

By: Senator(s) Wiggins

To: Judiciary, Division A;  
Appropriations

SENATE BILL NO. 2364  
(As Sent to Governor)

1 AN ACT TO CREATE THE MISSISSIPPI JUVENILE DETENTION  
2 FACILITIES LICENSING ACT; TO PROVIDE CERTAIN DEFINITIONS; TO  
3 PRESCRIBE CERTAIN DUTIES OF THE JUVENILE FACILITIES MONITORING  
4 UNIT IN ITS ROLE AS A LICENSING AGENCY; TO REQUIRE THE DEPARTMENT  
5 OF EDUCATION TO PROMULGATE CERTAIN RULES AS THEY PERTAIN TO THE  
6 EDUCATION OF CHILDREN HOUSED IN JUVENILE DETENTION FACILITIES; TO  
7 PROVIDE THAT JUVENILE DETENTION FACILITIES MUST HAVE A LICENSE TO  
8 OPERATE AS OF OCTOBER OF 2017; TO REQUIRE THE LICENSING AGENCY TO  
9 MAKE INSPECTIONS; TO PROVIDE A HEARING AND APPEALS PROCESS IF A  
10 JUVENILE DETENTION FACILITY'S LICENSE IS SUSPENDED, REVOKED OR  
11 RESTRICTED; TO AMEND SECTION 43-21-321, MISSISSIPPI CODE OF 1972,  
12 TO REMOVE CERTAIN MINIMUM STANDARDS FOR THE JUVENILE DETENTION  
13 CENTER; TO AMEND SECTION 43-21-323, MISSISSIPPI CODE OF 1972, IN  
14 CONFORMITY THERETO; TO PROVIDE THAT NO STATEMENTS, ADMISSIONS OR  
15 CONFESSIONS OR INCRIMINATING INFORMATION OBTAINED FROM A YOUTH  
16 DURING A SCREENING OR ASSESSMENT SHALL BE ADMITTED INTO EVIDENCE  
17 AGAINST THE CHILD ON THE ISSUE OF WHETHER THE CHILD COMMITTED A  
18 DELINQUENT ACT; TO AMEND SECTION 43-21-105, MISSISSIPPI CODE OF  
19 1972, TO ADD THE TERMS "ASSESSMENT" AND "SCREENING" UNDER THE  
20 YOUTH COURT LAW; TO AMEND SECTIONS 43-21-559 AND 43-21-561,  
21 MISSISSIPPI CODE OF 1972, TO PROHIBIT STATEMENTS, ADMISSIONS OR  
22 CONFESSIONS FROM BEING ADMITTED INTO EVIDENCE TO DETERMINE  
23 DELINQUENCY; TO AMEND SECTION 43-21-603, MISSISSIPPI CODE OF 1972,  
24 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

26 **SECTION 1.** Sections 1 through 8 and Section 11 of this act  
27 shall be cited as the "Mississippi Juvenile Detention Facilities  
28 Licensing Act."



29           **SECTION 2.** The purpose of this act is to protect and promote  
30 the health and safety of the children who are detained in juvenile  
31 detention centers in this state by providing for the licensing of  
32 juvenile detention facilities to assure that certain minimum  
33 standards are maintained.

34           **SECTION 3.** As used in this act, the following words shall  
35 have the following meanings:

36                   (a) "Facility administrator" means the principal  
37 official of the facility.

38                   (b) "Facility staff" means all employees of the  
39 facility who are under the supervision of the facility  
40 administrator.

41                   (c) "Juvenile detention facility" and "facility" are  
42 synonymous and each means a secure facility that house children  
43 who are charged with a delinquent act as defined in Section  
44 43-21-105(j).

45                   (d) "Licensing agency" means the Juvenile Facilities  
46 Monitoring Unit of the Department of Public Safety.

47           **SECTION 4.** (1) The licensing agency shall have the  
48 following powers and duties, in addition to the other duties  
49 prescribed by law:

50                   (a) To adopt the licensing standards set forth by the  
51 Juvenile Detention and Alternatives Taskforce's 2014 report;



52 (b) To promulgate future rules and regulations  
53 concerning the licensing and regulation of juvenile detention  
54 facilities;

55 (c) To issue, deny, suspend, revoke, restrict, or  
56 otherwise take disciplinary action against juvenile detention  
57 facilities;

58 (d) To provide the training required by the rules and  
59 regulations promulgated by the licensing agency to all facility  
60 administrators and facility staff; and

61 (e) To have such other powers as may be required to  
62 carry out the provisions of this act.

63 (2) The licensing agency shall require a criminal records  
64 background check and a child abuse registry check for all facility  
65 administrators and facility staff of a juvenile detention  
66 facility. The Department of Human Services has the authority to  
67 disclose to the licensing agency any potential applicant whose  
68 name is listed on the Child Abuse Central Registry or has a  
69 pending administrative review. That information shall remain  
70 confidential.

