

By: Representative Burnett

To: Youth and Family
Affairs; Appropriations

HOUSE BILL NO. 1449

1 AN ACT TO AMEND SECTION 43-21-153, MISSISSIPPI CODE OF 1972,
 2 TO DIRECT PAYMENT OF YOUTH COURT FINES TO THE GENERAL FUND OF THE
 3 COUNTY; TO AMEND SECTION 43-21-205, MISSISSIPPI CODE OF 1972, TO
 4 CONFORM TO THE PRECEDING SECTION; TO AMEND SECTION 43-21-605,
 5 MISSISSIPPI CODE OF 1972, TO EXCLUDE DELINQUENT CHILDREN OR THEIR
 6 FAMILIES FROM PAYMENTS FOR PARTICIPATION IN COURT ORDERED
 7 PROGRAMS; TO AMEND SECTION 43-21-607, MISSISSIPPI CODE OF 1972, TO
 8 PROVIDE THAT SUPERVISION SERVICES FOR DELINQUENTS SHOULD BE OF NO
 9 COST TO THE PARENT; TO AMEND SECTION 43-21-615, MISSISSIPPI CODE
 10 OF 1972, TO EXCLUDE PARENTS FROM PAYMENT OF MEDICAL OR BEHAVIORAL
 11 TREATMENT COSTS ASSOCIATED WITH YOUTH COURT SERVICES; TO AMEND
 12 SECTION 43-21-619, MISSISSIPPI CODE OF 1972, TO EXCLUDE PARENTS OF
 13 DELINQUENT CHILDREN AND DELINQUENT CHILDREN FROM PAYMENTS OF
 14 COUNSELING SERVICES ORDERED BY THE YOUTH COURT; TO AMEND SECTION
 15 43-21-753, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
 16 SECTION; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 43-21-153, Mississippi Code of 1972, is
 19 amended as follows:

20 43-21-153. (1) The youth court shall have full power and
 21 authority to issue all writs and processes including injunctions
 22 necessary to the exercise of jurisdiction and to carrying out the
 23 purpose of this chapter.

24 (2) Any * * * adult who willfully violates, neglects or
 25 refuses to obey, perform or comply with any order of the youth



26 court shall be in contempt of court and punished by a fine not to
27 exceed Five Hundred Dollars (\$500.00) or by imprisonment in jail
28 not to exceed ninety (90) days, or by both such fine and
29 imprisonment. All collected fines associated with this paragraph
30 shall be paid into the general fund of the county.

31 **SECTION 2.** Section 43-21-205, Mississippi Code of 1972, is
32 amended as follows:

33 43-21-205. In proceedings under this chapter, except as
34 authorized in Section 43-21-153(2) and Section 43-21-651(1), no
35 court costs, fees, or fines shall be charged against any party to
36 a petition, and no salaried officer of the state, county or any
37 municipality, nor any youth court counselor, nor any witness other
38 than an expert witness shall be entitled to receive any fee for
39 any service rendered to the youth court or for attendance in the
40 youth court in any proceedings under this chapter; but the fees of
41 the circuit and chancery clerks in youth court cases originating
42 by petition shall be paid as is provided by law for like services
43 in other cases and shall be paid by the county on allowance of the
44 board of supervisors on an itemized cost bill approved by the
45 judge. These costs shall be paid out of the general fund. No
46 clerk shall be allowed compensation for attendance in youth court.

47 **SECTION 3.** Section 43-21-605, Mississippi Code of 1972, is
48 amended as follows:

49 43-21-605. (1) In delinquency cases, the disposition order
50 may include any of the following alternatives:



- 51 (a) Release the child without further action;
- 52 (b) Place the child in the custody of the parents, a
53 relative or other persons subject to any conditions and
54 limitations, including restitution, as the youth court may
55 prescribe;
- 56 (c) Place the child on probation subject to any
57 reasonable and appropriate conditions and limitations, including
58 restitution, as the youth court may prescribe;
- 59 (d) Order terms of treatment calculated to assist the
60 child and the child's parents or guardian which are within the
61 ability of the parent or guardian to perform and which are not in
62 conflict with a provider's determination of medical necessity;
- 63 (e) Order terms of supervision which may include
64 participation in a constructive program of service or
65 education * * * at no cost to the child or parent or guardian of
66 the child, or restitution not in excess of actual damages caused
67 by the child to be paid out of his own assets or by performance of
68 services acceptable to the victims and approved by the youth court
69 and reasonably capable of performance within one (1) year;
- 70 (f) Suspend the child's driver's license by taking and
71 keeping it in custody of the court for not more than one (1) year;
- 72 (g) Give legal custody of the child to any of the
73 following:
- 74 (i) The Department of Human Services for
75 appropriate placement; or



