

1 HB28  
2 96595-4  
3 By Representative Irons  
4 RFD: Judiciary  
5 First Read: 05-FEB-08  
6 PFD: 01/07/2008

1  
2 ENROLLED, An Act,

3           Relating to juvenile court proceedings; to revise  
4 and reorganize and repeal parts of Chapter 15 of Title 12, of  
5 the Code of Alabama 1975, the Alabama Juvenile Justice Act, to  
6 provide for the jurisdiction, procedures, and operation of the  
7 juvenile courts in this state and the juvenile justice system;  
8 to provide for general provisions and definitions; to provide  
9 for delinquency and children in need of supervision  
10 proceedings; to provide for dependency and termination of  
11 parental rights proceedings; to provide for the involuntary  
12 commitment of children; to provide for multiple needs  
13 children; to provide for appeals; to specify certain criminal  
14 penalties, to amend and renumber Sections 12-15-1.1, 12-15-1,  
15 12-15-2, 12-15-4, 12-15-5, 12-15-6, 12-15-7, 12-15-10,  
16 12-15-11, 12-15-12, 12-15-13, and 12-15-15; to add Section  
17 12-15-113; to amend and renumber Section 12-15-30; to add  
18 Section 12-15-115; to amend and renumber Sections 12-15-31 and  
19 12-15-32; to add Section 12-15-118; to amend and renumber  
20 Sections 12-15-50, 12-15-51, 12-15-52, 12-15-53, 12-15-54,  
21 12-15-55, 12-15-56, 12-15-57, 12-15-58, 12-15-59, 12-15-65,  
22 12-15-70, 12-15-73, 12-15-75, 12-15-100, 12-15-101, 12-15-102,  
23 and 12-15-103; to add Section 12-15-137; to amend and renumber  
24 Sections 12-15-150, 12-15-151, 12-15-152, 12-15-153,  
25 12-15-154, 12-15-155, and 12-15-156; to add Sections 12-15-201

1 and 12-15-202; to amend and renumber Sections 12-15-34,  
2 12-15-34.1, 12-15-35, 12-15-36, 12-15-60, 12-15-61, 12-15-62,  
3 12-15-63, and 12-15-64; to add Section 12-15-212; to amend and  
4 renumber Sections 12-15-66, 12-15-69, 12-15-71, 12-15-104,  
5 12-15-105, 12-15-11.1, 12-15-71.1, 12-15-72, and 12-15-74; to  
6 add Sections 12-15-301, 12-15-302, and 12-15-303; to amend and  
7 renumber Section 12-15-8; to add Sections 12-15-305,  
8 12-15-306, 12-15-307, 12-15-308, 12-15-309, 12-15-310,  
9 12-15-311, 12-15-312, 12-15-313, 12-15-314, 12-15-315, and  
10 12-15-316; to amend and renumber Sections 26-18-5, 26-18-6,  
11 26-18-7, 26-18-8, 26-18-9, and 26-18-10; to add Section  
12 12-15-323, to add Section 12-15-401; to amend and renumber  
13 Section 12-15-90; to add Sections 12-15-403, 12-15-404,  
14 12-15-405, 12-15-406, 12-15-407, 12-15-408, 12-15-409,  
15 12-15-410, 12-15-411, 12-15-412, and 12-15-413; to add  
16 Sections 12-15-501, 12-15-502, and 12-15-503; to amend and  
17 renumber Sections 12-15-170, 12-15-171, 12-15-172, 12-15-173,  
18 12-15-174, 12-15-175, and 12-15-120; to amend and renumber  
19 Sections 12-15-130, 12-15-131, 12-15-132, 12-15-133,  
20 12-15-134, and 12-15-135; and to repeal Sections 12-15-9,  
21 12-15-10.1, 12-15-14, 12-15-33, 12-15-68, 12-15-76, 12-15-176,  
22 26-18-1, 26-18-2, 26-18-3, and 26-18-4; and in connection  
23 therewith would have as its purpose or effect the requirement  
24 of a new or increased expenditure of local funds within the  
25 meaning of Amendment 621 of the Constitution of Alabama of

1 1901, now appearing as Section 111.05 of the Official  
 2 Recompilation of the Constitution of Alabama of 1901, as  
 3 amended.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 12-15-1.1, 12-15-1, 12-15-2,  
 6 12-15-4, 12-15-5, 12-15-6, 12-15-7, 12-15-10, 12-15-11,  
 7 12-15-12, 12-15-13, and 12-15-15 of the Code of Alabama 1975,  
 8 are amended and renumbered to read as follows:

9 "~~§12-15-1.1.~~

10 "§12-15-101. Purpose of the Alabama Juvenile Justice  
 11 Act; short title; ~~purpose clause;~~ goals for the juvenile  
 12 court.

13 "(a) This chapter shall be known as the Alabama  
 14 Juvenile Justice Act. The purpose of this chapter is to  
 15 facilitate the care, protection, and discipline of children  
 16 who come ~~within~~ under the jurisdiction of the juvenile court,  
 17 while acknowledging the responsibility of the juvenile court  
 18 to preserve the public peace and security.

19 "(b) In furtherance of this purpose, the following  
 20 goals have been established for the juvenile court:

21 "(1) To preserve and strengthen the ~~child's~~ family  
 22 of the child whenever possible, including improvement of the  
 23 home environment of the child.

24 "(2) To remove the child from the custody of his or  
 25 her parent or parents only when it is judicially determined to

1 be in his or her best ~~interest~~ interests or for the safety and  
2 protection of the public.

3 "(3) To reunite a child with his or her parent or  
4 parents as quickly and as safely as possible when the child  
5 has been removed from the custody of his or her parent or  
6 parents unless reunification is judicially determined not to  
7 be in the best interests of the child.

8 "(4) To secure for any child removed from parental  
9 custody the necessary treatment, care, guidance, and  
10 discipline to assist him or her in becoming a responsible,  
11 productive member of society.

12 "(5) To promote a continuum of services for children  
13 and their families from prevention to aftercare, considering  
14 wherever possible, prevention, diversion, and early  
15 intervention.

16 "(6) To promote the use of community-based  
17 alternatives as deterrents to acts of juvenile delinquency and  
18 as least restrictive dispositional alternatives.

19 "(7) To hold a child found to be delinquent  
20 accountable for his or her actions to the extent of the  
21 ~~child's~~ age, education, mental and physical condition, and  
22 background of the child, and all other relevant factors and to  
23 provide a program of supervision, care, and rehabilitation,  
24 including restitution by the child to the victim of his or her  
25 delinquent acts.

1           "(8) To achieve the foregoing goals in the least  
2 restrictive setting necessary, with a preference at all times  
3 for the preservation of the family and the integration of  
4 parental accountability and participation in treatment and  
5 counseling programs.

6           "(c) Judicial procedures through which these goals  
7 are accomplished will assure the parties a fair hearing where  
8 their constitutional and other statutory rights are recognized  
9 and enforced.

10           "(d) This chapter shall be liberally construed to  
11 the end that each child coming ~~within~~ under the jurisdiction  
12 of the juvenile court shall receive the care, guidance, and  
13 control, preferably in his or her own home, necessary for the  
14 welfare of the child and the best ~~interest~~ interests of the  
15 state.

16           "~~§12-15-1.~~

17           "§12-15-102. Definitions. When used in this chapter,  
18 the following words and phrases ~~shall~~ have the following  
19 meanings:

20           "(1) ADULT. An individual 19 years of age or older.

21           "(2) AFTERCARE. Conditions and supervision as the  
22 juvenile court orders after release of legal custody from the  
23 Department of Youth Services.

24           "(3) CHILD. An individual under the age of 18, ~~or~~  
25 under 19 years, or under 21 years of age and before the

1 juvenile court for a delinquency matter arising before that  
2 individual's 18th birthday. Where a delinquency petition  
3 alleges that an individual, prior to the individual's 18th  
4 birthday, has committed an offense for which there is no  
5 statute of limitation pursuant to Section 15-3-5, the term  
6 child also shall include the individual subject to the  
7 petition, regardless of the age of the individual at the time  
8 of filing. of age and before the juvenile court for a matter  
9 arising before that individual's 18th birthday.

