juvenile court deems proper, or ~~under the supervision of an~~  
22 place the child with a department, agency, or organization  
23 agreeing to supervise ~~him or her,~~ the child.

24 "(2) Place restrictions on the ~~child's~~ travel,  
25 association, or place of abode of the child during the period  
26 of his or her release, or place the child under electronic or  
27 telephone monitoring, if available. ~~or~~

1           "(3) Impose any other condition deemed reasonably  
2 necessary and consistent with the criteria for detaining  
3 children specified in Section ~~12-15-59~~ 12-15-128, including a  
4 condition requiring that the child return to custody as  
5 required.

6           "(b) An order releasing a child on any conditions  
7 specified in subsection (a) ~~of this section~~ may at any time be  
8 amended to impose additional or different conditions of  
9 release or to return the child to custody for failure to  
10 conform to the conditions originally imposed.

11           ~~"(c) Within 12 months of any court order placing a  
12 child in foster care the court shall hold a permanency  
13 hearing. The Department of Human Resources shall present to  
14 the court at such hearing a permanent plan for said child. If  
15 a permanent plan is not presented to the court at this hearing  
16 there shall be a rebuttable presumption that the child should  
17 be returned to the family. This provision is intended to  
18 insure that a permanent plan is prepared by the Department of  
19 Human Resources and presented to the court within 12 months of  
20 the placement of any child in foster care. The purpose of the  
21 permanency hearing shall be to determine the permanency plan  
22 for the child which may include whether, and, if applicable,  
23 when, the child shall be (i) returned to the parent, (ii)  
24 placed for adoption wherein the Department of Human Resources  
25 shall file a petition for termination of parental rights, or  
26 (iii) referred for legal custody. The permanency hearing shall  
27 determine whether the plan will include placement in another~~



1 ~~planned permanent living arrangement in cases where the~~  
2 ~~department has documented to the court a compelling reason for~~  
3 ~~determining that it would not be in the best interests of the~~  
4 ~~child to return home, be referred for termination of parental~~  
5 ~~rights, be placed for adoption, or be placed with a fit and~~  
6 ~~willing relative, or with a legal custodian. For the purposes~~  
7 ~~of this subsection only, a child shall be considered to have~~  
8 ~~entered foster care on the earlier of (i) the date of the~~  
9 ~~first judicial finding that the child has been subjected to~~  
10 ~~abuse or neglect, or (ii) that date that is 60 days after the~~  
11 ~~date on which the child is removed from the home.~~

12 ~~"§12-15-63.~~

13 ~~"§12-15-210. Notification of to children, parents,~~  
14 ~~guardians, etc., of right to counsel; appointment of counsel~~  
15 ~~by juvenile court.~~

16 "(a) In delinquency and child in need of supervision  
17 cases, a child and his ~~parents~~ or her parent, legal guardian,  
18 or legal custodian shall be advised by the juvenile court or  
19 its representative at intake that the child has the right to  
20 be represented at all stages of the proceedings by ~~counsel~~ a  
21 child's attorney retained by them or, if they are unable to  
22 afford ~~counsel~~ a child's attorney, by ~~counsel~~ a child's  
23 attorney appointed by the juvenile court.

24 "(b) If ~~counsel~~ a child's attorney is not retained  
25 for by the child or a party in a juvenile court proceeding in  
26 which there is a reasonable likelihood such may result in a  
27 ~~commitment to~~ placement in an institution in which the freedom

1 of the child is curtailed, ~~counsel~~ a child's attorney shall be  
2 appointed ~~for~~ to defend the child.

3 "(c) In delinquency and child in need of supervision  
4 proceedings, a juvenile court may appoint a guardian ad litem  
5 in addition to the child's attorney described in this section.

6 "(d) The juvenile court may appoint counsel in any  
7 case when it deems such in the ~~interest~~ interests of justice.

8 "~~(b) In dependency cases, the parents, guardian or~~  
9 ~~custodian shall be informed of their right to be represented~~  
10 ~~by counsel and, upon request, counsel shall be appointed where~~  
11 ~~the parties are unable for financial reasons to retain their~~  
12 ~~own.~~

13 "~~The court shall also appoint counsel for the child~~  
14 ~~in dependency cases where there is an adverse interest between~~  
15 ~~parent and child or where the parent is an unmarried minor or~~  
16 ~~is married, widowed, widowed or divorced and under the age~~  
17 ~~of 18 years or counsel is otherwise required in the interests~~  
18 ~~of justice.~~

19 "~~§12-15-64.~~

20 "§12-15-211. Suspension of proceedings and  
21 continuation of cases under terms and conditions agreed to by  
22 parties.

23 "~~At any time after the filing of a petition, the~~  
24 ~~court may suspend proceedings and continue the case, under~~  
25 ~~terms and conditions agreed to by all parties, pursuant to~~  
26 ~~rules adopted by the Supreme Court.~~

1           "(a) The juvenile court may suspend delinquency or  
2 child in need of supervision proceedings pursuant to a consent  
3 decree. The terms and conditions of the consent decree shall  
4 be agreed to by the child and his or her parent, legal  
5 guardian, or legal custodian. The consent decree shall be  
6 entered at any time after the filing of a delinquency or child  
7 in need of supervision petition and before the entry of an  
8 adjudication order. The child and his or her parent, legal  
9 guardian, or legal custodian shall be advised of their rights,  
10 including the right to counsel.

11           "(b) Where an objection is made by the prosecutor,  
12 the juvenile court, after considering the objection and the  
13 reasons therefor, shall proceed to determine whether it is  
14 appropriate to enter a consent decree.

15           "(c) A consent decree shall remain in force for six  
16 months unless the child is discharged sooner by the juvenile  
17 court. Upon application of a juvenile probation officer or  
18 other department or agency supervising the child, made before  
19 the expiration of the six-month period, a consent decree may  
20 be extended by the juvenile court for an additional six  
21 months.

22           "(d) If prior to discharge by the juvenile probation  
23 officer or expiration of the consent decree, a new delinquency  
24 or child in need of supervision petition is filed against the  
25 child, or the child otherwise fails to fulfill express terms  
26 and conditions of the decree, the petition under which the

1 child was continued under supervision may be reinstated after  
2 a hearing and the case may proceed to adjudication.

3 "(e) Upon satisfaction by the child of the  
4 conditions of the consent decree or upon the child being  
5 otherwise discharged by the juvenile court, the petition shall  
6 be dismissed with prejudice.

7 Section 13. Section 12-15-212 is added to the Code  
8 of Alabama 1975, to read as follows:

9 §12-15-212. Conduct of delinquency and child in need  
10 of supervision hearings.

11 (a) If the allegations are denied, the juvenile  
12 court shall proceed to hear evidence on the petition. If the  
13 juvenile court finds on proof beyond a reasonable doubt, based  
14 upon competent, material, and relevant evidence, that the  
15 child committed the acts by reason of which the child is  
16 alleged to be delinquent or in need of supervision, the  
17 juvenile court shall record its findings and proceed to  
18 determine whether the child is in need of care or  
19 rehabilitation. If the juvenile court finds that the  
20 allegations in the petition have not been established, the  
21 juvenile court shall dismiss the petition and order the child  
22 discharged from any detention or temporary care, theretofore  
23 ordered in the proceedings.

24 (b) If the child admits to the allegations contained  
25 in the petition, the juvenile court shall record its findings  
26 and proceed to determine whether the child is in need of care  
27 or rehabilitation.

1           (c) When the allegations have been proven pursuant  
2 to subsections (a) or (b), the juvenile court may proceed  
3 immediately to hear evidence as to whether the child is in  
4 need of care or rehabilitation and to file its findings  
5 thereon. In the absence of evidence to the contrary, a finding  
6 that the child has committed an act that constitutes a felony  
7 is sufficient to sustain a finding that the child is in need  
8 of care or rehabilitation. If the juvenile court finds that  
9 the child is not in need of care or rehabilitation, it shall  
10 dismiss the proceedings and discharge the child from any  
11 detention or other temporary care. If the juvenile court finds  
12 from clear and convincing evidence, competent, material, and  
13 relevant in nature, that the child is in need of care or  
14 rehabilitation in the absence of objection showing good cause  
15 or at a postponed hearing, the juvenile court may make proper  
16 disposition of the case.

17           (d) In dispositional hearings, all relevant and  
18 material evidence helpful in determining the questions  
19 presented, including verbal and written reports, may be  
20 received by the juvenile court and may be relied upon to the  
21 extent of its probative value, even though not competent in a  
22 hearing on the petition. The parties or their counsel shall be  
23 afforded an opportunity to examine and controvert written  
24 reports so received and to cross-examine individuals making  
25 reports.

26           (e) On its own motion or that of a party, the  
27 juvenile court may continue the dispositional hearing for a

1 reasonable period to receive reports and other evidence  
2 bearing on the disposition or need for care or rehabilitation.  
3 In this event, the juvenile court shall make an appropriate  
4 order for detention or temporary care for the child, or the  
5 release of the child from detention or temporary care during  
6 the period of the continuance, subject to those conditions as  
7 the juvenile court may impose.

8 Section 14. Sections 12-15-66, 12-15-69, 12-15-71,  
9 12-15-104, 12-15-105, 12-15-11.1, 12-15-71.1, 12-15-72, and  
10 12-15-74 of the Code of Alabama 1975, are amended and  
11 renumbered to read as follows:

12 "~~§12-15-66.~~

13 "§12-15-213. Children charged with delinquent acts  
14 or alleged to be in need of supervision to be accorded  
15 privilege against self-incrimination; admissibility in  
16 evidence, ~~etc.~~, of ~~extra judicial~~ extrajudicial statements of  
17 children and evidence illegally seized or obtained; double  
18 jeopardy.

19 "(a) A child charged with a delinquent act or who is  
20 alleged to be in need of supervision shall be accorded the  
21 ~~privilege against self-incrimination~~ rights and privileges  
22 afforded by the Constitution of the United States and the  
23 Constitution of Alabama of 1901.

24 "(b) An ~~extra judicial~~ extrajudicial statement which  
25 would be constitutionally inadmissible in a criminal  
26 proceeding ~~shall~~ may not be received in evidence over  
27 objection. Evidence illegally seized or obtained ~~shall~~ may not

1 be received in evidence over objection to establish the  
2 allegations against ~~him~~ the child. An ~~extra judicial~~  
3 extrajudicial admission or confession made by the child out of  
4 court is insufficient to support a finding that the child  
5 committed the acts alleged in the petition unless it is  
6 corroborated by other evidence.

7 "(c) Criminal proceedings and other juvenile  
8 proceedings based upon the offense alleged in the petition or  
9 an offense based upon the same conduct are barred where the  
10 juvenile court has begun taking evidence or where the juvenile  
11 court has accepted from the child a ~~child's~~ plea of guilty to  
12 the petition.

13 "~~§12-15-69.~~

14 "§12-15-214. Ordering and preparation of  
15 ~~predisposition~~ study and written report concerning child,  
16 ~~family, etc.;~~ ordering, conduct and certification of findings  
17 of physical or mental examination of child prior to hearing on  
18 petition generally; examination of parent, legal guardian, or  
19 legal custodian after hearing where ability to care for or  
20 supervise child in issue.

21 "~~(a) After a petition alleging delinquency, in need~~  
22 ~~of supervision or dependency has been filed, the court may~~  
23 ~~direct that a predisposition study and report to the court be~~  
24 ~~made by probation services where the petition alleges that the~~  
25 ~~child is delinquent or in need of supervision or by the~~  
26 ~~Department of Human Resources when the petition alleges that~~  
27 ~~the child is dependent~~ The juvenile court may direct that a

1 juvenile probation officer conduct a study and submit a  
2 written report to the juvenile court with recommendations  
3 concerning the a child, his or her family, his or her  
4 environment, and other matters relevant to the need for  
5 treatment or disposition of the case. The recommendations may  
6 indicate that the child needs further mental health  
7 evaluation, especially, in some cases, for the purpose of  
8 determining whether the child is competent to stand trial. The  
9 recommendations may also include a request that the juvenile  
10 court proceed pursuant to Section 12-15-130.

11 ~~"(b) Where there are indications that the child may~~  
12 ~~be physically ill, mentally ill or mentally retarded, the~~  
13 ~~court, on its own motion or motion by the prosecutor or that~~  
14 ~~of counsel for the child, may order the child to be examined~~  
15 ~~at a suitable place by a physician, psychiatrist, psychologist~~  
16 ~~or other qualified examiner, under the supervision of a~~  
17 ~~physician, psychiatrist or psychologist who shall certify such~~  
18 ~~examiner's findings in writing, or an examiner approved by the~~  
19 ~~Department of Mental Health prior to a hearing on the merits~~  
20 ~~of the petition.~~

21 ~~"(c) The examinations made prior to hearing as~~  
22 ~~provided for in subsection (b) of this section or as part of~~  
23 ~~the study provided for in subsection (a) of this section shall~~  
24 ~~be conducted on an outpatient basis unless the court finds~~  
25 ~~that placement in a hospital or other appropriate facility is~~  
26 ~~necessary.~~



1           ~~"(d) The court, after hearing, may order an~~  
2           ~~examination as described in subsection (b) of this section of~~  
3           ~~a parent or custodian who gives his consent and whose ability~~  
4           ~~to care for or supervise a child before the court is in issue.~~

5           ~~"§12-15-71.~~

6           ~~"§12-15-215. Disposition of dependent children,~~  
7           ~~delinquent children, multiple needs children, or children in~~  
8           ~~need of supervision generally; evaluative role of children's~~  
9           ~~services facilitation team; placement in alternative school.~~

10           ~~"(a) If a child is found to be dependent, the court~~  
11           ~~may make any of the following orders of disposition to protect~~  
12           ~~the welfare of the child:~~

13           ~~"(1) Permit the child to remain with the parents,~~  
14           ~~guardian, or other custodian of the child, subject to~~  
15           ~~conditions and limitations as the court may prescribe.~~

16           ~~"(2) Place the child under protective supervision as~~  
17           ~~herein provided or under the supervision of the Department of~~  
18           ~~Human Resources.~~

19           ~~"(3) Transfer legal custody to any of the following:~~

20           ~~"a. The Department of Human Resources, provided,~~  
21           ~~that the department is equipped to care for the child.~~

22           ~~"b. A local public child-placing agency or private~~  
23           ~~organization or facility willing and able to assume the~~  
24           ~~education, care, and maintenance of the child and which is~~  
25           ~~licensed by the Department of Human Resources or otherwise~~  
26           ~~authorized by law to receive and provide care for the child.~~

1           ~~"c. A relative or other individual who, after study~~  
2 ~~by the Department of Human Resources, is found by the court to~~  
3 ~~be qualified to receive and care for the child.~~

4           ~~"(4) Make any other order as the court in its~~  
5 ~~discretion shall deem to be for the welfare and best interests~~  
6 ~~of the child.~~

7           ~~"(5) In appropriate cases, award permanent custody~~  
8 ~~to the Department of Human Resources or to a licensed~~  
9 ~~child-placing agency with termination of parental rights and~~  
10 ~~authorization to place for adoption, without appointing a~~  
11 ~~legal guardian or guardian of the person, or award temporary~~  
12 ~~custody to the same without appointing a legal custodian or~~  
13 ~~guardian or guardian of the person.~~

14           ~~"(6) There shall be a rebuttable presumption that~~  
15 ~~children cannot be removed from custody of parents solely~~  
16 ~~because of a need for emergency housing.~~

17           ~~"(b) Unless a child found dependent shall also be~~  
18 ~~found to be delinquent, the child shall not be committed to or~~  
19 ~~confined in an institution established for the care and~~  
20 ~~rehabilitation of delinquent children or detention facility.~~  
21 ~~Nothing in this subsection shall be construed to prohibit the~~  
22 ~~placement of dependent children in any other residential~~  
23 ~~facility as defined in subdivision (22) of Section 12-15-1.~~

24           ~~"(c)(a) If a child is found to be delinquent or in~~  
25 ~~need of supervision, the court may make any of the following~~  
26 ~~orders or dispositions for the child's supervision, care, and~~  
27 ~~rehabilitation: If the juvenile court finds on proof beyond a~~

1 reasonable doubt, based upon competent, material, and relevant  
2 evidence, that a child committed the acts by reason of which  
3 the child is alleged to be delinquent or in need of  
4 supervision, it may proceed immediately to hear evidence as to  
5 whether the child is in need of care or rehabilitation and to  
6 file its findings thereon. In the absence of evidence to the  
7 contrary, a finding that the child has committed an act which  
8 constitutes a felony is sufficient to sustain a finding that  
9 the child is in need of care or rehabilitation. If the  
10 juvenile court finds that the child is not in need of care or  
11 rehabilitation, it shall dismiss the proceedings and discharge  
12 the child from any detention or other temporary care  
13 theretofore ordered. If the juvenile court finds that the  
14 child is in need of care or rehabilitation, it may make any of  
15 the following orders or dispositions, subject to the  
16 limitations and prohibitions on secure custody contained in  
17 Section 12-15-208:

18           "(1) Permit the child to remain with the ~~parents~~  
19 parent, legal guardian, or other legal custodian of the child,  
20 subject to the conditions and limitations the juvenile court  
21 may prescribe.

22           "(2) Place the child on probation ~~under~~ pursuant to  
23 conditions and limitations the juvenile court may prescribe.

24           "(3) Transfer legal and physical custody to any of  
25 the following:

26           "a. The Department of Youth Services, with or  
27 without a ~~commitment~~ an order to a specific institution.

1            "b. In the case of a child in need of supervision,  
2            the Department of Youth Services, or the Department of Human  
3            Resources; provided however (i) that prior to any transfer of  
4            custody to the Department of Human Resources, the case shall  
5            first be referred to the county children's services  
6            facilitation team, which must proceed according to Article 5;  
7            and (ii) that the child's commission of one or more status  
8            offenses shall not constitute a sufficient basis for transfer  
9            of legal or physical custody to the Department of Human  
10           Resources. Upon referral to the county children's services  
11           facilitation team, the juvenile probation officer shall  
12           continue to provide case management to the status offender  
13           unless the county children's services facilitation team  
14           appoints another person to act as case manager. The juvenile  
15           probation officer shall participate in county children's  
16           services facilitation team meetings and share records  
17           information and reports on the status offender with the county  
18           children's services facilitation team. When the juvenile court  
19           transfers legal and physical custody to the Department of  
20           Human Resources, all requirements which shall be met for a  
21           child to be eligible for federal funding shall apply,  
22           including, but not limited to, the requirements set out in  
23           Sections 12-15-312, 12-15-315, and 12-15-317.

24           "c. A local, public, or private agency,  
25           organization, or facility willing and able to assume the  
26           education, care, and maintenance of the child and which is

1 licensed or otherwise authorized by law to receive and provide  
2 care for children.

