

## YOUTH COURT LAW DEFINITIONS

### § 43-21-105. Definitions.

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; 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 the mental condition is having mental illness or having an intellectual disability; 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 the child, sexual abuse, sexual exploitation, emotional abuse, mental injury, nonaccidental physical injury or other maltreatment. However, 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 baby-sitters 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.
- (aa) "**Financially able**" means a parent or child who is ineligible for a court-appointed attorney.

*Source: Laws, 1979, ch. 506, § 3; Laws, 1980, ch. 550, § 2; Laws, 1985, ch. 486, § 2; Laws, 1986, ch. 416, § 1; Laws, 1991, ch. 537, § 1; Laws, 1991, ch. 539, § 7; Laws, 1993, ch. 560, § 1; Laws, 1994, ch. 591, § 5; Laws, 1994, ch. 607, § 17; Laws, 1996, ch. 323, § 1; Laws, 1998, ch. 516, § 6; Laws, 2001, ch. 358, § 1; Laws, 2005, ch. 471, § 4; Laws, 2010, ch. 476, §73, eff. 4/1/2010. Amended by Laws, 2013, ch. 426, HB 1441, §1, eff. 7/1/2013.*

## Adult Criminal vs. Youth Court Delinquent

<b>Adult Criminal Felony</b>	<b>Adult Criminal Misdemeanor</b>	<b>Youth Court</b>
Allegedly Commits Crime	Allegedly Commits Crime	Allegedly Commits Delinquent Act
Law Enforcement or Victim Files Affidavit	Law Enforcement or Victim Files Affidavit	Law Enforcement or Victim Files Affidavit
Arrested <i>(If not already arrested during crime.)</i>	Arrested <i>(If not already arrested. May have already been arrested if misdemeanor committed in presence of officer.)</i>	Detained
Initial Appearance <i>(Told charges and conditions of bail.)</i>	Initial Appearance <i>(Told charges and conditions of bail. Can plead guilty or not guilty. If plead not guilty, trial date is set.)</i>	Detention Hearing <i>(Judge determines if the child remains in detention pending a trial. If released prior to trial, judge may set conditions (e.g., house arrest).)</i>
Preliminary Hearing <i>(Only required if defendant has not bonded out of jail. Judge decides if there is probable cause to believe that the defendant may have committed the crime. If so, Judge decides bail amount and any conditions of bail otherwise defendant released but may still be indicted by grand jury.)</i>		
Grand Jury Indicts		Prosecutor Prepares Petition
Arraignment <i>(Indictment read and trial set.)</i>		First Call <i>(Petition read and trial set.)</i>
Plead Guilty	Plead Guilty	Admit Allegations in Petition
Plead Not Guilty	Plead Not Guilty	Deny Allegations in Petition
Trial	Trial	Adjudication Hearing
Sentencing Hearing	Sentencing Hearing	Disposition Hearing
Criminal Felony Conviction if pleads guilty or is found guilty after a trial	Criminal Misdemeanor Conviction if pleads guilty or is found guilty after a trial	No criminal conviction. Only a confidential youth court history if admits petition allegations or is adjudicated delinquent after a trial
Burden of proof is beyond a reasonable doubt	Burden of proof is beyond a reasonable doubt	Burden of proof is beyond a reasonable doubt

## Dispositional Alternatives in Delinquency Cases

If a child is adjudicated delinquent, the following are the dispositional alternatives:

1. Release the child without further action.
2. 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.
3. Place the child on probation subject to any reasonable and appropriate conditions and limitations, including restitution and drug testing, as the youth court may prescribe. If a child is drug tested and 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.
4. 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.
5. 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.
6. Suspend the child's driver's license by taking and keeping it in custody of the court for not more than one (1) year;
7. Give legal custody of the child to any of the following:
  - (a) The Department of Human Services for appropriate placement; or
  - (b) 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
  - (c) 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 (*if this action would be a felony if committed by an adult*).
8. 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, 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.
9. Order the child into a juvenile detention center for not more than ninety (90) days.
10. If the court finds that the child's parents, guardians or custodians exercise parental custody and control of the child and the child has willfully or maliciously caused personal injury or damaged or destroyed property, the court may
  - (a) order the parents, guardians or custodians to participate in a counseling program or other suitable family treatment program for the purpose of preventing future occurrences of malicious destruction of property or personal injury; and
  - (b) order the parents, guardians or custodians to pay damages or restitution. This order shall constitute a civil judgment and may be enrolled on the judgment rolls.