

By: Senator(s) Tollison

To: Judiciary, Division B;  
Public Health and Welfare

SENATE BILL NO. 2984  
(As Passed the Senate)

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

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

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

11 43-21-605. (1) In delinquency cases, the disposition order  
12 may include any of the following alternatives:

13 (a) Release the child without further action;

14 (b) Place the child in the custody of the parents, a  
15 relative or other persons subject to any conditions and  
16 limitations, including restitution, as the youth court may  
17 prescribe;

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

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

24 (e) Order terms of supervision which may include  
25 participation in a constructive program of service or education or  
26 civil fines not in excess of Five Hundred Dollars (\$500.00), or  
27 restitution not in excess of actual damages caused by the child to  
28 be paid out of his own assets or by performance of services



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

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

33 (g) Give legal custody of the child to any of the  
34 following:

35 (i) The Department of Human Services for  
36 appropriate placement; or

37 (ii) Any public or private organization,  
38 preferably community-based, able to assume the education, care and  
39 maintenance of the child, which has been found suitable by the  
40 court; or

41 (iii) The Division of Youth Services for placement  
42 in the least restrictive environment, except that no child under  
43 the age of ten (10) years shall be committed to the state training  
44 school. Only a child who has been adjudicated delinquent for a  
45 felony or who has been adjudicated delinquent three (3) or more  
46 times for a misdemeanor offense may be committed to the training  
47 school. For the purposes of this section, a misdemeanor offense  
48 does not include contempt of court for a probation violation,  
49 unless the probation violation constitutes a charge that would be  
50 a crime if committed by an adult. In the event a child is  
51 committed to the Oakley Training School by the court, the child  
52 shall be deemed to be committed to the custody of the Department  
53 of Human Services which may place the child in the Oakley Training  
54 School or another appropriate facility.

55 The training school may retain custody of the child until the  
56 child's twentieth birthday but for no longer. When the child is  
57 committed to the training school, the child shall remain in the  
58 legal custody of the training school until the child has made  
59 sufficient progress in treatment and rehabilitation and it is in  
60 the best interest of the child to release the child. However, the  
61 superintendent of the state training school, in consultation with



62 the treatment team, may parole a child at any time he or she may  
63 deem it in the best interest and welfare of such child. Ten (10)  
64 business days prior to such parole, the training school shall  
65 notify the committing court of the pending release. The youth  
66 court may then arrange subsequent placement after a reconvened  
67 disposition hearing, except that the youth court may not recommit  
68 the child to the training school or any other secure facility  
69 without an adjudication of a new offense or probation or parole  
70 violation. The Department of Human Services shall ensure that  
71 staffs create transition planning for youth leaving the  
72 facilities. Plans shall include providing the youth and his or  
73 her parents or guardian with copies of the youth's training school  
74 education and health records, information regarding the youth's  
75 home community, referrals to mental and counseling services when  
76 appropriate, and providing assistance in making initial  
77 appointments with community service providers. Prior to assigning  
78 the custody of any child to any private institution or agency, the  
79 youth court through its designee shall first inspect the physical  
80 facilities to determine that they provide a reasonable standard of  
81 health and safety for the child. No child shall be placed in the  
82 custody of the state training school for a status offense or for  
83 contempt of or revocation of a status offense adjudication unless  
84 the child is contemporaneously adjudicated for having committed an  
85 act of delinquency that is not a status offense. A disposition  
86 order rendered under this subparagraph shall meet the following  
87 requirements:

88                   1. The disposition is the least restrictive  
89 alternative appropriate to the best interest of the child and the  
90 community;

91                   2. The disposition allows the child to be in  
92 reasonable proximity to the family home community of each child  
93 given the dispositional alternatives available and the best  
94 interest of the child and the state; and



95                   3. The disposition order provides that the  
96 court has considered the medical, educational, vocational, social  
97 and psychological guidance, training, social education,  
98 counseling, substance abuse treatment and other rehabilitative  
99 services required by that child as determined by the court;

100                   (h) Recommend to the child and the child's parents or  
101 guardian that the child attend and participate in the Youth  
102 Challenge Program under the Mississippi National Guard, as created  
103 in Section 43-27-203, subject to the selection of the child for  
104 the program by the National Guard; however, the child must  
105 volunteer to participate in the program. The youth court shall  
106 not order any child to apply for or attend the program;

107                   (i) (i) Adjudicate the juvenile to the Statewide  
108 Juvenile Work Program if the program is established in the court's  
109 jurisdiction. The juvenile and his or her parents or guardians  
110 must sign a waiver of liability in order to participate in the  
111 work program. The judge will coordinate with the youth services  
112 counselors as to placing participants in the work program;

113                   (ii) The severity of the crime, whether or not the  
114 juvenile is a repeat offender or is a felony offender will be  
115 taken into consideration by the judge when adjudicating a juvenile  
116 to the work program. The juveniles adjudicated to the work  
117 program will be supervised by police officers or reserve officers.  
118 The term of service will be from twenty-four (24) to one hundred  
119 twenty (120) hours of community service. A juvenile will work the  
120 hours to which he or she was adjudicated on the weekends during  
121 school and weekdays during the summer. Parents are responsible  
122 for a juvenile reporting for work. Noncompliance with an order to  
123 perform community service will result in a heavier adjudication.  
124 A juvenile may be adjudicated to the community service program  
125 only two (2) times;

