

By: Senator(s) Tollison, Albritton, Butler, Gollott, Gordon, Harden, Horhn, Jackson (11th), Jackson (32nd), Jordan, King, Morgan, Thomas

To: Judiciary, Division B; Appropriations

SENATE BILL NO. 2894
(As Sent to Governor)

1 AN ACT TO CREATE THE JUVENILE JUSTICE REFORM ACT OF 2005; TO
2 ESTABLISH THE JUVENILE DETENTION FACILITIES MONITORING UNIT; TO
3 AMEND SECTION 43-14-1, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT
4 EACH MAP TEAM SHALL HAVE AN "A" (ADOLESCENT) TEAM TO PROVIDE
5 SERVICES FOR CERTAIN YOUTH OFFENDERS; TO AMEND SECTION 43-14-5,
6 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO AMEND SECTION
7 43-21-105, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS UNDER
8 THE YOUTH COURT ACT; TO AMEND SECTION 43-21-321, MISSISSIPPI CODE
9 OF 1972, TO PROVIDE THAT IF A YOUTH IN A DETENTION CENTER HAS BEEN
10 SCREENED BY CERTAIN MENTAL SCREENING INSTRUMENTS AND IT IS
11 DETERMINED THAT THE YOUTH NEEDS PROFESSIONAL MENTAL HELP, THEN THE
12 CHILD MUST BE REFERRED TO SUCH HELP WITHIN 48 HOURS; TO AMEND
13 SECTION 43-21-605, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ONLY
14 CERTAIN DELINQUENT ACTS WILL ALLOW A YOUTH COURT JUDGE TO COMMIT A
15 CHILD TO A STATE-SUPPORTED TRAINING SCHOOL, AND TO PROVIDE THAT
16 YOUTHS COMMITTED TO A STATE-SUPPORTED TRAINING SCHOOL MUST STAY AN
17 ADEQUATE TIME; TO AMEND SECTION 43-27-201, MISSISSIPPI CODE OF
18 1972, TO REQUIRE THAT THE DIVISION OF YOUTH SERVICES SHALL
19 ESTABLISH ADOLESCENT OFFENDER PROGRAM AVAILABILITY FOR EACH COUNTY
20 BY A CERTAIN DATE; TO AMEND SECTION 43-27-401, MISSISSIPPI CODE OF
21 1972, TO CONFORM TO THE PRECEDING PROVISIONS; TO AMEND SECTION
22 47-5-138, MISSISSIPPI CODE OF 1972, TO EXCLUDE FROM THE 85% RULE
23 YOUTH WHO ARE UNDER THE AGE OF 21 WHO HAVE COMMITTED NONVIOLENT
24 OFFENSES AND ARE UNDER THE JURISDICTION OF THE DEPARTMENT OF
25 CORRECTIONS; AND FOR RELATED PURPOSES.

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

27 **SECTION 1.** (1) There is established the Juvenile Detention
28 Facilities Monitoring Unit within the Department of Public Safety
29 to work in cooperation with the Juvenile Justice Advisory
30 Committee described in Section 45-1-33. The unit shall inspect
31 all juvenile detention facilities including, but not limited to,
32 the state training schools on a quarterly basis. The inspections
33 shall encompass the following:

34 (a) Ensuring and certifying that the juvenile detention
35 facilities are in compliance with the minimum standards of
36 operation, as established in Section 43-21-321;

37 (b) Providing technical assistance and advice to
38 juvenile detention facilities, which will assist the facilities in
39 complying with the minimum standards.

40 (2) Additional duties of the monitoring unit are as follows:

41 (a) To conduct an assessment of all juvenile detention
42 facilities and to determine how far each is from coming into
43 compliance with the minimum standards, as established in Section
44 43-21-301(6) and Section 43-21-321; and

45 (b) To develop a strategic plan and a timeline for each
46 juvenile detention facility to come into compliance with the
47 minimum standards as described in this subsection.

48 **SECTION 2.** Section 43-14-1, Mississippi Code of 1972, is
49 amended as follows:

50 43-14-1. (1) The purpose of this chapter is to provide for
51 the development and implementation of a coordinated interagency
52 system of necessary services and care for children and youth up to
53 age twenty-one (21) with serious emotional/behavioral disorders
54 including, but not limited to, conduct disorders, or mental
55 illness who require services from a multiple services and multiple
56 programs system, and who can be successfully diverted from
57 inappropriate institutional placement. This program is to be done
58 in the most fiscally responsible (cost efficient) manner possible,
59 based on an individualized plan of care which takes into account
60 other available interagency programs, including, but not limited
61 to, Early Intervention Act of Infants and Toddlers, Section
62 41-87-1 et seq., Early Periodic Screening Diagnosis and Treatment,
63 Section 43-13-117(5), waived program for home- and
64 community-based services for developmentally disabled people,
65 Section 43-13-117(29), and waived program for targeted case
66 management services for children with special needs, Section
67 43-13-117(31), those children identified through the federal
68 Individuals with Disabilities Education Act of 1997 as having a
69 serious emotional disorder (EMD), the Mississippi Children's