10 " (4) CHILD IN NEED OF SUPERVISION. A child who has  
11 been adjudicated by a juvenile court for doing ~~does~~ any of the  
12 following and who is in need of care, rehabilitation, or  
13 supervision:

14 "a. Being subject to the requirement of compulsory  
15 school attendance, is habitually truant from school as defined  
16 by the State Board of Education in the Alabama Administrative  
17 Code. Notwithstanding the foregoing, a child shall not be  
18 found in need of supervision pursuant to this subdivision if  
19 the juvenile court determines that the parent, legal guardian,  
20 or legal custodian of the child was solely responsible for the  
21 nonattendance of the child.

22 "b. Disobeys the reasonable and lawful demands of  
23 the child's ~~his or her parent~~ parents, legal guardian, or  
24 legal custodian ~~other custodian~~ and is beyond ~~their~~ the  
25 control of the parent, legal guardian, or legal custodian.

1           ~~"c. Leaves, or remains away from, the home without~~  
 2           ~~the permission of the parent, legal guardian, legal custodian,~~  
 3           ~~or person with whom he or she resides.~~

4           ~~"c d. Has committed~~ Commits an offense established  
 5           by law but not classified as criminal ~~or one applicable only~~  
 6           ~~to children.~~

7           ~~"d. In any of the foregoing, is in need of care or~~  
 8           ~~rehabilitation.~~

9           "(5) CHILD'S ATTORNEY. A licensed attorney who  
 10          provides legal services for a child, or for a minor in a  
 11          mental commitment proceeding, and who owes the same duties of  
 12          undivided loyalty, confidentiality, and competent  
 13          representation to the child or minor as is due an adult  
 14          client.

15          ~~"(5) COMMIT. Transfer legal and physical custody.~~

16          ~~"(6) CONSENT DECREE. An order, entered after the~~  
 17          ~~filing of a delinquency petition and before the entry of an~~  
 18          ~~adjudication order, suspending the proceedings and continuing~~  
 19          ~~the case of the child under supervision in the child's own~~  
 20          ~~home, under terms and conditions agreed to by all parties~~  
 21          ~~concerned.~~

22          ~~"(7)(12) COURT or JUVENILE COURT. The juvenile or~~  
 23          ~~family court division of the circuit or district court or the~~  
 24          ~~juvenile division of the circuit court~~ having jurisdiction  
 25          over matters as established provided by this chapter.



1           "~~(8)~~(6) DELINQUENT ACT. An act committed by a child  
2 that is designated a violation, misdemeanor, or felony offense  
3 under pursuant to the law of the municipality, county, or this  
4 state or of another state if in which the act was committed  
5 occurred in another state or under pursuant to federal law or  
6 a violation of a municipal ordinance except violations of  
7 municipal curfew ordinances. The term shall not include  
8 traffic offenses committed by one 16 years of age or older,  
9 other than those charged pursuant to Section 32-5A-191 or a  
10 municipal ordinance prohibiting the same conduct.

11 Additionally, the term shall not include any criminal act,  
12 offense, or violation committed by a child who has previously  
13 been transferred for criminal prosecution pursuant to Section  
14 12-15-34 and convicted or adjudicated a youthful offender on  
15 the criminal charge. This term shall not apply to any of the  
16 following:

17           "a. An offense when committed by a child 16 or 17  
18 years of age as follows:

19           "1. A nonfelony traffic offense or water safety  
20 offense other than one charged pursuant to Section 32-5A-191  
21 or 32-5A-191.3 or a municipal ordinance prohibiting the same  
22 conduct.

23           "2. A capital offense.

24           "3. A Class A felony.

1           "4. A felony which has as an element the use of a  
2 deadly weapon.

3           "5. A felony which has as an element the causing of  
4 death or serious physical injury.

5           "6. A felony which has as an element the use of a  
6 dangerous instrument against any person who is one of the  
7 following:

8           "(i) A law enforcement officer or official.

9           "(ii) A correctional officer or official.

10          "(iii) A parole or probation officer or official.

11          "(iv) A juvenile court probation officer or  
12 official.

13          "(v) A district attorney or other prosecuting  
14 officer or official.

15          "(vi) A judge or judicial official.

16          "(vii) A court officer or official.

17          "(viii) A person who is a grand juror, juror, or  
18 witness in any legal proceeding of whatever nature when the  
19 offense stems from, is caused by, or is related to the role of  
20 the person as a juror, grand juror, or witness.

21          "(ix) A teacher, principal, or employee of the  
22 public education system of Alabama.

23          "7. Trafficking in drugs in violation of Section  
24 13A-12-231, or as the same may be amended.

1           "8. Any lesser included offense of the offenses in  
 2 subparagraphs 1 to 7, inclusive, charged or any lesser felony  
 3 offense charged arising from the same facts and circumstances  
 4 and committed at the same time as the offenses listed in  
 5 subparagraphs 1 to 7, inclusive.

6           "b. Any criminal act, offense, or violation  
 7 committed by a child under the age of 18 years who has been  
 8 previously convicted or adjudicated a youthful offender.

9           ~~"(9)(7)~~ DELINQUENT CHILD. A child who has ~~committed~~  
 10 been adjudicated for a delinquent act and is in need of care  
 11 or rehabilitation.

12           ~~"(10)(8)~~ DEPENDENT CHILD. a. A child who has been  
 13 adjudicated dependent by a juvenile court and is in need of  
 14 care or supervision and meets any of the following  
 15 circumstances:

16           ~~"a. Who, for any reason is destitute, homeless, or~~  
 17 ~~dependent on the public for support; or~~

18           "1. Whose parent, legal guardian, legal custodian,  
 19 or other custodian subjects the child or any other child in  
 20 the household to abuse, as defined in subdivision (2) of  
 21 Section 12-15-301 or neglect as defined in subdivision (4) of  
 22 Section 12-15-301, or allows the child to be so subjected.

23           ~~"b. 2. Who is without a parent or, legal guardian,~~  
 24 or legal custodian willing and able to provide for the child's  
 25 care, support, training, or education; or of the child.

1           ~~"c. Whose custody is the subject of controversy; or~~

2           ~~"d. Whose home, by reason of neglect, cruelty, or~~  
3 ~~depravity on the part of the parent, parents, guardian, or~~  
4 ~~other person in whose care the child may be, is an unfit and~~  
5 ~~improper place for the child; or~~

6           ~~"e 3. Whose parent, parents, legal guardian, legal~~  
7 ~~custodian, or other custodian neglects or refuses, when able~~  
8 ~~to do so or when ~~such~~ the service is offered without charge,~~  
9 ~~to provide or allow medical, surgical, or other care necessary~~  
10 ~~for the ~~child's~~ health or well-being; ~~or~~ of the child.~~

11           ~~"f. Who is in a condition or surroundings or is~~  
12 ~~under improper or insufficient guardianship or control as to~~  
13 ~~endanger the morals, health, or general welfare of the child;~~  
14 ~~or~~

15           ~~"g. Who has no proper parental care or guardianship;~~  
16 ~~or~~

17           ~~"h 4. Whose parent, parents, legal guardian, legal~~  
18 ~~custodian, or other custodian fails, refuses, or neglects to~~  
19 ~~send the child to school in accordance with the terms of the~~  
20 ~~compulsory school attendance laws of this state; ~~or.~~~~

21           ~~"i 5. ~~Who~~ Whose parent, legal guardian, legal~~  
22 ~~custodian, or other custodian has ~~been~~ abandoned the child, as~~  
23 ~~defined in subdivision (1) of Section 12-15-301 by the child's~~  
24 ~~parents, guardian, or other custodian; or.~~

1           ~~"j. Who is physically, mentally, or emotionally~~  
 2 ~~abused by the child's parents, guardian, or other custodian or~~  
 3 ~~who is without proper parental care and control necessary for~~  
 4 ~~the child's well-being because of the faults or habits of the~~  
 5 ~~child's parents, guardian, or other custodian or their neglect~~  
 6 ~~or refusal, when able to do so, to provide them; or~~

7           "k 6. Whose parents, parent, legal guardian, legal  
 8 custodian, or other custodian are is unable or unwilling to  
 9 discharge their his or her responsibilities to and for the  
 10 child; or.

11           "† 7. Who has been placed for care or adoption in  
 12 violation of the law; or.

13           "m 8. Who, for any other cause, is in need of the  
 14 care and protection of the state; and.