71 (3) The licensing agency shall have the authority to exclude  
72 individuals or entities for prospective or current employment on  
73 the basis of a particular crime or crimes or a substantiated  
74 finding of child abuse or neglect.

75 (4) Information in the possession of the licensing agency  
76 concerning the license of a juvenile detention facility may be



77 disclosed to the public, but the information shall not be  
78 disclosed in a manner that would identify children detained in the  
79 facility. Nothing in this section affects the agency's authority  
80 to release findings of investigations into allegations of abuse  
81 under either Section 43-21-353(8) or Section 43-21-257.

82 (5) The Mississippi Department of Education is responsible  
83 for promulgating rules and regulations related to the education of  
84 all children housed in a juvenile detention facility. The  
85 Mississippi Department of Education must conduct inspections of  
86 the facility's educational services at least annually or more  
87 often as deemed necessary. After each inspection, the department  
88 must provide the licensing agency with its determination of the  
89 facility's compliance with the education provisions. The  
90 licensing agency shall use the information in its determination of  
91 the facility's eligibility for licensure.

92 **SECTION 5.** Beginning October 1, 2016, the licensing agency  
93 shall conduct mock reviews of all juvenile detention facilities  
94 and determine what, if any, issues exist that may prevent  
95 licensure pursuant to the adopted rules and regulations. From and  
96 after October 1, 2017, no county or state entity shall establish,  
97 own, operate, and maintain a juvenile detention facility without a  
98 license issued under this act.

99 **SECTION 6.** A license issued under this act must be renewed  
100 every two (2) years.



101           **SECTION 7.** The licensing agency shall make inspections to  
102 determine ongoing compliance with the laws and regulations  
103 governing the licensure of juvenile detention facilities.  
104 Inspections shall be made at least twice a year, but additional  
105 inspections may be made as often as deemed necessary by the  
106 licensing agency. The licensing agency is not required to provide  
107 any notice to the facility before making an inspection.

108           **SECTION 8.** (1) The licensing agency may deny or refuse to  
109 renew a license for any of the reasons set forth in subsection (3)  
110 of this section.

111           (2) Before the licensing agency may deny or refuse to renew  
112 a license, the county or contractor operating the juvenile  
113 detention facility is entitled to a hearing before the director of  
114 the licensing agency in order to show cause why the license should  
115 not be denied or should be renewed.

116           (3) The licensing agency may suspend, revoke, or restrict  
117 the license of any juvenile detention center upon one or more of  
118 the following grounds:

119                   (a) Fraud, misrepresentation or concealment of material  
120 facts;

121                   (b) Violation of any of the provisions of this act or  
122 any of the regulations governing the licensing and regulation of  
123 juvenile detention facilities promulgated by the licensing agency;



124 (c) Any conduct, or failure to act that is found or  
125 determined by the licensing agency to threaten the health and  
126 safety of children at the facility;

127 (d) Failure of a juvenile detention facility to conduct  
128 background checks as required under Section 4 of this act.

129 (e) Information that is received by the licensing  
130 agency as a result of the criminal records background check and  
131 the child abuse registry check on all facility administrators and  
132 facility staff under Section 4 of this act.

133 (4) The licensing agency shall develop rules and regulations  
134 related to the development and implementation of corrective action  
135 plans to address violations at facilities before a revocation,  
136 suspension, or restriction of the facility's license.

137 (5) Before the licensing agency may suspend, revoke or  
138 restrict the license of a facility, the county or contractor  
139 affected by that decision is entitled to a hearing before the  
140 director of the licensing agency in which it may show cause why  
141 the license should not be suspended, revoked, or restricted.

142 (6) A juvenile detention facility that disagrees with or is  
143 aggrieved by the licensing agency in regard to the denial, refusal  
144 to renew, or the suspension, revocation, or restriction of the  
145 license for the juvenile detention facility may appeal to the  
146 chancery court of the county in which the facility is located.  
147 The appeal shall be filed no later than thirty (30) days after the



148 licensee receives written notice of the final administrative  
149 action by the licensing agency.

150 **SECTION 9.** Section 43-21-321, Mississippi Code of 1972, is  
151 amended as follows:

152 43-21-321. (1) \* \* \* All juvenile detention centers shall  
153 develop and implement policies and procedures that comply with the  
154 regulations promulgated by the Juvenile Facilities Monitoring  
155 Unit.