3 "d. ~~A~~ During the term of supervision, a relative or  
4 other individual who ~~, after study by the probation services,~~  
5 is found by the juvenile court to be qualified to receive and  
6 care for the child.

7 "(4) Make any other order as the juvenile court in  
8 its discretion shall deem to be for the welfare and best  
9 interests of the child, including random drug screens,  
10 assessment of fines not to exceed two hundred fifty dollars  
11 (\$250), and restitution against the parent, legal guardian,  
12 legal custodian, or child, as the juvenile court deems  
13 appropriate. Costs for juvenile court-ordered drug screening  
14 may be ordered paid for by the state out of moneys  
15 appropriated as "court costs not otherwise provided for." ~~Any~~  
16 ~~costs for drug screening recouped by order of court for drug~~  
17 ~~screening shall be paid to the State General Fund.~~ Restitution  
18 against the parent, legal guardian, legal custodian, or child  
19 shall be governed by the same principles applicable in ~~Article~~  
20 ~~4A of Chapter 18 of Title 15 (~~ the Restitution to Victims of  
21 Crime Act, commencing ~~at~~ with Section 15-18-65~~).~~

22 "(5) Direct the parent, legal guardian, or legal  
23 custodian of the child to perform ~~such~~ reasonable acts as are  
24 deemed necessary to promote the best ~~interest~~ interests of the  
25 child.

26 "(6) In any case where a child is adjudicated  
27 delinquent for possessing a pistol, short-barreled rifle, or

1 short-barreled shotgun, any pistol, short-barreled rifle, or  
2 short-barreled shotgun possessed by that child is forfeited  
3 and shall be ordered to be destroyed by the juvenile court.

4 ~~"(d)(b)~~ No child by virtue of a disposition ~~under~~  
5 pursuant to this section shall be committed or transferred to  
6 a penal institution or other facility used for the execution  
7 of sentences of persons convicted of a crime.

8 ~~"(e)(c)~~ No child ~~found to be~~ in need of supervision,  
9 unless also ~~found to be~~ a delinquent child, shall be ~~committed~~  
10 ~~to or~~ ordered to be placed in an institution or facility  
11 established for the care and rehabilitation of delinquent  
12 children unless the juvenile probation officer submits a  
13 written recommendation and the juvenile court finds upon a  
14 further hearing that the child is not amenable to treatment or  
15 rehabilitation ~~under pursuant to~~ any prior disposition ~~or~~  
16 ~~unless the child is again alleged to be a child in need of~~  
17 ~~supervision and the court, after hearing, so finds.~~

18 "In determining if a child is not amenable to  
19 treatment or rehabilitation, the juvenile court shall consider  
20 evidence of the following and other relevant factors:

21 "(1) Prior treatment efforts, such as, but not  
22 limited to:

23 "a. Mental health counseling, if any.

24 "b. Individualized educational plans, if any.

25 "c. Other educational records.

26 "d. Individualized service plans, if any.

27 "(2) The age of the child.

1           "(3) The history of the child being involved with  
2 the juvenile court, including, but not limited to, informal  
3 adjustments, consent decrees, adjudications, and prior  
4 placements.

5           "(4) Other factors contributing to the behavioral  
6 difficulties of the child.

7           "The written recommendations of the juvenile  
8 probation officer shall include evidence of the foregoing and  
9 other relevant factors.

10           "~~(f)(d)~~ When a delinquent child ~~is~~ may be  
11 committable to the Department of Mental Health and Mental  
12 Retardation ~~an institution or agency for the mentally retarded~~  
13 ~~or mentally ill~~, the juvenile court shall proceed as provided  
14 in Article 4, commencing with Section 12-15-401 ~~12-15-70~~  
15 ~~rather than committing to an institution or facility for the~~  
16 ~~care and rehabilitation of delinquent children.~~

17           "~~(g)(e)~~ Whenever the juvenile court vests legal  
18 custody in an agency or department, it shall transmit with the  
19 order copies of the clinical reports, predisposition study,  
20 and other information it has pertinent to the care and  
21 treatment of the child.

22           "~~(h)(1)~~ ~~Regardless of the nature of the petition or~~  
23 ~~allegation, when evidence is presented to the court that a~~  
24 ~~child is at imminent risk of an out-of-home placement or a~~  
25 ~~placement in a more restrictive environment as a result of the~~  
26 ~~conditions of emotional disturbance, behavior disorder, mental~~  
27 ~~retardation, mental illness, dependency, chemical dependency,~~

1 ~~education deficits, lack of supervision, delinquency, physical~~  
2 ~~illness or disability, or any combination thereof, and if such~~  
3 ~~conditions require the services of two or more agencies~~  
4 ~~pursuant to Section 12-15-1(19), the juvenile court shall~~  
5 ~~refer the child to the county children's services facilitation~~  
6 ~~team for assessment and recommendations unless a current~~  
7 ~~facilitation team plan is available to the court. Within 21~~  
8 ~~days of receipt of the referral, the county children's~~  
9 ~~services facilitation team shall present to the court a~~  
10 ~~preliminary plan of services addressing the needs of the child~~  
11 ~~and the respective responsibilities of agencies composing this~~  
12 ~~team. Upon receipt of these preliminary recommendations, the~~  
13 ~~juvenile court may adjudge the child as a "multiple needs~~  
14 ~~child" and in accordance with the county children's services~~  
15 ~~facilitation team plan, unless the court finds it not in the~~  
16 ~~best interest of the child, order the use of any dispositional~~  
17 ~~alternative or service available for dependent or delinquent~~  
18 ~~children or children-in-need-of-supervision, children who are~~  
19 ~~emotionally disturbed, mentally retarded, or mentally ill, or~~  
20 ~~children who need specialized educational services, or~~  
21 ~~children who need health services, or any combination thereof.~~  
22 ~~The county children's services facilitation team shall be~~  
23 ~~responsible for developing a final service plan which shall be~~  
24 ~~filed with the court. The member agencies shall be responsible~~  
25 ~~for the implementation of any ordered service plan. The court~~  
26 ~~may, on its own motion, or on motion of a party, a party's~~  
27 ~~parent or guardian, or a member of the county or state~~



1 ~~children's services facilitation team, set additional~~  
2 ~~hearings.~~

3 ~~"(2) No child, unless alleged or adjudicated~~  
4 ~~delinquent, may be placed in detention facilities established~~  
5 ~~primarily for delinquents.~~

6 ~~"(3) The juvenile court shall determine the~~  
7 ~~appropriate custodial entity, based on the child's~~  
8 ~~characteristics of behavior and type of treatment needed and~~  
9 ~~in accord, as far as possible, with the provisions of this~~  
10 ~~chapter for vesting legal custody in an entity, person, or~~  
11 ~~department of a child determined to be dependent, in need of~~  
12 ~~supervision, delinquent, mentally ill, or mentally retarded.~~  
13 ~~Nothing in this subsection, however, shall require an order of~~  
14 ~~commitment for a child to (i) receive services or (ii) be~~  
15 ~~placed in the custody of a state agency or department as an~~  
16 ~~adjudicated multiple needs child. It shall be the duty of~~  
17 ~~probation services, and the Departments of Education, Youth~~  
18 ~~Services, Mental Health and Mental Retardation, Public Health,~~  
19 ~~and Human Resources to provide services both at an in-home,~~  
20 ~~community, or residential setting for multiple needs children~~  
21 ~~when ordered by the court.~~

22 ~~"(4) The juvenile court may appoint a guardian ad~~  
23 ~~litem for a multiple needs child.~~

24 ~~"(5) The provisions of subdivisions (h) (1), (2),~~  
25 ~~(3), and (4) which require new or additional services beyond~~  
26 ~~those already provided by the agencies are mandated only to~~  
27 ~~the extent that additional funds are appropriated to the State~~

1 ~~Multiple Needs Children Fund to implement its provisions. The~~  
2 ~~Departments of Human Resources, Mental Health and Mental~~  
3 ~~Retardation, Youth Services, and Education along with juvenile~~  
4 ~~probation services shall develop a program of services for~~  
5 ~~multiple needs children. Nothing in the provisions relating to~~  
6 ~~multiple needs children shall prohibit or restrict departments~~  
7 ~~or agencies charged with the duty of providing services for~~  
8 ~~children and families from working cooperatively and providing~~  
9 ~~financial assistance to address needs which have been~~  
10 ~~identified prior to a case being referred to a children's~~  
11 ~~services facilitation team.~~

12 ~~"(i)(f) When a child is placed in the legal custody~~  
13 ~~of the ~~Department of Human Resources, Department of Mental~~~~  
14 ~~Health and Mental Retardation, or Department of Youth Services~~  
15 ~~and a department, agency, organization, entity, or person as~~  
16 ~~provided in this section, when the ~~parents or guardians have~~~~  
17 ~~parent, legal guardian, or legal custodian of the child has~~  
18 ~~resources for child support, the juvenile court shall order~~  
19 ~~child support in conformity with the child support guidelines~~  
20 ~~as set out in Rule 32, Alabama Rules of Judicial~~  
21 ~~Administration. The child support shall be paid to the~~  
22 ~~department, agency, organization, entity, or person in whose~~  
23 ~~primary legal custody the child is placed and may be expended~~  
24 ~~for those matters that are necessary for the welfare and~~  
25 ~~well-being of those children placed in the departments,~~  
26 ~~agencies, organizations, entities, or persons. In these cases,~~  
27 ~~the juvenile court shall issue income withholding orders~~

1 subject to state law. ~~Any petition for custody of a child~~  
2 ~~filed by the Department of Human Resources shall contain a~~  
3 ~~request for child support.~~

4 ~~"(j)(g) Whenever the juvenile court commits a child~~  
5 ~~to a state or local department or agency or orders a state or~~  
6 ~~local department or agency to provide services or treatment~~  
7 ~~for a child, that department or agency shall accept the child~~  
8 ~~for commitment, ordered services, or treatment within seven~~  
9 ~~days of the court's order of the juvenile court. ~~However~~~~  
10 ~~Notwithstanding the foregoing, if compliance with the court's~~  
11 ~~order of the juvenile court within seven days would place an a~~  
12 ~~department or agency in violation of either a state statute or~~  
13 ~~standard, then compliance is not required.~~

14 ~~"(k) When the court finds a juvenile to be~~  
15 ~~delinquent and commits the juvenile to a juvenile detention~~  
16 ~~facility, boot camp, or to the Department of Youth Services,~~  
17 ~~but the juvenile detention facility, boot camp, or the~~  
18 ~~Department of Youth Services is unable to take the juvenile~~  
19 ~~due to a lack of space and the juvenile is enrolled in public~~  
20 ~~school, unless good cause is shown that the juvenile should~~  
21 ~~not attend an alternative school, the court shall order that~~  
22 ~~the juvenile attend an alternative school if an alternative~~  
23 ~~school is available pending availability of space at the~~  
24 ~~facility.~~

25 ~~"(l) After completion of a term of commitment with~~  
26 ~~the Department of Youth Services and when the juvenile is~~  
27 ~~admitted back into public school, the juvenile shall be placed~~

1 ~~in an alternative school until such time when he or she meets~~  
2 ~~all requirements set by the local board of education.~~

3 ~~"(m) When a court, upon holding a hearing pursuant~~  
4 ~~to Section 12-15-34, orders a juvenile case to be transferred~~  
5 ~~to the circuit court for criminal prosecution and the juvenile~~  
6 ~~is enrolled in public school, unless good cause is shown that~~  
7 ~~the juvenile should not attend an alternative school, the~~  
8 ~~court shall order that the juvenile attend an alternative~~  
9 ~~school if an alternative school is available until disposition~~  
10 ~~of the criminal charges in the circuit court. If the criminal~~  
11 ~~charges result in conviction and the juvenile is sentenced to~~  
12 ~~a term of imprisonment in a penal facility, then the juvenile~~  
13 ~~shall remain in an alternative school pending the serving of~~  
14 ~~the sentence. After completion of the sentence or if the~~  
15 ~~juvenile is convicted but not sentenced to a term of~~  
16 ~~imprisonment in a penal facility, when the juvenile is~~  
17 ~~admitted back into school, the juvenile shall remain in an~~  
18 ~~alternative school until such time as he or she meets the~~  
19 ~~requirements set by the local board of education.~~

20 ~~"(n) The juvenile court is authorized to release the~~  
21 ~~order referred to in subsections (k), (l), and (m) to the~~  
22 ~~appropriate local school board where the public school or~~  
23 ~~public schools in which the juvenile attempts to enroll are~~  
24 ~~located. No hearing pursuant to Section 12-15-100 governing~~  
25 ~~the confidentiality of juvenile records is required to release~~  
26 ~~the order to the school board.~~

1           "~~(o) (1) If a juvenile age 16 or over is enrolled in~~  
2 ~~school and is charged with a crime pursuant to Section~~  
3 ~~12-15-34.1, or is charged with distribution of a controlled~~  
4 ~~substance, then upon notice or knowledge of the charge, the~~  
5 ~~local public school system shall assign the juvenile to an~~  
6 ~~alternative school, if an alternative school is available,~~  
7 ~~unless good cause is shown that the juvenile should not attend~~  
8 ~~an alternative school. The decision to assign a student to an~~  
9 ~~alternative school shall include a review and consideration of~~  
10 ~~the exceptional status of the student pursuant to Chapter 39~~  
11 ~~of Title 16, if applicable, and any appropriate federal and~~  
12 ~~state statutory and case law.~~

13           "~~(2) Any person convicted of a crime specified in~~  
14 ~~subdivision (1) and readmitted to the public schools of this~~  
15 ~~state shall attend an alternative school until the juvenile~~  
16 ~~meets the requirements set by the local board of education.~~

17           "~~§12-15-104.~~

18           "§12-15-216. Legislative intent.

19           "The Legislature reaffirms its belief that juvenile  
20 court records, in general, should be confidential. However, it  
21 is the intent of the Legislature by Act 99-433, 1999 Regular  
22 Session, to provide for limited exceptions to juvenile court  
23 record confidentiality to promote more effective communication  
24 among juvenile courts, law enforcement agencies, and schools  
25 to aid in the rehabilitation of ~~juvenile criminal offenders~~  
26 children as well as to lessen the potential for ~~drugs~~ drug  
27 use, violence, and other forms of delinquency.

1                   "~~§12-15-105.~~

2                   "12-15-217. Notice of delinquent acts.

3                   "(a) Notwithstanding ~~subsections~~ subsection (a) ~~and~~  
4 ~~(c)~~ of Section ~~12-15-100~~ 12-15-133, written notice that a  
5 child enrolled in a school, kindergarten to grade 12,  
6 ~~inclusive~~, has been found delinquent of an act which if  
7 committed by an adult would be a Class A or B felony or any  
8 other crime, at the discretion of the judge juvenile court,  
9 shall be provided within seven days to the superintendent of  
10 the school district of attendance, or, if the child attends a  
11 private school, to the principal of the school. The juvenile  
12 court shall provide the notice using whatever method it deems  
13 appropriate or otherwise as decided by the Administrative  
14 Office of Courts. The prosecutor may recommend to the juvenile  
15 court that notice be given to the school for any delinquent  
16 act. Written notice shall include only the offenses,  
17 enumerated by the appropriate code section and brief  
18 description, found to have been committed by the child and the  
19 disposition of the ~~child's~~ case involving the child. Where  
20 applicable, this notice shall be expeditiously transmitted by  
21 the district superintendent to the principal at the school of  
22 attendance. The principal shall disseminate the information to  
23 those counselors directly supervising or reporting on the  
24 behavior or progress of the child. In addition, the principal  
25 may disseminate the information to any teacher, administrator,  
26 or other school employee directly supervising or reporting on  
27 the behavior or progress of the child whom the principal

1 believes needs the information to work with the pupil in  
2 appropriate fashion or to protect other students and staff.

3 "(b) Any information received by a teacher,  
4 counselor, administrator, or other school employee ~~under~~  
5 pursuant to this section shall be received in confidence for  
6 the limited purpose of rehabilitating the child and protecting  
7 students and staff, and shall not be further disseminated by  
8 the teacher, counselor, or administrator, except insofar as  
9 communication with the ~~juvenile child~~, his or her ~~parents or~~  
10 ~~guardians~~ parent, legal guardian, legal custodian, law  
11 enforcement personnel, and the ~~juvenile's~~ juvenile probation  
12 officer of the child is necessary to effectuate the ~~juvenile's~~  
13 rehabilitation of the child or to protect students and staff.

14 "(c) An intentional violation of the confidentiality  
15 provisions of this section is a Class A misdemeanor ~~within~~  
16 under the jurisdiction of the juvenile court.

17 "~~§12-15-11.1.~~

18 "§12-15-218. Order requiring ~~parents or parent,~~  
19 legal guardian, or legal custodian to assist ~~delinquent~~ child  
20 in complying with terms of probation; penalties; exemptions.

21 "(a) In all cases where a child ~~has been declared a~~  
22 ~~delinquent child and~~ has been granted probation, the juvenile  
23 court, as a condition of granting probation to the child, may  
24 order the ~~parents or parent,~~ legal guardian, or legal  
25 custodian of the child, if he or she is made a party to the  
26 proceedings, to assist the juvenile court in ensuring that the  
27 child complies with the terms of his or her probation.

1           "(b) Prior to granting probation, the juvenile court  
2 shall explain to the ~~parents~~ parent, legal guardian, or legal  
3 custodian and the child the terms of his or her probation,  
4 including the responsibility and the penalty which may be  
5 imposed on ~~both~~ all parties for failure to comply with the  
6 terms of the probation.

7           "(c) A parent, legal guardian, or legal custodian,  
8 who after being made a party fails to assist ~~his or her~~ the  
9 child in complying with the terms of the probation, may be  
10 held in civil or criminal contempt of court, or both, ~~and may~~  
11 ~~be fined in an amount not exceeding three hundred dollars~~  
12 ~~(\$300) and imprisonment not exceeding 30 days, or both.~~

13           "(d) This section shall not apply to the parent,  
14 legal guardian, or legal custodian of a child, ~~and parents, or~~  
15 ~~legal guardian,~~ who initiated a case by filing a petition  
16 alleging delinquency of the child.

17           "~~§12-15-71.1.~~

18           "§12-15-219. Serious juvenile offenders;  
19 disposition; serious juvenile offender review panel; facility  
20 and programs.

21           "(a) The juvenile court may find a child to be a  
22 serious juvenile offender if:

23           "(1) The child is adjudicated delinquent and the  
24 delinquent act or acts charged in the petition would  
25 constitute any of the following if committed by an adult:

26           "a. A Class A felony~~.~~



1            "b. A felony resulting in serious physical injury  
2        ~~was defined in subdivision (9)~~ (14) of Section 13A-1-2~~7~~.

