

DEVELOPED FOR YOU BY
MISSISSIPPI PROGRAMS OF HOPE

A HANDBOOK FOR MISSISSIPPI PARENTS AND GUARDIANS

HOW TO HELP YOUR CHILD IN A DELINQUENCY CASE

Developed for you by
MISSISSIPPI PROGRAMS OF HOPE

OF HOPE RISING MISSISSIPPI



THIS HANDBOOK BELONGS TO _____ . CASE # _____

IMPORTANT CONTACT INFORMATION

CHILD'S ATTORNEY	
Name:	
Email:	Phone:
Address:	Cell Phone:
DEPARTMENT OF YOUTH SERVICES (DYS) OFFICER	
Name:	
Email:	Phone:
Address:	Cell Phone:
GUARDIAN AD LITEM	
Name:	
Email:	Phone:
Address:	Cell Phone:
Name:	
Email:	Phone:
Address:	Cell Phone:
Name:	
Email:	Phone:
Address:	Cell Phone:
Name:	
Email:	Phone:
Address:	Cell Phone:

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Please use the chart below to help remember hearing dates and meetings. The blank sections at the bottom of the chart can be used to write down information about any extra meetings you may have about your child or children.

Hearing & Possible Meetings	Date	Time	What do you want to tell the Court?
Detention			
Adjudication			
Full Adjudicatory Hearing <i>(if you have one, please see page 5)</i>			
Disposition			
Meeting (if needed)			
Meeting (if needed)			
Meeting (if needed)			
Meeting (if needed)			
Meeting (if needed)			
Meeting (if needed)			
Meeting (if needed)			
Meeting (if needed)			
Meeting (if needed)			

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WHERE TO BEGIN

This handbook is specifically created for parents and guardians of children participating in delinquency cases. Make this handbook work for you. You can read the handbook section by section or you can begin anywhere. You may wish to look up specific questions as they occur to you.

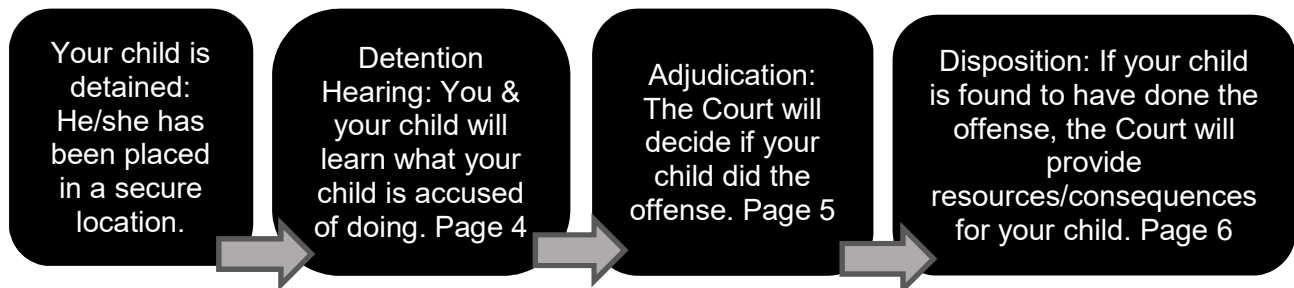
We realize that this handbook does not cover every situation in your child's case, but we hope it covers the most important and commonly experienced situations. Ultimately, we hope it will assist you in achieving a level of comfort with this process. We also hope it helps your child be successful at home, school, and in the community. Bring this book with you every time you come to court.¹

YOU ARE YOUR CHILD'S BEST SUPPORTER

The Youth Court handles cases where children have committed crimes. Discovering your child has been charged with a **delinquent act** can cause you as a parent to have a wide range of emotions. A **delinquent act** would be an adult crime if your child was an adult. You may be angry at the police officer or Court for detaining (which means keeping) your child. You may be confused about what your child is accused of doing. You may be angry at your child or even scared of your child. All of these feelings are normal and understandable. The next few pages should help you understand what will happen in a delinquency case. Please use the tables in this handbook to fill out dates and times of hearings and meetings.