15           ~~"n. In any of the foregoing, is in need of care or~~  
 16 ~~supervision.~~

17           "b. The commission of one or more status offenses as  
 18 defined in subdivision (4) of Section 12-15-201 is not a  
 19 sufficient basis for an adjudication of dependency.

20           ~~"(11)(9) DETENTION CARE.~~ The temporary placement of  
 21 ~~care of delinquent children or children alleged or adjudicated~~  
 22 to be delinquent in secure custody as defined herein pending  
 23 juvenile court disposition or transfer to a residential  
 24 facility or for further care of a child adjudicated a  
 25 delinquent.

1           "~~(12)~~(10) GUARDIAN AD LITEM. A licensed attorney  
2 appointed by a juvenile court to defend or represent a child  
3 in any action to which the child may be a party to protect the  
4 best interests of an individual without being bound by the  
5 expressed wishes of that individual.

6           "~~(13)~~(11) INTAKE OFFICE OFFICER. ~~The office in the~~  
7 ~~probation service or designee of the judge with the duty of~~  
8 ~~primary contact with the law enforcement agency and~~  
9 ~~complainants of children coming under the jurisdiction of the~~  
10 ~~court.~~ A juvenile probation officer or an employee of the  
11 judicial branch of government, who is neutral and detached  
12 from executive and legislative branch activities, designated  
13 by the juvenile court judge to initiate original delinquency,  
14 dependency, and child in need of supervision cases, as well as  
15 cases designated in Section 12-15-132 before the juvenile  
16 court. The juvenile court intake officer shall be appointed a  
17 magistrate pursuant to Rule 18, Alabama Rules of Judicial  
18 Administration, to issue warrants of arrest for individuals 18  
19 years of age or older committing criminal offenses under the  
20 jurisdiction of the juvenile court.

21           "~~(14)~~ JUDGE. ~~Judge of the juvenile court as~~  
22 ~~prescribed by this chapter.~~

23           "(13) JUVENILE DETENTION FACILITY. Any facility  
24 owned or operated by the state, any county, or other legal

1 entity licensed by and contracted with the Department of Youth  
2 Services for the detention of children.

3 ~~"(15)~~ (14) LAW ENFORCEMENT OFFICER. Any person,  
4 however denominated, who is authorized by law to exercise the  
5 police powers of the state, a county, or local governments.

6 ~~"(16)~~ (15) LEGAL CUSTODIAN. A parent, person, agency,  
7 or department, ~~other than a parent or legal guardian,~~ to whom  
8 legal custody of ~~the~~ a child under the jurisdiction of the  
9 juvenile court pursuant to this chapter has been ~~given~~ awarded  
10 by ~~court~~ order of the juvenile court or other court of  
11 competent jurisdiction or ~~who is acting in loco parentis.~~

12 ~~"(17)~~ (16) LEGAL CUSTODY. A legal status created by  
13 ~~court~~ order of the juvenile court which vests in a legal  
14 custodian the right to have physical custody of ~~the~~ a child  
15 under the jurisdiction of the juvenile court pursuant to this  
16 chapter and ~~to determine where and with whom the child shall~~  
17 ~~live within the state~~ and the right and duty to protect,  
18 train, and discipline the child and to provide the child with  
19 food, shelter, clothing, education, and ~~ordinary~~ medical care,  
20 all subject to the powers, rights, duties, and  
21 responsibilities of the legal guardian of the person of the  
22 child and subject to any residual parental rights and  
23 responsibilities. ~~An individual~~ A parent, person, agency, or  
24 department granted legal custody shall exercise the rights and

1 responsibilities personally, unless otherwise ~~authorized~~  
2 restricted by the juvenile court.

3 "(17) LEGAL GUARDIAN. A person who has been  
4 appointed by a probate court pursuant to the Alabama Uniform  
5 Guardianship and Protective Proceedings Act, Chapter 2A  
6 (commencing with Section 26-2A-1) of Title 26 to be a guardian  
7 of a person under 19 years of age who has not otherwise had  
8 the disabilities of minority removed. This term does not  
9 include a guardian ad litem as defined in this section.

10 "(18) MINOR. An individual who is under the age of  
11 19 years and who is not a "child" within the meaning of this  
12 chapter.

13 "(19) PARENT. The legal mother or the legal father  
14 of a child under the jurisdiction of the juvenile court  
15 pursuant to this chapter.

16 ~~"(19) MULTIPLE NEEDS CHILD. A child coming to the~~  
17 ~~attention of the court or one of the entities listed herein~~  
18 ~~who is at imminent risk of out-of-home placement or a~~  
19 ~~placement in a more restrictive environment, as a result of~~  
20 ~~the conditions of emotional disturbance, behavior disorder,~~  
21 ~~mental retardation, mental illness, dependency, chemical~~  
22 ~~dependency, educational deficit, lack of supervision,~~  
23 ~~delinquency, or physical illness or disability, or any~~  
24 ~~combination thereof, and whose needs require the services of~~  
25 ~~two or more of the following entities: Department of Youth~~



1 ~~Services, public school system (services for exceptional~~  
 2 ~~needs), Department of Human Resources, Department of Public~~  
 3 ~~Health, juvenile court probation services, or Department of~~  
 4 ~~Mental Health and Mental Retardation.~~

5 "(20) PICK-UP ORDER. In any case before the juvenile  
 6 court, an order directing any law enforcement officer or other  
 7 person authorized by this chapter to take a child into custody  
 8 and to deliver the child to a place of detention, shelter, or  
 9 other care designated by the juvenile court.

10 ~~"(20) (21) PROBATION. The legal status created by~~  
 11 ~~court order of the juvenile court following an adjudication of~~  
 12 ~~delinquency or in need of supervision whereby a child is~~  
 13 ~~permitted to remain in a community subject to supervision and~~  
 14 ~~return to the juvenile court for violation of probation at any~~  
 15 ~~time during the period of probation.~~

16 ~~"(21) PROBATION SERVICES. The performance of any of~~  
 17 ~~the following:~~

18 ~~"a. The making of investigations, reports, and~~  
 19 ~~recommendations to the court as directed by law.~~

20 ~~"b. The receiving and examining of complaints and~~  
 21 ~~charges of delinquency for the purpose of considering the~~  
 22 ~~commencement of proceedings under law.~~

23 ~~"c. The supervision of a child placed on probation~~  
 24 ~~by order of the court.~~

1           ~~"d. The supervision of a child placed on aftercare~~  
2 ~~by order of the court.~~

3           ~~"e. The making of appropriate referrals to other~~  
4 ~~private or public agencies of the community, if their~~  
5 ~~assistance appears to be needed or desirable.~~

6           ~~"f. The taking into custody and detaining of a youth~~  
7 ~~who is under the supervision and care of the Department of~~  
8 ~~Youth Services as a delinquent where there is reasonable cause~~  
9 ~~to believe that the health or safety of the youth or that of~~  
10 ~~another is in imminent danger, or that he or she may abscond~~  
11 ~~or be moved from the jurisdiction of the court, or when~~  
12 ~~ordered by the court pursuant to the Juvenile Code.~~

13           ~~"g. The performing of all other functions designated~~  
14 ~~by the Juvenile Code or by order of the court pursuant~~  
15 ~~thereto.~~

16           ~~"(22) PROTECTIVE SUPERVISION. A legal status created~~  
17 ~~by court order following an adjudication of dependency whereby~~  
18 ~~a child is permitted to remain in the child's home subject to~~  
19 ~~supervision and to return to the court for violation of~~  
20 ~~protective supervision at any time during the period of~~  
21 ~~protective supervision.~~

22           ~~"(23) (22) RESIDENTIAL FACILITY. A dwelling, other~~  
23 ~~than a detention or shelter care facility, providing living~~  
24 ~~accommodations, care, treatment, and maintenance for children,~~  
25 ~~including, but not limited to, institutions, foster family~~

1 homes, group homes, half-way houses, and forestry camps, ~~and,~~  
2 ~~where not operated by a public agency, licensed, or approved~~  
3 ~~to provide the care~~ operated, accredited, or licensed by a  
4 federal or state department or agency.

