SENATE BILL NO. 2894
(As Sent to Governor)

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

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

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

(a) Ensuring and certifying that the juvenile detention
facilities are in compliance with the minimum standards of
operation, as established in Section 43-21-321;
(b) Providing technical assistance and advice to juvenile detention facilities, which will assist the facilities in complying with the minimum standards.

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

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

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

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

43-14-1. (1) The purpose of this chapter is to provide for the development and implementation of a coordinated interagency system of necessary services and care for children and youth up to age twenty-one (21) with serious emotional/behavioral disorders including, but not limited to, conduct disorders, or mental illness who require services from a multiple services and multiple programs system, and who can be successfully diverted from inappropriate institutional placement. This program is to be done in the most fiscally responsible (cost efficient) manner possible, based on an individualized plan of care which takes into account other available interagency programs, including, but not limited to, Early Intervention Act of Infants and Toddlers, Section 41-87-1 et seq., Early Periodic Screening Diagnosis and Treatment, Section 43-13-117(5), waivered program for home- and community-based services for developmentally disabled people, Section 43-13-117(29), and waivered program for targeted case management services for children with special needs, Section 43-13-117(31), those children identified through the federal Individuals with Disabilities Education Act of 1997 as having a serious emotional disorder (EMD), the Mississippi Children's
Health Insurance Program Phase I and Phase II and waived programs for children with serious emotional disturbances, Section 43-13-117(46), and is tied to clinically appropriate outcomes. Some of the outcomes are to reduce the number of inappropriate out-of-home placements inclusive of those out-of-state and to reduce the number of inappropriate school suspensions and expulsions for this population of children. From and after July 1, 2001, this coordinated interagency system of necessary services and care shall be named the System of Care program. Children to be served by this chapter who are eligible for Medicaid shall be screened through the Medicaid Early Periodic Screening Diagnosis and Treatment (EPSDT) and their needs for medically necessary services shall be certified through the EPSDT process. For purposes of this chapter, a "System of Care" is defined as a coordinated network of agencies and providers working as a team to make a full range of mental health and other necessary services available as needed by children with mental health problems and their families. The System of Care shall be:

(a) Child centered, family focused and family driven;
(b) Community based;
(c) Culturally competent and responsive; and shall provide for:
   (i) Service coordination or case management;
   (ii) Prevention and early identification and intervention;
   (iii) Smooth transitions among agencies, providers, and to the adult service system;
   (iv) Human rights protection and advocacy;
   (v) Nondiscrimination in access to services;
   (vi) A comprehensive array of services;
   (vii) Individualized service planning;
   (viii) Services in the least restrictive environment;
(ix) Family participation in all aspects of planning, service delivery and evaluation; and

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

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

(a) the State Superintendent of Public Education; (b) the Executive Director of the Mississippi Department of Mental Health;

(c) the Executive Director of the State Department of Health; (d) the Executive Director of the Department of Human Services; (e) the Executive Director of the Division of Medicaid, Office of the Governor; (f) the Executive Director of the State Department of Rehabilitation Services; and (g) the Executive Director of Mississippi Families as Allies for Children's Mental Health, Inc.

The council shall meet before August 1, 2001, and shall organize for business by selecting a chairman, who shall serve for a one-year term and may not serve consecutive terms. The council shall adopt internal organizational procedures necessary for efficient operation of the council. Each member of the council shall designate necessary staff of their departments to assist the ICCCY in performing its duties and responsibilities. The ICCCY shall meet and conduct business at least twice annually. The chairman of the ICCCY shall notify all persons who request such notice as to the date, time and place of each meeting.

(3) The Interagency System of Care Council is created to serve as the state management team for the ICCCY, with the responsibility of collecting and analyzing data and funding strategies necessary to improve the operation of the System of Care programs, and to make recommendations to the ICCCY and to the Legislature concerning such strategies on or before December 31, 2002. The System of Care Council also has the responsibility of coordinating the local Multidisciplinary Assessment and Planning...
(MAP) teams and may apply for grants from public and private sources necessary to carry out its responsibilities. The Interagency System of Care Council shall be comprised of one (1) member from each of the appropriate child-serving divisions or sections of the State Department of Health, the Department of Human Services, the State Department of Mental Health, the State Department of Education, the Division of Medicaid of the Governor's Office, the Department of Rehabilitation Services, a family member representing a family education and support 501(c)3 organization, a representative from the Council of Administrators for Special Education/Mississippi Organization of Special Education Supervisors (CASE/MOSES) and a family member designated by Mississippi Families as Allies for Children's Mental Health, Inc. Appointments to the Interagency System of Care Council shall be made within sixty (60) days after the effective date of this act. The council shall organize by selecting a chairman from its membership to serve on an annual basis, and the chairman may not serve consecutive terms.