70 Health Insurance Program Phase I and Phase II and waived
71 programs for children with serious emotional disturbances, Section
72 43-13-117(46), and is tied to clinically appropriate outcomes.
73 Some of the outcomes are to reduce the number of inappropriate
74 out-of-home placements inclusive of those out-of-state and to
75 reduce the number of inappropriate school suspensions and
76 expulsions for this population of children. From and after July
77 1, 2001, this coordinated interagency system of necessary services
78 and care shall be named the System of Care program. Children to
79 be served by this chapter who are eligible for Medicaid shall be
80 screened through the Medicaid Early Periodic Screening Diagnosis
81 and Treatment (EPSDT) and their needs for medically necessary
82 services shall be certified through the EPSDT process. For
83 purposes of this chapter, a "System of Care" is defined as a
84 coordinated network of agencies and providers working as a team to
85 make a full range of mental health and other necessary services
86 available as needed by children with mental health problems and
87 their families. The System of Care shall be:

88 (a) Child centered, family focused and family driven;
89 (b) Community based;
90 (c) Culturally competent and responsive; and shall
91 provide for:

92 (i) Service coordination or case management;
93 (ii) Prevention and early identification and
94 intervention;

95 (iii) Smooth transitions among agencies,
96 providers, and to the adult service system;

97 (iv) Human rights protection and advocacy;

98 (v) Nondiscrimination in access to services;

99 (vi) A comprehensive array of services;

100 (vii) Individualized service planning;

101 (viii) Services in the least restrictive

102 environment;

103 (ix) Family participation in all aspects of
104 planning, service delivery and evaluation; and

105 (x) Integrated services with coordinated planning
106 across child-serving agencies.

107 (2) There is established the Interagency Coordinating
108 Council for Children and Youth (hereinafter referred to as the
109 "ICCCY"). The ICCCY shall consist of the following membership:

110 (a) the State Superintendent of Public Education; (b) the
111 Executive Director of the Mississippi Department of Mental Health;
112 (c) the Executive Director of the State Department of Health; (d)
113 the Executive Director of the Department of Human Services; (e)
114 the Executive Director of the Division of Medicaid, Office of the
115 Governor; (f) the Executive Director of the State Department of
116 Rehabilitation Services; and (g) the Executive Director of
117 Mississippi Families as Allies for Children's Mental Health, Inc.
118 The council shall meet before August 1, 2001, and shall organize
119 for business by selecting a chairman, who shall serve for a
120 one-year term and may not serve consecutive terms. The council
121 shall adopt internal organizational procedures necessary for
122 efficient operation of the council. Each member of the council
123 shall designate necessary staff of their departments to assist the
124 ICCCY in performing its duties and responsibilities. The ICCCY
125 shall meet and conduct business at least twice annually. The
126 chairman of the ICCCY shall notify all persons who request such
127 notice as to the date, time and place of each meeting.

128 (3) The Interagency System of Care Council is created to
129 serve as the state management team for the ICCCY, with the
130 responsibility of collecting and analyzing data and funding
131 strategies necessary to improve the operation of the System of
132 Care programs, and to make recommendations to the ICCCY and to the
133 Legislature concerning such strategies on or before December 31,
134 2002. The System of Care Council also has the responsibility of
135 coordinating the local Multidisciplinary Assessment and Planning

136 (MAP) teams and may apply for grants from public and private
137 sources necessary to carry out its responsibilities. The
138 Interagency System of Care Council shall be comprised of one (1)
139 member from each of the appropriate child-serving divisions or
140 sections of the State Department of Health, the Department of
141 Human Services, the State Department of Mental Health, the State
142 Department of Education, the Division of Medicaid of the
143 Governor's Office, the Department of Rehabilitation Services, a
144 family member representing a family education and support 501(c)3
145 organization, a representative from the Council of Administrators
146 for Special Education/Mississippi Organization of Special
147 Education Supervisors (CASE/MOSES) and a family member designated
148 by Mississippi Families as Allies for Children's Mental Health,
149 Inc. Appointments to the Interagency System of Care Council shall
150 be made within sixty (60) days after the effective date of this
151 act. The council shall organize by selecting a chairman from its
152 membership to serve on an annual basis, and the chairman may not
153 serve consecutive terms.

154 (4) (a) There is established a statewide system of local
155 Multidisciplinary Assessment and Planning Resource (MAP) teams.
156 The MAP teams shall be comprised of one (1) representative each at
157 the county level from the major child-serving public agencies for
158 education, human services, health, mental health and
159 rehabilitative services approved by respective state agencies of
160 the Department of Education, the Department of Human Services, the
161 Department of Health, the Department of Mental Health and the
162 Department of Rehabilitation Services. Three (3) additional
163 members may be added to each team, one (1) of which may be a
164 representative of a family education/support 501(c)3 organization
165 with statewide recognition and specifically established for the
166 population of children defined in Section 43-14-1. The
167 remaining * * * members will be representatives of significant

168 community-level stakeholders with resources that can benefit the
169 population of children defined in Section 43-14-1.