156 \* \* \*

157 ( \* \* \*2) If a student's detention will cause \* \* \* the  
158 student to miss one or more days of school during the academic  
159 school year, the detention center staff shall notify school  
160 district officials where the detainee last attended school by the  
161 first school day following the student's placement in the  
162 facility. Detention center staff shall not disclose youth court  
163 records to the school district, except as provided by Section  
164 43-21-261.

165 ( \* \* \*3) All juvenile detention centers shall adhere to the  
166 following minimum standards:

167 (a) Each center shall have a manual that states the  
168 policies and procedures for operating and maintaining the  
169 facility, and the manual shall be reviewed annually and revised as  
170 needed;



171 (b) Each center shall have a policy that specifies  
172 support for a drug-free workplace for all employees, and the  
173 policy shall, at a minimum, include the following:

174 (i) The prohibition of the use of illegal drugs;

175 (ii) The prohibition of the possession of any  
176 illegal drugs except in the performance of official duties;

177 (iii) The procedure used to ensure compliance with  
178 a drug-free workplace policy;

179 (iv) The opportunities available for the treatment  
180 and counseling for drug abuse; and

181 (v) The penalties for violation of the drug-free  
182 workplace policy; and

183 (c) Each center shall have a policy, procedure and  
184 practice that ensures that personnel files and records are  
185 current, accurate and confidential \* \* \*.

186 \* \* \*

187 ( \* \* \*4) Local school districts shall work collaboratively  
188 with juvenile detention center staff to provide special education  
189 services as required by state and federal law. Upon the written  
190 request of the youth court judge for the county in which the  
191 detention center is located, a local school district in the county  
192 in which the detention center is located, or a private provider  
193 agreed upon by the youth court judge and sponsoring school  
194 district, shall provide a certified teacher to provide educational  
195 services to detainees. The youth court judge shall designate the





196 school district which shall be defined as the sponsoring school  
197 district. The local home school district shall be defined as the  
198 school district where the detainee last attended prior to  
199 detention. Teacher selection shall be in consultation with the  
200 youth court judge. The Legislature shall annually appropriate  
201 sufficient funds for the provision of educational services, as  
202 provided under this section, to detainees in detention  
203 centers \* \* \*.

204 ( \* \* \*5) The sponsoring school district, or a private  
205 provider agreed upon by the youth court judge and sponsoring  
206 school district, shall be responsible for providing the  
207 instructional program for the detainee while in detention. After  
208 forty-eight (48) hours of detention, excluding legal holidays and  
209 weekends, the detainee shall receive the following services which  
210 may be computer-based:

211 ( \* \* \*a) Diagnostic assessment of grade-level mastery  
212 of reading and math skills;

213 ( \* \* \*b) Individualized instruction and practice to  
214 address any weaknesses identified in the assessment conducted  
215 under \* \* \* paragraph (a) of this subsection if the detainee is in  
216 the center for more than forty-eight (48) hours; and

217 ( \* \* \*c) Character education to improve  
218 behavior \* \* \*.

219 ( \* \* \*6) No later than the tenth day of detention, the  
220 detainee shall begin an extended detention education program. A



221 team consisting of a certified teacher provided by the local  
222 sponsoring school district or a private provider agreed upon by  
223 the youth court judge and sponsoring school district, the  
224 appropriate official from the local home school district, and the  
225 youth court counselor or representative will develop an  
226 individualized education program for the detainee, where  
227 appropriate as determined by the teacher of the sponsoring school  
228 district, or a private provider agreed upon by the youth court  
229 judge and sponsoring school district. The detainee's parent or  
230 guardian shall participate on the team unless excused by the youth  
231 court judge. Failure of any party to participate shall not delay  
232 implementation of this education program \* \* \*.

233 ( \* \* \*7) The sponsoring school district, or a private  
234 provider agreed upon by the youth court judge and sponsoring  
235 school district, shall provide the detention center with an  
236 appropriate and adequate computer lab to serve detainees. The  
237 Legislature shall annually appropriate sufficient funds to equip  
238 and maintain the computer labs. The computer lab shall become the  
239 property of the detention centers and the sponsoring school  
240 districts shall maintain and update the labs \* \* \*.

241 ( \* \* \*8) The Mississippi Department of Education will  
242 collaborate with the appropriate state and local agencies,  
243 juvenile detention centers and local school districts to ensure  
244 the provision of educational services to every student placed in a  
245 juvenile detention center. The Mississippi Department of



246 Education has the authority to develop and promulgate policies and  
247 procedures regarding financial reimbursements to the sponsoring  
248 school district from school districts that have students of record  
249 or compulsory-school-age residing in said districts placed in a  
250 youth detention center. Such services may include, but not be  
251 limited to: assessment and math and reading instruction,  
252 character education and behavioral counseling. The Mississippi  
253 Department of Education shall work with the appropriate state and  
254 local agencies, juvenile detention centers and local school  
255 districts to annually determine the proposed costs for educational  
256 services to youth placed in juvenile detention centers and  
257 annually request sufficient funding for such services as  
258 necessary \* \* \*.