3            c. A felony involving deadly physical force ~~was~~  
4        defined in subdivision ~~(10)~~ (6) of Section 13A-1-2~~7~~; or a  
5        deadly weapon ~~was defined in~~ subdivision (7) ~~(11)~~ of Section  
6        13A-1-2~~7~~; or a dangerous instrument ~~was defined in~~  
7        subdivision ~~(12)~~ (5) of Section 13A-1-2~~7~~; ~~or.~~

8            "(2) The child has been adjudicated delinquent for  
9        an act which would constitute a Class A or B felony or  
10       burglary in the third degree involving a residence and the  
11       child has previously been adjudicated delinquent of two  
12       previous acts which would have been a Class A or B felony or  
13       burglary in the third degree involving a residence if ~~such~~ the  
14       acts had been committed by an adult.

15           " (b) A child found to be a serious juvenile offender  
16        shall be committed to the custody of the ~~Alabama~~ Department of  
17        Youth Services, where he or she shall remain for a minimum of  
18        one year.

19           " (c) A serious juvenile offender review panel shall  
20        be created by the Board of the ~~Alabama~~ Department of Youth  
21        Services. The serious juvenile offender review panel shall  
22        review quarterly the progress of each serious juvenile  
23        offender and determine at the end of the one-year term served  
24        by each child, a further treatment plan for that child. The  
25        panel may extend the commitment, order alternative treatment,  
26        or release the child. The serious juvenile offender review  
27        panel ~~must~~ shall provide the juvenile court with all reports

1 and recommendations, and notify the judge in writing of the  
2 decision to release the child at least 30 days in advance of  
3 ~~said the~~ release.

4 "(d) The ~~Alabama~~ Department of Youth Services shall  
5 maintain and staff a separate, secure facility and implement  
6 programs for serious juvenile offenders. The minimum one-year  
7 term required by this section shall be served at ~~said the~~  
8 facility and the review panel may extend the period of  
9 confinement in ~~said the~~ facility as determined necessary.

10 "(e) Nothing in this section shall be construed to  
11 prevent the juvenile court from transferring a child for  
12 criminal prosecution pursuant to Section ~~12-15-34~~ 12-15-203.

13 "~~§12-15-72.~~

14 "§12-15-220. Orders of disposition, ~~etc.~~, not to be  
15 deemed convictions, impose civil disabilities, etc.;  
16 disposition of child and evidence in hearing not admissible in  
17 another court.

18 "(a) An order of disposition or other adjudication  
19 in ~~proceedings under~~ a proceeding pursuant to subsection (a)  
20 of Section ~~12-15-30~~ 12-15-114 shall not be considered to be a  
21 conviction or impose any civil disabilities ordinarily  
22 resulting from a conviction of a crime or operate to  
23 disqualify the child in any civil service application or  
24 appointment.

25 "(b) The disposition of a child and evidence given  
26 in a hearing in the juvenile court shall not be admissible as  
27 evidence against him or her in any case or proceeding in any

1 other court, whether before or after reaching majority, except  
2 in a ~~disposition~~ dispositional hearing in a juvenile court or  
3 in sentencing proceedings after conviction of a crime for the  
4 purposes of a presentence study and report or for  
5 consideration of an application for youthful offender status.

6 "~~§12-15-74.~~

7 "§12-15-221. Modification, extension or ~~revocation~~  
8 termination of orders of custody, or probation ~~or protective~~  
9 ~~supervision~~ generally.

10 "(a) ~~At any time prior to expiration, an~~ An order  
11 ~~vesting~~ awarding legal custody or an order of probation ~~or~~  
12 ~~protective supervision~~ made by the juvenile court in the case  
13 of a child may be modified, revoked, or extended on motion by:

14 "(1) A child, whose legal custody has been  
15 transferred to a department, institution, agency, or person,  
16 requesting the juvenile court for a modification or  
17 termination of the order, alleging that ~~he~~ the child is no  
18 longer in need of ~~commitment,~~ placement or probation ~~or~~  
19 ~~protective supervision~~ and the department, institution,  
20 agency, or person has denied application for release of the  
21 child or has failed to act upon the application within a  
22 reasonable time; or

23 "(2) A department, institution, agency, or person  
24 vested with legal custody or responsibility for probation ~~or~~  
25 ~~protective supervision,~~ requesting the juvenile court for a  
26 modification, an extension, or a termination of the order on  
27 the grounds that ~~such~~ the action is in the best interests of

1 the child or necessary to safeguard the welfare of the child  
2 or the public ~~interest~~ interests.

3 "(b) The juvenile court may dismiss the motions  
4 filed ~~under~~ pursuant to subsection (a) ~~of this section~~ if,  
5 after preliminary investigation, it finds that they are  
6 without substance. If ~~it~~ the juvenile court is of the opinion  
7 that the order should be reviewed, ~~it may,~~ upon due notice to  
8 all necessary parties as prescribed by rules of court, it may  
9 proceed to a hearing in the same manner and under the same  
10 safeguards provided for in this chapter for the issuance of  
11 the original order. It may thereupon terminate the order if it  
12 finds the child is no longer in need of care, ~~supervision~~ or  
13 rehabilitation or it may enter an order extending or modifying  
14 the original order if it finds ~~such~~ this action necessary to  
15 safeguard the child or the public interest."

16 Section 15. The heading of Article 3 (commencing  
17 with Section 12-15-301) of Chapter 15 of Title 12 of the Code  
18 of Alabama 1975, is amended to read as follows:

19 ARTICLE 3. ~~PROCEDURE~~ GENERALLY

20 DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS.

21 Section 16. Sections 12-15-301, 12-15-302, and  
22 12-15-303 are added to the Code of Alabama 1975, to read as  
23 follows:

24 §12-15-301. Definitions.

25 For purposes of this article, the following words  
26 and phrases shall have the following meanings:

1           (1) ABANDONMENT. A voluntary and intentional  
2           relinquishment of the custody of a child by a parent, or a  
3           withholding from the child, without good cause or excuse, by  
4           the parent, of his or her presence, care, love, protection,  
5           maintenance, or the opportunity for the display of filial  
6           affection, or the failure to claim the rights of a parent, or  
7           failure to perform the duties of a parent.

8           (2) ABUSE. Harm or the risk of harm to the  
9           emotional, physical health, or welfare of a child. Harm or the  
10          risk of harm to the emotional, physical health, or welfare of  
11          a child can occur through nonaccidental physical or mental  
12          injury, sexual abuse, or attempted sexual abuse or sexual  
13          exploitation or attempted sexual exploitation.

14          (3) CHILD-PLACING AGENCY. The same as the term is  
15          defined in subdivision (3) of Section 38-7-2.

16          (4) NEGLECT. Negligent treatment or maltreatment of  
17          a child, including, but not limited to, the failure to provide  
18          adequate food, medical treatment, supervision, education,  
19          clothing, or shelter.

20          (5) PROTECTIVE SUPERVISION. A legal status created  
21          by order of the juvenile court following an adjudication of  
22          dependency whereby a child is placed with a parent or other  
23          person subject to supervision by the Department of Human  
24          Resources.

25          (6) REASONABLE EFFORTS. Efforts made to preserve and  
26          reunify families prior to the placement of a child in foster  
27          care, to prevent or eliminate the need for removing the child

1 from his or her home, and to make it possible for a child to  
2 return safely to his or her home. Reasonable efforts also  
3 refers to efforts made to place the child in a timely manner  
4 in accordance with the permanency plan, and to complete  
5 whatever steps are necessary to finalize the permanency  
6 placement of the child. In determining the reasonable efforts  
7 to be made with respect to a child, and in making these  
8 reasonable efforts, the health and safety of the child shall  
9 be the paramount concern.

10 (7) RELATIVE. An individual who is legally related  
11 to the child by blood, marriage, or adoption within the fourth  
12 degree of kinship, including only a brother, sister, uncle,  
13 aunt, first cousin, grandparent, great grandparent, great  
14 aunt, great uncle, great great grandparent, niece, nephew,  
15 grand niece, grand nephew, or a stepparent.

16 (8) SEXUAL ABUSE. Sexual abuse includes the  
17 employment, use, persuasion, inducement, enticement, or  
18 coercion of any child to engage in, or having a child assist  
19 any person to engage in, any sexually explicit conduct or any  
20 simulation of the conduct for the purpose of producing any  
21 visual depiction of the conduct. Sexual abuse also includes  
22 rape, molestation, prostitution, or other forms of sexual  
23 exploitation or abuse of children, or incest with children, as  
24 those acts are defined in this article or by Alabama law.

25 (9) SEXUAL EXPLOITATION. Sexual exploitation  
26 includes allowing, permitting, or encouraging a child to  
27 engage in prostitution and allowing, permitting, encouraging,

1 or engaging in the obscene or pornographic photographing,  
2 filming, or depicting of a child.

3 (10) TERMINATION OF PARENTAL RIGHTS. A severance of  
4 all rights of a parent to a child.

5 §12-15-302. Venue generally.

6 (a) Dependency proceedings shall be commenced in the  
7 county where the child resides, in the county where the child  
8 is present when the proceedings are commenced, or in the  
9 county where the acts that are the basis of the dependency  
10 petition occurred.

11 (b) Regardless of the county where the child  
12 currently resides, when a petition is filed seeking to modify  
13 an award of custody or visitation pursuant to an adjudication  
14 of dependency, and one of the individuals who was a party to  
15 the original proceeding still resides in the county of the  
16 juvenile court of original jurisdiction, the petition shall be  
17 filed in the juvenile court of the original jurisdiction.

18 (c) When a petition is filed seeking to modify an  
19 award of custody or visitation pursuant to an adjudication of  
20 dependency in which all parties to the original action,  
21 including the child, no longer reside in the county of  
22 original jurisdiction, the petition shall be filed in the  
23 county where the child resides at the time the petition is  
24 filed. The petition shall be accompanied by a certified copy  
25 of the most recent order to be modified.

26 (d) For purposes of this section, county where the  
27 child resides means the county in which the child and legal

1       custodian have established legal residence or have resided for  
2       six or more months of a calendar year. This term shall not  
3       include placements by a state department or agency.

4               §12-15-303. Transfer of dependency proceedings  
5       between juvenile courts within the state.

6               (a) If a dependency proceeding is commenced in a  
7       county other than the county of the residence of the child,  
8       the juvenile court in which the proceedings were commenced, on  
9       its own motion or a motion of a party and after consultation  
10      with the receiving juvenile court, may transfer the proceeding  
11      before or after adjudication to the county of the residence of  
12      the child for the purpose of adjudication, disposition,  
13      supervision, or review as mandated by federal and state law  
14      for children in foster care or in the custody of the state, or  
15      any combination thereof.

16              (b) For purposes of this section, county of the  
17      residence of the child means the county in which the child and  
18      legal custodian have established legal residence or have  
19      resided for six or more months of a calendar year. This term  
20      shall not include placements by a state department or agency.

21              (c) Certified copies of all legal and social records  
22      pertaining to the case shall accompany the transfer.

23              Section 17. Section 12-15-8 of the Code of Alabama  
24      1975, is amended and renumbered to read as follows:

25              "~~§12-15-8.~~

26              "§12-15-304. Appointment by juvenile courts of  
27      guardians ad litem ~~or guardians of the person for children.~~



1           ~~"(a) The~~ In all dependency and termination of  
2 parental rights proceedings, the juvenile court,~~at any stage~~  
3 ~~of a proceeding under this chapter, may~~ shall appoint a  
4 guardian ad litem for a child who is a party to the  
5 proceedings and whose primary responsibility shall be to  
6 protect the best interests of the child ~~proceeding if he has~~  
7 ~~no parent or guardian or custodian appearing on his behalf or~~  
8 ~~their interests conflict with those of the child. A party to~~  
9 ~~the proceeding or his employee or representative shall not be~~  
10 ~~so appointed.~~

11           ~~"(b) The court, in any proceeding under this~~  
12 ~~chapter, shall appoint a guardian of the person for a child in~~  
13 ~~any case where it finds that the child does not have a natural~~  
14 ~~or adoptive parent in a position to exercise effective~~  
15 ~~guardianship or a legally appointed guardian of his person. No~~  
16 ~~officer or employee of a state or local public agency or~~  
17 ~~private agency which is vested with legal custody of a child~~  
18 ~~shall be appointed guardian of the person of the child, except~~  
19 ~~when parental rights have been terminated and the agency has~~  
20 ~~been authorized to place the child for adoption.~~

21           "(b) The duties of the guardian ad litem include,  
22 but shall not be limited to, the following:

23           "(1) Irrespective of the age of the child, meet with  
24 the child prior to juvenile court hearings and when apprised  
25 of emergencies or significant events impacting the child. In  
26 addition, the guardian ad litem shall explain, in terms

1 understandable to the child, what is expected to happen  
2 before, during, and after each juvenile court hearing.

3 "(2) Conduct a thorough and independent  
4 investigation.

5 "(3) Advocate for appropriate services for the child  
6 and the family.

7 "(4) Attend all juvenile court hearings scheduled by  
8 the juvenile court and file all necessary pleadings to  
9 facilitate the best interests of the child.

10 "(c) Before being appointed by the juvenile court,  
11 every guardian ad litem appointed in juvenile dependency or  
12 termination of parental rights cases shall receive training  
13 appropriate to their role.

14 "(d) Nothing in this section shall prohibit the  
15 juvenile court from appointing trained volunteers in addition  
16 to guardians ad litem in promoting the best interests of the  
17 child.

18 "(e) A guardian ad litem may be appointed to protect  
19 the best interests of more than one child of the same parent.  
20 A guardian ad litem also may be appointed to protect the best  
21 interests of both a minor (or otherwise incapacitated) parent  
22 and the child."

23 Section 18. Sections 12-15-305, 12-15-306,  
24 12-15-307, 12-15-308, 12-15-309, 12-15-310, 12-15-311,  
25 12-15-312, 12-15-313, 12-15-314, 12-15-315, and 12-15-316 are  
26 added to the Code of Alabama 1975, to read as follows:

1           §12-15-305. Right to counsel for petitioners or  
2 respondent parents, legal guardians, or legal custodians in  
3 dependency proceedings.

4           (a) Upon request and a finding of indigency, the  
5 juvenile court may appoint an attorney to represent the  
6 petitioner and may order recoupment of the fees of the  
7 attorney to be paid to the State of Alabama.

8           (b) In dependency and termination of parental rights  
9 cases, the respondent parent, legal guardian, or legal  
10 custodian shall be informed of his or her right to be  
11 represented by counsel and, if the juvenile court determines  
12 that he or she is indigent, counsel shall be appointed where  
13 the respondent parent, legal guardian, or legal custodian is  
14 unable for financial reasons to retain his or her own counsel.

15           §12-15-306. Removing a child from the custody of a  
16 parent, legal guardian, or legal custodian.

17           (a) A child may be removed by a law enforcement  
18 officer from the custody of a parent, legal guardian, or legal  
19 custodian if there are reasonable grounds to believe any of  
20 the following:

21           (1) The child is suffering from an illness or injury  
22 or is in imminent danger from the surroundings of the child  
23 and that the removal of the child is necessary for the  
24 protection of the health and safety of the child.

25           (2) The child has no parent, legal guardian, legal  
26 custodian, or other suitable person able to provide  
27 supervision and care for the child.

1 (b) The person removing the child shall immediately  
2 deliver the child to the Department of Human Resources.

3 §12-15-307. Notice and right to be heard to be given  
4 to relatives, preadoptive parents, or foster parents.

5 Relative caregivers, preadoptive parents, and foster  
6 parents of a child in foster care under the responsibility of  
7 the state shall be given notice, verbally or in writing, of  
8 the date, time, and place of any juvenile court proceeding  
9 being held with respect to a child in their care.

10 Foster parents, preadoptive parents, and relative  
11 caregivers of a child in foster care under the responsibility  
12 of the state have a right to be heard in any juvenile court  
13 proceeding being held with respect to a child in their care.

14 No foster parent, preadoptive parent, and relative  
15 caregiver of a child in foster care under the responsibility  
16 of the state shall be made a party to a juvenile court  
17 proceeding solely on the basis of this notice and right to be  
18 heard pursuant to this section.

19 §12-15-308. Filing of petition and conduct of  
20 72-hour hearing as to necessity for continuation of shelter  
21 care of a child.

22 (a) When a child alleged to be dependent has been  
23 removed from the custody of the parent, legal guardian, or  
24 legal custodian and has not been returned to same, a hearing  
25 shall be held within 72 hours from the time of removal,  
26 Saturdays, Sundays, and holidays included, to determine  
27 whether continued shelter care is required.

1 (b) Notice of the 72-hour hearing requirement,  
2 either verbal or written, stating the date, time, place, and  
3 purpose of the hearing and the right to counsel shall be given  
4 to the parent, legal guardian, or legal custodian if he or she  
5 can be found.

6 (c) At the commencement of the 72-hour hearing  
7 requirement, the juvenile court shall advise the parent, legal  
8 guardian, or legal custodian of the right to counsel and shall  
9 appoint counsel if the juvenile court determines he or she is  
10 indigent. If the juvenile court already has not done so, it  
11 shall appoint a guardian ad litem for a child who is a party  
12 to the proceeding. It is the responsibility of the guardian ad  
13 litem to present evidence supporting the best interests of the  
14 child. The parent, legal guardian, or legal custodian shall  
15 also be informed of the contents of the petition and, except  
16 as provided herein, shall be given an opportunity to admit or  
17 deny the allegations of the petition.

18 (d) All relevant and material evidence helpful in  
19 determining the need for shelter care may be admitted by the  
20 juvenile court, even though not admissible in subsequent  
21 hearings.

22 (e) If the child is not released and no parent,  
23 legal guardian, or other legal custodian has been notified and  
24 none appeared or waived appearance at the hearing, upon the  
25 filing of an affidavit by the parent, legal guardian, or legal  
26 custodian stating these facts and requesting a hearing, the  
27 juvenile court shall hear the matter within 24 hours.

1 (f) If the child is not released, the juvenile  
2 court, at the earliest opportunity in the case, including the  
3 72-hour hearing requirement or the adjudicatory hearing, may  
4 order the parent, legal guardian, or legal custodian to  
5 provide a list of names and, if possible, addresses and  
6 telephone numbers, of known paternal and maternal relatives to  
7 the juvenile court.

8 §12-15-309. Alleged dependent child to be released  
9 when continued shelter care not required; conditions imposed  
10 upon release; amendment of conditions or return of child to  
11 custody upon failure to conform to conditions imposed.

12 (a) When the juvenile court finds that continued  
13 shelter care is not required for a child, the juvenile court  
14 shall order the return of the child, and in so doing, may  
15 impose one or more of the following conditions singly or in  
16 combination:

17 (1) Return the child to the custody of the parent,  
18 legal guardian, or legal custodian and, if necessary, place  
19 the child under the supervision of the Department of Human  
20 Resources.

