

By: Representative Banks

To: Juvenile Justice

HOUSE BILL NO. 1494  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 43-21-605, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT BEFORE THE YOUTH COURT PLACES A CHILD IN SECURE  
3 COMMITMENT, THE COURT MUST MAKE SPECIFIC FINDINGS OF FACT BY A  
4 PREPONDERANCE OF THE EVIDENCE THAT SUCH PLACEMENT IS APPROPRIATE;  
5 TO DEFINE THE TERM "NONVIOLENT YOUTH OFFENDER"; TO REQUIRE THE  
6 YOUTH COURT TO REVIEW THE TREATMENT PLAN OF A CHILD AFTER SUCH  
7 CHILD HAS BEEN IN DETENTION AFTER A CERTAIN PERIOD OF TIME; AND  
8 FOR RELATED PURPOSES.

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

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

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

14 (a) Release the child without further action;

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

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

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

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



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

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

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

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

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

42 (iii) The Division of Youth Services for placement  
43 in the state-supported training school, except that no child under  
44 the age of ten (10) years shall be committed to the state training  
45 school, and no first-time nonviolent youth offenders shall be  
46 committed to the state training school until all other options  
47 provided for in this section have been considered and the court  
48 makes a specific finding of fact by a preponderance of the  
49 evidence by assessing what is in the best rehabilitative interest  
50 of the child and the public safety of communities and that there  
51 is no reasonable alternative to a nonsecure setting and therefore  
52 secure commitment is appropriate.

53 The training school may retain custody of the child until the  
54 child's twentieth birthday but for no longer. When the child is  
55 committed to the training school, the child shall remain in the  
56 legal custody of the training school until the child has made  
57 sufficient progress in treatment and rehabilitation and it is in  
58 the best interest of the child to release the child. However, the  
59 superintendent of the state training school, in consultation with  
60 the treatment team, may parole a child at any time he or she may  
61 deem it in the best interest and welfare of such child. Twenty  
62 (20) days prior to such parole, the training school shall notify



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

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

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

93                   3. The disposition order provides that the  
94 court has considered the medical, educational, vocational, social  
95 and psychological guidance, training, social education,



96 counseling, substance abuse treatment and other rehabilitative  
97 services required by that child as determined by the court;

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

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

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

124 (iii) The judge shall assess an additional fine on  
125 the juvenile which will be used to pay the costs of implementation  
126 of the program and to pay for supervision by police officers and  
127 reserve officers. The amount of the fine will be based on the  
128 number of hours to which the juvenile has been adjudicated;



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

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

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

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

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



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

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

172 (m) Referral to A-team provided system of care  
173 services.

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

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

187 (4) If the youth court places a child in a state-supported  
188 training school, the court may order the parents or guardians of  
189 the child and other persons living in the child's household to  
190 receive counseling and parenting classes for rehabilitative  
191 purposes while the child is in the legal custody of the training  
192 school. A youth court entering an order under this subsection (4)  
193 shall utilize appropriate services offered either at no cost or  
194 for a fee calculated on a sliding scale according to income unless



195 the person ordered to participate elects to receive other  
196 counseling and classes acceptable to the court at the person's  
197 sole expense.

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

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

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

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

217 (9) The Mississippi Department of Human Services, Division  
218 of Youth Services, shall operate and maintain services for youth  
219 adjudicated delinquent at Oakley Training School. The program  
220 shall be designed for children committed to the training schools  
221 by the youth courts. The purpose of the program is to promote  
222 good citizenship, self-reliance, leadership and respect for  
223 constituted authority, teamwork, cognitive abilities and  
224 appreciation of our national heritage. The program must use  
225 evidenced-based practices and gender-specific programming and must  
226 develop an individualized and specific treatment plan for each  
227 female youth. The Division of Youth Services shall issue credit



228 towards academic promotions and high school completion. The  
229 Division of Youth Services may award credits to each student who  
230 meets the requirements for a general education development  
231 certification. The Division of Youth Services must also provide  
232 to each special education eligible youth the services required by  
233 that youth's individualized education plan.

234         **SECTION 2.** This act shall take effect and be in force from  
235 and after July 1, 2009.