259 \* \* \*

260 ( \* \* \*9) Juvenile detention centers shall ensure that  
261 staffs create transition planning for youth leaving the  
262 facilities. Plans shall include providing the youth and his or  
263 her parents or guardian with copies of the youth's detention  
264 center education and health records, information regarding the  
265 youth's home community, referrals to mental and counseling  
266 services when appropriate, and providing assistance in making  
267 initial appointments with community service providers; the  
268 transition team will work together to help the detainee  
269 successfully transition back into the home school district once  
270 released from detention. The transition team will consist of a



271 certified teacher provided by the local sponsoring school  
272 district, or a private provider agreed upon by the youth court  
273 judge and sponsoring school district, the appropriate official  
274 from the local home school district, the school attendance officer  
275 assigned to the local home school district, and the youth court  
276 counselor or representative. The detainee's parent or guardian  
277 shall participate on the team unless excused by the youth court  
278 judge. Failure of any party to participate shall not delay  
279 implementation of this education program \* \* \*.

280 ( \* \* \*10) The Juvenile Detention Facilities Monitoring Unit  
281 shall monitor the detention facilities for compliance with these  
282 minimum standards, and no child shall be housed in a detention  
283 facility the monitoring unit determines is substantially out of  
284 compliance with the standards prescribed in this subsection.

285 \* \* \*

286 **SECTION 10.** Section 43-21-323, Mississippi Code of 1972, is  
287 amended as follows:

288 43-21-323. (1) There is established the Juvenile Detention  
289 Facilities Monitoring Unit within the Department of Public Safety  
290 to work in cooperation with the Council of Youth Court Judges and  
291 Referees and the Juvenile Justice Advisory Committee described in  
292 Sections 45-1-33 and 43-21-125; the Juvenile Detention Facilities  
293 Monitoring Unit is the licensing agency for juvenile detention  
294 facilities, as defined in Section 3 of this act. The unit shall  
295 be responsible for investigating, evaluating and securing the



296 rights of children held in juvenile justice facilities, including  
297 detention centers, training schools and group homes throughout the  
298 state to ensure that the facilities operate in compliance with  
299 national best practices and state and federal law. The monitoring  
300 unit shall only monitor group homes that serve as a dispositional  
301 placement for delinquent youth pursuant to Section 43-21-605.

302 Nothing in this section shall be construed as giving the  
303 monitoring unit authority to monitor foster care or shelter care  
304 placements. All monitors shall be employees of the Department of  
305 Public Safety. The inspections by the unit shall encompass the  
306 following:

307           (a) To review and evaluate (i) all procedures set by  
308 detention centers, training schools and group homes and (ii) all  
309 records containing information related to the operations of the  
310 detention centers, training schools and group homes;

311           (b) To review and investigate all complaints filed with  
312 the monitoring unit concerning children's treatment in detention  
313 centers, training schools and group homes;

314           (c) To conduct quarterly monitoring visits of all  
315 detention centers, training schools and group homes. The monitor  
316 shall have access to an entire facility and shall conduct  
317 confidential interviews with youth and facility staff;

318           (d) To advise a facility on how to meet the needs of  
319 children who require immediate attention;



320 (e) To provide technical assistance and advice to  
321 juvenile detention facilities, which will assist the facilities in  
322 complying with state and federal law.

323 To carry out the duties in this subsection (1) a monitor may  
324 consult with an administrator, employee, child, parent, expert or  
325 other individual in the course of monitoring or investigating. In  
326 addition, the monitor may review court documents and other  
327 confidential records as necessary to fulfill these duties.

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

329 (a) To make available on a quarterly basis to the  
330 Governor, Lieutenant Governor and each member of the Legislature  
331 and each member of a county board of supervisors, a report that  
332 describes:

333 (i) The work of the monitoring unit;

334 (ii) The results of any review or investigation  
335 undertaken by the monitoring unit;

336 (iii) Any allegations of abuse or injury of a  
337 child; and

338 (iv) Any problems concerning the administration of  
339 a detention center.

340 The reports described in this subsection shall keep the names  
341 of all children, parents and employees confidential.

342 (b) To promote awareness among the public and the  
343 children held in detention by providing the following:

344 (i) How the monitoring unit may be contacted;



345 (ii) The purpose of the monitoring unit; and  
346 (iii) The services that the monitoring unit  
347 provides.

348 (3) The records of a monitor shall be confidential. Any  
349 child, staff member, parent or other interested individual may  
350 communicate to a monitor in person, by mail, by phone, or any  
351 other means. All communications shall be kept confidential and  
352 privileged, except that the youth court and the facility shall  
353 have access to such records, but the identity of reporters shall  
354 remain confidential.