76 (ii) Any public or private organization,
77 preferably community-based, able to assume the education, care and
78 maintenance of the child, which has been found suitable by the
79 court; or

80 (iii) The Division of Youth Services for placement
81 in the least restrictive environment, except that no child under
82 the age of twelve (12) years shall be committed to the state
83 training school. Only a child who has been adjudicated delinquent
84 for a felony may be committed to the training school. In the
85 event a child is committed to the Oakley Youth Development Center
86 by the court, the child shall be deemed to be committed to the
87 custody of the Department of Human Services which may place the
88 child in the Oakley Youth Development Center or another
89 appropriate facility.

90 The training school may retain custody of the child until the
91 child's twentieth birthday but for no longer. When the child is
92 committed to the training school, the child shall remain in the
93 legal custody of the training school until the child has made
94 sufficient progress in treatment and rehabilitation and it is in
95 the best interest of the child to release the child. However, the
96 superintendent of the state training school, in consultation with
97 the treatment team, may parole a child at any time he or she may
98 deem it in the best interest and welfare of such child. Ten (10)
99 business days before the parole, the training school shall notify
100 the committing court of the pending release. This notice may be



101 made in less than ten (10) days if Oakley Youth Development Center
102 needs to manage population limitations. The youth court may then
103 arrange subsequent placement after a reconvened disposition
104 hearing, except that the youth court may not recommit the child to
105 the training school or any other secure facility without an
106 adjudication of a new offense or probation or parole violation.
107 The Department of Human Services shall ensure that staffs create
108 transition planning for youth leaving the facilities. Plans shall
109 include providing the youth and his or her parents or guardian
110 with copies of the youth's training school education and health
111 records, information regarding the youth's home community,
112 referrals to mental and counseling services when appropriate, and
113 providing assistance in making initial appointments with community
114 service providers. Before assigning the custody of any child to
115 any private institution or agency, the youth court through its
116 designee shall first inspect the physical facilities to determine
117 that they provide a reasonable standard of health and safety for
118 the child. No child shall be placed in the custody of the state
119 training school for a status offense or for contempt of or
120 revocation of a status offense adjudication unless the child is
121 contemporaneously adjudicated for having committed an act of
122 delinquency that is not a status offense. A disposition order
123 rendered under this subparagraph shall meet the following
124 requirements:



125 1. The disposition is the least restrictive
126 alternative appropriate to the best interest of the child and the
127 community;

128 2. The disposition allows the child to be in
129 reasonable proximity to the family home community of each child
130 given the dispositional alternatives available and the best
131 interest of the child and the state; and

132 3. The disposition order provides that the
133 court has considered the medical, educational, vocational, social
134 and psychological guidance, training, social education,
135 counseling, substance abuse treatment and other rehabilitative
136 services required by that child as determined by the court;

137 (h) Recommend to the child and the child's parents or
138 guardian that the child attend and participate in the Youth
139 Challenge Program under the Mississippi National Guard, as created
140 in Section 43-27-203, subject to the selection of the child for
141 the program by the National Guard; however, the child must
142 volunteer to participate in the program. The youth court shall
143 not order any child to apply for or attend the program;

144 (i) Adjudicate the juvenile to the Statewide Juvenile
145 Work Program if the program is established in the court's
146 jurisdiction. The juvenile and his or her parents or guardians
147 must sign a waiver of liability in order to participate in the
148 work program. The judge will coordinate with the youth services
149 counselors as to placing participants in the work program * * *



150 based on * * * the severity of the crime, whether or not the
151 juvenile is a repeat offender or is a felony offender will be
152 taken into consideration by the judge when adjudicating a juvenile
153 to the work program. The juveniles adjudicated to the work
154 program will be supervised by police officers or reserve officers.
155 The term of service will be from twenty-four (24) to one hundred
156 twenty (120) hours of community service. A juvenile will work the
157 hours to which he or she was adjudicated on the weekends during
158 school and weekdays during the summer. Parents are responsible
159 for a juvenile reporting for work. Noncompliance with an order to
160 perform community service will result in a heavier adjudication.
161 A juvenile may be adjudicated to the community service program
162 only two (2) times;