170 (b) For each local existing MAP team that is
171 established pursuant to paragraph (a) of this subsection, there
172 shall also be established an "A" (Adolescent) team which shall
173 work with a MAP team. The "A" teams shall provide System of Care
174 services for nonviolent youthful offenders who have serious
175 behavioral or emotional disorders. Each "A" team shall be
176 comprised of, at a minimum, the following five (5) members:

177 (i) A school counselor;

178 (ii) A community mental health professional;

179 (iii) A social services/child welfare
180 professional;

181 (iv) A youth court counselor; and

182 (v) A parent who had a child in the juvenile
183 justice system who committed a nonviolent offense.

184 (5) The Interagency Coordinating Council for Children and
185 Youth may provide input relative to how each agency utilizes its
186 federal and state statutes, policy requirements and funding
187 streams to identify and/or serve children and youth in the
188 population defined in Section 43-14-1. The ICCCY shall support
189 the implementation of the plans of the respective state agencies
190 for comprehensive multidisciplinary care, treatment and placement
191 of these children.

192 (6) The ICCCY shall oversee a pool of state funds that may
193 be contributed by each participating state agency and additional
194 funds from the Mississippi Tobacco Health Care Expenditure Fund,
195 subject to specific appropriation therefor by the Legislature.
196 Part of this pool of funds shall be available for increasing the
197 present funding levels by matching Medicaid funds in order to
198 increase the existing resources available for necessary
199 community-based services for Medicaid beneficiaries.

200 (7) The local coordinating care MAP team will facilitate the
201 development of the individualized System of Care programs for the
202 population targeted in Section 43-14-1.

203 (8) Each local MAP team shall serve as the single point of
204 entry to ensure that comprehensive diagnosis and assessment occur
205 and shall coordinate needed services through the local
206 coordinating care entity for the children named in subsection (1).
207 Local children in crisis shall have first priority for access to
208 the MAP team processes and local System of Care programs.

209 (9) The Interagency Coordinating Council for Children and
210 Youth shall facilitate monitoring of the performance of local MAP
211 teams.

212 (10) Each state agency named in subsection (2) of this
213 section shall enter into a binding interagency agreement to
214 participate in the oversight of the statewide System of Care
215 programs for the children and youth described in this section.
216 The agreement shall be signed and in effect by July 1 of each
217 year.

218 (11) This section shall stand repealed from and after July
219 1, 2010.

220 **SECTION 3.** Section 43-14-5, Mississippi Code of 1972, is
221 amended as follows:

222 43-14-5. There is created in the State Treasury a special
223 fund into which shall be deposited all funds contributed by the
224 Department of Human Services, State Department of Health,
225 Department of Mental Health, State Department of Rehabilitation
226 Services insofar as recipients are otherwise eligible under the
227 Rehabilitation Act of 1973, as amended, and State Department of
228 Education for the operation of a statewide System of Care by MAP
229 teams and "A" teams utilizing such funds as may be made available
230 to those MAP teams through a Request for Proposal (RFP) approved
231 by the ICCCY.

232 This section shall stand repealed from and after July 1,
233 2010.

234 **SECTION 4.** Section 43-21-105, Mississippi Code of 1972, is
235 amended as follows:

236 43-21-105. The following words and phrases, for purposes of
237 this chapter, shall have the meanings ascribed herein unless the
238 context clearly otherwise requires:

239 (a) "Youth court" means the Youth Court Division.

240 (b) "Judge" means the judge of the Youth Court
241 Division.

242 (c) "Designee" means any person that the judge appoints
243 to perform a duty which this chapter requires to be done by the
244 judge or his designee. The judge may not appoint a person who is
245 involved in law enforcement to be his designee.

246 (d) "Child" and "youth" are synonymous, and each means
247 a person who has not reached his eighteenth birthday. A child who
248 has not reached his eighteenth birthday and is on active duty for
249 a branch of the armed services or is married is not considered a
250 "child" or "youth" for the purposes of this chapter.

251 (e) "Parent" means the father or mother to whom the
252 child has been born, or the father or mother by whom the child has
253 been legally adopted.

254 (f) "Guardian" means a court-appointed guardian of the
255 person of a child.

256 (g) "Custodian" means any person having the present
257 care or custody of a child whether such person be a parent or
258 otherwise.

259 (h) "Legal custodian" means a court-appointed custodian
260 of the child.

261 (i) "Delinquent child" means a child who has reached
262 his tenth birthday and who has committed a delinquent act.

263 (j) "Delinquent act" is any act, which if committed by
264 an adult, is designated as a crime under state or federal law, or

265 municipal or county ordinance other than offenses punishable by
266 life imprisonment or death. A delinquent act includes escape from
267 lawful detention and violations of the Uniform Controlled
268 Substances Law and violent behavior.

269 (k) "Child in need of supervision" means a child who
270 has reached his seventh birthday and is in need of treatment or
271 rehabilitation because the child:

272 (i) Is habitually disobedient of reasonable and
273 lawful commands of his parent, guardian or custodian and is
274 ungovernable; or

275 (ii) While being required to attend school,
276 willfully and habitually violates the rules thereof or willfully
277 and habitually absents himself therefrom; or

278 (iii) Runs away from home without good cause; or

279 (iv) Has committed a delinquent act or acts.