355 **SECTION 11.** (1) No statements, admissions or confessions  
356 made by or incriminatory information obtained from a child in the  
357 course of a screening or assessment that is undertaken in  
358 conjunction with any proceedings under this act, including, but  
359 not limited to, that which is court-ordered, shall be admitted  
360 into evidence against the child on the issue of whether the child  
361 committed a delinquent act under the Youth Court Act or on the  
362 issue of guilt in any criminal proceedings.

363 (2) The provisions of subsection (1) of this section are in  
364 addition to and do not override any existing statutory and  
365 constitutional prohibition on the admission into evidence in  
366 delinquency or criminal proceedings of information obtained during  
367 screening, assessment or treatment.

368 **SECTION 12.** Section 43-21-105, Mississippi Code of 1972, is  
369 amended as follows:



370 43-21-105. The following words and phrases, for purposes of  
371 this chapter, shall have the meanings ascribed herein unless the  
372 context clearly otherwise requires:

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

374 (b) "Judge" means the judge of the Youth Court  
375 Division.

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

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

385 (e) "Parent" means the father or mother to whom the  
386 child has been born, or the father or mother by whom the child has  
387 been legally adopted.

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

390 (g) "Custodian" means any person having the present  
391 care or custody of a child whether such person be a parent or  
392 otherwise.

393 (h) "Legal custodian" means a court-appointed custodian  
394 of the child.





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

397 (j) "Delinquent act" is any act, which if committed by  
398 an adult, is designated as a crime under state or federal law, or  
399 municipal or county ordinance other than offenses punishable by  
400 life imprisonment or death. A delinquent act includes escape from  
401 lawful detention and violations of the Uniform Controlled  
402 Substances Law and violent behavior.

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

406 (i) Is habitually disobedient of reasonable and  
407 lawful commands of his parent, guardian or custodian and is  
408 ungovernable; or

409 (ii) While being required to attend school,  
410 willfully and habitually violates the rules thereof or willfully  
411 and habitually absents himself therefrom; or

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

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

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

415 (i) Whose parent, guardian or custodian or any  
416 person responsible for his care or support, neglects or refuses,  
417 when able so to do, to provide for him proper and necessary care  
418 or support, or education as required by law, or medical, surgical,  
419 or other care necessary for his well-being; however, a parent who



420 withholds medical treatment from any child who in good faith is  
421 under treatment by spiritual means alone through prayer in  
422 accordance with the tenets and practices of a recognized church or  
423 religious denomination by a duly accredited practitioner thereof  
424 shall not, for that reason alone, be considered to be neglectful  
425 under any provision of this chapter; or

426 (ii) Who is otherwise without proper care,  
427 custody, supervision or support; or

428 (iii) Who, for any reason, lacks the special care  
429 made necessary for him by reason of his mental condition, whether  
430 the mental condition is having mental illness or having an  
431 intellectual disability; or

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

434 (m) "Abused child" means a child whose parent, guardian  
435 or custodian or any person responsible for his care or support,  
436 whether legally obligated to do so or not, has caused or allowed  
437 to be caused, upon the child, sexual abuse, sexual exploitation,  
438 emotional abuse, mental injury, nonaccidental physical injury or  
439 other maltreatment. However, physical discipline, including  
440 spanking, performed on a child by a parent, guardian or custodian  
441 in a reasonable manner shall not be deemed abuse under this  
442 section.

443 (n) "Sexual abuse" means obscene or pornographic  
444 photographing, filming or depiction of children for commercial



445 purposes, or the rape, molestation, incest, prostitution or other  
446 such forms of sexual exploitation of children under circumstances  
447 which indicate that the child's health or welfare is harmed or  
448 threatened.

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

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

458 (q) "Custody" means the physical possession of the  
459 child by any person.

460 (r) "Legal custody" means the legal status created by a  
461 court order which gives the legal custodian the responsibilities  
462 of physical possession of the child and the duty to provide him  
463 with food, shelter, education and reasonable medical care, all  
464 subject to residual rights and responsibilities of the parent or  
465 guardian of the person.

466 (s) "Detention" means the care of children in  
467 physically restrictive facilities.

468 (t) "Shelter" means care of children in physically  
469 nonrestrictive facilities.



470                   (u) "Records involving children" means any of the  
471 following from which the child can be identified:  
472                   (i) All youth court records as defined in Section  
473 43-21-251;  
474                   (ii) All social records as defined in Section  
475 43-21-253;  
476                   (iii) All law enforcement records as defined in  
477 Section 43-21-255;  
478                   (iv) All agency records as defined in Section  
479 43-21-257; and  
480                   (v) All other documents maintained by any  
481 representative of the state, county, municipality or other public  
482 agency insofar as they relate to the apprehension, custody,  
483 adjudication or disposition of a child who is the subject of a  
484 youth court cause.