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

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

(i) A school counselor;
(ii) A community mental health professional;
(iii) A social services/child welfare professional;
(iv) A youth court counselor; and
(v) A parent who had a child in the juvenile justice system who committed a nonviolent offense.

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

(6) The ICCCY shall oversee a pool of state funds that may be contributed by each participating state agency and additional funds from the Mississippi Tobacco Health Care Expenditure Fund, subject to specific appropriation therefor by the Legislature. Part of this pool of funds shall be available for increasing the present funding levels by matching Medicaid funds in order to increase the existing resources available for necessary community-based services for Medicaid beneficiaries.
(7) The local coordinating care MAP team will facilitate the
development of the individualized System of Care programs for the
population targeted in Section 43-14-1.

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

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

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

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

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

43-14-5. There is created in the State Treasury a special
fund into which shall be deposited all funds contributed by the
Department of Human Services, State Department of Health,
Department of Mental Health, State Department of Rehabilitation
Services insofar as recipients are otherwise eligible under the
Rehabilitation Act of 1973, as amended, and State Department of
Education for the operation of a statewide System of Care by MAP
teams and "A" teams utilizing such funds as may be made available
to those MAP teams through a Request for Proposal (RFP) approved
by the ICCCY.
This section shall stand repealed from and after July 1, 2010.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) Has committed a delinquent act or acts.

(l) "Neglected child" means a child:

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

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

(iii) Who, for any reason, lacks the special care made necessary for him by reason of his mental condition, whether said mental condition be mentally retarded or mentally ill; or
(iv) Who, for any reason, lacks the care necessary for his health, morals or well-being.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Mental health;
(b) Suicide risk;
(c) Alcohol and other drug use and abuse;
(d) Physical health;
(e) Aggressive behavior;
(f) Family relations;
(g) Peer relations;
(h) Social skills;
(i) Educational status; and
(j) Vocational status.

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

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

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

(a) Determine that the juvenile is legally committed to the facility;
(b) Make a complete search of the juvenile and his possessions;
(c) Dispose of personal property;
(d) Require shower and hair care, if necessary;
(e) Issue clean, laundered clothing, as needed;
(f) Issue personal hygiene articles;
(g) Perform medical, dental and mental health screening;
(h) Assign a housing unit for the juvenile;
(i) Record basic personal data and information to be used for mail and visiting lists;
(j) Assist juveniles in notifying their families of
their admission and procedures for mail and visiting;

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

(l) Provide written orientation materials to the
juvenile.

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

(a) An educational program;

(b) A visitation program with parents and guardians;

(c) Private communications with visitors and staff;

(d) Counseling;

(e) Continuous supervision of living units;

(f) Medical service;

(g) Food service;

(h) Recreation and exercise program; and

(i) Reading materials.

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

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

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

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

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

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

(a) Release the child without further action;
(b) Place the child in the custody of the parents, a relative or other persons subject to any conditions and limitations, including restitution, as the youth court may prescribe;

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

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

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

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

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

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

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

(iii) The Department of Human Services for placement in a wilderness training program or the Division of Youth Services for placement in a state-supported training school, except that no child under the age of ten (10) years shall be committed to a state training school, and no first-time nonviolent youth offenders shall be committed to a state training school.
until all other options provided for in this section have been considered and the court makes a specific finding of fact that commitment is appropriate. The training school may retain custody of the child until the child's twentieth birthday but for no longer. When the child is committed to a training school, the child shall remain in the legal custody of the training school until the child has made sufficient progress in treatment and rehabilitation and it is in the best interest of the child to release the child. However, the superintendent of a state training school, in consultation with the treatment team, may parole a child at any time he may deem it in the best interest and welfare of such child. Twenty (20) days prior to such parole, the training school shall notify the committing court of the pending release. The youth court may then arrange subsequent placement after a reconvened disposition hearing, except that the youth court may not recommit the child to the training school or any other secure facility without an adjudication of a new offense or probation or parole violation. Prior to assigning the custody of any child to any private institution or agency, the youth court through its designee shall first inspect the physical facilities to determine that they provide a reasonable standard of health and safety for the child. No child shall be placed in the custody of a state training school for a status offense or for contempt of or revocation of a status offense adjudication unless the child is contemпорaneously adjudicated for having committed an act of delinquency that is not a status offense. A disposition order rendered under this subparagraph shall meet the following requirements:

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

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

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

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

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

(ii) The severity of the crime, whether or not the
juvenile is a repeat offender or is a felony offender will be
taken into consideration by the judge when adjudicating a juvenile
to the work program. The juveniles adjudicated to the work
program will be supervised by police officers or reserve officers.
The term of service will be from twenty-four (24) to one hundred
twenty (120) hours of community service. A juvenile will work the
hours to which he was adjudicated on the weekends during school
and weekdays during the summer. Parents are responsible for a
juvenile reporting for work. Noncompliance with an order to
perform community service will result in a heavier adjudication.
A juvenile may be adjudicated to the community service program
only two (2) times;
(iii) The judge shall assess an additional fine on the juvenile which will be used to pay the costs of implementation of the program and to pay for supervision by police officers and reserve officers. The amount of the fine will be based on the number of hours to which the juvenile has been adjudicated;

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

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

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

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

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

(l) Referral to A-team provided system of care services.

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

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

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

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

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

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

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

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

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

(a) Construct an additional one-hundred-fifty-bed, stand-alone, medium security juvenile correctional facility for habitual violent male offenders, which complies with American Correctional Association Accreditation standards and applicable building and fire safety codes. The medium security, male
juvenile facility location shall be on property owned by the Division of Youth Services, or its successor, or at a site selected by the Bureau of Building, Grounds and Real Property Management on land which is hereafter donated to the state specifically for the location of such facility.

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

(3) Upon the selection of a proposed site for a correctional facility for juveniles authorized under subsection (2), the Bureau of Building, Grounds and Real Property Management of the Department of Finance and Administration shall notify the board of supervisors of the county in which such facility is proposed to be located and shall publish a notice as hereinafter set forth in a newspaper having general circulation in such county. Such notice shall include a description of the tract of land in the county wherein the facility is proposed to be located, the nature and size of the facility and the date on which the determination of the Bureau of Building, Grounds and Real Property Management shall be final as to the location of such facility, which date shall not be less than forty-five (45) days following the first publication of such notice. Such notice shall include a brief summary of the provisions of this section pertaining to the petition for an election on the question of the location of the juvenile housing
facility in such county. Such notice shall be published not less than one (1) time each week for at least three (3) consecutive weeks in at least one (1) newspaper published in such county.

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

If at any time before the aforesaid date a petition signed by twenty percent (20%), or fifteen hundred (1,500), whichever is less, of the qualified electors of the county involved shall be filed with the board of supervisors requesting that an election be called on the question of locating such facility, then the board of supervisors shall adopt a resolution calling an election to be held within such county upon the question of the location of such facility. Such election shall be held, as far as practicable, in the same manner as other elections are held in counties. At such election, all qualified electors of the county may vote, and the ballots used at such election shall have printed thereon a brief statement of the facility to be constructed and the words "For the construction of the facility in (here insert county name) County" and "Against the construction of the facility in (here insert county name) County." The voter shall vote by placing a cross (X) or check mark (✓) opposite his choice on the proposition. When the results of the election on the question of the construction of the facility shall have been canvassed by the election commissioners of the county and certified by them to the board of supervisors, it shall be the duty of the board of supervisors to determine and adjudicate whether or not a majority of the qualified electors who voted thereon in such election voted in favor of the construction of the facilities in such county. Unless a majority of the qualified electors who voted in such election shall have voted in favor of the construction of the facilities in such county, then such facility shall not be constructed in such county.
(4) The Division of Youth Services shall establish, maintain and operate an Adolescent Offender Program (AOP), which may include non-Medicaid assistance eligible juveniles. Beginning July 1, 2006, subject to availability of funds appropriated therefore by the Legislature, the Division of Youth Services shall phase in AOPs in every county of the state over a period of four years. The phase-in of the AOPs shall be as follows:

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

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

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

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

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

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

(6) The Division of Youth Services shall establish a ten-bed transitional living facility for the temporary holding of training school adolescents who have reached their majority, have completed the GED requirement, and are willing to be rehabilitated until they are placed in jobs, job training or postsecondary programs. Such transitional living facility may be operated pursuant to contract with a nonprofit community support organization.
SECTION 8. Section 43-27-401, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) One hundred eighty (180) days of an inmate's accrued earned time if the department has received three (3) or more final orders as defined herein.
The department may not restore earned time forfeited under this subsection.

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

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

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

If the earned-release supervision is revoked, the inmate shall serve the remainder of the sentence and the time the inmate was on earned-release supervision, shall not be applied to and shall not reduce his sentence.
SECTION 10. This act shall take effect and be in force from
and after July 1, 2005.