280 (l) "Neglected child" means a child:

281 (i) Whose parent, guardian or custodian or any
282 person responsible for his care or support, neglects or refuses,
283 when able so to do, to provide for him proper and necessary care
284 or support, or education as required by law, or medical, surgical,
285 or other care necessary for his well-being; provided, however, a
286 parent who withholds medical treatment from any child who in good
287 faith is under treatment by spiritual means alone through prayer
288 in accordance with the tenets and practices of a recognized church
289 or religious denomination by a duly accredited practitioner
290 thereof shall not, for that reason alone, be considered to be
291 neglectful under any provision of this chapter; or

292 (ii) Who is otherwise without proper care,
293 custody, supervision or support; or

294 (iii) Who, for any reason, lacks the special care
295 made necessary for him by reason of his mental condition, whether
296 said mental condition be mentally retarded or mentally ill; or

297 (iv) Who, for any reason, lacks the care necessary
298 for his health, morals or well-being.

299 (m) "Abused child" means a child whose parent, guardian
300 or custodian or any person responsible for his care or support,
301 whether legally obligated to do so or not, has caused or allowed
302 to be caused upon said child sexual abuse, sexual exploitation,
303 emotional abuse, mental injury, nonaccidental physical injury or
304 other maltreatment. Provided, however, that physical discipline,
305 including spanking, performed on a child by a parent, guardian or
306 custodian in a reasonable manner shall not be deemed abuse under
307 this section.

308 (n) "Sexual abuse" means obscene or pornographic
309 photographing, filming or depiction of children for commercial
310 purposes, or the rape, molestation, incest, prostitution or other
311 such forms of sexual exploitation of children under circumstances
312 which indicate that the child's health or welfare is harmed or
313 threatened.

314 (o) "A child in need of special care" means a child
315 with any mental or physical illness that cannot be treated with
316 the dispositional alternatives ordinarily available to the youth
317 court.

318 (p) A "dependent child" means any child who is not a
319 child in need of supervision, a delinquent child, an abused child
320 or a neglected child, and which child has been voluntarily placed
321 in the custody of the Department of Human Services by his parent,
322 guardian or custodian.

323 (q) "Custody" means the physical possession of the
324 child by any person.

325 (r) "Legal custody" means the legal status created by a
326 court order which gives the legal custodian the responsibilities
327 of physical possession of the child and the duty to provide him
328 with food, shelter, education and reasonable medical care, all

329 subject to residual rights and responsibilities of the parent or
330 guardian of the person.

331 (s) "Detention" means the care of children in
332 physically restrictive facilities.

333 (t) "Shelter" means care of children in physically
334 nonrestrictive facilities.

335 (u) "Records involving children" means any of the
336 following from which the child can be identified:

337 (i) All youth court records as defined in Section
338 43-21-251;

339 (ii) All social records as defined in Section
340 43-21-253;

341 (iii) All law enforcement records as defined in
342 Section 43-21-255;

343 (iv) All agency records as defined in Section
344 43-21-257; and

345 (v) All other documents maintained by any
346 representative of the state, county, municipality or other public
347 agency insofar as they relate to the apprehension, custody,
348 adjudication or disposition of a child who is the subject of a
349 youth court cause.

350 (v) "Any person responsible for care or support" means
351 the person who is providing for the child at a given time. This
352 term shall include, but is not limited to, stepparents, foster
353 parents, relatives, nonlicensed babysitters or other similar
354 persons responsible for a child and staff of residential care
355 facilities and group homes that are licensed by the Department of
356 Human Services.

357 (w) The singular includes the plural, the plural the
358 singular and the masculine the feminine when consistent with the
359 intent of this chapter.

360 (x) "Out-of-home" setting means the temporary
361 supervision or care of children by the staff of licensed day care

362 centers, the staff of public, private and state schools, the staff
363 of juvenile detention facilities, the staff of unlicensed
364 residential care facilities and group homes and the staff of, or
365 individuals representing, churches, civic or social organizations.

366 (y) "Durable legal custody" means the legal status
367 created by a court order which gives the durable legal custodian
368 the responsibilities of physical possession of the child and the
369 duty to provide him with care, nurture, welfare, food, shelter,
370 education and reasonable medical care. All these duties as
371 enumerated are subject to the residual rights and responsibilities
372 of the natural parent(s) or guardian(s) of the child or children.

373 (z) "Status offense" means conduct subject to
374 adjudication by the youth court that would not be a crime if
375 committed by an adult.

376 **SECTION 5.** Section 43-21-321, Mississippi Code of 1972, is
377 amended as follows:

378 43-21-321. (1) All juveniles shall undergo a health
379 screening within one (1) hour of admission to any juvenile
380 detention center, or as soon thereafter as reasonably possible.
381 Information obtained during the screening shall include, but shall
382 not be limited to, the juvenile's:

- 383 (a) Mental health;
- 384 (b) Suicide risk;
- 385 (c) Alcohol and other drug use and abuse;
- 386 (d) Physical health;
- 387 (e) Aggressive behavior;
- 388 (f) Family relations;
- 389 (g) Peer relations;
- 390 (h) Social skills;
- 391 (i) Educational status; and
- 392 (j) Vocational status.