21 (2) Place restrictions on travel, associations, or  
22 living conditions of the child pending the adjudicatory  
23 hearing.

24 (b) An order releasing a child on any conditions  
25 specified may at any time be amended to impose additional or  
26 different conditions.

27 §12-15-310. Conduct of adjudicatory hearings.

1 (a) An adjudicatory hearing is a hearing at which  
2 evidence is presented for a juvenile court to determine if a  
3 child is dependent. At the commencement of the hearing, if the  
4 parties are not represented by counsel, they shall be informed  
5 of the specific allegations in the petition. The parties shall  
6 be permitted to admit or deny the allegations prior to the  
7 taking of testimony.

8 (b) If the allegations are denied by the parties or  
9 if they fail to respond, the juvenile court shall proceed to  
10 hear evidence on the petition. The juvenile court shall record  
11 its findings on whether the child is dependent. If the  
12 juvenile court finds that the allegations in the petition have  
13 not been proven by clear and convincing evidence, the juvenile  
14 court shall dismiss the petition.

15 (c) A statement made by a child under the age of 12  
16 describing any act of sexual conduct performed with or on the  
17 child by another, not otherwise admissible by statute or court  
18 rule, is admissible in all dependency cases brought by the  
19 State of Alabama acting by and through a local department of  
20 human resources if:

21 (1) The statement was made to a social worker, child  
22 sexual abuse therapist or counselor, licensed psychologist,  
23 physician, or school or kindergarten teacher or instructor;  
24 and

25 (2) The juvenile court finds that the time, content,  
26 and circumstances of the statement provide sufficient indicia  
27 of reliability. In making its determination, the juvenile

1 court may consider the physical and mental age and maturity of  
2 the child, the nature and duration of the abuse or offense,  
3 the relationship of the child to the offender, and any other  
4 factor deemed appropriate.

5 (d) A statement may not be admitted pursuant to this  
6 section unless the proponent of the statement makes known to  
7 the adverse party the intention of the proponent to offer the  
8 statement and the particulars of the statement sufficiently in  
9 advance of the proceedings to provide the adverse party with a  
10 fair opportunity to rebut the statement. This child hearsay  
11 exception applies to all hearings involving dependency  
12 including, but not limited to, the 72-hour hearing  
13 requirement, the adjudicatory hearing, and the dispositional  
14 hearing. The exception contained in this subsection shall not  
15 apply to a criminal proceeding or charge.

16 §12-15-311. Dispositional hearing.

17 (a) If the juvenile court finds from clear and  
18 convincing evidence, competent, material, and relevant in  
19 nature, that a child is dependent, the juvenile court may  
20 proceed immediately, in the absence of objection showing good  
21 cause or at a postponed hearing, to make proper disposition of  
22 the case.

23 (b) In dispositional hearings, all relevant and  
24 material evidence helpful in determining the best interests of  
25 the child, including verbal and written reports, may be  
26 received by the juvenile court even though not admissible in  
27 the adjudicatory hearing. The parties or their counsel shall



1 be afforded an opportunity to examine and controvert written  
2 reports so received and to cross-examine individuals making  
3 reports.

4 (c) On its own motion or that of a party, the  
5 juvenile court may continue the dispositional hearing pursuant  
6 to this section for a reasonable period to receive reports and  
7 other evidence bearing on the disposition or need for care or  
8 rehabilitation. In this event, the juvenile court shall make  
9 an appropriate order for temporary care for the child, or the  
10 release of the child from temporary care during the period of  
11 the continuance, subject to those conditions as the juvenile  
12 court may impose.

13 §12-15-312. Reasonable efforts in judicial  
14 determinations; situations in which reasonable efforts are not  
15 required to be made.

16 (a) When the juvenile court enters an order removing  
17 a child from his or her home and places the child into foster  
18 care or custody of the Department of Human Resources pursuant  
19 to this chapter, the order shall contain specific findings, if  
20 warranted by the evidence, within the following time periods  
21 while making child safety the paramount concern:

22 (1) In the first order of the juvenile court that  
23 sanctions the removal, whether continuation of the residence  
24 of the child in the home would be contrary to the welfare of  
25 the child. This order may be the pick-up order that the  
26 juvenile court issues on the filing of a dependency petition.

1           (2) Within 60 days after the child is removed from  
2 the home of the child, whether reasonable efforts have been  
3 made to prevent removal of the child or whether reasonable  
4 efforts were not required to be made.

5           (3) Within 12 months after the child is removed from  
6 the home of the child and not less than every 12 months  
7 thereafter during the continuation of the child in out-of-home  
8 care, whether reasonable efforts have been made to finalize  
9 the existing permanency plan.

10           (b) As used in this chapter, reasonable efforts  
11 refers to efforts made to preserve and reunify families prior  
12 to the placement of a child in foster care, to prevent or  
13 eliminate the need for removing the child from the home of the  
14 child, and to make it possible for a child to return safely to  
15 the home of the child. In determining the reasonable efforts  
16 to be made with respect to a child, and in making these  
17 reasonable efforts, the health and safety of the child shall  
18 be the paramount concern. If continuation of reasonable  
19 efforts is determined to be inconsistent with the permanency  
20 plan for the child, reasonable efforts shall be made to place  
21 the child in a timely manner in accordance with the permanency  
22 plan including, if appropriate, through an interstate  
23 placement, and to complete whatever steps are necessary to  
24 finalize a permanent plan for the child.

25           (c) Reasonable efforts shall not be required to be  
26 made with respect to a parent of the child if the juvenile  
27 court has determined that the parental rights of the parent to

1 a sibling have been involuntarily terminated or that a parent  
2 has done any of the following:

3 (1) Subjected a child to an aggravated circumstance  
4 against the child or a sibling of the child and the risk of  
5 child abuse or neglect is too high for the child to remain at  
6 home safely or to be returned home. An aggravated circumstance  
7 includes, but is not limited to, rape, sodomy, incest,  
8 aggravated stalking, abandonment, torture, chronic abuse, or  
9 sexual abuse. An aggravated circumstance may also include any  
10 of the following:

11 a. Allowing a child to use alcohol or illegal drugs  
12 to the point of abuse, neglect, or substantial risk of harm.

13 b. Substance misuse or abuse, or both, by a parent  
14 or interfering with the ability to keep the child safe and  
15 refusal of a parent to participate in or complete treatment,  
16 or where treatment has been unsuccessful.

17 c. A parent demonstrating extreme disinterest in the  
18 child by doing either of the following:

19 1. Not complying with the steps outlined in the  
20 individualized service plan or case plan over a period of six  
21 months.

22 2. Repeatedly leaving the child with someone who is  
23 unwilling or incapable of providing care and not returning for  
24 the child as promised.

25 d. Abandoning an infant or young child when the  
26 identity of the child is unknown and the parent is unknown or  
27 unable to be located after a diligent search.

1 e. When the parent has an emotional or mental  
2 condition and there is clearly no treatment that can improve  
3 or strengthen the condition enough to allow the child to  
4 remain at home safely or to return home safely.

5 f. When a parent is incarcerated and the child is  
6 deprived of a safe, stable, and permanent parent-child  
7 relationship.

8 (2) Committed murder or manslaughter of another  
9 child or murder or manslaughter of the other parent of the  
10 child.

11 (3) Aided or abetted, attempted, conspired, or  
12 solicited to commit murder or manslaughter of another child or  
13 aided or abetted, attempted, conspired, or solicited to commit  
14 murder or manslaughter of the other parent of the child.

15 (4) Committed a felony assault which resulted in  
16 serious bodily injury to the child or another child or to the  
17 other parent of the child. The term serious bodily injury  
18 means bodily injury which involves substantial risk of death,  
19 extreme physical pain, protracted and obvious disfigurement,  
20 or protracted loss or impairment of the function of a bodily  
21 member, organ, or mental faculty.

22 (d) Nothing in the exceptions to making reasonable  
23 efforts listed in subsection (c) shall be interpreted to  
24 require the reunification of a child with a stepparent or  
25 paramour of a parent under similar circumstances. The crimes  
26 listed in subsection (c) may include those from other states

1 or federal crimes if the elements of the crimes are  
2 substantially similar to those crimes in this state.

3 (e) If reasonable efforts are not made with respect  
4 to a child as a result of a determination made by a juvenile  
5 court in situations as described above, a permanency hearing,  
6 as provided in Section 12-15-315, in which in-state or  
7 out-of-state placement options for the child are considered,  
8 shall be held for the child within 30 days after the  
9 determination. Reasonable efforts shall be made to place the  
10 child in a timely manner in accordance with the permanency  
11 plan and to complete whatever steps are necessary to finalize  
12 permanent placement of the child. Reasonable efforts to place  
13 a child for adoption or with a legal guardian or legal  
14 custodian, including identifying appropriate in-state and  
15 out-of-state placements, may be made concurrently with other  
16 reasonable efforts.

17 §12-15-313. Ordering and preparation of report  
18 concerning a child and family; ordering, conduct, and  
19 certification of findings of physical or mental examination of  
20 child prior to hearing on petition generally; examination of  
21 parent, legal guardian, or legal custodian after hearing where  
22 ability to care for or supervise child at issue.

23 (a) After a petition alleging dependency has been  
24 filed, the juvenile court may direct that a study and report  
25 to the juvenile court be made by the Department of Human  
26 Resources with recommendations concerning the child, his or

1 her family, his or her environment, and other matters relevant  
2 to the need for treatment or disposition of the case.

3 (b) Where there are indications that the child may  
4 be physically ill, mentally ill, or mentally retarded, the  
5 juvenile court, on its own motion or motion of a party, may  
6 order the child to be examined at a suitable place by a  
7 physician, psychiatrist, psychologist, or other qualified  
8 examiner under the supervision of a physician, psychiatrist,  
9 or psychologist who shall certify the findings of the examiner  
10 in writing prior to a hearing on the merits of the petition.

11 §12-15-314. Dispositions for dependent children.

12 (a) If a child is found to be dependent, the  
13 juvenile court may make any of the following orders of  
14 disposition to protect the welfare of the child:

15 (1) Permit the child to remain with the parent,  
16 legal guardian, or other legal custodian of the child, subject  
17 to conditions and limitations as the juvenile court may  
18 prescribe.

19 (2) Place the child under protective supervision  
20 under the Department of Human Resources.

21 (3) Transfer legal custody to any of the following:

22 a. The Department of Human Resources.

23 b. A local public or private agency, organization,  
24 or facility willing and able to assume the education, care,  
25 and maintenance of the child and which is licensed by the  
26 Department of Human Resources or otherwise authorized by law  
27 to receive and provide care for the child.

1           c. A relative or other individual who, after study  
2 by the Department of Human Resources, is found by the juvenile  
3 court to be qualified to receive and care for the child.  
4 Unless the juvenile court finds it not in the best interests  
5 of the child, a willing, fit, and able relative shall have  
6 priority for placement or custody over a non-relative.

7           (4) Make any other order as the juvenile court in  
8 its discretion shall deem to be for the welfare and best  
9 interests of the child.

10           (5) In appropriate cases, award permanent custody to  
11 the Department of Human Resources or to a licensed  
12 child-placing agency after termination of parental rights and  
13 authorization to place for adoption, without appointing a  
14 legal guardian, or award temporary custody to the department  
15 or a licensed child-placing agency without appointing a legal  
16 custodian or legal guardian.

17           (b) Unless a child found dependent shall also be  
18 found to be delinquent, the child shall not be confined in an  
19 institution established for the care and rehabilitation of  
20 delinquent children or in a juvenile detention facility.  
21 Nothing in this subsection shall be construed to prohibit the  
22 placement of dependent children in any other residential  
23 facility as defined in subdivision (22) of Section 12-15-102.

24           (c) There shall be a rebuttable presumption that  
25 children cannot be removed from the custody of their parents  
26 solely because of a need for emergency housing.

1           (d) In providing shelter or other care for children  
2 referred to or coming under the jurisdiction of the juvenile  
3 court, the juvenile court and the Department of Human  
4 Resources shall utilize only those facilities as have been  
5 established, licensed, or approved by law, or by agencies  
6 pursuant to law, for those purposes.

7           (e) When a child is placed in the legal custody of  
8 the Department of Human Resources or any other department,  
9 agency, organization, entity, or person pursuant to this  
10 section and when the parent, legal guardian, or legal  
11 custodian of the child has resources for child support, the  
12 juvenile court shall order child support in conformity with  
13 the child support guidelines as set out in Rule 32, Alabama  
14 Rules of Judicial Administration. The child support shall be  
15 paid to the Department of Human Resources or department,  
16 agency, any other organization, entity, or person in whose  
17 legal custody the child is placed and may be expended for  
18 those matters that are necessary for the welfare and  
19 well-being of those children placed in the Department of Human  
20 Resources or any other departments, agencies, organizations,  
21 entities, or person. In these cases, the juvenile court shall  
22 issue income withholding orders subject to state law. Any  
23 petition alleging dependency of a child filed by the  
24 Department of Human Resources shall contain a request for  
25 child support.

26           §12-15-315. Permanency hearing for Department of  
27 Human Resources cases only.



1           (a) Within 12 months of the date a child is removed  
2 from the home and placed in out-of-home care, and not less  
3 frequently than every 12 months thereafter during the  
4 continuation of the child in out-of-home care, the juvenile  
5 court shall hold a permanency hearing. The Department of Human  
6 Resources shall present to the juvenile court at the hearing a  
7 permanent plan for the child. The juvenile court shall consult  
8 with the child, in an age-appropriate manner, regarding the  
9 permanency plan and any transition plan to independent living.  
10 If a permanent plan is not presented to the juvenile court at  
11 this hearing, there shall be a rebuttable presumption that the  
12 child should be returned home. This provision is intended to  
13 ensure that a permanent plan is prepared by the Department of  
14 Human Resources and presented to the juvenile court within 12  
15 months of the placement of any child in foster care and no  
16 less frequently than every 12 months thereafter. The purpose  
17 of the permanency hearing shall be to determine the permanency  
18 plan for the child which may include whether, and, if  
19 applicable, when, the child shall be: (1) Returned home on a  
20 specific date; (2) placed for adoption with no identified  
21 resource or with the current foster parent wherein the  
22 Department of Human Resources shall file a petition for  
23 termination of parental rights; (3) permanently placed with a  
24 relative with a transfer of legal and physical custody to the  
25 relative or with a transfer of physical custody to the  
26 relative but with the Department of Human Resources retaining  
27 legal custody; (4) placed in adult custodial care; or (5)

1 placed in another planned permanent living arrangement. In the  
2 case of a child who will not be returned home, at the  
3 permanency hearing, the juvenile court shall consider in-state  
4 and out-of-state placement options. If the juvenile court  
5 determines the permanent plan shall be placement in another  
6 planned permanent living arrangement, the Department of Human  
7 Resources must document to the juvenile court a compelling  
8 reason for determining that it would not be in the best  
9 interests of the child to return home, be placed for adoption  
10 with no identified resource or with the current foster parent,  
11 or be permanently placed with a relative, with a transfer of  
12 legal and physical custody to the relative or with a transfer  
13 of physical custody to the relative but with the Department of  
14 Human Resources retaining legal custody, or be placed in adult  
15 custodial care. If the child has been placed in foster care  
16 outside the State of Alabama, at the permanency hearing, the  
17 juvenile court shall determine whether the out-of-state  
18 placement continues to be appropriate and in the best  
19 interests of the child. In the case of a child who has  
20 attained the age of 16 years, at the permanency hearing, the  
21 juvenile court shall consider the services needed to assist  
22 the child to make the transition from foster care to  
23 independent living. In any permanency hearing held with  
24 respect to the child, including any hearing regarding the  
25 transition of the child from foster care to independent  
26 living, the juvenile court shall consult, in an  
27 age-appropriate manner, with the child regarding the proposed

1 permanency or transition plan for the child. Permanency plans  
2 may be concurrent and the Department of Human Resources may  
3 make reasonable efforts concurrently towards multiple  
4 permanency goals.

5 (b) The permanency hearing order of the juvenile  
6 court shall address whether the Department of Human Resources  
7 has made reasonable efforts to finalize any existing  
8 permanency plan for the child.

9 (c) The Department of Human Resources shall provide  
10 a copy of available health and education records of the foster  
11 child to the foster parent or foster care provider at the time  
12 of placement and provide a copy of available health and  
13 education records to the foster child, at no cost, at the time  
14 the child is emancipated or released from foster care by  
15 reason of attaining the age of majority.

16 §12-15-316. Modification, extension, or termination  
17 of orders of custody or protective supervision generally.

18 An order awarding legal custody or an order of  
19 protective supervision made by the juvenile court in the case  
20 of a child may be modified, terminated, or extended on motion  
21 by any of the following:

22 (1) A child, whose legal custody has been  
23 transferred to a department, institution, agency, or person,  
24 requesting the juvenile court for a modification or  
25 termination of the order, alleging that the child is no longer  
26 dependent or that protective supervision is no longer  
27 necessary.

1           (2) A department, institution, agency, or person  
2 vested with legal custody or responsibility for protective  
3 supervision, requesting the juvenile court for a modification,  
4 an extension, or a termination of the order on the grounds  
5 that this action is in the best interests of the child.

6           Section 19. Sections 26-18-5, 26-18-6, 26-18-7,  
7 26-18-8, 26-18-9, and 26-18-10 of the Code of Alabama 1975,  
8 are amended and renumbered to read as follows:

9           "~~§26-18-5.~~

10          "§12-15-317. Who may file petition.

11          "~~(a) A petition may be filed by the Department of~~  
12 ~~Human Resources, any public or private licensed child-placing~~  
13 ~~agency or parent, with permission of the court, or any~~  
14 ~~interested party.~~

15          "The Department of Human Resources, any public or  
16 private licensed child-placing agency, parent, child, or any  
17 interested person may file a petition to terminate the  
18 parental rights of a parent or parents of a child.

19          "(1) Mandatory filing of petition by the Department  
20 of Human Resources. The Department of Human Resources shall be  
21 required to file a petition to terminate the parental rights  
22 of a parent or parents of a child, or if the petition has been  
23 filed by another party, shall seek to be joined as a party to  
24 the petition, and, concurrently, to identify, recruit,  
25 process, and approve a qualified family for adoption, in the  
26 following circumstances:

1           "a. In the case of a child who has been in foster  
2 care in the custody of the Department of Human Resources for  
3 15 of the most recent 22 months.

4           "b. If a child has been abandoned.

5           "c. If the parent has committed murder of another  
6 child of that parent.

7           "d. If the parent has committed manslaughter of  
8 another child of that parent.

9           "e. If the parent has aided, abetted, attempted,  
10 conspired, or solicited to commit murder or manslaughter of  
11 another child of that parent.