163 * * *

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

166 (k) Order terms of house arrest under the intensive
167 supervision program as created in Sections 47-5-1001 through
168 47-5-1015. The Department of Human Services shall take bids for
169 the placement of juveniles in the intensive supervision program.
170 The Department of Human Services shall promulgate rules regarding
171 the supervision of juveniles placed in the intensive supervision
172 program. For each county there shall be seventy-five (75) slots
173 created in the intensive supervision program for juveniles. Any
174 youth ordered into the intensive home-based supervision program



175 shall receive comprehensive strength-based needs assessments and
176 individualized treatment plans. Based on the assessment, an
177 individualized treatment plan shall be developed that defines the
178 supervision and programming that is needed by a youth. The
179 treatment plan shall be developed by a multidisciplinary team that
180 includes the family of the youth whenever possible. * * * No
181 cost, fees or monetary assessments associated with this paragraph
182 shall be imposed on the child or parent or guardian of the child.
183 The juvenile must attend school, alternative school or be in the
184 process of working toward a High School Equivalency Diploma
185 certificate;

186 (1) (i) Order the child into a juvenile detention
187 center operated by the county or into a juvenile detention center
188 operated by any county with which the county in which the court is
189 located has entered into a contract for the purpose of housing
190 delinquents, except that a child under the age of twelve (12)
191 years cannot be held in secure detention as a disposition. The
192 time period for detention cannot exceed ninety (90) days, and any
193 detention exceeding forty-five (45) days shall be administratively
194 reviewed by the youth court no later than forty-five (45) days
195 after the entry of the order. At that time the youth court
196 counselor shall review the status of the youth in detention and
197 shall report any concerns to the court. The youth court judge may
198 order that the number of days specified in the detention order be
199 served either throughout the week or on weekends only. No



200 first-time nonviolent youth offender shall be committed to a
201 detention center for a period in excess of ninety (90) days until
202 all other options provided for in this section have been
203 considered and the court makes a specific finding of fact by a
204 preponderance of the evidence by assessing what is in the best
205 rehabilitative interest of the child and the public safety of
206 communities and that there is no reasonable alternative to a
207 nonsecure setting and therefore commitment to a detention center
208 is appropriate.

209 (ii) If a child is committed to a detention center
210 for ninety (90) days, the disposition order shall meet the
211 following requirements:

212 1. The disposition order is the least
213 restrictive alternative appropriate to the best interest of the
214 child and the community;

215 2. The disposition order allows the child to
216 be in reasonable proximity to the family home community of each
217 child given the dispositional alternatives available and the best
218 interest of the child and the state; and

219 3. The disposition order provides that the
220 court has considered the medical, educational, vocational, social
221 and psychological guidance, training, social education,
222 counseling, substance abuse treatment and other rehabilitative
223 services required by that child as determined by the court;



224 (m) The judge may consider house arrest in an intensive
225 supervision program as a reasonable prospect of rehabilitation
226 within the juvenile justice system. The Department of Human
227 Services shall promulgate rules regarding the supervision of
228 juveniles placed in the intensive supervision program, but shall
229 not assess any fines, fees, or costs against the child or parent
230 or guardian of the child;

231 (n) Referral to A-team provided system of care services
232 at no cost to the child or parent or guardian of the child; or

233 (o) Place the child on electronic monitoring subject to
234 any conditions and limitations as the youth court may prescribe at
235 no cost to the child or parent or guardian of the child.

236 (2) If a disposition order requires that a child miss school
237 due to other placement, the youth court shall notify a child's
238 school while maintaining the confidentiality of the youth court
239 process. If a disposition order requires placement of a child in
240 a juvenile detention facility, the facility shall comply with the
241 educational services and notification requirements of Section
242 43-21-321.

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



249 (4) If the youth court places a child in a state-supported
250 training school, the court may order the parents or guardians of
251 the child and other persons living in the child's household to
252 receive counseling and parenting classes for rehabilitative
253 purposes while the child is in the legal custody of the training
254 school. A youth court entering an order under this subsection (4)
255 shall utilize appropriate services * * * at no cost * * * to the
256 parent, child or guardian unless the person ordered to participate
257 elects to receive other counseling and classes acceptable to the
258 court at the person's sole expense.

259 (5) * * * Pursuant to Section 43-21-205, any disposition
260 orders or disposition alternatives outlined in this chapter shall
261 be ordered at no cost to the child, parent or guardian.