485                   (v) "Any person responsible for care or support" means  
486 the person who is providing for the child at a given time. This  
487 term shall include, but is not limited to, stepparents, foster  
488 parents, relatives, nonlicensed baby-sitters or other similar  
489 persons responsible for a child and staff of residential care  
490 facilities and group homes that are licensed by the Department of  
491 Human Services.

492                   (w) The singular includes the plural, the plural the  
493 singular and the masculine the feminine when consistent with the  
494 intent of this chapter.



495 (x) "Out-of-home" setting means the temporary  
496 supervision or care of children by the staff of licensed day care  
497 centers, the staff of public, private and state schools, the staff  
498 of juvenile detention facilities, the staff of unlicensed  
499 residential care facilities and group homes and the staff of, or  
500 individuals representing, churches, civic or social organizations.

501 (y) "Durable legal custody" means the legal status  
502 created by a court order which gives the durable legal custodian  
503 the responsibilities of physical possession of the child and the  
504 duty to provide him with care, nurture, welfare, food, shelter,  
505 education and reasonable medical care. All these duties as  
506 enumerated are subject to the residual rights and responsibilities  
507 of the natural parent(s) or guardian(s) of the child or children.

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

511 (aa) "Financially able" means a parent or child who is  
512 ineligible for a court-appointed attorney.

513 (bb) "Assessment" means an individualized examination  
514 of a child to determine the child's psychosocial needs and  
515 problems, including the type and extent of any mental health,  
516 substance abuse or co-occurring mental health and substance abuse  
517 disorders and recommendations for treatment. The term includes,  
518 but is not limited to, a drug and alcohol, psychological or



519 psychiatric evaluation, records review, clinical interview or the  
520 administration of a formal test and instrument.

521 (cc) "Screening" means a process, with or without the  
522 administration of a formal instrument, that is designed to  
523 identify a child who is at increased risk of having mental health,  
524 substance abuse or co-occurring mental health and substance abuse  
525 disorders that warrant immediate attention, intervention or more  
526 comprehensive assessment.

527 **SECTION 13.** Section 43-21-559, Mississippi Code of 1972, is  
528 amended as follows:

529 43-21-559. (1) In arriving at its adjudicatory decision,  
530 the youth court shall consider only evidence which has been  
531 formally admitted at the adjudicatory hearing. All testimony  
532 shall be under oath and may be in narrative form. In proceedings  
533 to determine whether a child is a delinquent child or a child in  
534 need of supervision, the youth court shall admit any evidence that  
535 would be admissible in a criminal proceeding. In proceedings to  
536 determine whether a child is a neglected child or an abused child,  
537 the youth court shall admit any evidence that would be admissible  
538 in a civil proceeding.

539 (2) An out-of-court admission by the child, even if  
540 otherwise admissible, shall be insufficient to support an  
541 adjudication that the child is a delinquent child unless the  
542 admission is corroborated, in whole or in part, by other competent  
543 evidence.



544 (3) Members of the youth court staff may appear as witnesses  
545 except that no member of the youth court staff may testify as to  
546 an admission or confession made to him.

547 (4) (a) No statements, admissions or confessions made by or  
548 incriminatory information obtained from a child in the course of a  
549 screening or assessment that is undertaken in conjunction with any  
550 proceedings under this chapter, including, but not limited to,  
551 that which is court-ordered, shall be admitted into evidence  
552 against the child on the issue of whether the child committed a  
553 delinquent act under this chapter or on the issue of guilt in any  
554 criminal proceedings.

555 (b) The provisions of paragraph (a) of this subsection  
556 are in addition to and do not override any existing statutory and  
557 constitutional prohibition on the admission into evidence in  
558 delinquency and criminal proceedings of information obtained  
559 during screening, assessment or treatment.

560 **SECTION 14.** Section 43-21-561, Mississippi Code of 1972, is  
561 amended as follows:

562 43-21-561. (1) If the youth court finds on proof beyond a  
563 reasonable doubt that a child is a delinquent child or a child in  
564 need of supervision, the youth court shall enter an order  
565 adjudicating the child to be a delinquent child or a child in need  
566 of supervision.

567 (2) Where the petition alleges that the child is a  
568 delinquent child, the youth court may enter an order that the



569 child is a child in need of supervision on proof beyond a  
570 reasonable doubt that the child is a child in need of supervision.

571 (3) If the court finds from a preponderance of the evidence  
572 that the child is a neglected child, an abused child, a dependent  
573 child or a child in need of special care the youth court shall  
574 enter an order adjudicating the child to be a neglected child, an  
575 abused child, dependent child or a child in need of special care.