12           "f. If the parent has committed a felony assault  
13 that has resulted in serious bodily injury, as defined in  
14 Section 12-15-319(a)(5)c., to the child, to another child of  
15 the parent, or to the other parent of the child.

16           "(2) Exceptions to mandatory filing shall include  
17 any of the following factors:

18           "a. The child is being cared for by a relative.

19           "b. The Department of Human Resources has documented  
20 in the individualized service plan, which shall be available  
21 for review by the juvenile court, a compelling reason for  
22 determining that filing a petition would not be in the best  
23 interests of the child.

24           "c. The Department of Human Resources has not  
25 provided to the family of the child, consistent with the time  
26 period in the individualized service plan of the Department of  
27 Human Resources, such services as the Department of Human

1 Resources deems necessary for the safe return of the child to  
2 his or her home, if reasonable efforts are required to be made  
3 with respect to the child.

4 ~~"(b) In the case of a child who has been in foster~~  
5 ~~care under the responsibility of the department for 15 of the~~  
6 ~~most recent 22 months, or, if a child has been abandoned or~~  
7 ~~the parent has committed murder of another child of that~~  
8 ~~parent, committed voluntary manslaughter of another child of~~  
9 ~~that parent, or has aided, abetted, attempted, conspired, or~~  
10 ~~solicited to commit such a murder or such a voluntary~~  
11 ~~manslaughter, or has committed a felony assault that has~~  
12 ~~resulted in serious bodily injury, as defined in Section~~  
13 ~~26-18-7, to the child or to another child of the parent, the~~  
14 ~~department shall file a petition to terminate the parental~~  
15 ~~rights of the parents of the child, or if the petition has~~  
16 ~~been filed by another party, seek to be joined as a party to~~  
17 ~~the petition, and, concurrently, to identify, recruit,~~  
18 ~~process, and approve a qualified family for adoption unless~~  
19 ~~one of the following occurs:~~

20 ~~"(1) The child is being cared for by a relative.~~

21 ~~"(2) The department has documented in the case plan,~~  
22 ~~which shall be available for court review, a compelling reason~~  
23 ~~for determining that filing a petition would not be in the~~  
24 ~~best interests of the child.~~

25 ~~"(3) The department has not provided to the family~~  
26 ~~of the child, consistent with the time period in the~~  
27 ~~department's case plan, such services as the department deems~~

1 ~~necessary for the safe return of the child to the child's~~  
2 ~~home, if reasonable efforts are required to be made with~~  
3 ~~respect to the child.~~

4 ~~"§26-18-6.~~

5 ~~"§12-15-318. Service of process.~~

6 ~~"(a) This section shall be known and cited as the~~  
7 ~~"Child Abandonment Act."~~

8 ~~"(b) Except as otherwise provided by the Alabama~~  
9 ~~Rules of Juvenile Procedure and this section, service of~~  
10 ~~process shall be made in accordance with the Alabama Rules of~~  
11 ~~Civil Procedure.~~

12 ~~"(c) The state shall have jurisdiction over an~~  
13 ~~abandoned child and the absent parent or parents, whether they~~  
14 ~~reside within the state or outside of the state, with respect~~  
15 ~~to all issues under this section.~~

16 ~~"(d) The state agency or private agency having~~  
17 ~~custody of the abandoned child shall make every reasonable~~  
18 ~~effort to determine if the child was intentionally abandoned~~  
19 ~~by the parent or parents.~~

20 ~~"(e) Within 14 calendar days following the period~~  
21 ~~required under Section 26-18-7, the state agency or private~~  
22 ~~agency having custody of the abandoned child shall petition~~  
23 ~~the juvenile court having jurisdiction over the child to~~  
24 ~~terminate parental rights to the abandoned child.~~

25 ~~"(f) The state agency or private agency having~~  
26 ~~custody of the abandoned child shall within 90 days complete~~  
27 ~~service of process on the child's parent or parents or, upon~~

1 ~~failure of service of process, petition the court to order~~  
2 ~~service by publication.~~

3 ~~"(g) Service of process by publication may be used~~  
4 ~~by a juvenile court having jurisdiction over an abandoned~~  
5 ~~child when all of the following conditions are met:~~

6 ~~"(1) The court has reached a point in the~~  
7 ~~proceedings concerning an abandoned child where the only~~  
8 ~~remaining proceeding is the final disposition of the case.~~

9 ~~"(2) The final disposition sought is the termination~~  
10 ~~of parental rights for the purpose of placing the child for~~  
11 ~~adoption.~~

12 ~~"(3) The child who is the subject of the proceedings~~  
13 ~~was abandoned in the state.~~

14 ~~"(4) The state agency or private agency having~~  
15 ~~custody of the child has established, by evidence presented to~~  
16 ~~the court of competent jurisdiction, that the absent parent or~~  
17 ~~parents are avoiding service of process or their whereabouts~~  
18 ~~are unknown and cannot be ascertained with reasonable~~  
19 ~~diligence.~~

20 ~~"(h) Service of process by publication may be~~  
21 ~~ordered by the court if the requirements of subsection (g) are~~  
22 ~~met. Service shall be made by publication in a newspaper of~~  
23 ~~general circulation in the county of the court having~~  
24 ~~jurisdiction and in the county of the last known address of~~  
25 ~~the parent or parents of the abandoned child, at least once a~~  
26 ~~week for four consecutive weeks.~~



1           ~~"(i) For purposes of this section, "abandoned child"~~  
2 ~~means a minor abandoned by his or her parents as defined in~~  
3 ~~Sections 26-18-3 and 26-18-7.~~

4           "(a) Except as otherwise provided by the Alabama  
5 Rules of Juvenile Procedure and this section, service of  
6 process of termination of parental rights actions shall be  
7 made in accordance with the Alabama Rules of Civil Procedure.

8           "(b) If service of process has not been completed  
9 within 90 days of the filing of the termination of parental  
10 rights petition, the petitioner shall request service by  
11 publication.

12           "(c) Service of process by publication may not be  
13 ordered by the juvenile court unless the following conditions  
14 are met:

15           "(1) The child who is the subject of the proceedings  
16 was abandoned in the state.

17           "(2) The state or private department or agency  
18 having custody of the child has established, by evidence  
19 presented to the juvenile court, that the absent parent or  
20 parents are avoiding service of process or their whereabouts  
21 are unknown and cannot be ascertained with reasonable  
22 diligence.

23           "(d) Service shall be made by publication in a  
24 newspaper of general circulation in the county of the juvenile  
25 court having jurisdiction and in the county of the last known  
26 address of the parent or parents of the abandoned child, at  
27 least once a week for four consecutive weeks.

1                   "~~§26-18-7.~~

2                   "§12-15-319. Grounds for termination of parental  
3 rights; factors considered; presumption arising from  
4 abandonment.

5                   "(a) If the juvenile court finds from clear and  
6 convincing evidence, competent, material, and relevant in  
7 nature, that the parents of a child are unable or unwilling to  
8 discharge their responsibilities to and for the child, or that  
9 the conduct or condition of the parents ~~is such as to render~~  
10 renders them unable to properly care for the child and that  
11 ~~such~~ the conduct or condition is unlikely to change in the  
12 foreseeable future, it may terminate the parental rights of  
13 the parents. In determining whether or not the parents are  
14 unable or unwilling to discharge their responsibilities to and  
15 for the child and to terminate the parental rights, the  
16 juvenile court shall consider, ~~and in cases of voluntary~~  
17 ~~relinquishment of parental rights may consider~~ the following  
18 factors including, but not ~~be~~ limited to, the following:

19                   "(1) That the parents have abandoned the child,  
20 provided that in ~~such~~ these cases, proof shall not be required  
21 of reasonable efforts to prevent removal or reunite the child  
22 with the parents.

23                   "(2) Emotional illness, mental illness, or mental  
24 deficiency of the parent, or excessive use of alcohol or  
25 controlled substances, of ~~such~~ a duration or nature as to  
26 render the parent unable to care for needs of the child.

1           "(3) That the parent has tortured, abused, cruelly  
2 beaten, or otherwise maltreated the child, or attempted to  
3 torture, abuse, cruelly beat, or otherwise maltreat the child,  
4 or the child is in clear and present danger of being thus  
5 tortured, abused, cruelly beaten, or otherwise maltreated as  
6 evidenced by ~~such~~ the treatment of a sibling.

7           "(4) Conviction of and imprisonment for a felony.

8           "(5) Commission by the parents of any of the  
9 following:

10           "a. Murder or manslaughter of another child of that  
11 parent.

12           "b. Aiding, abetting, attempting, conspiring, or  
13 soliciting to commit murder or manslaughter of another child  
14 of that parent.

15           "c. A felony assault or abuse which results in  
16 serious bodily injury to the surviving child or another child  
17 of that parent. The term serious bodily injury shall mean  
18 bodily injury which involves substantial risk of death,  
19 extreme physical pain, protracted and obvious disfigurement,  
20 or protracted loss or impairment of the function of a bodily  
21 member, organ, or mental faculty.

22           "~~(5)(6)~~ Unexplained serious physical injury to the  
23 child under ~~such~~ those circumstances as would indicate that  
24 ~~such~~ the injuries resulted from the intentional conduct or  
25 willful neglect of the parent.

26           "~~(6)(7)~~ That reasonable efforts by the Department of  
27 Human Resources or licensed public or private child care

1 agencies leading toward the rehabilitation of the parents have  
2 failed.

3 ~~"(7) That the parent has been convicted by a court  
4 of competent jurisdiction of any of the following:~~

5 ~~"a. Murder or voluntary manslaughter of another  
6 child of that parent.~~

7 ~~"b. Aiding, abetting, attempting, conspiring, or  
8 soliciting to commit murder or voluntary manslaughter of  
9 another child of that parent.~~

10 ~~"c. A felony assault or abuse which results in  
11 serious bodily injury to the surviving child or another child  
12 of that parent. The term "serious bodily injury" means bodily  
13 injury which involves substantial risk of death, extreme  
14 physical pain, protracted and obvious disfigurement, or  
15 protracted loss or impairment of the function of a bodily  
16 member, organ, or mental faculty.~~

17 "(8) That parental rights to a sibling of the child  
18 have been involuntarily terminated.

19 ~~"(b) Where a child is not in the physical custody of  
20 its parent or parents appointed by the court, the court, in  
21 addition to the foregoing, shall also consider, but is not  
22 limited to the following:~~

23 ~~"(1)(9) Failure by the parents to provide for the  
24 material needs of the child or to pay a reasonable portion of  
25 its support of the child, where the parent is able to do so.~~

26 ~~"(2)(10) Failure by the parents to maintain regular  
27 visits with the child in accordance with a plan devised by the~~

1 ~~department~~ Department of Human Resources, or any public or  
2 licensed private child care agency, and agreed to by the  
3 parent.

4 ~~"(3)(11)~~ Failure by the parents to maintain  
5 consistent contact or communication with the child.

6 ~~"(4)(12)~~ Lack of effort by the parent to adjust his  
7 or her circumstances to meet the needs of the child in  
8 accordance with agreements reached, including agreements  
9 reached with local departments of human resources or licensed  
10 child-placing agencies, in an administrative review or a  
11 judicial review.

12 ~~"(c)(b) In any case where the parents have abandoned~~  
13 ~~a child and such abandonment continues for a period of four~~  
14 ~~months next preceding the filing of the petition, such facts~~  
15 ~~shall constitute a rebuttable presumption that the parents are~~  
16 ~~unable or unwilling to act as parents. A rebuttable~~  
17 ~~presumption that the parents are unable or unwilling to act as~~  
18 ~~parents exists in any case where the parents have abandoned a~~  
19 ~~child and this abandonment continues for a period of four~~  
20 ~~months next preceding the filing of the petition. Nothing in~~  
21 ~~this subsection is intended to prevent the filing of a~~  
22 ~~petition in an abandonment case prior to the end of the~~  
23 ~~four-month period.~~

24 ~~"§26-18-8. Transfer of custody.~~

25 ~~"§12-15-320. Dispositions.~~

26 ~~"(a) Termination of parental rights cases shall be~~  
27 ~~given priority over other cases.~~

1           "(b) If the juvenile court determines that the  
2 parents of a child are ~~incapable~~ unwilling or unable to act as  
3 parents and terminates their parental rights, it may do the  
4 following:

5           "(1) Transfer or continue the permanent legal  
6 custody of the child to the ~~department~~ Department of Human  
7 Resources or to any public or private licensed child-placing  
8 agency able and willing to assume the care and maintenance of  
9 the child, ~~with or without an order to proceed with plans for~~  
10 ~~the adoptive placement of the child. A court~~ An order of the  
11 juvenile court which terminates parental rights and awards  
12 permanent legal custody to the Department of Human Resources  
13 or to a licensed child-placing agency shall mean that the ~~said~~  
14 ~~department~~ Department of Human Resources or ~~said the~~ licensed  
15 child-placing agency shall have authority to make permanent  
16 plans for the child, including the authority to place for  
17 adoption and consent to adoption.

18           "(2) Transfer or continue the permanent legal  
19 custody of the child to ~~a relative or other individual~~ the  
20 petitioner who, after study by the ~~department~~ Department of  
21 Human Resources, is found to be able to properly receive and  
22 care for the child.

23           "~~§26-18-9.~~

24           "§12-15-321. Periodic review of efforts to achieve  
25 adoption of child in custody of another after parental rights  
26 terminated.

1           Where the juvenile court has terminated the parental  
2 rights ~~and responsibilities of the parents~~ and has placed  
3 legal custody of the child with the ~~department~~ Department of  
4 Human Resources or with a public or private licensed  
5 child-placing agency, ~~or with an individual,~~ the juvenile  
6 court ~~shall,~~ at least ~~yearly~~ annually, shall review the  
7 circumstances of the child to determine what efforts have been  
8 made to achieve ~~the adoption of~~ permanency for the child.

9           "~~§26-18-10.~~

10           "§12-15-322. Authority of one in custody to place  
11 child for adoption or consent to adoption.

12           Upon the ~~court's~~ termination of parental rights by  
13 the juvenile court and placement of permanent custody of a  
14 child with any agency, ~~person~~ or department, ~~any such the~~  
15 agency, ~~person~~ or department ~~shall have the authority to~~ may  
16 place ~~said the~~ the child for adoption or ~~to~~ consent to ~~said the~~  
17 adoption of the child."

18           Section 20. Section 12-15-323 is added to the Code  
19 of Alabama 1975, to read as follows:

20           §12-15-323. Appeals of dependency and termination of  
21 parental rights cases.

22           Appeals relating to dependency and termination of  
23 parental rights cases shall take priority over other cases  
24 filed on appeal except for emergency matters, including  
25 appeals from denial of waiver of parental consent for  
26 abortion.

1           Section 21. Section 12-15-401 is added to the Code  
2 of Alabama 1975, to read as follows:

3           §12-15-401. Definitions.

4           For purposes of this article, the following words  
5 and phrases shall have the following meanings:

6           (1) COMMIT. Transfer legal and physical custody.

7           (2) DEPARTMENT. The Department of Mental Health and  
8 Mental Retardation.

9           Section 22. Section 12-15-90 of the Code of Alabama  
10 1975, is amended and renumbered to read as follows:

11           "~~§12-15-90.~~

12           "§12-15-402. Authority and procedure.

13           "(a) The state, any county ~~or, any~~ municipality, or  
14 any governmental department or agency, including, but not  
15 limited to, the Department of Human Resources or the  
16 Department of Youth Services, or any person, including a  
17 parent, legal guardian, or other person standing in loco  
18 parentis legal custodian, may file a petition in the juvenile  
19 court to have any minor or child, as defined in this chapter,  
20 committed to the custody of the ~~State Department of Mental~~  
21 ~~Health and Mental Retardation~~ department on the basis that  
22 ~~such~~ the minor or child is mentally ill or mentally retarded  
23 and, as a consequence of ~~such~~ that mental illness or mental  
24 retardation, poses a real and present threat of substantial  
25 harm to ~~himself~~ self or to others.

26           "(b) The ~~Such~~ petition shall be verified and filed  
27 in the county in which ~~such~~ the minor or child is located or



1 resides, petitioning the juvenile court to commit such the  
2 minor or child to the custody of the ~~State Department of~~  
3 ~~Mental Health and Mental Retardation~~ department.