5 "~~(24)~~ (23) RESIDUAL PARENTAL RIGHTS AND  
6 RESPONSIBILITIES. Those rights and responsibilities remaining  
7 with ~~the~~ a parent after ~~the~~ a transfer of legal custody ~~or~~  
8 ~~guardianship of the person~~ a child under the jurisdiction of  
9 the juvenile court pursuant to this chapter, including, but  
10 not necessarily limited to, the right of visitation, the right  
11 to withhold consent to adoption, the right to determine  
12 religious affiliation, and the responsibility for support,   
13 unless determined by order of the juvenile court not to be in  
14 the best interests of the child.

15 "(24) SECURE CUSTODY. As used with regard to  
16 juvenile detention facilities and the Department of Youth  
17 Services, this term means residential facilities with  
18 construction features designed to physically restrict the  
19 movements and activities of persons in custody such as locked  
20 rooms and buildings, including rooms and buildings that  
21 contain alarm devices that prevent departure, fences, or other  
22 physical structures. This term does not include facilities  
23 where physical restriction of movement or activity is provided  
24 solely through facility staff.

1           "(25) SHELTER CARE. The temporary care of children  
2 in group homes, foster care, relative placement, or other  
3 nonpenal facilities.

4           "~~§12-15-2.~~

5           "~~§12-15-103. Circuit courts and district courts to~~  
6 ~~exercise original concurrent juvenile jurisdiction~~ Juvenile  
7 court judges may be circuit or district court judges;  
8 maintenance of separate juvenile docket and entry of orders  
9 and decrees as to juvenile cases in separate minute book case  
10 action summaries; promulgation of rules of procedure for  
11 juvenile courts; powers of judges of juvenile courts as to  
12 issuance of writs and processes ~~generally; powers of judges of~~  
13 ~~courts as to issuance of writs generally; jurisdiction and as~~  
14 to equity powers generally.

15           "(a) ~~The circuit court and the district court shall~~  
16 ~~exercise original concurrent juvenile jurisdiction sitting as~~  
17 ~~the juvenile court~~ A circuit or district court judge may be  
18 designated as a juvenile court judge.

19           "(b) The juvenile court shall ~~keep a docket which~~  
20 ~~shall be~~ maintain a separate and distinct from any other  
21 docket kept in said court, and the orders and decrees of the  
22 court relating to such cases shall be entered in a separate  
23 minute book docketing and case filing system.

24           "(c) The Supreme Court of Alabama shall promulgate  
25 rules governing procedure in the juvenile court.

1           "(d) The juvenile court shall ~~have full power and~~  
2 ~~authority to~~ issue all writs and processes necessary to the  
3 exercise of ~~such its~~ jurisdiction and to ~~carrying out of~~  
4 fulfill the purposes of this chapter.

5           "(e) The judge of the juvenile court shall ~~have~~  
6 ~~power to~~ issue ~~writs~~ warrants of arrest, pick-up orders, and  
7 writs of habeas corpus to have individuals brought before the  
8 juvenile court ~~children alleged to be dependent, delinquent or~~  
9 ~~in need of supervision to be dealt with by said court under~~  
10 ~~the terms of~~ pursuant to this chapter.

11           "(f) The juvenile court shall have and exercise ~~the~~  
12 ~~jurisdiction and equity power possessed by courts in this~~  
13 ~~state.~~

14           "~~§12-15-4.~~

15           "§12-15-104. Advisory boards.

16           "(a) The presiding juvenile court judge ~~of the~~  
17 ~~juvenile court~~ may appoint not less than five nor more than 25  
18 citizens of the ~~district~~ county, known for their interest in  
19 the welfare of children, who shall serve without compensation,  
20 to constitute and be the advisory board of the juvenile court  
21 in matters relating to the welfare of children. The membership  
22 of the advisory board shall be inclusive and reflect the  
23 racial, gender, geographic, urban or rural, and economic  
24 diversity of the county. ~~Such~~ The advisory board shall  
25 organize by electing ~~such~~ officers and by adopting ~~such~~

1 bylaws, rules, and regulations for its government as it shall  
2 deem best for the purposes of this chapter. ~~Such~~ The board  
3 shall hold office at the pleasure of the juvenile court or of  
4 the judge thereof.

5 "(b) The duties of the advisory board shall be as  
6 follows:

7 "(1) To assist the juvenile court in securing the  
8 services of volunteer juvenile probation officers when the  
9 services of ~~such~~ those officers shall be deemed necessary or  
10 desirable~~7~~.

11 "(2) To visit institutions which are charged with  
12 caring for children and, whenever practicable, other  
13 institutions to which the juvenile court~~7~~ from time to time~~7~~  
14 may ~~make commitments~~, award legal custody.

15 "(3) To advise and cooperate with the juvenile court  
16 upon all matters relating to the welfare of children~~7~~.

17 "(4) To recommend to the juvenile court any and all  
18 needful measures for the purpose of carrying out the  
19 provisions and intent of this chapter and to make themselves  
20 familiar with the work of the juvenile court ~~under~~ pursuant to  
21 this chapter~~7~~ and.

22 "(5) To make, from time to time, a report to the  
23 public of the work of ~~such~~ the juvenile court.

24 "~~§12-15-5.~~

1           "§12-15-105. Exercise of authority by district  
 2 ~~attorney attorneys~~ in juvenile court proceedings generally;  
 3 assistance ~~of juvenile court~~ by district ~~attorney attorneys~~ in  
 4 the juvenile courts; representation of the state by district  
 5 ~~attorney attorneys~~ in cases appealed ~~by~~ from juvenile courts.

6           "(a) The district attorney of the judicial circuit  
 7 in which ~~the case is pending~~ may delinquency or child in need  
 8 of supervision cases are filed ~~may~~ exercise his or her  
 9 authority in all delinquency and child in need of supervision  
 10 cases arising ~~under~~ pursuant to this chapter.

11           "(b) The juvenile court may call upon the district  
 12 attorney to assist the juvenile court in any proceeding ~~under~~  
 13 pursuant to this chapter. It shall be the duty of ~~such~~ the  
 14 district attorney to render ~~such~~ this assistance when so  
 15 requested.

16           "(c) Notwithstanding Title 36, ~~the said~~ district  
 17 attorney shall represent the state in all delinquency and  
 18 child in need of supervision cases ~~arising under this chapter~~  
 19 appealed from the juvenile court.

20           "~~§12-15-6.~~

21           "§12-15-106. Juvenile court referees'  
 22 qualifications ~~Qualifications~~ and appointment ~~of referees~~;  
 23 conduct of hearings of cases by juvenile court referees;  
 24 transmission of findings and recommendations for disposition  
 25 of juvenile court referees to juvenile court judges; provision

1 of notice and written copies of findings and recommendations  
2 of juvenile court referees to parties; rehearing of cases by  
3 juvenile court judges; when findings and recommendations of  
4 juvenile court referees become decree of the juvenile court.

5 ~~"(a) The judge may appoint one or more persons to~~  
6 ~~serve as referees on a full-time or part-time basis subject to~~  
7 ~~approval of the administrative director of courts. Referees~~  
8 ~~shall be licensed to practice law in this state; provided,~~  
9 ~~that referees serving as such for 10 or more years on January~~  
10 ~~16, 1977, will not be required to be members of the bar of~~  
11 ~~this state.~~

12 ~~"(b) The judge may direct that hearings in any case~~  
13 ~~or class of cases be conducted in the first instance by a~~  
14 ~~referee unless:~~

15 ~~"(1) The hearing is one to determine whether a case~~  
16 ~~shall be transferred for criminal prosecution; or~~

17 ~~"(2) A party objects to the hearing being held by a~~  
18 ~~referee.~~

19 ~~"(c) Upon the conclusion of a hearing before a~~  
20 ~~referee, he shall transmit in writing his findings and~~  
21 ~~recommendations for disposition to the judge. Written notice~~  
22 ~~of the findings and recommendations together with copies~~  
23 ~~thereof shall be given to the parties to the proceeding. The~~  
24 ~~written notice shall also inform them of the right to a~~  
25 ~~rehearing before the judge.~~



1           ~~"(d) A rehearing before the judge may be ordered by~~  
2 ~~the judge at any time and shall be ordered if any party files~~  
3 ~~a written request therefor within 14 days after receipt of the~~  
4 ~~referee's written notice. Upon rehearing, when adequate~~  
5 ~~records have been kept in the proceedings before the referee,~~  
6 ~~the court shall review the record and, in the discretion of~~  
7 ~~the judge, may admit new evidence. If the referee has not kept~~  
8 ~~adequate records, the rehearing shall be de novo.~~

9           ~~"(e) If a hearing before the judge is not requested~~  
10 ~~or ordered or the right thereto is waived, the findings and~~  
11 ~~recommendations of the referee, if confirmed by an order of~~  
12 ~~the judge or as modified by the judge, shall become the decree~~  
13 ~~of the court.~~

14           "(a) Appointment of Referees. The Administrative  
15 Director of Courts may authorize one or more referee positions  
16 in any judicial circuit on either a full-time or a part-time  
17 basis upon submission of a written request by the presiding  
18 juvenile court judge and upon consideration of funding and the  
19 juvenile and child-support caseload in the circuit. Once the  
20 Administrative Director of Courts approves the request, the  
21 presiding judge of the juvenile court may appoint an attorney  
22 the judge believes to be qualified to fill the position,  
23 subject to the approval of the Administrative Director of  
24 Courts. The amount to be paid the referee and the manner of

1 payment shall be determined by the Administrative Director of  
2 Courts.