When you go to Court, the Court could issue an order. If the Judge orders your child to do something, this order must be followed and obeyed. You and your child could be held in criminal contempt if it is not. This means you would have to pay a fine and could go to jail. It could also mean your child could be detained and sent to detention (a lock-up facility for children). Make sure you understand all orders and ask any questions before you leave Court.

THE COURT PROCESS



¹ References will be provided upon request.

MISSISSIPPI DEFINITIONS (LEGAL CODE SECTION 43-21-105)

“**Guardian**” means a court-appointed guardian of the person of a child.

“**Custodian**” means any person having the present care or custody of a child whether such person is a parent or otherwise.

“**Legal custodian**” means a court-appointed custodian of the child.

“**Delinquent child**” means a child who has reached his or her tenth birthday and who has committed a delinquent act.

“**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 escaping from lawful detention and violations of the Uniform Controlled Substances Law and violent behavior.

“**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, non-licensed 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 or the Department of Child Protection Services.

“**Relative**” means a person related to the child by affinity (through marriage) or consanguinity (blood relationship) within the third degree.

“**Fictive kin**” means a person not related to the child legally or biologically, but who is considered a relative due to a significant, familial-like, and ongoing relationship with the child and family.

THINGS TO KNOW WHEN VISITING YOUR CHILD IN DETENTION

VISITING HOURS: _____ **PHONE CONTACT:** _____

- ✓ This is a very stressful time for both you and your child.
- ✓ Your child can refuse to see you or any other person.
- ✓ Your visit with your child could be recorded. If your child needs to speak privately to an attorney, please ask a staff member.
- ✓ You and any other person must go through a metal detector.
- ✓ Weapons or devices, including cell phones, cameras, radios, iPods, etc., cannot be brought into the building. Leave these at home or in your car.
- ✓ No jackets, coats, sweatshirts with pockets, purses, or backpacks will be allowed in visiting rooms. Visitors may store belongings in lobby lockers (if they are available). It may be best to leave these items in your car or home.
- ✓ No drugs or alcohol are allowed on the premises. Your child is not allowed any tobacco products, including a vape.
- ✓ Do not bring items that are not on the approved detention list to your child.
- ✓ The staff cannot make exceptions to the rules of the Detention Center. Everyone must follow these rules.

THE ROLE OF YOUR CHILD'S ATTORNEY

Your child's attorney represents your child, not you. The child is the client. The attorney may ask you questions and explain the process, but he or she will do what is best for your child. You can help your child by providing any information the attorney needs for your child's case, and helping your child keep in contact with his or her attorney.

Here are some examples of questions for your child's attorney:

1. What information do you need to help my child?
2. What help can the Court give my family?

PLEASE NOTE: The attorney may not be able to inform you of all aspects of the case because he or she represents your child. Your child and attorney have an attorney/client confidentiality agreement.² This means the attorney cannot tell you or anyone else certain things about the child or the case. Your child can decide what information the attorneys share with you and the Court.

TIPS FOR COURT

- ✓ Set up child care and transportation (if needed), before the court date.
- ✓ Dress appropriately. Think about Court as a job interview and dress to impress.
- ✓ Arrive 15 to 30 minutes early. If you are late or do not appear, the Judge may decide your case without you there. You may lose certain rights by not appearing.
- ✓ Turn off all electronic devices, or leave your electronics in your vehicle. The Court will not allow your electronics in the building.
- ✓ Find the courtroom where your hearing will be held.
- ✓ Wait outside the Courtroom until your lawyer or Juvenile Court Counselor says it is time to go inside.
- ✓ Bring your written questions to share with the attorney and the individual who has helped you in the Court.
- ✓ Bring any important papers, such as certificates of completion, attendance slips, or other proof of completing assigned tasks.
- ✓ Take it seriously. Show the Judge and everyone in Court respect. Address the Judge as "Judge" or "Your Honor."
- ✓ Do not curse or show anger in the Courtroom. If you are unable to control your temper, ask your attorney to ask the Judge for a break.
- ✓ Listen carefully. Do not interrupt others when they are talking. Do not guess at an answer and do not lie. If you do not understand the question, ask the Judge or your attorney to explain it to you.
- ✓ Do not leave without understanding what the Judge has ordered. Ask any questions you have.