393 (2) If the screening instrument indicates that a juvenile is
394 in need of emergency medical care or mental health intervention

395 services, the detention staff shall refer those juveniles to the
396 proper health care facility or community mental health service
397 provider for further evaluation, as soon as reasonably possible.
398 If the screening instrument, such as the Massachusetts Youth
399 Screening Instrument version 2 (MAYSI-2) or other comparable
400 mental health screening instrument indicates that the juvenile is
401 in need of emergency medical care or mental health intervention
402 services, the detention staff shall refer the juvenile to the
403 proper health care facility or community mental health service
404 provider for further evaluation, recommendation and referral for
405 treatment, if necessary, within forty-eight (48) hours, excluding
406 Saturdays, Sundays and statutory state holidays.

407 (3) All juveniles shall receive a thorough orientation to
408 the center's procedures, rules, programs and services. The intake
409 process shall operate twenty-four (24) hours per day.

410 (4) The directors of all of the juvenile detention centers
411 shall amend or develop written procedures for admission of
412 juveniles who are new to the system. These shall include, but are
413 not limited to, the following:

414 (a) Determine that the juvenile is legally committed to
415 the facility;

416 (b) Make a complete search of the juvenile and his
417 possessions;

418 (c) Dispose of personal property;

419 (d) Require shower and hair care, if necessary;

420 (e) Issue clean, laundered clothing, as needed;

421 (f) Issue personal hygiene articles;

422 (g) Perform medical, dental and mental health
423 screening;

424 (h) Assign a housing unit for the juvenile;

425 (i) Record basic personal data and information to be
426 used for mail and visiting lists;

427 (j) Assist juveniles in notifying their families of
428 their admission and procedures for mail and visiting;

429 (k) Assign a registered number to the juvenile; and

430 (l) Provide written orientation materials to the
431 juvenile.

432 (5) All juvenile detention centers shall provide or make
433 available the following minimum services and programs:

434 (a) An educational program;

435 (b) A visitation program with parents and guardians;

436 (c) Private communications with visitors and staff;

437 (d) Counseling;

438 (e) Continuous supervision of living units;

439 (f) Medical service;

440 (g) Food service;

441 (h) Recreation and exercise program; and

442 (i) Reading materials.

443 (6) Programs and services shall be initiated for all
444 juveniles once they have completed the admissions process.

445 (7) Programs and professional services may be provided by
446 the detention staff, youth court staff or the staff of the local
447 or state agencies, or those programs and professional services may
448 be provided through contractual arrangements with community
449 agencies.

450 (8) Persons providing the services required in this section
451 must be qualified or trained in their respective fields.

452 (9) All directors of juvenile detention centers shall amend
453 or develop written procedures to fit the programs and services
454 described in this section.

455 **SECTION 6.** Section 43-21-605, Mississippi Code of 1972, is
456 amended as follows:

457 43-21-605. (1) In delinquency cases, the disposition order
458 may include any of the following alternatives:

459 (a) Release the child without further action;

460 (b) Place the child in the custody of the parents, a
461 relative or other persons subject to any conditions and
462 limitations, including restitution, as the youth court may
463 prescribe;

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

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

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

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

479 (g) Give legal custody of the child to any of the
480 following:

481 (i) The Department of Human Services for
482 appropriate placement; or

483 (ii) Any public or private organization,
484 preferably community-based, able to assume the education, care and
485 maintenance of the child, which has been found suitable by the
486 court; or

487 (iii) The Department of Human Services for
488 placement in a wilderness training program or the Division of
489 Youth Services for placement in a state-supported training school,
490 except that no child under the age of ten (10) years shall be
491 committed to a state training school, and no first-time nonviolent
492 youth offenders shall be committed to a state training school

493 until all other options provided for in this section have been
494 considered and the court makes a specific finding of fact that
495 commitment is appropriate. The training school may retain custody
496 of the child until the child's twentieth birthday but for no
497 longer. When the child is committed to a training school, the
498 child shall remain in the legal custody of the training school
499 until the child has made sufficient progress in treatment and
500 rehabilitation and it is in the best interest of the child to
501 release the child. However, the superintendent of a state
502 training school, in consultation with the treatment team, may
503 parole a child at any time he may deem it in the best interest and
504 welfare of such child. Twenty (20) days prior to such parole, the
505 training school shall notify the committing court of the pending
506 release. The youth court may then arrange subsequent placement
507 after a reconvened disposition hearing, except that the youth
508 court may not recommit the child to the training school or any
509 other secure facility without an adjudication of a new offense or
510 probation or parole violation. Prior to assigning the custody of
511 any child to any private institution or agency, the youth court
512 through its designee shall first inspect the physical facilities
513 to determine that they provide a reasonable standard of health and
514 safety for the child. No child shall be placed in the custody of
515 a state training school for a status offense or for contempt of or
516 revocation of a status offense adjudication unless the child is
517 contemporaneously adjudicated for having committed an act of
518 delinquency that is not a status offense. A disposition order
519 rendered under this subparagraph shall meet the following
520 requirements:

521 1. The disposition is the least restrictive
522 alternative appropriate to the best interest of the child and the
523 community;