3 "(b) Cases Handled by Referees. The presiding judge  
4 of the juvenile court may direct that the referee handle  
5 various kinds of juvenile and child-support cases unless any  
6 of the following occurs:

7 "(1) The referee has agreed to hear certain juvenile  
8 and child-support cases pursuant to an agreement or a  
9 contract.

10 "(2) The hearing in a particular case is one to  
11 determine whether the case will be transferred for criminal  
12 prosecution.

13 "(3) The hearing involves the termination of  
14 parental rights as defined in subdivision (10) of Section  
15 12-15-301.

16 "(4) A party objects to a hearing being held by a  
17 referee.

18 "(c) Duties of Referees. Referees shall perform one  
19 or more of the following duties in juvenile and child-support  
20 cases:

21 "(1) Take testimony in hearings.

22 "(2) Evaluate evidence and make findings of fact and  
23 recommendations to determine paternity and to establish and  
24 enforce child-support orders.

1           "(3) Accept voluntary acknowledgments of  
2 child-support liability or paternity and stipulated agreements  
3 setting the amount of child support to be paid.

4           "(4) Prepare a default order upon a showing that  
5 process has been served on the defendant and that the  
6 defendant failed to respond to service in accordance with the  
7 Alabama Rules of Juvenile Procedure or the Alabama Rules of  
8 Civil Procedure.

9           "(5) Order genetic tests in contested paternity  
10 cases without the necessity of obtaining an order from a  
11 judge.

12           "(6) Enter orders relating to the administration of  
13 the docket of the juvenile court to which the referee is  
14 assigned without the necessity of obtaining a signature of a  
15 judge.

16           "(7) All other duties as authorized by law or rule.

17           "(d) Duty to Inform Parties of Right to Object to  
18 Referee. Before conducting a hearing in a juvenile or  
19 child-support case, the referee shall inform all of the  
20 parties that the referee is not a judge and that the hearing  
21 may be conducted before a judge if any party objects to the  
22 hearing being held by the referee.

23           "(e) Written Findings and Recommendations of the  
24 Referee.

1           "(1) After conducting a hearing in a juvenile or  
2 child-support case, if the referee has made a decision at the  
3 conclusion of the hearing, the referee shall immediately  
4 reduce his or her findings and recommendations to writing and  
5 then transmit those written findings and recommendations to  
6 the clerk of the juvenile court for filing and to a judge with  
7 authority over juvenile matters for his or her signature  
8 pursuant to subsection (g). If the parties are present at the  
9 hearing, copies of the written findings and recommendations  
10 shall be given to the parties in open court. The written  
11 findings and recommendations shall contain a notice that any  
12 party has a right to request a rehearing within 14 days of the  
13 date those findings and recommendations were filed in the  
14 office of the clerk of juvenile court.

15           "(2) If the referee has not made a decision on the  
16 matter at the conclusion of the hearing or if the parties are  
17 not present in open court, the referee, within three business  
18 days of making his or her decision, shall transmit his or her  
19 written findings and recommendations to the clerk of the  
20 juvenile court for filing and to a judge with authority over  
21 juvenile matters for his or her signature pursuant to  
22 subsection (g). Once the clerk files the written findings and  
23 recommendations, the clerk shall send to the parties, by first  
24 class mail, copies of the findings and recommendations  
25 containing a notice informing them that they have the right to

1 request a rehearing within 14 days of the date the findings  
2 and recommendations were filed in the office of the clerk of  
3 the juvenile court.

4 "(3) Notice to a party represented by counsel shall  
5 be given to counsel rather than the party and the notice shall  
6 be sufficient as notice to the party unless the juvenile court  
7 orders otherwise.

8 "(f) Rehearing Before the Juvenile Court. A  
9 rehearing before a judge with authority over juvenile court  
10 matters concerning the matter heard by the referee shall be  
11 scheduled if any party files a written request therefor within  
12 the time frames provided in subsection (e). Once a rehearing  
13 is scheduled, the parties shall be notified of the date, time,  
14 and the place of the rehearing. Notice to a party represented  
15 by counsel shall be given to counsel, and this notice shall be  
16 sufficient unless the juvenile court orders otherwise. When an  
17 adequate record has been made in the proceeding before the  
18 referee, the judge shall review the record before rehearing  
19 and may admit new evidence at the rehearing. If the record is  
20 not adequate, the rehearing shall be de novo.

21 "(g) Ratification by the Judge. The findings and  
22 recommendations of the referee shall become the order of the  
23 juvenile court when ratified by the original signature of a  
24 judge with authority over juvenile matters.

1           "(h) Matters Before the Referee Needing Immediate  
2 Action. If a matter before a referee requires immediate  
3 action, the referee shall state in his or her written findings  
4 and recommendations why the recommendations should be  
5 effective immediately. These matters for immediate action may  
6 include, but are not limited to, matters of contempt, the  
7 physical safety of the child, or the safety of others, or when  
8 the personal liberty of the child may be infringed. In such  
9 event, the written recommendations of the referee shall be  
10 effective and binding, upon the consent of the parties, for a  
11 period not exceeding 72 hours. In the event the parties do not  
12 consent to immediate action, the recommendations shall be  
13 reviewed immediately by any judge with authority over juvenile  
14 matters, who may order an appropriate temporary order based on  
15 the findings and recommendations, which order will be  
16 effective for a period not exceeding 72 hours. In any event,  
17 the findings and recommendations of the referee and any  
18 temporary orders in a matter needing immediate attention shall  
19 be reviewed by a judge with authority over juvenile matters  
20 within 72 hours after being made. Upon such review, the judge  
21 shall rescind, modify, or continue the order in effect and  
22 conduct such further proceedings as may be permitted under  
23 subsection (f).

24           ~~"§12-15-7.~~

1           "~~§12-15-107. Juvenile probation officers: Duties~~  
2 ~~Appointment, terms of office, etc., of probation officers;~~  
3 ~~designation of chief probation officer, etc.; duties of~~  
4 juvenile probation officers generally; powers of juvenile  
5 probation officers ~~and representatives of Department of Human~~  
6 ~~Resources~~ as to taking into custody and placing in shelter or  
7 detention care of children generally; procedure upon taking  
8 into custody of child by juvenile probation officer ~~or~~  
9 ~~representative of Department of Human Resources~~ generally.

10           "(a) For the purpose of carrying out the objectives  
11 and purposes of this chapter and subject to the limitations of  
12 this chapter or imposed by the juvenile court, a juvenile  
13 probation officer shall perform ~~all of~~ the following duties:

14           "(1) Make investigations, reports, and  
15 recommendations to the juvenile court.

