MISSISSIPPI LEGISLATURE REGULAR SESSION 2010

By: Representative Gibbs

To: Judiciary A

HOUSE BILL NO. 21

AN ACT TO AMEND SECTION 43-21-303, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT LAW ENFORCEMENT CONTACT THE PARENT, GUARDIAN OR CUSTODIAN OF ANY CHILD WHO IS 17 YEARS OF AGE OR YOUNGER BEFORE THE CHILD MAY BE INTERROGATED WHEN SUCH CHILD IS TAKEN INTO CUSTODY; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 43-21-303, Mississippi Code of 1972, is amended as follows:

43-21-303. (1) No child in a matter in which the youth court has original exclusive jurisdiction shall be taken in custody by any person without a custody order except that:

(a) A law enforcement officer may take a child in custody if:

(i) Grounds exist for the arrest of an adult in identical circumstances; and

(ii) Such law enforcement officer has probable cause to believe that custody is necessary as defined in Section 43-21-301(3)(b); and

(iii) Such law enforcement officer can find no reasonable alternative to custody; or

(b) A law enforcement officer or an agent of the Department of Human Services may take a child into custody if:

(i) There is probable cause to believe that the child is in immediate danger of personal harm; and

(ii) Such law enforcement officer or agent has probable cause to believe that immediate custody is necessary as defined in Section 43-21-301(3)(b); and

(iii) Such law enforcement officer or agent can find no reasonable alternative to custody;

(c) Any other person may take a child in custody if grounds exist for the arrest of an adult in identical circumstances. Such other person shall immediately surrender custody of the child to the proper law enforcement officer who shall thereupon continue custody only as provided in subsection (1)(a) of this section.

(2) When it is necessary to take a child into custody, the least restrictive custody should be selected.

(3) Unless the child is immediately released, the person taking the child into custody shall immediately notify the judge or his designee. Before any interrogation may take place of a child who is 17 years of age or younger, law enforcement shall notify the child's parent, guardian or custodian and shall require the parent, guardian or custodian to be present during any questioning.

(4) A child taken into custody shall not be held in custody for a period longer than reasonably necessary, but not to exceed twenty-four (24) hours, and shall be released to his parent, guardian or custodian unless the judge or his designee authorizes temporary custody.

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