524 2. The disposition allows the child to be in
525 reasonable proximity to the family home community of each child

526 given the dispositional alternatives available and the best
527 interest of the child and the state; and

528 3. The disposition order provides that the
529 court has considered the medical, educational, vocational, social
530 and psychological guidance, training, social education,
531 counseling, substance abuse treatment and other rehabilitative
532 services required by that child as determined by the court;

533 (h) Recommend to the child and the child's parents or
534 guardian that the child attend and participate in the Youth
535 Challenge Program under the Mississippi National Guard, as created
536 in Section 43-27-203, subject to the selection of the child for
537 the program by the National Guard; however, the child must
538 volunteer to participate in the program. The youth court shall
539 not order any child to apply or attend the program;

540 (i) (i) Adjudicate the juvenile to the Statewide
541 Juvenile Work Program if the program is established in the court's
542 jurisdiction. The juvenile and his parents or guardians must sign
543 a waiver of liability in order to participate in the work program.
544 The judge will coordinate with the youth services counselors as to
545 placing participants in the work program;

546 (ii) The severity of the crime, whether or not the
547 juvenile is a repeat offender or is a felony offender will be
548 taken into consideration by the judge when adjudicating a juvenile
549 to the work program. The juveniles adjudicated to the work
550 program will be supervised by police officers or reserve officers.
551 The term of service will be from twenty-four (24) to one hundred
552 twenty (120) hours of community service. A juvenile will work the
553 hours to which he was adjudicated on the weekends during school
554 and weekdays during the summer. Parents are responsible for a
555 juvenile reporting for work. Noncompliance with an order to
556 perform community service will result in a heavier adjudication.
557 A juvenile may be adjudicated to the community service program
558 only two (2) times;

559 (iii) The judge shall assess an additional fine on
560 the juvenile which will be used to pay the costs of implementation
561 of the program and to pay for supervision by police officers and
562 reserve officers. The amount of the fine will be based on the
563 number of hours to which the juvenile has been adjudicated;

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

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

583 1. The disposition order is the least
584 restrictive alternative appropriate to the best interest of the
585 child and the community;

586 2. The disposition order allows the child to
587 be in reasonable proximity to the family home community of each
588 child given the dispositional alternatives available and the best
589 interest of the child and the state; and

590 3. The disposition order provides that the
591 court has considered the medical, educational, vocational, social

592 and psychological guidance, training, social education,
593 counseling, substance abuse treatment and other rehabilitative
594 services required by that child as determined by the court.

595 (1) Referral to A-team provided system of care
596 services.

597 (2) In addition to any of the disposition alternatives
598 authorized under subsection (1) of this section, the disposition
599 order in any case in which the child is adjudicated delinquent for
600 an offense under Section 63-11-30 shall include an order denying
601 the driver's license and driving privileges of the child as
602 required under * * * Section 63-11-30(9).

603 (3) If the youth court places a child in a state-supported
604 training school, the court may order the parents or guardians of
605 the child and other persons living in the child's household to
606 receive counseling and parenting classes for rehabilitative
607 purposes while the child is in the legal custody of the training
608 school. A youth court entering an order under this subsection (3)
609 shall utilize appropriate services offered either at no cost or
610 for a fee calculated on a sliding scale according to income unless
611 the person ordered to participate elects to receive other
612 counseling and classes acceptable to the court at the person's
613 sole expense.

614 (4) Fines levied under this chapter shall be paid into the
615 general fund of the county but, in those counties wherein the
616 youth court is a branch of the municipal government, it shall be
617 paid into the municipal treasury.

618 (5) Any institution or agency to which a child has been
619 committed shall give to the youth court any information concerning
620 the child as the youth court may at any time require.

621 (6) The youth court shall not place a child in another
622 school district who has been expelled from a school district for
623 the commission of a violent act. For the purpose of this
624 subsection, "violent act" means any action which results in death

625 or physical harm to another or an attempt to cause death or
626 physical harm to another.

627 (7) The youth court may require drug testing as part of a
628 disposition order. If a child tests positive, the court may
629 require treatment, counseling and random testing, as it deems
630 appropriate. The costs of such tests shall be paid by the parent,
631 guardian or custodian of the child unless the court specifically
632 finds that the parent, guardian or custodian is unable to pay.

633 **SECTION 7.** Section 43-27-201, Mississippi Code of 1972, is
634 amended as follows:

635 43-27-201. (1) The purpose of this section is to outline
636 and structure a long-range proposal in addition to certain
637 immediate objectives for improvements in the juvenile correctional
638 facilities of the Division of Youth Services of the Mississippi
639 Department of Human Services in order to provide modern and
640 efficient correctional and rehabilitation facilities for juvenile
641 offenders in Mississippi, who are committing an increasing
642 percentage of serious and violent crimes.