16           "(2) Serve as a juvenile court intake officer when  
17 designated by the juvenile court judge. ~~Receive and examine~~  
18 ~~complaints and allegations of delinquency, in need of~~  
19 ~~supervision, or dependency of a child for the purpose of~~  
20 ~~considering the commencement of proceedings under this~~  
21 ~~chapter.~~

22           "~~(3) Refer to the Department of Human Resources for~~  
23 ~~investigations, reports, and recommendations those complaints~~  
24 ~~and allegations of dependency or other appropriate matters and~~  
25 ~~may refer to the Department of Human Resources for~~

1 ~~investigations, reports, and recommendations those complaints~~  
2 ~~on children in need of supervision.~~

3 ~~"(4) (3) Supervise and assist a child placed on~~  
4 ~~probation or in his or her protective supervision or aftercare~~  
5 ~~by order of the juvenile court or other authority of law until~~  
6 ~~the terms of probation or aftercare expire or are otherwise~~  
7 ~~terminated.~~

8 ~~"(5) (4) Make appropriate referrals to other private~~  
9 ~~or public departments or agencies of the community if their~~  
10 ~~assistance appears to be needed or desirable.~~

11 ~~"(6) (5) Make predisposition studies and submit~~  
12 ~~reports and recommendations to the juvenile court as required~~  
13 ~~by this chapter, ~~except as provided in subdivision (3) of this~~~~  
14 ~~subsection.~~

15 ~~"(7) (6) Collect and compile statistical data and~~  
16 ~~file ~~such~~ reports as may be required by the Administrative~~  
17 ~~Director of Courts pursuant to subdivision (1) of Section~~  
18 ~~12-5-10. The reports may include, but shall not be limited to,~~  
19 ~~statistical data, case studies, and research materials.~~

20 ~~"(7) Notify the state and either the parent, legal~~  
21 ~~guardian, or legal custodian of a juvenile criminal sex~~  
22 ~~offender, or the child's attorney for the juvenile criminal~~  
23 ~~sex offender, of the pending release of the sex offender and~~  
24 ~~provide them with a copy of the risk assessment pursuant to~~  
25 ~~Section 15-20-28 (b).~~



1           ~~"(8) Collect and compile data and file reports~~  
2 ~~required by the Department of Youth Services.~~

3           ~~"(9) (8)~~ Perform other functions as are designated  
4 by this chapter or directed by the juvenile court.

5           "(b) For the purposes of this chapter, a juvenile  
6 probation officer ~~or representative of the Department of Human~~  
7 ~~Resources,~~ with the approval of the juvenile court, shall have  
8 the power to take into custody and place in shelter or  
9 detention, subject to Section 12-15-208 ~~care~~ a child who is on  
10 probation or aftercare under his or her supervision ~~as a~~  
11 ~~delinquent, in need of supervision, or dependent~~ when the  
12 juvenile probation officer ~~or representative of the Department~~  
13 ~~of Human Resources~~ has reasonable cause to believe that the  
14 child has violated the conditions of his or her probation, or  
15 ~~aftercare, or terms of protective supervision~~ or that he or  
16 she may flee from the jurisdiction of the juvenile court. A  
17 juvenile probation officer does not have the powers of a law  
18 enforcement officer ~~with respect to a person who is not on~~  
19 ~~probation or otherwise under his or her supervision.~~

20           ~~"(c) If a probation officer or representative of the~~  
21 ~~Department of Human Resources takes a child into custody, he~~  
22 ~~or she shall proceed as provided for in Section 12-15-58.~~

23           ~~"§12-15-10.~~

1           "§12-15-108. Liability of counties for expenses of  
2 maintenance and care of children under the jurisdiction of the  
3 juvenile court pursuant to this chapter; reimbursement.

4           "Except as otherwise provided in this chapter, all  
5 ~~All~~ expenses necessary or appropriate to the carrying out of  
6 the purposes and intent of this chapter and all expenses of  
7 maintenance and care of children under the jurisdiction of the  
8 juvenile court pursuant to this chapter that may be incurred  
9 by order of the juvenile court in carrying out the provisions  
10 and intent of this chapter, ~~(except costs paid by parents,~~  
11 legal guardians, legal custodians, or trustees, and court  
12 costs as provided by law) ~~and attorney fees~~ shall be valid  
13 charges and preferred claims against the county ~~and~~. These  
14 claims shall be paid by the county treasurer when itemized and  
15 sworn to by the creditor or other persons knowing the facts in  
16 the case and when approved by the juvenile court.

17 Notwithstanding the foregoing, a municipality shall reimburse  
18 the county the actual costs of housing, maintenance, and  
19 medical expenses of those ~~juveniles~~ children held in a  
20 facility utilized by the county for housing ~~juveniles~~  
21 children, or other facility licensed by the Department of  
22 Youth Services utilized by the county, as a result of a  
23 ~~juvenile~~ child being cited or detained for an alleged  
24 violation of an ordinance of the municipality that is not

1 based on a state criminal statute adopted by the municipality  
2 as a municipal ordinance.

3 ~~"§12-15-11.~~

4 ~~"§12-15-109. Issuance of order orders to parents,~~  
5 ~~etc., for payment of court costs, attorney's fees of~~  
6 ~~attorneys, and expenses for support, treatment, etc., of~~  
7 ~~children under the jurisdiction of the juvenile court pursuant~~  
8 ~~to this chapter; manner of payment, etc.; proceedings upon~~  
9 ~~failure of parents, etc., to pay amounts directed.~~

10 "If, after ~~due notice to the parents or other~~  
11 ~~persons legally obligated to care for and support the child~~  
12 ~~making a parent or other person legally obligated to care for~~  
13 ~~and support a child a party to the action pursuant to this~~  
14 ~~chapter and the Alabama Rules of Juvenile Procedure~~ and after  
15 a hearing, the juvenile court finds that ~~they are the parent~~  
16 ~~or other person is~~ financially able to pay all or part of the  
17 court costs, as provided by law, attorney fees, and expenses  
18 with respect to examination, treatment, care, detention, or  
19 support of the child incurred from the commencement of the  
20 proceeding in carrying out ~~the provisions of~~ this chapter, the  
21 juvenile court shall order them to pay the same and may  
22 prescribe the manner of payment. Unless otherwise ordered,  
23 payment shall be made to the clerk of the juvenile court for  
24 remittance to those to whom compensation is due. If the child  
25 shall have an estate in the hands of a legal guardian,

1 conservator, or trustee, such the legal guardian, conservator,  
 2 or trustee may be required to pay in a like manner. The  
 3 juvenile court shall also order the parent or other person  
 4 legally obligated to care for and support the child to apply  
 5 for insurance and Medicaid. If the parent or other legally  
 6 obligated person willfully fails or refuses to pay ~~such the~~  
 7 sum, the juvenile court may proceed against him or her for  
 8 civil or criminal contempt or both ~~or,~~ and the order may be  
 9 filed and shall constitute a civil judgment.

10 ~~"§12-15-12.~~

11 ~~"§12-15-110. Punishment for contempt of court of~~  
 12 ~~persons disobeying orders of the juvenile court,etc.,~~  
 13 ~~generally; limitation upon powers of courts with respect to~~  
 14 ~~children violating terms and conditions of orders of~~  
 15 ~~protective supervision.~~

16 "(a) Subject to the laws relating to the procedures  
 17 therefor and the limitations thereon, the juvenile court may  
 18 punish a person for contempt of court for disobeying an order  
 19 of the juvenile court or for obstructing or interfering with  
 20 the proceedings of the juvenile court or the enforcement of  
 21 its orders.

22 "(b) Notwithstanding the provisions of subsection  
 23 (a) ~~of this section,~~ the juvenile court shall be limited in  
 24 the actions it may take with respect to a child violating the  
 25 terms and conditions of the order of protective supervision as

1 this term is defined in subdivision (5) of Section 12-15-301,  
 2 to those which the juvenile court could have taken at the time  
 3 of the court's original disposition under of the juvenile  
 4 court pursuant to subsection (a) of Section 12-15-71  
 5 12-15-314.

6 "(c) A finding of indirect contempt not based on a  
 7 delinquency petition does not constitute an adjudication of  
 8 delinquency.

9 ~~"§12-15-13.~~

10 ~~"§12-15-111. Causing, etc., of Contributing to the~~  
 11 ~~delinquency, dependency, or need of supervision of children.~~

12 "(a) It shall be unlawful for any parent, legal  
 13 guardian, legal custodian, or other person to do any of the  
 14 following:

15 "(1) To willfully aid, encourage, or cause any child  
 16 to become or remain delinquent, dependent, or in need of  
 17 supervision or by words, acts, threats, commands or  
 18 persuasions, to induce or endeavor to induce, aid or encourage  
 19 any child to do or perform any act or to follow any course of  
 20 conduct which would cause or manifestly tend to cause such  
 21 child to become or remain delinquent, dependent or in need of  
 22 supervision or by the neglect of any lawful duty or in any  
 23 other manner contribute to the delinquency, dependency or need  
 24 of supervision of a child.