² References will be provided upon request.

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- ✓ Please also be aware that the Court may allow the hearing to be virtual (through Zoom or other online platforms). If the case is virtual, still dress appropriately, be respectful, and have all the documents you need available to present over the video call. ³

DETENTION HEARING

If your child has been detained, you will see a Judge within 48 hours (this does not count on weekends and holidays). The first hearing is a **detention hearing**. During that hearing, your child will be appointed an attorney. That attorney will work with your child to present what happened to the Judge. The attorney could speak to you, but he or she does not represent you. The attorney only represents your child.

At the detention hearing, the Judge will hear what your child might have done. The Judge will decide if your child can go home with you, go to another placement, or remain in detention. Please make sure the Judge understands any concerns or problems you have had with your child. While this is not a pleasant experience for you or your child, please use this as an opportunity to get your child any help he or she may need. Please make sure the Judge knows if your child is struggling with alcohol or drugs, mental health, bullying in school, acting out at home, or any other problems. The Court has resources and opportunities that can help you and your child. You will be given the opportunity to present to the Court a plan that you have developed that will ensure your child will be closely supervised and monitored.

Time and Date of Hearing:	
What is the allegation(s)?	
What you might want to tell the Judge:	
What evidence you might have:	
What the Judge ordered:	

³ References will be provided upon request.

ADJUDICATION HEARING

The Adjudication Hearing is when your child will either admit or deny the allegations in the Petition. A petition is a written document by the state (Prosecutor) that details what your child has done. You and your child have a right to be served with a copy of a Summons and a copy of the Petition. Your child's attorney will work with your child on whether he or she want to admit or deny the allegations in the Petition. The Judge will also likely ask if you agree with what your child is telling the Court.

If your child admits to the allegation, he or she will be adjudicated a **delinquent child** and the Court will close the hearing and then hold the Disposition Hearing (like a sentencing hearing in criminal court).

During the Adjudication Hearing, if your child denies the allegation, the case will be set for a Full Adjudicatory Hearing. That hearing will most likely be scheduled for another time when the Prosecutor will present evidence to the Judge. During a Full Adjudicatory Hearing, the following will happen:

- ✓ The Prosecutor who represents the State must prove beyond a reasonable doubt that your child committed the act in the Petition. The Prosecutor can call witnesses. Your child's attorney will be able to ask questions of those witnesses.
- ✓ Your child's attorney can also call witnesses and the Prosecutor will ask questions of those witnesses. As the parent of the child, you may have to testify.
- ✓ Your child may also testify, but that will be a decision made with his or her attorney.
- ✓ Your child will discuss and fully understand what it means to admit with his or her attorney before the hearing.

Please work with your child's attorney, by staying in contact and answering any questions. He or she will need to build a defense to the allegation if your child denies it. The attorney will need to subpoena witnesses and know every detail of the child's defense. It is very important that your child stay in communication and talk often with his or her attorney. Please write down the new court date and make plans to attend.

Write down this new full adjudicatory hearing's date and time. _____

After this hearing, the Judge will issue an order. If the Judge decides your child is **delinquent**, the Judge will decide the consequences of the child's actions. This decision will take place in the Disposition Hearing.

Below are some examples of what the Judge may order while you are waiting on a Full Adjudicatory Hearing:

- ✓ An order about your child's custody, mental health, or substance abuse assessments.
- ✓ A no contact order if there is a victim involved in the matter.
- ✓ Place your child on house arrest; or
- ✓ Any other order the Judge feels is appropriate while the Court is waiting to hear the full case.