643 (2) The Department of Finance and Administration, acting
644 through the Bureau of Building, Grounds and Real Property
645 Management, using funds from bonds issued under this chapter,
646 monies appropriated by the Legislature for such purposes, federal
647 matching or other federal funds, federal grants or other available
648 funds from whatever source, shall provide for, by construction,
649 lease, lease-purchase or otherwise, and equip the following
650 juvenile correctional facilities under the jurisdiction and
651 responsibility of the Division of Youth Services of the Department
652 of Human Services:

653 (a) Construct an additional one-hundred-fifty-bed,
654 stand-alone, medium security juvenile correctional facility for
655 habitual violent male offenders, which complies with American
656 Correctional Association Accreditation standards and applicable
657 building and fire safety codes. The medium security, male

658 juvenile facility location shall be on property owned by the
659 Division of Youth Services, or its successor, or at a site
660 selected by the Bureau of Building, Grounds and Real Property
661 Management on land which is hereafter donated to the state
662 specifically for the location of such facility.

663 (b) Construct an additional one-hundred-bed minimum
664 security juvenile correctional facility for female offenders, and
665 an additional stand-alone, fifteen-bed maximum security juvenile
666 correctional facility for female offenders, which complies with
667 American Correctional Association Accreditation standards and
668 applicable building and fire safety codes. The minimum security
669 and maximum security female juvenile facilities location shall be
670 on property owned by the Division of Youth Services, or its
671 successor, or at a site selected by the Bureau of Building,
672 Grounds and Real Property Management on land which is hereafter
673 donated to the state specifically for the location of such
674 facility.

675 (3) Upon the selection of a proposed site for a correctional
676 facility for juveniles authorized under subsection (2), the Bureau
677 of Building, Grounds and Real Property Management of the
678 Department of Finance and Administration shall notify the board of
679 supervisors of the county in which such facility is proposed to be
680 located and shall publish a notice as hereinafter set forth in a
681 newspaper having general circulation in such county. Such notice
682 shall include a description of the tract of land in the county
683 whereon the facility is proposed to be located, the nature and
684 size of the facility and the date on which the determination of
685 the Bureau of Building, Grounds and Real Property Management shall
686 be final as to the location of such facility, which date shall not
687 be less than forty-five (45) days following the first publication
688 of such notice. Such notice shall include a brief summary of the
689 provisions of this section pertaining to the petition for an
690 election on the question of the location of the juvenile housing

691 facility in such county. Such notice shall be published not less
692 than one (1) time each week for at least three (3) consecutive
693 weeks in at least one (1) newspaper published in such county.

694 If no petition requesting an election is filed before the
695 date of final determination stated in such notice, then the bureau
696 shall give final approval to the location of such facility.

697 If at any time before the aforesaid date a petition signed by
698 twenty percent (20%), or fifteen hundred (1,500), whichever is
699 less, of the qualified electors of the county involved shall be
700 filed with the board of supervisors requesting that an election be
701 called on the question of locating such facility, then the board
702 of supervisors shall adopt a resolution calling an election to be
703 held within such county upon the question of the location of such
704 facility. Such election shall be held, as far as practicable, in
705 the same manner as other elections are held in counties. At such
706 election, all qualified electors of the county may vote, and the
707 ballots used at such election shall have printed thereon a brief
708 statement of the facility to be constructed and the words "For the
709 construction of the facility in (here insert county name) County"
710 and "Against the construction of the facility in (here insert
711 county name) County." The voter shall vote by placing a cross (X)
712 or check mark (✓) opposite his choice on the proposition. When
713 the results of the election on the question of the construction of
714 the facility shall have been canvassed by the election
715 commissioners of the county and certified by them to the board of
716 supervisors, it shall be the duty of the board of supervisors to
717 determine and adjudicate whether or not a majority of the
718 qualified electors who voted thereon in such election voted in
719 favor of the construction of the facilities in such county.
720 Unless a majority of the qualified electors who voted in such
721 election shall have voted in favor of the construction of the
722 facilities in such county, then such facility shall not be
723 constructed in such county.

724 (4) The Division of Youth Services shall establish, maintain
725 and operate an Adolescent Offender Program (AOP), which may
726 include non-Medicaid assistance eligible juveniles. Beginning
727 July 1, 2006, subject to availability of funds appropriated
728 therefor by the Legislature, the Division of Youth Services shall
729 phase in AOPs in every county of the state over a period of four
730 (4) years. The phase-in of the AOPs shall be as follows:

731 (a) As of July 1, 2007, not less than twenty (20)
732 counties shall be served by at least one (1) AOP;

733 (b) As of July 1, 2008, not less than forty (40)
734 counties shall be served by at least one (1) AOP;

735 (c) As of July 1, 2009, not less than sixty (60)
736 counties shall be served by at least one (1) AOP; and

737 (d) As of July 1, 2010, all eighty-two (82) counties
738 shall be served by at least one (1) AOP.

739 AOP professional services, salaries, facility offices,
740 meeting rooms and related supplies and equipment may be provided
741 through contract with local mental health or other nonprofit
742 community organizations.

743 (5) The Division of Youth Services shall operate and
744 maintain the Forestry Camp Number 43 at the Columbia Training
745 School, originally authorized and constructed in 1973, to consist
746 of a twenty-bed dormitory, four (4) offices, a classroom, kitchen,
747 dining room, day room and apartment. The purpose of this camp
748 shall be to train juvenile detention residents for community
749 college and other forestry training programs.