4 ~~"(b) When any such petition is filed, the court~~  
5 ~~shall immediately review the petition and may require the~~  
6 ~~petitioner to be sworn and answer under oath questions in~~  
7 ~~regard to the petition and the minor or child sought to be~~  
8 ~~committed.~~

9 ~~"If it appears from the face of the petition or from~~  
10 ~~the testimony of the petitioner that the petition is totally~~  
11 ~~without merit, the court may order the petition dismissed~~  
12 ~~without further proceedings.~~

13 ~~"(c) Service of the petition upon the minor or child~~  
14 ~~sought to be committed and upon his parents and other persons~~  
15 ~~having legal responsibility shall be as provided in this~~  
16 ~~chapter for service on minors and children generally or as~~  
17 ~~otherwise provided by rule promulgated by the supreme court.~~

18 ~~"(d) (1) When any child or minor against whom a~~  
19 ~~petition has been filed seeking to commit such child or minor~~  
20 ~~to the custody of the Department of Mental Health and Mental~~  
21 ~~Retardation is initially brought before the court, the court~~  
22 ~~shall read the petition to such minor or child and to his~~  
23 ~~parents, guardian and counsel, and inform such persons orally~~  
24 ~~and in writing of the date, time and place of the next hearing~~  
25 ~~to be held in regard to such minor or child, the purpose of~~  
26 ~~such hearing, the rights of such child or minor at such~~  
27 ~~hearing and the possible consequences of such hearing.~~

1           ~~"(2) The court shall ascertain the need for and~~  
2           ~~ability to pay an attorney to represent the minor or child and~~  
3           ~~shall appoint an attorney or guardian ad litem as in other~~  
4           ~~proceedings under this chapter. No statement made or act done~~  
5           ~~by such minor or child in the presence of the court prior to~~  
6           ~~such minor or child obtaining the services of an attorney, by~~  
7           ~~appointment or otherwise, shall be considered by the court in~~  
8           ~~determining if such minor or child should be committed to the~~  
9           ~~custody of the State Department of Mental Health and Mental~~  
10          ~~Retardation.~~

11           ~~"(3) Notice of the filing of a petition under this~~  
12          ~~section and of the date of final hearing shall be given to the~~  
13          ~~State Department of Mental Health and Mental Retardation as~~  
14          ~~provided by rules promulgated by the supreme court. Said~~  
15          ~~notice shall constitute an application for admission to a~~  
16          ~~facility maintained, operated or under the supervision and~~  
17          ~~control of the Department of Mental Health and Mental~~  
18          ~~Retardation.~~

19           ~~"Not less than 24 hours prior to the final hearing,~~  
20          ~~said mental health department shall notify the district court~~  
21          ~~whether adequate facilities are available for the minor or~~  
22          ~~child and to which facility the minor or child should be sent~~  
23          ~~if the district judge should determine that such minor or~~  
24          ~~child is to be committed. No person shall be accepted if the~~  
25          ~~facility does not have adequate facilities available or if~~  
26          ~~acceptance would result in an overcrowded condition.~~

1           ~~"(e) At such time as a minor or child sought to be~~  
2           ~~committed is first brought before the court, the court shall~~  
3           ~~determine what limitations, if any, shall be placed upon such~~  
4           ~~minor or child's liberty pending further hearings. No~~  
5           ~~limitations shall be placed upon such minor or child's liberty~~  
6           ~~unless such limitations are necessary to prevent such minor or~~  
7           ~~child from doing substantial harm to himself or to others or~~  
8           ~~to prevent such minor or child from leaving the jurisdiction~~  
9           ~~of the court.~~

10           ~~"No such minor or child shall be placed in a~~  
11           ~~juvenile detention facility or jail or other facility for~~  
12           ~~persons accused of or convicted of committing crimes unless~~  
13           ~~such minor or child poses a real and present threat of harm to~~  
14           ~~himself or others and no other facility is available to safely~~  
15           ~~detain such minor or child.~~

16           ~~"The court shall order such minor or child to appear~~  
17           ~~at the times and places set for hearing the petition and may~~  
18           ~~order and require the minor or child to appear at designated~~  
19           ~~times and places to be examined by medical doctors or mental~~  
20           ~~health professionals.~~

21           ~~"(f) If the district court shall find it necessary~~  
22           ~~to temporarily confine or restrain any minor or child, pending~~  
23           ~~final hearing on a petition for commitment, in the custody of~~  
24           ~~any person or persons or agency other than his parent or~~  
25           ~~parents or legal guardian, the court at the time such~~  
26           ~~restraint or confinement is ordered shall set the petition for~~

1 ~~hearing within seven days to determine if probable cause~~  
2 ~~exists that such minor or child should be committed.~~

3 ~~"Upon a finding of probable cause that such minor or~~  
4 ~~child should be committed, the court shall enter an order so~~  
5 ~~stating and setting the date, time and place of the hearing on~~  
6 ~~the merits of such petition.~~

7 ~~"At such probable cause hearing the court shall~~  
8 ~~determine if it is necessary to continue the restraint or~~  
9 ~~confinement pending final hearing.~~

10 ~~"The final hearing shall be held on the merits of~~  
11 ~~such petition within 30 days of the date that such minor or~~  
12 ~~child was served with a copy of the petition seeking to commit~~  
13 ~~such minor or child.~~

14 ~~"(g) At all hearings conducted in relation to a~~  
15 ~~petition to commit any minor or child to the custody of the~~  
16 ~~State Department of Mental Health and Mental Retardation, the~~  
17 ~~following rules shall apply:~~

18 ~~"(1) The minor or child sought to be committed shall~~  
19 ~~be present, unless prior to the hearing the attorney for such~~  
20 ~~minor or child has filed in writing a waiver of the presence~~  
21 ~~of such minor or child on the ground that the presence of such~~  
22 ~~minor or child would be dangerous to such person's physical or~~  
23 ~~mental health or that such minor or child's conduct could~~  
24 ~~reasonably be expected to prevent the hearing from being held~~  
25 ~~in an orderly manner and the court has determined from~~  
26 ~~evidence that the waiver should be granted and has entered an~~  
27 ~~order approving the waiver.~~

1           ~~"(2) The minor or child sought to be committed shall~~  
2 ~~have the right to compel the attendance of and offer the~~  
3 ~~testimony of witnesses, to be confronted with the witnesses in~~  
4 ~~support of the petition and to cross-examine them and to~~  
5 ~~testify in his own behalf, but no such minor or child shall be~~  
6 ~~compelled to testify against himself.~~

7           ~~"(3) The court shall cause the hearing to be~~  
8 ~~recorded stenographically, mechanically or electronically and~~  
9 ~~shall retain such recording for a period of not less than~~  
10 ~~three years from the date the petition is denied or granted~~  
11 ~~and not less than the duration of any commitment pursuant to~~  
12 ~~such hearing.~~

13           ~~"(4) All hearings shall be heard by the court~~  
14 ~~without a jury, and the persons who may be present shall be as~~  
15 ~~provided for in subsection (a) of Section 12-15-65.~~

16           ~~"(h) An attorney representing the state, any county~~  
17 ~~or municipality or the Department of Youth Services or the~~  
18 ~~Department of Human Resources or an attorney representing the~~  
19 ~~person or persons filing a petition to have a minor or child~~  
20 ~~committed may serve as the advocate in support of the petition~~  
21 ~~to commit in all matters in regard to a petition to commit.~~

22           ~~"(i) At the final hearing upon a petition seeking to~~  
23 ~~commit a minor or child to the custody of the Department of~~  
24 ~~Mental Health and Mental Retardation on the basis that he is~~  
25 ~~mentally ill, the court may grant the petition if substantial~~  
26 ~~evidence proves that:~~

1           ~~"(1) The minor or child sought to be committed is~~  
2 ~~mentally ill; and~~

3           ~~"(2) As a consequence of the mental illness, the~~  
4 ~~minor or child poses a real and present threat of substantial~~  
5 ~~harm to himself or to others; and~~

6           ~~"(3) The threat of substantial harm has been~~  
7 ~~evidenced by a recent overt act; and~~

8           ~~"(4) Treatment is available for the minor's or~~  
9 ~~child's mental illness or that confinement is necessary to~~  
10 ~~prevent the minor or child from causing substantial harm to~~  
11 ~~himself or to others; and~~

12           ~~"(5) Commitment is the least restricting alternative~~  
13 ~~necessary and available for treatment of the minor's or~~  
14 ~~child's illness. Upon such findings, the court shall enter an~~  
15 ~~order setting forth the findings and may order the person~~  
16 ~~committed to the custody of the State Department of Mental~~  
17 ~~Health and Mental Retardation.~~

18           ~~"(j) At the final hearing upon a petition seeking to~~  
19 ~~commit a minor or child to the State Department of Mental~~  
20 ~~Health and Mental Retardation on the basis that he is mentally~~  
21 ~~retarded, the court may grant the petition if substantial~~  
22 ~~evidence proves that:~~

23           ~~"(1) The minor or child sought to be committed is~~  
24 ~~mentally retarded; and~~

25           ~~"(2) The said mentally retarded minor or child is~~  
26 ~~not borderline or mildly retarded. For the purposes of making~~  
27 ~~this determination, the following definitions shall apply:~~

1           ~~"A borderline retarded person is an individual who~~  
2 ~~is functioning between one and two standard deviations below~~  
3 ~~the mean, and the mildly retarded person is an individual who~~  
4 ~~is functioning between two and three standard deviations below~~  
5 ~~the mean on a standardized intelligence test such as the~~  
6 ~~Stanford Binet scale and on measures of adaptive behavior such~~  
7 ~~as the American Adaptive Behavior scale; and~~

8           ~~"(3) The minor or child, if allowed to remain in the~~  
9 ~~community, is likely to cause serious injury to himself or~~  
10 ~~others, or that adequate care, rehabilitation and training~~  
11 ~~opportunities are available only at a facility provided by the~~  
12 ~~department of mental health and mental retardation.~~

13           ~~"Upon such findings, the court shall enter an order~~  
14 ~~setting forth the findings, and may order the minor or child~~  
15 ~~committed to the custody of the State Department of Mental~~  
16 ~~Health and Mental Retardation.~~

17           ~~"(k) Any minor or child committed to the custody of~~  
18 ~~the Department of Mental Health and Mental Retardation who, in~~  
19 ~~the judgment of the Commissioner of Mental Health and Mental~~  
20 ~~Retardation, has gained maximum benefit from institutional~~  
21 ~~treatment or is no longer in need of the services of the~~  
22 ~~Department of Mental Health and Mental Retardation or has~~  
23 ~~gained maximum benefit from the programs of the Department of~~  
24 ~~Mental Health and Mental Retardation shall be discharged from~~  
25 ~~the custody of the Department of Mental Health and Mental~~  
26 ~~Retardation and shall not be received again by the Department~~  
27 ~~of Mental Health and Mental Retardation under the original~~

1 ~~commitment order unless deemed appropriate by a court of~~  
2 ~~proper jurisdiction holding a subsequent hearing.~~

3 ~~"(l) The Department of Mental Health and Mental~~  
4 ~~Retardation shall notify the committing court in writing at~~  
5 ~~least 10 days in advance of the release. The committing court,~~  
6 ~~at the time of release, shall then invest custody in a party~~  
7 ~~or state agency which the court deems suitable.~~

8 ~~"(m) The court committing any minor or child to the~~  
9 ~~custody of the State Department of Mental Health and Mental~~  
10 ~~Retardation shall retain jurisdiction over such minor or child~~  
11 ~~concurrently with the district court of the county in which~~  
12 ~~the minor or child is subsequently located for so long as the~~  
13 ~~minor or child is in the custody of the Department of Mental~~  
14 ~~Health and Mental Retardation."~~

15 Section 23. Sections 12-15-403, 12-15-404,  
16 12-15-405, 12-15-406, 12-15-407, 12-15-408, 12-15-409,  
17 12-15-410, 12-15-411, 12-15-412, and 12-15-413 are added the  
18 Code of Alabama 1975, to read as follows:

19 §12-15-403. Review of the petition by the juvenile  
20 court.

21 (a) When at the time a petition is filed, a juvenile  
22 court shall immediately review the petition and may require  
23 the petitioner to be sworn and answer under oath questions in  
24 regard to the petition and the minor or child sought to be  
25 committed.

26 (b) If it appears from the face of the petition or  
27 from the testimony of the petitioner that the petition is



1 totally without merit, the juvenile court shall order the  
2 petition dismissed without further proceedings.

3 §12-15-404. Service of the petition.

4 Service of the petition upon the minor or child  
5 sought to be committed and upon his or her parent, legal  
6 guardian, or legal custodian shall be as provided in this  
7 chapter for service on minors and children generally or as  
8 otherwise provided by rules of court promulgated by the  
9 Supreme Court of Alabama.

10 §12-15-405. Notice of hearing; appointment of  
11 counsel for the minor or child.

12 (a) When any minor or child against whom a petition  
13 has been filed seeking to commit the minor or child to the  
14 custody of the department is initially brought before the  
15 juvenile court, the juvenile court shall provide a copy of the  
16 petition and if requested, read the petition to the minor or  
17 child and to his or her parent, legal guardian, or legal  
18 custodian and counsel, and inform those persons verbally and  
19 in writing of the date, time, and place of the next hearing to  
20 be held in regard to the minor or child, the purpose of the  
21 hearing, the rights of the minor or child at the hearing, and  
22 the possible consequences of the hearing.

23 (b) The juvenile court shall appoint a child's  
24 attorney for the minor or child. The juvenile court may  
25 appoint a guardian ad litem in addition to the child's  
26 attorney. No statement made or act done by the minor or child  
27 in the presence of the juvenile court prior to the minor or

1 child obtaining the services of a child's attorney, or a  
2 guardian ad litem, shall be considered by the juvenile court  
3 in determining if the minor or child should be committed to  
4 the custody of the department.

5 (c) Notice of the filing of a petition pursuant to  
6 this section and of the date of final hearing shall be given  
7 to the department by the juvenile court within 14 days prior  
8 to the hearing. The notice shall constitute an application for  
9 admission to a facility maintained, operated, or under the  
10 supervision and control of the department.

11 (d) Not less than 24 hours prior to the final  
12 hearing, the department shall notify the juvenile court  
13 whether adequate facilities are available for the minor or  
14 child and to which facility the minor or child should be sent  
15 if the juvenile court should determine that the minor or child  
16 is to be committed. The minor or child shall not be accepted  
17 if the facility does not have adequate facilities available or  
18 if acceptance of the minor or child would result in an  
19 overcrowded condition.

20 §12-15-406. Determination of placement of the minor  
21 or child.

22 (a) At the time that a minor or child sought to be  
23 committed is first brought before the juvenile court, the  
24 juvenile court shall determine the placement of the minor or  
25 child pending further hearings. No limitations shall be placed  
26 upon the minor or child unless limitations shall be necessary  
27 to prevent the minor or child from doing substantial harm to

1 self or to others or to prevent the minor or child from  
2 leaving the jurisdiction of the juvenile court.

3 (b) No child shall be placed in a juvenile detention  
4 facility unless the child is charged with a delinquent act.

5 (c) The juvenile court may order the minor or child  
6 to be held in a public or private facility pending receipt by  
7 the department.

8 (d) The juvenile court shall order the minor or  
9 child to appear at the times and places set for hearing the  
10 petition and may order and require the minor or child to  
11 appear at designated times and places to be examined by  
12 medical doctors or mental health professionals.

13 §12-15-407. Probable cause hearings for temporary  
14 confinement of the minor or child.

15 (a) If the juvenile court finds it necessary to  
16 temporarily confine or restrain the minor or child, pending  
17 final hearing upon a petition for mental commitment of the  
18 minor or child in the custody of any person, department, or  
19 agency other than his or her parent, legal guardian, or legal  
20 custodian, the juvenile court at the time the confinement is  
21 ordered shall set the matter for a hearing within seven days  
22 to determine if probable cause exists that the minor or child  
23 should be committed. At the probable cause hearing, the  
24 juvenile court shall determine if it is necessary to continue  
25 the restraint or confinement pending the final hearing.

26 (b) Upon a finding of probable cause that the minor  
27 or child should be committed, the juvenile court shall enter

1 an order so stating and setting the date, time, and place of  
2 the hearing on the merits of the petition.

3 (c) The final hearing shall be held on the merits of  
4 the petition within 30 days of the date that the minor or  
5 child was served with a copy of the petition seeking to commit  
6 the minor or child.

7 §12-15-408. Conducting hearings to commit the minor  
8 or child.

9 At all hearings conducted pursuant to this section  
10 to commit a minor or child to the custody of the department,  
11 the following shall apply:

12 (1) The minor or child sought to be committed shall  
13 be present unless, prior to the hearing, the child's attorney  
14 for the minor or child has filed in writing a waiver of the  
15 presence of the minor or child on the ground that the presence  
16 of the minor or child would be dangerous to his or her  
17 physical or mental health or that the conduct of the minor or  
18 child could reasonably be expected to prevent the hearing from  
19 being held in an orderly manner and the juvenile court has  
20 determined from the evidence that the waiver should be granted  
21 and has entered an order approving the waiver.

22 (2) The minor or child sought to be committed shall  
23 have the right to compel the attendance of and offer the  
24 testimony of witnesses, to be confronted with the witnesses in  
25 support of the petition and to cross-examine those witnesses,  
26 and to testify in his or her own behalf. No minor or child  
27 shall be compelled to testify against himself or herself.

1           (3) The juvenile court shall cause the hearing to be  
2 recorded stenographically, mechanically, or electronically and  
3 shall retain the recording for a period of not less than three  
4 years from the date the petition is denied or granted, and not  
5 less than the duration of any commitment pursuant to the  
6 hearing.

7           (4) All hearings shall be heard by the juvenile  
8 court without a jury, and the persons who may be present shall  
9 be as provided in Section 12-15-129.

10           §12-15-409. Role of attorney as advocate.

11           (a) An attorney representing the state, any county,  
12 or municipality or the Department of Youth Services or the  
13 Department of Human Resources or an attorney representing the  
14 person or persons filing a petition to have a minor or child  
15 committed may serve as the advocate in support of the petition  
16 to commit in all matters regarding the petition.

17           (b) At the final hearing upon a petition seeking to  
18 commit a minor or child to the custody of the department on  
19 the basis that the minor or child is mentally ill, the  
20 juvenile court may grant the petition if clear and convincing  
21 evidence proves all of the following:

22           (1) That the minor or child sought to be committed  
23 is mentally ill.

24           (2) That, as a consequence of the mental illness,  
25 the minor or child poses a real and present threat of  
26 substantial harm to himself, herself, or to others.

1           (3) That the threat of substantial harm has been  
2 evidenced by a recent overt act.

3           (4) That treatment is available for the mental  
4 illness of the minor or child or that confinement is necessary  
5 to prevent the minor or child from causing substantial harm to  
6 himself, herself, or to others.

7           (5) That commitment is the least restricting  
8 alternative necessary and available for treatment of the  
9 illness of the minor or child.

10           (c) Upon these findings, the juvenile court shall  
11 enter an order setting forth the findings and may order the  
12 minor or child committed to the custody of the department.

13           §12-15-410. Evidence in commitment proceedings for  
14 mentally retarded minors and children.

15           (a) At the final hearing upon a petition seeking to  
16 commit a minor or child to the department on the basis that  
17 the minor or child is mentally retarded, the juvenile court  
18 may grant the petition if clear and convincing evidence proves  
19 all of the following:

20           (1) The minor or child sought to be committed is  
21 mentally retarded.

22           (2) The mentally retarded minor or child is not  
23 mildly retarded, as defined by the department.

24           (3) The minor or child, if allowed to remain in the  
25 community, is likely to cause serious injury to himself,  
26 herself, or others, or that adequate care, rehabilitation, and

1 training opportunities are available only at a facility  
2 provided by the department.

3 (b) Upon these findings, the juvenile court shall  
4 enter an order setting forth the findings, and may order the  
5 minor or child committed to the custody of the department.

6 §12-15-411. Discharge of the minor or child from  
7 custody of the department.

8 (a) Any minor or child committed to the custody of  
9 the department who has gained maximum benefit from  
10 institutional treatment, who is no longer in need of the  
11 services of the department, or who has gained maximum benefit  
12 from the programs of the department shall be discharged from  
13 the custody of the department. The minor or child shall not be  
14 received again by the department pursuant to the original  
15 commitment order unless deemed appropriate by a court of  
16 proper jurisdiction holding a subsequent hearing.

17 (b) The department shall notify the committing  
18 juvenile court or the court to which the case is transferred  
19 and the parties to the commitment action in writing, which  
20 must be received by the juvenile court at least 10 days in  
21 advance of the proposed discharge. The committing juvenile  
22 court, at the time of discharge, shall transfer custody to a  
23 person or another state department or agency deemed suitable  
24 by the juvenile court.

25 §12-15-412. Retention of jurisdiction.

26 The juvenile court committing any minor or child to  
27 the custody of the department shall retain jurisdiction over

1 the minor or child so long as the minor or child is in the  
2 custody of the department regarding the original commitment.

3 §12-15-413. Combining probable cause and final  
4 hearings.

5 The probable cause hearing provided in Section  
6 12-15-407 and the final hearing provided in Section 12-15-408  
7 may be consolidated with the consent of all the parties.