576 (4) No decree or order of adjudication concerning any child  
577 shall recite that a child has been found guilty; but it shall  
578 recite that a child is found to be a delinquent child or a child  
579 in need of supervision or a neglected child or an abused child or  
580 a sexually abused child or a dependent child or a child in need of  
581 special care. Upon a written motion by a party, the youth court  
582 shall make written findings of fact and conclusions of law upon  
583 which it relies for the adjudication that the child is a  
584 delinquent child, a child in need of supervision, a neglected  
585 child, an abused child, a dependent child or a child in need of  
586 special care.

587 (5) No adjudication upon the status of any child shall  
588 operate to impose any of the civil disabilities ordinarily imposed  
589 on an adult because of a criminal conviction, nor shall any child  
590 be deemed a criminal by reason of adjudication, nor shall that  
591 adjudication be deemed a conviction. A person in whose interest  
592 proceedings have been brought in the youth court may deny, without  
593 any penalty, the existence of those proceedings and any





594 adjudication made in those proceedings. Except for the right of a  
595 defendant or prosecutor in criminal proceedings and a respondent  
596 or a youth court prosecutor in youth court proceedings to  
597 cross-examine a witness, including a defendant or respondent, to  
598 show bias or interest, no adjudication shall be used for  
599 impeachment purposes in any court.

600 (6) (a) No statements, admissions or confessions made by or  
601 incriminatory information obtained from a child in the course of a  
602 screening or assessment that is undertaken in conjunction with any  
603 proceedings under this chapter, including, but not limited to,  
604 that which is court-ordered, shall be admitted into evidence  
605 against the child on the issue of whether the child committed a  
606 delinquent act under this chapter or on the issue of guilt in any  
607 criminal proceedings.

608 (b) The provisions of paragraph (a) of this subsection  
609 are in addition to and do not override any existing statutory and  
610 constitutional prohibition on the admission into evidence in  
611 delinquency and criminal proceedings of information obtained  
612 during screening, assessment or treatment.

613 **SECTION 15.** Section 43-21-603, Mississippi Code of 1972, is  
614 amended as follows:

615 43-21-603. (1) At the beginning of each disposition  
616 hearing, the judge shall inform the parties of the purpose of the  
617 hearing.



618           (2) All testimony shall be under oath unless waived by all  
619 parties and may be in narrative form. The court may consider any  
620 evidence that is material and relevant to the disposition of the  
621 cause, including hearsay and opinion evidence. At the conclusion  
622 of the evidence, the youth court shall give the parties an  
623 opportunity to present oral argument.

624           (3) If the child has been adjudicated a delinquent child,  
625 before entering a disposition order, the youth court should  
626 consider, among others, the following relevant factors:

- 627                   (a) The nature of the offense;
- 628                   (b) The manner in which the offense was committed;
- 629                   (c) The nature and number of a child's prior  
630 adjudicated offenses;
- 631                   (d) The child's need for care and assistance;
- 632                   (e) The child's current medical history, including  
633 medication and diagnosis;
- 634                   (f) The child's mental health history, which may  
635 include, but not be limited to, the Massachusetts Youth Screening  
636 Instrument version 2 (MAYSI-2);
- 637                   (g) Copies of the child's cumulative record from the  
638 last school of record, including special education records, if  
639 applicable;
- 640                   (h) Recommendation from the school of record based on  
641 areas of remediation needed;
- 642                   (i) Disciplinary records from the school of record; and



643 (j) Records of disciplinary actions outside of the  
644 school setting.

645 (4) If the child has been adjudicated a child in need of  
646 supervision, before entering a disposition order, the youth court  
647 should consider, among others, the following relevant factors:

648 (a) The nature and history of the child's conduct;

649 (b) The family and home situation; and

650 (c) The child's need of care and assistance.

651 (5) If the child has been adjudicated a neglected child or  
652 an abused child, before entering a disposition order, the youth  
653 court shall consider, among others, the following relevant  
654 factors:

655 (a) The child's physical and mental conditions;

656 (b) The child's need of assistance;

657 (c) The manner in which the parent, guardian or  
658 custodian participated in, tolerated or condoned the abuse,  
659 neglect or abandonment of the child;

660 (d) The ability of a child's parent, guardian or  
661 custodian to provide proper supervision and care of a child; and

662 (e) Relevant testimony and recommendations, where  
663 available, from the foster parent of the child, the grandparents  
664 of the child, the guardian ad litem of the child, representatives  
665 of any private care agency that has cared for the child, the  
666 family protection worker or family protection specialist assigned



667 to the case, and any other relevant testimony pertaining to the  
668 case.