1           "(2) To permit or encourage the ~~The~~ employment of  
2 any child in violation of any of the provisions of the child  
3 labor law, ~~or permitting, conniving at, aiding or abetting~~  
4 ~~such employment shall be held to be encouraging, causing and~~  
5 ~~contributing to the delinquency, dependency or need of~~  
6 ~~supervision of such child.~~

7           "(3) To ~~Failure on the part of any parent, guardian~~  
8 ~~or other person having custody of the child to cause such a~~  
9 child to fail to attend school as required by the compulsory  
10 school attendance law ~~shall be held to be encouraging, causing~~  
11 ~~and contributing to the delinquency, dependency or need of~~  
12 ~~supervision of such child.~~

13           "(b) Whenever, in the course of any proceedings  
14 under pursuant to this chapter, or when, by affidavit as  
15 provided in this subsection, it shall appear to the juvenile  
16 court that a parent, legal guardian, legal custodian, or other  
17 person having custody, control, or supervision of a child or  
18 any other person not standing in any ~~such~~ relation to ~~such~~ the  
19 child has aided, encouraged, or caused ~~such~~ the child to  
20 become delinquent, dependent, or in need of supervision, ~~as~~  
21 ~~defined in this chapter, or has by words, act or omission~~  
22 ~~contributed thereto or has, by threats, commands or~~  
23 ~~persuasion, induced or endeavored to induce, aided or~~  
24 ~~encouraged such child to do or perform any act or to follow~~  
25 ~~any course of conduct which would cause or manifestly tend to~~

1 ~~cause such child to become or remain delinquent, dependent or~~  
 2 ~~in need of supervision, the juvenile court shall, for the~~  
 3 ~~protection of such the child from such these influences, shall~~  
 4 ~~have jurisdiction in such these matters, as provided in this~~  
 5 ~~section. The juvenile court shall cause such the parent, legal~~  
 6 ~~guardian, legal custodian, or other person to be brought~~  
 7 ~~before ~~it~~ the juvenile court upon either summons or a warrant,~~  
 8 ~~affidavit of probable cause having first been made.~~

9           "(c) Whoever violates any provision of this section  
 10 shall be guilty of a Class A misdemeanor and shall be punished  
 11 accordingly, ~~upon conviction thereof, shall be fined not more~~  
 12 ~~than \$500.00 or sentenced to hard labor for the county for a~~  
 13 ~~period not to exceed 12 months or both.~~

14           "(d) Upon conviction, the juvenile court ~~shall have~~  
 15 ~~the power to~~ may suspend any sentence, remit any fine, or  
 16 place such the person on probation under pursuant to such  
 17 orders, directives, or conditions for his or her discipline  
 18 and supervision as the juvenile court deems fit.

19           "~~§12-15-15.~~

20           "~~§12-15-112. Removal, concealment, etc., of~~  
 21 ~~delinquent or dependent child or child in need of supervision,~~  
 22 ~~etc.; interference Interference with performance of duties by~~  
 23 ~~juvenile probation officers officer, etc.~~

24           "~~(a) It shall be unlawful for any person to remove,~~  
 25 ~~conceal or cause to be removed or concealed, or attempt so to~~

1 do, ~~any delinquent or dependent child or one in need of~~  
2 ~~supervision, as defined in this chapter, or one alleged in a~~  
3 ~~petition or order of transfer filed in said court to be so or~~  
4 ~~any child whose custody is the subject of controversy in said~~  
5 ~~court, or for any person to interfere with the custody of or~~  
6 ~~remove or attempt to remove any delinquent or dependent child~~  
7 ~~or one in need of supervision or one alleged so to be or any~~  
8 ~~child whose custody is the subject of controversy in said~~  
9 ~~court who is in the custody of the court or of a probation~~  
10 ~~officer or any other officer or person designated by the court~~  
11 ~~as a special officer or any such child who has been by said~~  
12 ~~court committed to a department of state government, any~~  
13 ~~person, persons, institution, association or corporation,~~  
14 ~~under the terms of this chapter or by virtue of its general~~  
15 ~~equity jurisdiction.~~

16           ~~"(b)(a)~~ It shall be unlawful for any person to  
17 interfere knowingly with or oppose or otherwise obstruct any  
18 juvenile probation officer or representative of the ~~department~~  
19 ~~of human resources~~ Department of Human Resources in the  
20 performance of his or her duties ~~under~~ pursuant to this  
21 chapter.

22           ~~"(c)(b)~~ Any person violating any of the provisions  
23 of this section shall be guilty of a Class A misdemeanor  
24 and shall be punished accordingly, ~~upon conviction thereof,~~  
25 ~~shall be fined not more than \$500.00 or sentenced to hard~~



1 ~~labor for the county for a period not to exceed 12 months or~~  
2 ~~both.~~

3 "~~(d)~~(c) The juvenile court ~~shall~~, however, shall  
4 have the power to suspend any sentence, remit any fine, or  
5 place ~~such~~ the person on probation ~~under such~~ pursuant to  
6 orders, directives, or conditions for his or her discipline  
7 and supervision as the juvenile court deems fit."

8 Section 2. Section 12-15-113 is added to the Code of  
9 Alabama 1975, to read as follows:

10 §12-15-113. Jurisdiction to make a parent or  
11 parents, legal guardians, or legal custodians parties to  
12 juvenile court proceedings.

13 A juvenile court shall have the authority to make a  
14 parent, legal guardian, or legal custodian a party to a  
15 juvenile court proceeding pursuant to procedures established  
16 by the Alabama Rules of Juvenile Procedure.

17 Section 3. Section 12-15-30 of the Code of Alabama  
18 1975, is amended and renumbered to read as follows:

19 "~~§12-15-30.~~

20 "§12-15-114. Original jurisdiction ~~generally~~  
21 ~~Children - Juvenile.~~

22 "(a) ~~The~~ A juvenile court shall exercise exclusive  
23 original jurisdiction of juvenile court proceedings in which a  
24 child is alleged to ~~be~~ have committed a delinquent act, to be  
25 dependent, or to be in need of supervision. A dependency

1 action shall not include a custody dispute between parents.  
 2 Juvenile cases before the juvenile court shall be initiated  
 3 through the juvenile court intake office pursuant to this  
 4 chapter.

5 "(b) A juvenile court shall not have jurisdiction  
 6 over any delinquent act committed by an individual before his  
 7 or her 18th birthday for which a petition has not been filed  
 8 before the individual reaches 21 years of age, except when the  
 9 delinquent act is an offense having no statute of limitation  
 10 as provided in Section 15-3-5.

11 ~~"(b)~~ (c) A juvenile court shall also exercise  
 12 exclusive original jurisdiction of proceedings arising out of  
 13 the above juvenile court proceedings, including, but not  
 14 limited to each of the following:

15 "(1) Proceedings pursuant to the Interstate Compact  
 16 on Juveniles and the Interstate Compact on Placement of  
 17 Children pursuant to Chapter 2 of Title 44.

18 "(2) Proceedings for termination of parental rights,  
 19 as this term is defined in subdivision (10) of Section  
 20 12-15-301.