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

265 (7) The youth court shall not place a child in another
266 school district who has been expelled from a school district for
267 the commission of a violent act. For the purpose of this
268 subsection, "violent act" means any action which results in death
269 or physical harm to another or an attempt to cause death or
270 physical harm to another.

271 (8) The youth court may require drug testing as part of a
272 disposition order. If a child tests positive, the court may
273 require treatment, counseling and random testing, as it deems



274 appropriate. The costs of such tests shall not be paid by the
275 child or the parent, guardian or custodian of the child * * *.

276 (9) The Mississippi Department of Human Services, Division
277 of Youth Services, shall operate and maintain services for youth
278 adjudicated delinquent at the Oakley Youth Development Center.
279 The program shall be designed for children committed to the
280 training schools by the youth courts. The purpose of the program
281 is to promote good citizenship, self-reliance, leadership and
282 respect for constituted authority, teamwork, cognitive abilities
283 and appreciation of our national heritage. The program must use
284 evidenced-based practices and gender-specific programming and must
285 develop an individualized and specific treatment plan for each
286 youth. The Division of Youth Services shall issue credit towards
287 academic promotions and high school completion. The Division of
288 Youth Services may award credits to each student who meets the
289 requirements for a general education development certification.
290 The Division of Youth Services must also provide to each special
291 education eligible youth the services required by that youth's
292 individualized education plan.

293 **SECTION 4.** Section 43-21-607, Mississippi Code of 1972, is
294 amended as follows:

295 43-21-607. (1) In children in need of supervision cases,
296 the disposition order may include any of the following
297 alternatives or combination of the following alternatives, giving
298 precedence in the following sequence:



- 299 (a) Release the child without further action;
- 300 (b) Place the child in the custody of the parent, a
301 relative or other person subject to any conditions and limitations
302 as the youth court may prescribe;
- 303 (c) Place the child under youth court supervision
304 subject to any conditions and limitations the youth court may
305 prescribe;
- 306 (d) Order terms of treatment calculated to assist the
307 child and the child's parent, guardian or custodian which are
308 within the ability of the parent, guardian or custodian to
309 perform;
- 310 (e) Order terms of supervision which may include
311 participation in a constructive program of service or education or
312 restitution not in excess of actual damages caused by the child to
313 be paid out of his own assets or by performance of services
314 acceptable to the parties and reasonably capable of performance
315 within one (1) year;
- 316 (f) Give legal custody of the child to any of the
317 following but in no event to any state training school;
- 318 (i) The Department of Human Services for
319 appropriate placement which may include a wilderness training
320 program at no cost to the child or parent or guardian of the
321 child; or
- 322 (ii) Any private or public organization,
323 preferably community-based, able to assume the education, care and



324 maintenance of the child, which has been found suitable by the
325 court at no cost to the child or parent or guardian of the child.
326 Prior to assigning the custody of any child to any private
327 institution or agency, the youth court through its designee shall
328 first inspect the physical facilities to determine that they
329 provide a reasonable standard of health and safety for the child;
330 or

331 (g) Order the child to participate in a youth court
332 work program as provided in Section 43-21-627.

333 (2) The court may order drug testing as provided in
334 Section * * * 43-21-605(8) at no cost to the child or parent or
335 guardian of the child.

336 **SECTION 5.** Section 43-21-615, Mississippi Code of 1972, is
337 amended as follows:

338 43-21-615. (1) The costs of conveying any child committed
339 to any institution or agency shall be paid by the county * * *
340 from which the child is committed out of the general treasury of
341 the county * * * upon approval of the court. No compensation
342 shall be allowed beyond the actual and necessary expenses of the
343 child and the person actually conveying the child. In the case of
344 a female child, the youth court shall designate some suitable
345 woman to accompany her to the institution or agency.

346 (2) Whenever a child is adjudicated delinquent and
347 committed by the youth court to the custody of any person or
348 agency other than the custody of a state training school, * * *



349 the cost, or any portion of the cost, of any medical or behavioral
350 treatment or counseling ordered pursuant to this chapter shall be
351 billed to any public or private insurance to which the child is
352 enrolled. If the child is eligible for public insurance, but not
353 enrolled, the youth court's designee shall assist the parent or
354 guardian in enrolling the child in such insurance. If an
355 enrollment request is submitted for an uninsured child, any
356 nonurgent medical treatment, counseling, or other services
357 eligible for coverage by the insurance shall be deferred by the
358 court for a period no longer than sixty (60) days after the
359 enrollment request is submitted. The court may order urgent
360 medical treatment which cannot be deferred or other medical or
361 behavioral treatment or counseling deemed necessary by the court
362 that is not covered by insurance, only after holding a mandatory
363 hearing on the record to determine that the child, parent, or
364 guardian has the ability to pay for the services or treatment
365 ordered. If the child, parent, or guardian of the child is
366 determined unable to pay for the services or treatment ordered as
367 a result of the hearing, the cost of the ordered treatment or
368 services shall be paid by the county from which the child is
369 committed out of the general treasury of the county.