8 Section 24. The heading of Article 5 (commencing  
9 with Section 12-15-501) of Chapter 15 of Title 12 of the Code  
10 of Alabama 1975, is amended to read as follows:

11 ARTICLE 5. ~~RECORDS, FINGERPRINTS, AND PHOTOGRAPHS~~  
12 MULTIPLE NEEDS CHILD PROVISIONS.

13 Section 25. Sections 12-15-501, 12-15-502, and  
14 12-15-503 are added to the Code of Alabama 1975, to read as  
15 follows:

16 §12-15-501. Definitions.

17 For purposes of this article, the following words  
18 and phrases shall have the following meanings:

19 (1) COUNTY TEAM. A county children's services  
20 facilitation team.

21 (2) MULTIPLE NEEDS CHILD. A child coming to the  
22 attention of the juvenile court or one of the entities listed  
23 herein who is at imminent risk of out-of-home placement or a  
24 placement in a more restrictive environment, and whose needs  
25 require the services of two or more of the following entities:  
26 Department of Youth Services, public school system (services  
27 for exceptional needs), Department of Human Resources,



1 Department of Public Health, juvenile probation officers, or  
2 Department of Mental Health and Mental Retardation.

3 (3) STATE TEAM. The Alabama Children's Services  
4 Facilitation Team.

5 §12-15-502. Referral of multiple needs child case to  
6 county team.

7 After the filing of a petition alleging that a child  
8 is delinquent, dependent, or in need of supervision, or after  
9 the filing of a petition seeking mental commitment of a minor  
10 or child pursuant to Section 12-15-401, the juvenile court, on  
11 its own motion or motion of a party, may refer the  
12 above-referenced child to the county team for recommendation  
13 if the petition alleged or evidence reveals to the juvenile  
14 court that the child may be a multiple needs child. If the  
15 case involves a child in need of supervision, or a status  
16 offender as defined in subdivision (4) of Section 12-15-201,  
17 who is at imminent risk of being placed in the legal or  
18 physical custody of the Department of Human Resources, the  
19 juvenile court shall refer the case to the county team. This  
20 referral may occur prior to any hearing, or the juvenile court  
21 may suspend proceedings during the hearing or prior to  
22 disposition to review the findings and recommendations of the  
23 county team. Upon referral to the county children's services  
24 facilitation team, the juvenile probation officer shall  
25 continue to provide case management to the status offender  
26 unless the county children's services facilitation team  
27 appoints another person to act as case manager. The juvenile

1 probation officer shall participate in county children's  
2 services facilitation team meetings and share records  
3 information and reports on the status offender with the county  
4 children's services facilitation team.

5 §12-15-503. Recommendation by county team; decision  
6 by juvenile court of multiple needs child.

7 (a) Within 21 days of receipt of a juvenile court  
8 referral or within another time specified by the juvenile  
9 court, the county team shall present to the juvenile court a  
10 plan of services addressing the needs of the child referred to  
11 the county team and the respective responsibilities of  
12 departments, agencies, and organizations composing this county  
13 team. Upon receipt of this plan, the juvenile court may find  
14 the child a multiple needs child. When the juvenile court  
15 finds it is in the best interests of the multiple needs child,  
16 the juvenile court may order the use of any dispositional  
17 alternative or service available for dependent children,  
18 delinquent children, or children in need of supervision,  
19 children who are emotionally disturbed, mentally retarded, or  
20 mentally ill, or children who need specialized educational  
21 services, or children who need health services, or any  
22 combination thereof. The departments, agencies, or  
23 organizations shall be responsible for the implementation of  
24 the service plan adopted by the juvenile court.

25 (b) No multiple needs child, unless alleged or  
26 adjudicated delinquent, shall be placed in secure custody,  
27 except as provided in Section 12-15-208.

1 (c) The juvenile court may appoint a guardian ad  
2 litem for a multiple needs child.

3 (d) The provisions of subsections (a), (b), and (c)  
4 which require new or additional services beyond those already  
5 provided by the departments or agencies which are members of  
6 the State Team are mandated only to the extent that additional  
7 funds are appropriated to the State Multiple Needs Children  
8 Fund to implement its provisions. Nothing in the provisions  
9 relating to multiple needs children shall prohibit or restrict  
10 departments or agencies charged with the duty of providing  
11 services for children and families from working cooperatively  
12 and providing financial assistance to address needs which have  
13 been identified prior to a case being referred to a county  
14 team.

15 Section 26. Sections 12-15-170, 12-15-171,  
16 12-15-172, 12-15-173, 12-15-174, 12-15-175, and 12-15-120 of  
17 the Code of Alabama 1975, are amended and renumbered to read  
18 as follows:

19 ~~"§12-15-170.~~

20 "§12-15-504. Creation of Executive Council of the  
21 ~~Alabama Children's Services Facilitation State Team;~~  
22 membership; duties.

23 "There is created an Executive Council of the  
24 ~~Alabama Children's Services Facilitation State Team~~ consisting  
25 of the heads of the following departments or agencies:  
26 Department of Education, Department of Human Resources,  
27 Department of Mental Health and Mental Retardation, Department

1 of Public Health, and the Department of Youth Services. The  
2 Executive Council shall exercise general supervision and  
3 oversight over the ~~Alabama Children's Services Facilitation~~  
4 State Team, approve its state plan and its budget, oversee all  
5 financial arrangements, approve all policies and procedures,  
6 as well as amendments thereto, and establish minimum standards  
7 for the operation of county ~~children's services facilitation~~  
8 teams.

9 ~~"§12-15-171.~~

10 ~~"§12-15-505. Children's Services Facilitation State~~  
11 ~~Team established; membership; term; duties; hiring authority.~~

12 "(a) The State ~~Alabama Children's Services~~  
13 ~~Facilitation~~ Team is created and shall consist of a  
14 representative appointed by the head of the following  
15 departments, agencies, or organizations: The Department of  
16 Education, the Department of Human Resources, the Department  
17 of Mental Health and Mental Retardation, the Department of  
18 Public Health, the Department of Youth Services, and the  
19 ~~Association of Alabama Chief Juvenile Probation Officers~~  
20 Association. ~~As used in this article, "state team" means~~  
21 ~~Alabama Children's Services Facilitation Team.~~

22 "(b) The appointments to the state team shall be for  
23 a term of three years beginning October 1, 1993, and each  
24 three years thereafter and until their successors are  
25 appointed, except that the initial appointments of the  
26 representatives of the Department of Human Resources and the  
27 Department of Mental Health and Mental Retardation shall be

1 for three years; the initial appointments of the  
2 representatives of the Department of Education and the  
3 Department of Youth Services shall be for two years; and the  
4 initial appointments of representatives of the Department of  
5 Public Health and the ~~Association of Alabama Chief Juvenile~~  
6 Probation Officers Association shall be for one year. Any  
7 vacancies in the appointed positions shall be filled in like  
8 manner as their ~~predecessor~~ predecessors and shall serve for  
9 the remainder of ~~the their predecessor's~~ term of their  
10 predecessors and until a successor is appointed.

11 Representatives may be reappointed for additional terms.

12 "(c) The ~~state team~~ State Team shall annually select  
13 one of its members to serve as chair and may select other  
14 officers as needed.

15 "(d) The ~~state team~~ State Team shall meet at least  
16 monthly at a time and place that is mutually agreeable. ~~The~~  
17 ~~initial meeting shall be called by the Commissioner of the~~  
18 ~~Department of Human Resources within three months of May 27,~~  
19 ~~1993.~~

20 "(e) The ~~state team~~ State Team shall:

21 "(1) Develop and implement interagency plans for  
22 statewide services for multiple needs children.

23 "(2) Develop guidelines, policies, and procedures,  
24 for the allocation of available resources for services to  
25 multiple needs children. ~~Such~~ These guidelines, policies, and  
26 procedures shall be approved by the Executive Council of the  
27 ~~Alabama Children's Services Facilitation~~ State Team.

1           "(3) Be authorized to exchange records, documents,  
2 and information among members of the state and county teams as  
3 well as the departments or agencies the members represent for  
4 the purposes of assessment, planning, and delivery of services  
5 to children.

6           "(4) Consult with the county ~~children's services~~  
7 ~~facilitation~~ teams to ensure that all efforts to provide  
8 services locally and in the least restrictive environment are  
9 exhausted before a case is referred to the ~~state team~~ State  
10 Team. Upon receiving a referral, the ~~Alabama Children's~~  
11 ~~Services Facilitation~~ State Team shall develop a plan which  
12 shall be binding on the county ~~children's services~~  
13 ~~facilitation~~ team. The ~~Alabama Children's Services~~  
14 ~~Facilitation~~ State Team shall have the authority to may  
15 allocate resources to implement the plan for services and  
16 treatment in accordance with the budget approved by the  
17 Executive Council of the ~~Alabama Children's Services~~  
18 ~~Facilitation~~ State Team.

19           "(5) The ~~state team is authorized to~~ State Team may  
20 accept and use funds available to it from all sources,  
21 including, but not limited to, grants, appropriations, gifts,  
22 and donations for the purpose of implementing ~~the provisions~~  
23 ~~of~~ this section. All ~~such~~ these funds shall be deposited into  
24 the State Multiple Needs Children Fund, which shall be under  
25 the management of the ~~Alabama Children's Services Facilitation~~  
26 State Team. ~~Monies~~ Moneys of the fund may be withdrawn by  
27 vouchers authorized by the ~~chair of the state team~~ Director of

1 the Multiple Needs Child Office in accordance with the  
2 operations plan approved by the ~~executive council~~ Executive  
3 Council of the State Team.

4 "(6) The ~~state team~~ State Team shall report  
5 periodically to the Alabama Children's Policy Council on the  
6 services available within the state, the number of cases upon  
7 which the ~~state team~~ State Team has been consulted or  
8 requested to formulate a service plan, and budgetary needs or  
9 constraints affecting delivery of services.

10 "(f) The ~~Alabama Children's Services Facilitation~~  
11 State Team ~~shall be authorized to~~ may employ staff,  
12 conditioned upon appropriation of funds, to carry out the  
13 duties of the ~~team~~ State Team. Employment may be through  
14 contract or appointment ~~under~~ pursuant to the State Merit  
15 System, utilizing one of the member departments or agencies as  
16 the appointing or contracting authority. Supervision of ~~any~~  
17 ~~staff provided under this section~~ the Director of the Multiple  
18 Needs Child Office shall be by the chair of the ~~Alabama~~  
19 ~~Children's Services Facilitation~~ State Team.

20 "~~§12-15-172.~~

21 "§12-15-506. County ~~facilitation~~ teams established;  
22 appointments; meetings; duties.

23 "(a) A county ~~children's services facilitation~~ team  
24 is created in each county of the state. ~~As used in this~~  
25 ~~article, "county team" means a county children's services~~  
26 ~~facilitation team.~~ The county team shall consist of a  
27 representative appointed by the head of the following

1 departments, agencies, or organizations: The local education  
2 agency or agencies, the county department of human resources,  
3 the Department of Mental Health and Mental Retardation, the  
4 Department of Youth Services, and a ~~representative from~~  
5 ~~juvenile probation services~~ juvenile probation officer  
6 appointed by the presiding juvenile court judge.

7 "(b) Appointments to the county team shall be for a  
8 term of three years beginning October 1, 1993, and each three  
9 years thereafter and until their successors are appointed,  
10 except that the initial appointments of the representatives of  
11 the county department of human resources and the Department of  
12 Mental Health and Mental Retardation shall be for three years;  
13 the initial appointments of the representatives of the local  
14 education agency or agencies and the Department of Youth  
15 Services shall be for two years; and the initial appointment  
16 of the ~~representative of the~~ juvenile probation ~~services~~  
17 officer shall be for one year. Any vacancies in the appointed  
18 positions shall be filled in like manner as their ~~predecessor~~  
19 predecessors and shall serve for the remainder of ~~their~~  
20 ~~predecessor's~~ the term of their predecessors and until a  
21 successor is appointed. Representatives may be reappointed for  
22 additional terms.

23 "(c) The county team shall annually select one of  
24 its members to serve as chair and may select other officers as  
25 needed.

26 "~~(d) An organizational meeting of the county team~~  
27 ~~shall be called by the county director of the county~~



1 ~~department of human resources within three months after May~~  
2 ~~27, 1993. Other meetings~~ Meetings of the county team may be  
3 held as needed. The county team shall meet ~~within seven days~~  
4 ~~of~~ during its normally scheduled time when a case ~~being~~ is  
5 referred by a juvenile court or from notice of a member that  
6 there is a need for the county team to develop a service plan.

7 "(e) The county team shall:

8 "(1) Comply with the guidelines, policies, and  
9 procedures promulgated by the ~~Alabama Children's Services~~  
10 ~~Facilitation~~ State Team and approved by the Executive Council  
11 of the ~~Alabama Children's Services Facilitation~~ State Team.

12 "(2) Be authorized to develop guidelines, policies,  
13 and procedures, not in conflict with the minimum standards  
14 established by the ~~state team~~ State Team, for the county team.

15 "(3) Be authorized to exchange records, documents,  
16 and information among members of the county and ~~state teams~~  
17 State Teams, as well as the departments or agencies the  
18 members represent, for the purposes of assessment, planning,  
19 and delivery of services to children.

20 "(4) By consensus, develop an individualized service  
21 plan to meet the needs of each child who is accepted by the  
22 county team.

23 "(5) Consult with the ~~Alabama Children's Services~~  
24 ~~Facilitation~~ State Team whenever the county team is unable to  
25 reach an agreement as to a service plan. In the event a county  
26 team requests assistance of the ~~state team~~ State Team because  
27 of an inability to agree on a ~~service~~ plan or needs assistance

1 developing or implementing a plan, the service plan developed  
2 by the ~~state team~~ State Team shall be binding on the ~~local~~  
3 county team, as well as the departments, agencies, or  
4 organizations represented.

5 "(6) ~~The county team shall work~~ Work with the  
6 county children's policy council to ensure that appropriate  
7 local services are developed, modified, or expanded as the  
8 needs of children within the community are identified.

9 "~~(7) Be authorized to add representatives of other~~  
10 ~~community agencies, temporarily or permanently, based on~~  
11 ~~circumstances of the needs of a child referred to the county~~  
12 ~~team.~~

13 "~~(8) (7)~~ ~~The county children's services facilitation~~  
14 ~~team is~~ Be authorized to accept and use funds available to it  
15 from all sources, including, but not limited to, grants,  
16 appropriations, gifts, and donations for the purpose of  
17 implementing ~~the provisions of~~ this section. All ~~such~~ these  
18 funds shall be deposited into the county multiple needs  
19 children fund, which shall be under the management of the  
20 county ~~children's services facilitation~~ team. ~~Monies~~ Moneys of  
21 the fund may be withdrawn by vouchers or checks authorized by  
22 the chair of the county team in accordance with the operations  
23 plan approved by the county team.

24 "~~§12-15-173.~~

25 "§12-15-507. Reimbursement available for team member  
26 expenses.

1           The members of the state and county teams shall be  
2 entitled to be reimbursed for their expenses, including  
3 travel, lodging, food, and other expenses at the same rate as  
4 state employees. The expenses shall be paid by their  
5 respective departments, agencies, or organizations. Travel  
6 expenses of members of the team not otherwise reimbursed by  
7 the respective departments, agencies, or organizations may be  
8 paid from funds available to the teams.

9           "~~§12-15-174.~~

10           "§12-15-508. State Multiple Needs Children Fund  
11 established; use; limitations; accounting system to be  
12 maintained; provisions for yearly audit.

13           "(a) There is established in the State Treasury a  
14 fund to be known as the State Multiple Needs Children Fund  
15 which shall be administered by the agency designated by the  
16 Executive Council of the ~~Alabama Children's Services~~  
17 ~~Facilitation~~ State Team. This fund shall consist of all ~~monies~~  
18 monies appropriated for these purposes from the State General  
19 Fund ~~or, the Alabama Special Educational~~ Education Trust Fund,  
20 or the Children First Trust Fund, donations, grants, bequests,  
21 loans, or any other sources, either public or private,  
22 relating to providing services for children identified as  
23 multiple needs children.

24           "(b) The State Multiple Needs Children Fund shall be  
25 used to provide services not otherwise provided by state  
26 departments or agencies for multiple needs children ~~as defined~~  
27 ~~in subdivision (19) of Section 12-15-1.~~ Administrative costs

1 connected with the expenditures of state multiple needs  
2 children funds shall not exceed a percentage amount  
3 established by the ~~executive council~~ Executive Council of the  
4 State Team.

5 "(c) All funds now or hereafter deposited to the  
6 credit of the State Multiple Needs Children Fund shall be  
7 expended for the purposes of carrying out ~~the provisions of~~  
8 this article; provided, however, that no funds shall be  
9 withdrawn nor expended for any purpose whatsoever unless the  
10 same shall have been allotted and budgeted in accordance with  
11 the provisions of Article 4 of Chapter 4 of Title 41, and only  
12 in the amounts and for the purposes provided by the  
13 Legislature in the general appropriations bill for any  
14 specific fiscal year.

15 "(d) The Chief Examiner of the Department of Public  
16 Accounts shall develop a uniform accounting system for the  
17 State Multiple Needs Children Fund conforming to generally  
18 accepted accounting principles. County ~~children's services~~  
19 ~~facilitation~~ teams and programs shall establish and maintain  
20 the uniform accounting system.

21 "(e) The annual reports and all records of accounts  
22 and financial records of all funds received by the State  
23 Multiple Needs Children Fund by grant, contract, or otherwise  
24 from state, local, or federal sources, shall be subject to  
25 audit annually by the Chief Examiner of the Department of  
26 Public Accounts. All audits shall be completed as soon as  
27 practicable after the end of the fiscal year of the team.

1                   ~~"§12-15-175.~~

2                   "§12-15-509. Executive Council to adopt allocation  
3 guidelines; granting role of ~~state team~~ State Team; eligible  
4 recipients; prerequisites to maintaining funding; penalty for  
5 noncompliance; reporting requirement.

6                   "(a) The Executive Council of the ~~Alabama Children's~~  
7 ~~Services Facilitation~~ State Team shall adopt policies and  
8 procedures relating to the allocation of available resources  
9 for providing services for multiple needs children; for  
10 granting funds for programs and services on individuals; and  
11 for monitoring, evaluating, and reviewing services provided by  
12 programs where funds are provided. Funds available to provide  
13 services for multiple needs children may be allocated by the  
14 ~~Alabama Children's Services Facilitation~~ State Team:

15                   "(1) To counties, or groups of counties, based on  
16 detailed proposals, for establishing new, needs-based local  
17 services or expanding existing programs.

18                   "(2) To provide treatment for individual children.