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Again, you and your child must follow these orders. You and/or your child can be detained and/or pay a fine if you do not follow what the Judge orders. Please understand the order before you leave.

Time and Date of Hearing:	
What is the allegation(s)?	
What you might want to tell the Judge:	
Do you have any evidence or know of any witnesses?	
What the Judge ordered:	

DISPOSITION HEARING

The Disposition Hearing is where the Court decides what actions need to be taken to correct your child's behavior. The Prosecutor and/or the youth counselor will have a recommendation for the Judge. You and/or your child may agree with this recommendation, but you may also disagree. The Judge has the final say in the consequence for your child's actions. Your child's attorney can provide additional recommendations from the child's point of view and can question recommendations made by the State. The decision of the Judge can range from community service to a long-term lockdown facility.

There are a lot of possibilities. Some are: house arrest, community service, formal probation, up to 90 days in detention per count, mental health treatment outpatient or inpatient, substance abuse treatment outpatient or inpatient, restitution, no contact orders, change in custody, long term detention at Oakley Youth Development Center, and any other consequence the Court feels is fitting.

If your child has committed an act that caused damage to property or a person, your child and you may be responsible to pay the victim for those damages (this is called restitution). Before you leave the Court, you need to fully understand the order and what you and your child are

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supposed to do. If your child is required to pay restitution, the Court can hold you responsible. If you fail to pay, you can be put in jail and/or pay a civil judgment. A civil judgment can be entered and would attach as a debt to any real property you own.

This entire process can be overwhelming and frightening. Please try to use this as an opportunity to help your child. One goal of delinquency is to keep all of the wrong actions of children a secret and not have them negatively impact them as adults. This process is not to punish your child but to help him or her and your family. The Court is here for you and your child. If your child needs help, this is the time to ask.

Time and Date of Hearing:	
What is the allegation(s)?	
What you might want to tell the Judge:	
Do you have any evidence or know of any witnesses?	
What the Judge ordered:	

DEPARTMENT OF YOUTH SERVICES OFFICER

If your child is placed on probation, he or she will likely be assigned a Department of Youth Services (DYS) officer to monitor their case. The DYS officer will work with you and your child to find services to help you and your child. This could be drug tests for your child, treatment for substance abuse and/or mental health, community service, or other activities to try to help your child understand the consequences of committing a crime. You and/or your child will have meetings with the officer. Please write down those meetings and times and what the officer tells you to do during the meetings. If you fail to follow the direction of the worker, the Court can detain your child or remove custody of your child from you. If you feel that the officer is not helping or you are having problems, please ask the Court for help. **The Court Administrator or Delinquent Intake Officer** may help if you are having issues with the worker. Please keep in contact with the officer and help your child be respectful.

DYS Officer's name: _____ **Contact Information:** _____

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Type Of Meeting:	Date/Time/Location:	What Was Accomplished/Discussed: To Do:
Type Of Meeting:	Date/Time/Location:	What Was Accomplished/Discussed: To Do:
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INFORMAL ADJUSTMENT

The Court can decide how formal your child's case needs to be. If the Court decides your child's case should be informal, it would allow for some type of Court interaction (possible drug or alcohol treatment, community service, mental health counseling) without the above process. These cases are handled by court staff and each Court has a different process. You and your child may be contacted by court staff to meet and discuss your child's case. You and your child may not appear before a Judge, but the Judge is aware of the case and that your child will follow all requirements. If you or your child fail to follow the informal requirements, your child may be brought into Court on the above process of an Adjudication Hearing and Disposition Hearing. In

most cases, this is used for first offenders or for children who have not reached the level for full Court intervention.

TRANSFER TO ADULT SYSTEM

Your child will be sent directly to the adult system if he or she has committed an act that would cause an adult to serve life in prison or be sentenced to the death penalty. These crimes can include murder, forcible rape, and armed robbery with a deadly weapon.⁴

Your child can be transferred by the Youth Court to the adult system. If this happens, your child will be treated as an adult. The Prosecutor will file certain paperwork, and you and your child will be served with a Request to Transfer. Your child's attorney will fully understand the process, and will guide you and your child through what will happen. This can be a very scary experience, but please make sure your child stays in contact with his or her attorney.