370 **SECTION 6.** Section 43-21-619, Mississippi Code of 1972, is
371 amended as follows:

372 43-21-619. (1) The youth court * * * shall not order * * *
373 able parents to pay for court ordered medical and other



374 examinations and treatment of a child; for reasonable attorney's
375 fees and court costs; and for other expenses found necessary or
376 appropriate in the best interest of the child as determined by the
377 youth court. * * *

378 (2) The youth court may order the parents, guardians or
379 custodians who exercise parental custody and control of a child
380 who is under the jurisdiction of the youth court and who has
381 willfully or maliciously caused personal injury or damaged or
382 destroyed property, to pay such damages or restitution through the
383 court to the victim in an amount not to exceed the actual loss and
384 to enforce payment thereof. Restitution ordered by the youth
385 court under this section shall not preclude recovery of damages by
386 the victim from such child or parent, guardian or custodian or
387 other person who would otherwise be liable. The youth court also
388 may order the parents, guardians or custodians of a child who is
389 under the jurisdiction of the youth court and who willfully or
390 maliciously has caused personal injury or damaged or destroyed
391 property to participate in a counseling program or other suitable
392 family treatment program for the purpose of preventing future
393 occurrences of malicious destruction of property or personal
394 injury. Whenever a child is adjudicated delinquent, the cost, or
395 any portion of the costs associated with any order for
396 participation in a counseling program or other suitable family
397 treatment program for the purpose of preventing future occurrences



398 of malicious destruction of property or personal injury, may not
399 be charged to the child or parent or guardian of the child.

400 (3) Such orders under this section shall constitute a civil
401 judgment and may be enrolled on the judgment rolls in the office
402 of the circuit clerk of the county where such order was entered,
403 and further, such order may be enforced in any manner provided by
404 law for civil judgments.

405 **SECTION 7.** Section 43-21-753, Mississippi Code of 1972, is
406 amended as follows:

407 43-21-753. The youth court of any county in the state may
408 establish a teen court program for the diversion of certain
409 offenders who have waived all right of confidentiality and
410 privilege against self-incrimination. The youth court of Rankin
411 County may extend its teen court program within the city limits of
412 Pearl. The offenders eligible to participate shall be those
413 offenders who in the discretion of the youth court are suitable
414 and compulsory-school-age children who have come into the
415 jurisdiction of the youth court as a result of not attending
416 school. The teen court shall be a preventive program for
417 juveniles comprised of youth who are not less than thirteen (13)
418 nor more than seventeen (17) years of age, which students shall
419 serve as prosecutor, defense counsel, bailiff, court clerk and
420 jurors. The program is to administer the "sentencing" or
421 disposition phase of the proceedings against offenders who elect
422 to participate, shall be under the guidance of the local youth



423 court, and shall be approved by the local youth court. The youth
424 court judge, or his designee who is a licensed attorney, shall
425 preside. The teen court is authorized to require eligible
426 offenders who choose to go to teen court in lieu of youth court to
427 perform up to one hundred twelve (112) hours of community service,
428 require offenders to make a personal apology to a victim, require
429 offenders to submit a research paper on any relevant subject,
430 attend counseling and make restitution or any other disposition
431 authorized by the youth court. The youth court shall establish
432 rules and regulations, including sentencing guidelines, for the
433 operation of a teen court. The teen court is authorized to accept
434 monies from any available public or private source, including
435 public or private donations, grants, gifts and appropriated funds
436 for funding expenses of operating the court.

437 Teen court may be held at whatever location the youth court
438 selects at whatever time or times. Eligible offenders shall be
439 only those children who agree to participate in the teen court and
440 to abide by the teen court's rulings, whose parents or legal
441 guardian shall also so agree, and who are otherwise qualified to
442 participate.

443 * * *

444 **SECTION 8.** This act shall take effect and be in force from
445 and after July 1, 2022.