19                   "(3) For other activities consistent with the  
20 purposes of this article.

21                   "(b) The ~~state team~~ State Team, with approval of the  
22 ~~executive council~~ Executive Council, shall determine the  
23 amount and duration of grants made for new programs provided  
24 for one or more counties. The ~~state team~~ State Team shall also  
25 determine the amount of funding to be awarded and the duration  
26 in individual cases where local resources have been exhausted.  
27 The ~~state team~~ State Team may select projects which meet the

1 criteria and are compatible with the purposes of the multiple  
2 needs children program for financial awards.

3 "(c) In order to remain eligible for continued grant  
4 funding, a recipient shall substantially comply with the  
5 standards and administrative regulations defining program  
6 effectiveness which shall be promulgated by the ~~executive~~  
7 ~~council~~ Executive Council of the ~~state team~~ State Team. Each  
8 recipient ~~will~~ shall participate in an evaluation to determine  
9 local and state program effectiveness. The form of this  
10 evaluation ~~will~~ shall be a part of the promulgated policies  
11 and procedures.

12 "(d) Continued grant funding shall be based on  
13 demonstrated effectiveness in providing services to meet the  
14 identified needs.

15 "(e) If it is determined that there are reasonable  
16 grounds to believe that a participating county team is not  
17 complying with its plan or the minimum standards, the ~~state~~  
18 ~~team~~ State Team shall give 30 days' written notice to the  
19 participating entity. If the ~~state team~~ State Team finds that  
20 a participating entity is not complying with its plan or the  
21 established minimum standards, the ~~state team~~ State Team shall  
22 require the entity to provide a letter of intent as to how and  
23 when specific deficiencies identified will be corrected. If no  
24 letter is submitted to the ~~state team~~ State Team within the  
25 time limit specified, or if the deficiencies are not corrected  
26 within 45 days after the letter has been submitted to the

1 entity, the funding may be suspended in part or in whole until  
2 compliance is achieved.

3 ~~"(d)(f)~~ A quarterly report shall be submitted to the  
4 Alabama Children's Policy Council showing the awards initiated  
5 by the ~~state team~~ State Team during the quarter and the  
6 cumulative totals for each new services awards, ~~awards for~~  
7 ~~each individual child,~~ and awards for each special project. An  
8 annual report shall also be compiled.

9 ~~"§12-15-120.~~

10 ~~"§12-15-601.~~ Appeals from judgments, and orders,  
11 ~~etc.,~~ of juvenile courts.

12 ~~"(a) An aggrieved~~ A party, including the state or  
13 any subdivision of the state, has the right to appeal a  
14 judgment or order from any juvenile court proceeding pursuant  
15 to this chapter. The procedure for appealing these cases shall  
16 be pursuant to rules of procedure adopted by the Supreme Court  
17 of Alabama ~~except in criminal cases, delinquency cases and in~~  
18 ~~need of supervision cases, may appeal from a final order,~~  
19 ~~judgment or decree of the juvenile court to the circuit court~~  
20 ~~by filing written notice of appeal within 14 days after the~~  
21 ~~entry of the order, judgment or decree. All appeals under~~ from  
22 juvenile court proceedings pursuant to this chapter shall take  
23 precedence over all other business of the court to which the  
24 appeal is taken.

25 ~~"(b) Upon appeal, the circuit court shall try the~~  
26 ~~case de novo and shall proceed to render such judgment as is~~  
27 ~~otherwise provided for by law in such cases.~~

1           ~~"(c) Upon the rendition of such judgment, the~~  
2 ~~circuit court shall cause to be filed with the juvenile court~~  
3 ~~a copy of its judgment which shall thereupon become the~~  
4 ~~judgment of the juvenile court. If the circuit court does not~~  
5 ~~dismiss the proceedings and discharge the child, it shall~~  
6 ~~remand the child to the jurisdiction of the juvenile court for~~  
7 ~~supervision and care under the terms of the judgment of the~~  
8 ~~circuit court, and thereafter the child shall be and remain~~  
9 ~~under the jurisdiction of the juvenile court in the same~~  
10 ~~manner as if the juvenile court had rendered the judgment in~~  
11 ~~the first instance.~~

12           ~~"(d) The appeal shall not stay the order, judgment~~  
13 ~~or decree appealed from, but the circuit court may otherwise~~  
14 ~~order, on application and hearing consistent with this~~  
15 ~~chapter, if suitable provision is made for the care and~~  
16 ~~custody of the child. If the order, judgment or decree~~  
17 ~~appealed from grants the custody of the child to or withholds~~  
18 ~~it from one or more of the parties to the appeal, it shall be~~  
19 ~~heard at the earliest time practicable.~~

20           ~~"(e) When a case has been transferred to the circuit~~  
21 ~~court docket in the first instance as provided in Section~~  
22 ~~12-15-3, an appeal shall lie therefrom in conformance with~~  
23 ~~procedures promulgated by the Supreme Court.~~

24           Section 27. The headings of Article 7 (commencing  
25 with Section 12-15-130), Article 8 (commencing with Section  
26 12-15-150), and Article 9 (commencing with Section 12-15-170)



1 of Chapter 15 of Title 12 of the Code of Alabama 1975, are  
2 repealed.

3 Section 28. Sections 12-15-130, 12-15-131,  
4 12-15-132, 12-15-133, 12-15-134, and 12-15-135 of the Code of  
5 Alabama 1975, are amended and renumbered to read as follows:

6 "~~§12-15-130.~~

7 "§26-24-30. Alabama Children's Policy Council.

8 "(a) The Alabama Children's Policy Council is hereby  
9 created and shall consist of the following members: Three  
10 appointees from business and industry made by the Governor;  
11 the Lieutenant Governor; the Speaker of the House of  
12 Representatives; two members of the Alabama Senate, one  
13 appointed by the Lieutenant Governor and one appointed by the  
14 President Pro Tempore of the Senate; two members of the House  
15 of Representatives appointed by the Speaker of the House of  
16 Representatives; the Chief Justice of the Supreme Court of  
17 Alabama; the legal advisor to the Governor; the Attorney  
18 General; the President of the Juvenile and Family Court  
19 Judges' Association; the Commissioner of the Department of  
20 Corrections; the President of the District Attorneys'  
21 Association; the President of the Chief Juvenile Probation  
22 Officers' Association; the Commissioner of the Department of  
23 Human Resources; the Administrative Director of Courts; the  
24 Commissioner of the Department of Children's Affairs; the  
25 Commissioner of the Department of Mental Health and Mental  
26 Retardation; the Executive Director of the Department of Youth  
27 Services; the State Superintendent of Education; the State

1 Health Officer; the Executive Director of the Alabama  
2 Children's Trust Fund; the President of the Alabama  
3 Parent-Teachers Association; the Director of the Alabama  
4 Department of Economic and Community Affairs; the Commissioner  
5 of the Department of Rehabilitation Services; the Commissioner  
6 of the Alabama Medicaid Agency; the Director of the Department  
7 of Public Safety; the Administrator of the Alcoholic Beverage  
8 Control Board; the Director of the Office of School Readiness;  
9 the Director of Voices for Alabama's Children; the Director of  
10 A Journey to Manhood; the President of A Coalition of 100  
11 Black Women; the President of 21st Century Youth Leadership  
12 Program; the Director of the Children First Foundation; the  
13 Director of the Multiple Needs Child Office; and five persons  
14 to be appointed by the ~~council~~ Alabama Children's Policy  
15 Council. The appointed members of the ~~council~~ Alabama  
16 Children's Policy Council shall reflect the racial, gender,  
17 geographic, urban/rural, and economic diversity of the state.  
18 All appointments are subject to Senate confirmation and shall  
19 be effective until acted upon by the Senate.

20 " (b) The Commissioner of the Department of  
21 Children's Affairs shall serve as ~~chairman~~ chair and the Chief  
22 Justice of the Supreme Court of Alabama as vice chair. The  
23 five ~~council~~ Alabama Children's Policy Council appointees and  
24 the three appointees of the Governor shall serve on the  
25 Alabama Children's Policy Council for two years from October 1  
26 following their appointment and until their successors are  
27 selected, and may be reappointed for additional terms. Any

1 vacancies in ~~such~~ the appointed positions shall be filled in  
2 like manner as their predecessor and shall serve for a full  
3 term and until their successors are selected. If the ~~council~~  
4 Alabama Children's Policy Council deems it necessary or  
5 advisable, it may elect other officers ~~as necessary~~ and adopt  
6 bylaws. The vice ~~chairman~~ chair and any other officers of the  
7 ~~council~~ Alabama Children's Policy Council, other than the  
8 ~~chairman~~ chair, shall hold ~~said~~ these offices for ~~such~~ a  
9 period as designated by the ~~council~~ Alabama Children's Policy  
10 Council, or for so long as they remain members of the ~~council~~  
11 Alabama Children's Policy Council. The ~~council~~ Alabama  
12 Children's Policy Council shall meet at the call of the  
13 ~~chairman~~ chair at least once annually prior to September 1 of  
14 each fiscal year, and at ~~such~~ other times as, in the opinion  
15 of the ~~chairman~~ chair, additional meetings are needed.

16 "(c) It shall be the duty of the Alabama Children's  
17 Policy Council and the Chief Justice of the Supreme Court of  
18 Alabama to review the report prepared by the Department of  
19 Children's Affairs pursuant to Section ~~12-15-134~~ 26-24-34 and  
20 to make ~~such~~ recommendations as it deems necessary and  
21 appropriate to the Governor and Legislature by October 1 of  
22 each fiscal year. It shall also be the duty of the Alabama  
23 Children's Policy Council to develop a state resource guide,  
24 which may be automated, including procedural information  
25 concerning how to access ~~such~~ these services. This guide shall  
26 be distributed to departments, agencies, and organizations

1 serving children, as well as the county children's policy  
2 councils in each county of the state and the general public.

3 ~~"§12-15-131.~~

4 "§26-24-31. Alabama Children's Policy Council Fund.

5 "(a) There is hereby established the Alabama  
6 Children's Policy Council Fund into which there is  
7 automatically appropriated ~~\$20,000.00~~ twenty thousand dollars  
8 (\$20,000) annually at the beginning of each fiscal year. Any  
9 funds remaining in the Alabama Children's Policy Council Fund  
10 at the end of any fiscal year shall not revert to the State  
11 General Fund. The Comptroller shall transfer ~~said the~~ moneys  
12 from the State General Fund to the Alabama Children's Policy  
13 Council Fund annually at the beginning of each fiscal year and  
14 the moneys in ~~said the~~ fund shall be expended for the travel  
15 expenses of members of the ~~council~~ Alabama Children's Policy  
16 Council who are not otherwise reimbursed by the state and such  
17 other necessary operating costs and expenses as approved by  
18 the ~~chairman~~ chair of the Alabama Children's Policy Council.  
19 Travel and per diem for all members of the ~~council~~ Alabama  
20 Children's Policy Council shall be calculated and paid at the  
21 same rate applicable to state employees. Any expenses of the  
22 Alabama Children's Policy Council, including printing,  
23 postage, and mailing costs, which cannot be paid ~~due to~~  
24 because of insufficient funds, shall be charged to the  
25 departments and agencies represented by membership on the  
26 ~~council~~ Alabama Children's Policy Council on a pro-rata basis,  
27 as calculated by the ~~chairman~~ chair.

1           "(b) The Alabama Children's Policy Council ~~is~~  
2 ~~authorized to~~ may accept and use funds available to it from  
3 all sources, including, but not limited to, grants,  
4 appropriations, gifts, and donations for the purpose of  
5 implementing ~~the provisions of this article~~ chapter. All ~~such~~  
6 funds shall be deposited into the Alabama Children's Policy  
7 Council Fund, which shall be under the management of the  
8 Alabama Children's Policy Council. Moneys of the fund may be  
9 withdrawn by vouchers or checks signed by the ~~chairman~~ chair  
10 of the Alabama Children's Policy Council.

11           "~~§12-15-132.~~

12           "§26-24-32. Expenses of ~~council~~ Alabama Children's  
13 Policy Council members who are state officers or employees.

14           "The members of the Alabama Children's Policy  
15 Council who are officers or employees of the State of Alabama  
16 shall be entitled to be reimbursed for their expenses,  
17 including travel, lodging, food, and other expenses at the  
18 same rate as other state employees. ~~Such~~ These expenses shall  
19 be paid by the Comptroller from funds appropriated from the  
20 State Treasury to the department or agency which the member  
21 represents.

22           "~~§12-15-133.~~

23           "§26-24-33. County children's policy councils -  
24 Generally.

25           "(a) A county children's policy council is hereby  
26 created in each county of the state. ~~Said~~ The county  
27 children's policy council shall consist of the following

1 members: ~~The~~ A juvenile court judge(s) judge in ~~said~~ each  
2 county; the county director of the Department of Human  
3 Resources; a county representative of the Department of Mental  
4 Health and Mental Retardation; a county representative of the  
5 Department of Youth Services; a county representative of the  
6 Department of Rehabilitation Services, the Medicaid Agency,  
7 the Department of Public Safety, and the Alcoholic Beverage  
8 Control Board, provided they have a physical presence in the  
9 county; the county ~~and/or~~ superintendent of education and any  
10 city superintendent ~~superintendent(s)~~ of education in the  
11 county; the county chief juvenile probation officer; a  
12 representative of the county health department; the district  
13 attorney; local legislators; the ~~chairperson~~ chair of the  
14 county commission; the sheriff, and at least seven persons to  
15 be appointed by the county children's policy council from the  
16 community including, but not limited to, state and local  
17 government officials, practicing attorneys, community  
18 organizations, business and industry, and representatives of  
19 any other agencies or organizations providing services to  
20 families and children in the county.

21 "(b) All members of the county children's policy  
22 council shall serve on ~~said~~ the county children's policy  
23 council for two years and until their successors are  
24 appointed, except those who serve by virtue of holding a  
25 designated office. The county children's policy council shall  
26 be convened at least once each quarter at the call of the  
27 ~~senior juvenile court judge who shall serve as the chairman.~~

1 chair. The juvenile court judge presiding over the county  
2 children's policy council may nominate a member to serve as  
3 chair. At the first meeting of the county children's policy  
4 council, ~~said~~ the county children's policy council shall  
5 select its ~~seven~~ additional council members. If the county  
6 children's policy council deems it necessary or advisable, it  
7 may elect a ~~vice chairman, secretary and such other officers~~  
8 as it may determine necessary and adopt bylaws. ~~Such~~ The  
9 additional officers shall hold office for ~~such~~ the period as  
10 designated by the county children's policy council.

11 ~~"§12-15-134.~~

12 ~~"§26-24-34. County Children's children's policy~~  
13 ~~councils - Duties.~~

14 ~~"It shall be the duty~~ The duties of the county  
15 children's policy council ~~to review~~ shall include, but not be  
16 limited to, the following: Reviewing the needs of children in  
17 the county and the responsibilities assigned each department  
18 or agency by law; ~~to determine~~ determining areas of  
19 responsibility and ~~identify~~ identifying areas of duplication  
20 and/or or conflict between departments and agencies in the  
21 county; ~~to identify~~ identifying local resources; and ~~to~~  
22 develop developing, in conjunction with the Department of  
23 Children's Affairs, ~~and~~ up-date up-dating annually, a local  
24 resource guide to services available to children which shall  
25 include procedural information concerning how to access ~~such~~  
26 those local services; ~~to articulate~~ articulating and  
27 ~~communicate~~ communicating to the local community the needs of

1 children; and ~~to submit~~ submitting an annual report to the  
2 ~~Administrative Office of Courts,~~ Department of Children's  
3 Affairs, ~~and the Chief Justice of the Supreme Court of Alabama~~  
4 by July 1 of each year on the local services provided to  
5 children, local needs of children, and recommendations of the  
6 county children's policy council based on data from the  
7 previous fiscal year ending September 30. The Department of  
8 Children's Affairs shall then, by September 1 of each year,  
9 submit its summary recommendations based on ~~said~~ the reports,  
10 along with a copy of each local report to the Alabama  
11 Children's Policy Council. The local resource guides shall be  
12 used by the Alabama Children's Policy Council in compiling a  
13 state resource guide, which may be automated and shall be  
14 distributed to the general public and to agencies and  
15 organizations serving children.

16 ~~"§12-15-135.~~

17 "§26-24-35. Juvenile justice coordinating councils  
18 renamed.

19 "All references to the "Alabama Juvenile Justice  
20 Coordinating Council" and to "county juvenile justice  
21 coordinating councils" in this code, are changed to the  
22 "Alabama Children's Policy Council" and "county children's  
23 policy councils" respectively. All other laws, rules,  
24 regulations, and legal references of any kind to the "Alabama  
25 Juvenile Justice Coordinating Council" or to "county juvenile  
26 justice coordinating councils" shall be changed to the  
27 "Alabama Children's Policy Council" or to "county children's



1 policy councils" respectively when this code is next reprinted  
2 and in other laws, rules, regulations, and legal references as  
3 is appropriate, timely, and economically feasible."

4 Section 29. No other laws, or parts of laws, which  
5 are in any manner inconsistent with this act shall be  
6 construed to supersede or in any way alter or affect the  
7 provisions of this act, and no law shall be operative to the  
8 extent it may be in conflict and inconsistent with this act.  
9 Specifically, Section 16-28-3, establishing the compulsory  
10 school attendance age, shall remain in full force and effect.

11 Section 30. Sections 12-15-9, 12-15-10.1, 12-15-14,  
12 12-15-33, 12-15-68, 12-15-76, 12-15-176, 26-18-1, 26-18-2,  
13 26-18-3, and 26-18-4 of the Code of Alabama 1975, are  
14 specifically repealed.

15 Section 31. All laws or parts of laws which conflict  
16 with this act are repealed.

17 Section 32. Although this bill would have as its  
18 purpose or effect the requirement of a new or increased  
19 expenditure of local funds, the bill is excluded from further  
20 requirements and application under Amendment 621, now  
21 appearing as Section 111.05 of the Official ReCompilation of  
22 the Constitution of Alabama of 1901, as amended, because the  
23 bill defines a new crime or amends the definition of an  
24 existing crime.

25 Section 33. This act shall become effective on  
26 January 1 following its passage and approval by the Governor,  
27 or its otherwise becoming law except that the provisions of

1 subdivision (1) of subsection (a) of Section 12-15-208 and  
2 Section 12-15-215 (a) (3)b., Code of Alabama 1975, regarding  
3 status offenders, shall not become effective until October 1,  
4 2009.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Judiciary ..... 05-FEB-08

Read for the second time and placed  
on the calendar with 1 substitute  
and ..... 28-FEB-08

Read for the third time and passed  
as amended ..... 06-MAR-08

Yeas 101, Nays 0, Abstains 0

Greg Pappas  
Clerk