The Transfer Hearing is held as two hearings. At the first hearing, the Prosecutor will have to prove that there is probable cause that your child committed the act. The Prosecutor will try to have witnesses who will testify that your child is likely the person who committed the act; that the act is a crime if committed by an adult; and the act happened within the jurisdiction of the Court (the location of the crime). Probable cause means it is more likely than not that your child committed the act. Delinquency findings cases are beyond a reasonable doubt (the same standard as an adult criminal case). This hearing is a lower standard of probable cause. Your child's attorney will ask the Prosecution's witnesses questions. Your child's attorney could have witnesses. The Prosecution will be able to ask those witnesses questions too. If the Prosecutor is successful, the Court will move into another hearing. If the Prosecution is not successful, the hearing will be over and the Court may allow your child's case to be handled in Youth Court.

Per the law, the Prosecutor now must prove that there are no reasonable prospects of rehabilitation within the Juvenile Justice System. Before the hearing, your child and you may meet with an individual who will make a social summary. The social summary will have facts that are good and bad for the Prosecution and your child's attorney. This social summary will likely be used by the Judge to decide if your child should be transferred to the adult system. During this portion of the hearing, both the Prosecutor and the child's attorney will use the following factors found in the law:

- (a) Whether or not the alleged offense constituted a substantial danger to the public;
- (b) The seriousness of the alleged offense;
- (c) Whether or not the transfer is required to protect the community;
- (d) Whether or not the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;
- (e) Whether the alleged offense was against persons or property, greater weight being given to the offense against persons, especially if personal injury resulted;

⁴ If your child committed a crime with the use of certain deadly weapons, he/she will also be sent to the adult system.

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- (f) The sophistication, maturity, and educational background of the child;
- (g) The child's home situation, emotional condition, and lifestyle;
- (h) The history of the child, including experience with the Juvenile Justice System, other courts, probation, commitments to juvenile institutions or other placements;
- (i) Whether or not the child can be retained in the Juvenile Justice System long enough for effective treatment or rehabilitation;
- (j) The dispositional resources available to the Juvenile Justice System;
- (k) Dispositional resources available to the adult correctional system for the child if treated as an adult;
- (l) Whether the alleged offense was committed on school property, public or private, or at any school-sponsored event, and constituted a substantial danger to other students;
- (m) Any other factors deemed relevant by the youth court; and
- (n) Nothing in this subsection shall prohibit the transfer of jurisdiction of an alleged offense and a child if that child, at the time of the transfer hearing, previously has not been placed in a juvenile institution.⁵

These factors will be used by the Judge to decide if your child should remain in the Youth Court or be transferred to the adult system. If the Judge decides to keep the child in Youth Court, the above Adjudication/Disposition Hearing could take place. If the case goes to the adult system, your child will be treated as an adult. Your child may be detained and sent to jail to have a bail hearing (just like an adult criminal case).

CHILD IN NEED OF SUPERVISION AND TRUANCY

The Youth Court also handles cases of children who are acting out, are runaways, and/or who fail to go to school. A child who is under 17 before September 1 must attend school. Your child cannot be detained for not going to school, but you can be placed in jail and ordered to pay a fine if he or she does not attend school. The hearing process is the same as the normal delinquency process but the child cannot be detained in a locked-down facility. The child could be placed on probation or have other consequences for not going to school.

RESOURCES

While the process of working with the Youth Court can be frightening and unwanted, the goal of the Court is to help your family. The Court itself can be one of the best resources you have to assist you in accomplishing your goals. There are resources to help you attain your goals. Ask your DYS officer and court staff.

⁵ MISS. CODE § 43-21-157.

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This handbook is a project of the Mississippi Programs of Hope.