126                   (iii) The judge shall assess an additional fine on  
127 the juvenile which will be used to pay the costs of implementation



128 of the program and to pay for supervision by police officers and  
129 reserve officers. The amount of the fine will be based on the  
130 number of hours to which the juvenile has been adjudicated;

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

133 (k) Order the child into a juvenile detention center  
134 operated by the county or into a juvenile detention center  
135 operated by any county with which the county in which the court is  
136 located has entered into a contract for the purpose of housing  
137 delinquents. The time period for detention cannot exceed ninety  
138 (90) days, and any detention exceeding forty-five (45) days shall  
139 be administratively reviewed by the youth court no later than  
140 forty-five (45) days after the entry of the order. At that time  
141 the youth court counselor shall review the status of the youth in  
142 detention and shall report any concerns to the court. The youth  
143 court judge may order that the number of days specified in the  
144 detention order be served either throughout the week or on  
145 weekends only. No first-time nonviolent youth offender shall be  
146 committed to a detention center for a period in excess of ninety  
147 (90) days until all other options provided for in this section  
148 have been considered and the court makes a specific finding of  
149 fact by a preponderance of the evidence by assessing what is in  
150 the best rehabilitative interest of the child and the public  
151 safety of communities and that there is no reasonable alternative  
152 to a nonsecure setting and therefore commitment to a detention  
153 center is appropriate.

154 If a child is committed to a detention center for ninety  
155 (90) days, the disposition order shall meet the following  
156 requirements:

157 (i) The disposition order is the least restrictive  
158 alternative appropriate to the best interest of the child and the  
159 community;



160                   (ii) The disposition order allows the child to be  
161 in reasonable proximity to the family home community of each child  
162 given the dispositional alternatives available and the best  
163 interest of the child and the state; and

164                   (iii) The disposition order provides that the  
165 court has considered the medical, educational, vocational, social  
166 and psychological guidance, training, social education,  
167 counseling, substance abuse treatment and other rehabilitative  
168 services required by that child as determined by the court;

169                   (1) The judge may consider house arrest in an intensive  
170 supervision program as a reasonable prospect of rehabilitation  
171 within the juvenile justice system. The Department of Human  
172 Services shall promulgate rules regarding the supervision of  
173 juveniles placed in the intensive supervision program; or

174                   (m) Referral to A-team provided system of care  
175 services.

176                   (2) If a disposition order requires that a child miss school  
177 due to other placement, the youth court shall notify a child's  
178 school while maintaining the confidentiality of the youth court  
179 process. If a disposition order requires placement of a child in  
180 a juvenile detention facility, the facility shall comply with the  
181 educational services and notification requirements of Section  
182 43-21-321.

183                   (3) In addition to any of the disposition alternatives  
184 authorized under subsection (1) of this section, the disposition  
185 order in any case in which the child is adjudicated delinquent for  
186 an offense under Section 63-11-30 shall include an order denying  
187 the driver's license and driving privileges of the child as  
188 required under Section 63-11-30(9).

189                   (4) If the youth court places a child in the state-supported  
190 training school, the court may order the parents or guardians of  
191 the child and other persons living in the child's household to  
192 receive counseling and parenting classes for rehabilitative



193 purposes while the child is in the legal custody of the training  
194 school. A youth court entering an order under this subsection (4)  
195 shall utilize appropriate services offered either at no cost or  
196 for a fee calculated on a sliding scale according to income unless  
197 the person ordered to participate elects to receive other  
198 counseling and classes acceptable to the court at the person's  
199 sole expense.

200 (5) Fines levied under this chapter shall be paid into the  
201 general fund of the county but, in those counties wherein the  
202 youth court is a branch of the municipal government, it shall be  
203 paid into the municipal treasury.

204 (6) Any institution or agency to which a child has been  
205 committed shall give to the youth court any information concerning  
206 the child as the youth court may at any time require.

207 (7) *The youth court shall not place a child in another*  
208 *school district who has been expelled from a school district for*  
209 *the commission of a violent act. For the purpose of this*  
210 *subsection, "violent act" means any action which results in death*  
211 *or physical harm to another or an attempt to cause death or*  
212 *physical harm to another.*

213 (8) The youth court may require drug testing as part of a  
214 disposition order. If a child tests positive, the court may  
215 require treatment, counseling and random testing, as it deems  
216 appropriate. The costs of such tests shall be paid by the parent,  
217 guardian or custodian of the child unless the court specifically  
218 finds that the parent, guardian or custodian is unable to pay.

219 (9) The Mississippi Department of Human Services, Division  
220 of Youth Services, shall operate and maintain services for youth  
221 adjudicated delinquent at Oakley Training School. The program  
222 shall be designed for children committed to the training schools  
223 by the youth courts. The purpose of the program is to promote  
224 good citizenship, self-reliance, leadership and respect for  
225 constituted authority, teamwork, cognitive abilities and



226 appreciation of our national heritage. The program must use  
227 evidenced-based practices and gender-specific programming and must  
228 develop an individualized and specific treatment plan for each  
229 female youth. The Division of Youth Services shall issue credit  
230 towards academic promotions and high school completion. The  
231 Division of Youth Services may award credits to each student who  
232 meets the requirements for a general education development  
233 certification. The Division of Youth Services must also provide  
234 to each special education eligible youth the services required by  
235 that youth's individualized education plan.

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