669 (6) After consideration of all the evidence and the relevant  
670 factors, the youth court shall enter a disposition order that  
671 shall not recite any of the facts or circumstances upon which the  
672 disposition is based, nor shall it recite that a child has been  
673 found guilty; but it shall recite that a child is found to be a  
674 delinquent child, a child in need of supervision, a neglected  
675 child or an abused child.

676 (7) If the youth court orders that the custody or  
677 supervision of a child who has been adjudicated abused or  
678 neglected be placed with the Department of Human Services or any  
679 other person or public or private agency, other than the child's  
680 parent, guardian or custodian, the youth court shall find and the  
681 disposition order shall recite that:

682 (a) (i) Reasonable efforts have been made to maintain  
683 the child within his own home, but that the circumstances warrant  
684 his removal and there is no reasonable alternative to custody; or

685 (ii) The circumstances are of such an emergency  
686 nature that no reasonable efforts have been made to maintain the  
687 child within his own home, and that there is no reasonable  
688 alternative to custody; and

689 (b) That the effect of the continuation of the child's  
690 residence within his own home would be contrary to the welfare of



691 the child and that the placement of the child in foster care is in  
692 the best interests of the child; or

693 (c) Reasonable efforts to maintain the child within his  
694 home shall not be required if the court determines that:

695 (i) The parent has subjected the child to  
696 aggravated circumstances, including, but not limited to,  
697 abandonment, torture, chronic abuse and sexual abuse; or

698 (ii) The parent has been convicted of murder of  
699 another child of that parent, voluntary manslaughter of another  
700 child of that parent, aided or abetted, attempted, conspired or  
701 solicited to commit that murder or voluntary manslaughter, or a  
702 felony assault that results in the serious bodily injury to the  
703 surviving child or another child of that parent; or

704 (iii) The parental rights of the parent to a  
705 sibling have been terminated involuntarily; and

706 (iv) That the effect of the continuation of the  
707 child's residence within his own home would be contrary to the  
708 welfare of the child and that placement of the child in foster  
709 care is in the best interests of the child.

710 Once the reasonable efforts requirement is bypassed, the  
711 court shall have a permanency hearing under Section 43-21-613  
712 within thirty (30) days of the finding.

713 (8) Upon a written motion by a party, the youth court shall  
714 make written findings of fact and conclusions of law upon which it  
715 relies for the disposition order. If the disposition ordered by



716 the youth court includes placing the child in the custody of a  
717 training school, an admission packet shall be prepared for the  
718 child that contains the following information:

719 (a) The child's current medical history, including  
720 medications and diagnosis;

721 (b) The child's mental health history;

722 (c) Copies of the child's cumulative record from the  
723 last school of record, including special education records, if  
724 reasonably available;

725 (d) Recommendation from the school of record based on  
726 areas of remediation needed;

727 (e) Disciplinary records from the school of record; and

728 (f) Records of disciplinary actions outside of the  
729 school setting, if reasonably available.

730 Only individuals who are permitted under the Health Insurance  
731 Portability and Accountability Act of 1996 (HIPAA) shall have  
732 access to a child's medical records which are contained in an  
733 admission packet. The youth court shall provide the admission  
734 packet to the training school at or before the child's arrival at  
735 the training school. The admittance of any child to a training  
736 school shall take place between the hours of 8:00 a.m. and 3:00  
737 p.m. on designated admission days.

738 (9) When a child in the jurisdiction of the Youth Court is  
739 committed to the custody of the Mississippi Department of Human  
740 Services and is believed to be in need of treatment for a mental



741 or emotional disability or infirmity, the Department of Human  
742 Services shall file an affidavit alleging that the child is in  
743 need of mental health services with the Youth Court. The Youth  
744 Court shall refer the child to the appropriate community mental  
745 health center for evaluation pursuant to Section 41-21-67. If the  
746 prescreening evaluation recommends residential care, the Youth  
747 Court shall proceed with civil commitment pursuant to Sections  
748 41-21-61 et seq., 43-21-315 and 43-21-611, and the Department of  
749 Mental Health, once commitment is ordered, shall provide  
750 appropriate care, treatment and services for at least as many  
751 adolescents as were provided services in fiscal year 2004 in its  
752 facilities.

753 (10) Any screening and assessment examinations ordered by  
754 the court may aid in dispositions related to delinquency, but no  
755 statements or admissions made during the course thereof may be  
756 admitted into evidence against the child on the issue of whether  
757 the child committed a delinquent act.

758 **SECTION 16.** Sections 1 through 8 and Section 11 of this act  
759 shall be codified in Chapter 21, Title 43, Mississippi Code of  
760 1972.

761 **SECTION 17.** This act shall take effect and be in force from  
762 and after July 1, 2016.