750 (6) The Division of Youth Services shall establish a ten-bed
751 transitional living facility for the temporary holding of training
752 school adolescents who have reached their majority, have completed
753 the GED requirement, and are willing to be rehabilitated until
754 they are placed in jobs, job training or postsecondary programs.
755 Such transitional living facility may be operated pursuant to
756 contract with a nonprofit community support organization.

757 **SECTION 8.** Section 43-27-401, Mississippi Code of 1972, is
758 amended as follows:

759 43-27-401. (1) The Department of Human Services, Division
760 of Youth Services, shall establish a pilot program to be known as
761 the "Amer-I-Can Program." The program is designed for youths who
762 have been committed to or are confined in Columbia or Oakley
763 Training Schools. The objectives of this program are:

764 (a) To develop greater self-esteem, assume responsible
765 attitudes and experience a restructuring of habits and
766 conditioning processes;

767 (b) To develop an appreciation of family members and an
768 understanding of the role family structure has in achieving
769 successful living;

770 (c) To develop an understanding of the concept of
771 community and collective responsibility;

772 (d) To develop a prowess in problem solving and
773 decision making that will eliminate many of the difficulties that
774 were encountered in past experiences;

775 (e) To develop skills in money management and financial
776 stability, thus relieving pressures that have contributed to
777 previous difficulties;

778 (f) To develop communication skills to better express
779 thoughts and ideas while acquiring an understanding of and respect
780 for the thoughts and ideas of others; and

781 (g) To acquire employment seeking and retention skills
782 to improve chances of long-term, gainful employment.

783 (2) The Division of Youth Services shall develop policies
784 and procedures to administer the program and shall choose which
785 youths are eligible to participate in the program.

786 (3) The department may accept any funds, public or private,
787 made available to it for the program.

788 * * *

789 **SECTION 9.** Section 47-5-138, Mississippi Code of 1972, is
790 amended as follows:

791 47-5-138. (1) The department may promulgate rules and
792 regulations to carry out an earned time allowance program based on
793 the good conduct and performance of an inmate. An inmate is
794 eligible to receive an earned time allowance of one-half (1/2) of
795 the period of confinement imposed by the court except those
796 inmates excluded by law. When an inmate is committed to the
797 custody of the department, the department shall determine a
798 conditional earned time release date by subtracting the earned
799 time allowance from an inmate's term of sentence. This subsection
800 does not apply to any sentence imposed after June 30, 1995.

801 (2) An inmate may forfeit all or part of his earned time
802 allowance for a serious violation of rules. No forfeiture of the
803 earned time allowance shall be effective except upon approval of
804 the commissioner or his designee, and forfeited earned time may
805 not be restored.

806 (3) (a) For the purposes of this subsection, "final order"
807 means an order of a state or federal court that dismisses a
808 lawsuit brought by an inmate while the inmate was in the custody
809 of the Department of Corrections as frivolous, malicious or for
810 failure to state a claim upon which relief could be granted.

811 (b) On receipt of a final order, the department shall
812 forfeit:

813 (i) Sixty (60) days of an inmate's accrued earned
814 time if the department has received one (1) final order as defined
815 herein;

816 (ii) One hundred twenty (120) days of an inmate's
817 accrued earned time if the department has received two (2) final
818 orders as defined herein;

819 (iii) One hundred eighty (180) days of an inmate's
820 accrued earned time if the department has received three (3) or
821 more final orders as defined herein.

822 (c) The department may not restore earned time
823 forfeited under this subsection.

824 (4) An inmate who meets the good conduct and performance
825 requirements of the earned time allowance program may be released
826 on his conditional earned time release date.

827 (5) For any sentence imposed after June 30, 1995, an inmate
828 may receive an earned time allowance of four and one-half (4-1/2)
829 days for each thirty (30) days served if the department determines
830 that the inmate has complied with the good conduct and performance
831 requirements of the earned time allowance program. The earned
832 time allowance under this subsection shall not exceed fifteen
833 percent (15%) of an inmate's term of sentence; however, beginning
834 July 1, 2006, no person under the age of twenty-one (21) who has
835 committed a nonviolent offense, and who is under the jurisdiction
836 of the Department of Corrections, shall be subject to the fifteen
837 percent (15%) limitation for earned time allowances as described
838 in this subsection (5).

839 (6) Any inmate, who is released before the expiration of his
840 term of sentence under this section, shall be placed under
841 earned-release supervision until the expiration of the term of
842 sentence. The inmate shall retain inmate status and remain under
843 the jurisdiction of the department. The period of earned-release
844 supervision shall be conducted in the same manner as a period of
845 supervised parole. The department shall develop rules, terms and
846 conditions for the earned-release supervision program. The
847 commissioner shall designate the appropriate hearing officer
848 within the department to conduct revocation hearings for inmates
849 violating the conditions of earned-release supervision.

850 (7) If the earned-release supervision is revoked, the inmate
851 shall serve the remainder of the sentence and the time the inmate
852 was on earned-release supervision, shall not be applied to and
853 shall not reduce his sentence.

854 **SECTION 10.** This act shall take effect and be in force from
855 and after July 1, 2005.