21 ~~"The court shall also exercise exclusive original~~  
 22 ~~jurisdiction of the following proceedings, which shall be~~  
 23 ~~governed by the laws relating thereto:~~

24 ~~"(1) Proceedings to determine custody or to appoint~~  
 25 ~~a legal custodian or guardian of the person of a child when~~

1 ~~the child is otherwise before the court. This provision,~~  
2 ~~however, shall not be construed to deprive other courts of the~~  
3 ~~right to determine the custody or guardianship of the person~~  
4 ~~of children when such custody or guardianship is incidental to~~  
5 ~~the determination of cases pending in those courts. Such~~  
6 ~~courts, however, may certify said questions to the juvenile~~  
7 ~~court for hearing and determination or recommendation;~~

8 ~~"(2) Removal of disabilities of nonage, including~~  
9 ~~judicial consent to marriage, employment, withdrawal from~~  
10 ~~school, or enlistment when such consent is required by law;~~

11 ~~"(3) Proceedings under the interstate compact on~~  
12 ~~juveniles;~~

13 ~~"(4) Proceedings for the commitment of a mentally~~  
14 ~~ill or mentally retarded child;~~

15 ~~"(5) Proceedings for the adoption of a child when~~  
16 ~~such proceedings have been removed from probate court on~~  
17 ~~motion of any party to the proceedings; and~~

18 ~~"(6) Termination of parental rights.~~

19 ~~"(c) The court shall have original jurisdiction in~~  
20 ~~proceedings:~~

21 ~~"(1) Concerning any child:~~

22 ~~"a. Who is in a situation subjecting him to~~  
23 ~~physical, mental or emotional abuse or is in clear and present~~  
24 ~~danger of suffering lasting or permanent damage; or~~

1           ~~"b. Who requires emergency medical treatment in~~  
2 ~~order to preserve his life, prevent permanent physical~~  
3 ~~impairment or deformity or alleviate prolonged agonizing pain;~~

4           ~~"(2) Where it is alleged that a child's rights are~~  
5 ~~improperly denied or infringed in proceedings resulting in~~  
6 ~~suspension, expulsion or exclusion from a public school."~~

7           Section 4. Section 12-15-115 is added to the Code of  
8 Alabama 1975, to read as follows:

9           §12-15-115. Original jurisdiction - Civil.

10           (a) A juvenile court shall also exercise original  
11 jurisdiction of the following civil proceedings:

12           (1) Removal of disabilities of nonage pursuant to  
13 Chapter 13 of Title 26.

14           (2) Proceedings for judicial consent for a person  
15 under the respective legal age to marry, to be employed,  
16 withdraw from school, or enlist in military service when this  
17 consent is required by law.

18           (3) Proceedings for the commitment of a mentally ill  
19 or mentally retarded minor or child to the Department of  
20 Mental Health and Mental Retardation, as provided in Article 4  
21 (commencing with Section 12-15-401).

22           (4) Proceedings for the adoption of a child when  
23 these proceedings have been removed from probate court on  
24 motion of any party to the proceedings.

1           (5) Proceedings for waiver of parental consent for a  
2 minor to have an abortion pursuant to Chapter 21 of Title 26.

3           (6) Proceedings to establish paternity or maternity  
4 of a child pursuant to the Alabama Uniform Parentage Act,  
5 Chapter 17 of Title 26.

6           (7) Proceedings to establish child and spousal  
7 support, or both, in cases brought pursuant to Title IV-D of  
8 the Social Security Act, including the Alabama Uniform  
9 Interstate Family Support Act, commencing at Section  
10 30-3A-101, when an equivalent court of another state issued an  
11 order.

12           (8) Proceedings filed pursuant to the Uniform Child  
13 Custody Jurisdiction and Enforcement Act, commencing at  
14 Section 30-3B-101, when an equivalent court of another state  
15 issued an order.

16           (9) Proceedings to establish grandparent visitation  
17 when filed as part of a juvenile court case involving the same  
18 child.

19           (b) A juvenile court also shall have original  
20 jurisdiction in proceedings concerning any child in either of  
21 the following instances:

22           (1) The child requires emergency medical treatment  
23 in order to preserve his or her life, prevent permanent  
24 physical impairment or deformity, or alleviate prolonged  
25 agonizing pain.

1           (2) Where it is alleged that the rights of a child  
2 are improperly denied or infringed in proceedings resulting in  
3 suspension, expulsion, or exclusion from a public school.

4           (c) All civil cases before the juvenile court shall  
5 be governed by the laws relating thereto and shall be  
6 initiated by filing a petition or complaint with the clerk of  
7 the juvenile court, with the exception that the proceedings  
8 provided in Section 12-15-132 shall be initiated through the  
9 juvenile court intake office.

10           Section 5. Sections 12-15-31 and 12-15-32 of the  
11 Code of Alabama 1975, are amended and renumbered to read as  
12 follows:

13           ~~"§12-15-31.~~

14           ~~"§12-15-116. Original jurisdiction generally—~~  
15 ~~Minors and adults—Criminal.~~

16           ~~"(a) The A juvenile court shall have exclusive~~  
17 ~~original jurisdiction to try any individual committing any of~~  
18 ~~the following offenses while 18 years of age or older:~~

19           ~~"(1) To try any minor or adult charged with:~~

20           ~~"a. Aiding, encouraging or causing any child to~~  
21 ~~become or remain delinquent, in need of supervision or~~  
22 ~~dependent;~~

23           ~~"b. Disregarding or failing to obey any lawful order~~  
24 ~~made by the judge of the juvenile court or interfering with~~

1 ~~the custody of any child under the jurisdiction of the~~  
2 ~~juvenile court;~~

3 ~~"c. Interfering with the custody of or removal or~~  
4 ~~attempting to remove any dependent or delinquent child or one~~  
5 ~~in need of supervision or one so alleged to be or any child~~  
6 ~~whose custody is the subject of controversy in said court or~~  
7 ~~who is in the custody of the court or of a probation officer~~  
8 ~~or any other officer or person designated by the court as a~~  
9 ~~special officer, or any child who has been by said court~~  
10 ~~committed to any person, persons, institutions, associations,~~  
11 ~~corporation, agency, the Department of Youth Services or the~~  
12 ~~Department of Human Resources under the terms of this chapter;~~

13 ~~"d. Knowingly interfering with, opposing or~~  
14 ~~otherwise obstructing any probation officer or representative~~  
15 ~~of the Department of Human Resources in the performance of his~~  
16 ~~duties under this chapter; or~~

17 ~~"e. Any offenses proscribed in Sections 12-15-100,~~  
18 ~~12-15-101 or 12-15-102;~~

19 ~~"(2) In proceedings to establish paternity of a~~  
20 ~~child born out of wedlock;~~

21 ~~"(3) To try any minor or adult charged with~~  
22 ~~desertion and nonsupport in violation of law;~~

23 ~~"(4) In proceedings for the commitment of a mentally~~  
24 ~~ill or mentally retarded minor;~~

1           ~~"(5) To make parents or guardians of a child parties~~  
2 ~~to all juvenile court actions.~~

3           "(1) Contributing to the delinquency, in need of  
4 supervision, or dependency of a child in violation of Section  
5 12-15-111.

6           "(2) Opposing or interfering with a juvenile  
7 probation officer or a representative of the Department of  
8 Human Resources in violation of Section 12-15-112.

9           "(3) Violating any of the confidentiality provisions  
10 of Sections 12-15-133, 12-15-134, 12-15-135, or 12-15-217.

11           "(4) Nonsupport in violation of Section 13A-13-4.

12           "(5) Violating any of the juvenile criminal sex  
13 offender provisions of Section 15-20-28(g) (1).

14           "(6) Violating any of the provisions of the  
15 compulsory school attendance laws in Section 16-28-12.

16           "(b) All criminal cases before the juvenile court  
17 shall be governed by the laws relating thereto and shall be  
18 initiated by complaint made before a judge or magistrate  
19 according to criminal procedure.

20           ~~"§12-15-32.~~

21           "§12-15-117. Retention and termination of  
22 jurisdiction generally.

23           ~~"(a) For the purposes of this chapter, Once a child~~  
24 ~~has been adjudicated dependent, delinquent, or in need of~~  
25 ~~supervision, jurisdiction obtained by of the juvenile court in~~



1 ~~any case of a child shall be retained by it until terminate~~  
2 ~~when the child becomes 21 years of age unless, prior thereto,~~  
3 ~~the judge of the juvenile court terminates its jurisdiction~~  
4 ~~over the case involving the child. terminated prior thereto by~~  
5 ~~order of the judge of the juvenile court except that the~~  
6 ~~juvenile court shall retain jurisdiction until the child~~  
7 ~~complies with any order of the juvenile court requiring the~~  
8 ~~payment of fines, costs, restitution, or other court ordered~~  
9 ~~monies. This section shall not be construed to affect the~~  
10 ~~jurisdiction of other courts over offenses committed by the~~  
11 ~~child after he reaches the age of 18 years.~~

12 "(b) The jurisdiction of the juvenile court shall  
13 terminate when the child is convicted or adjudicated a  
14 youthful offender as provided in Section 12-15-203(i) and  
15 Section 12-15-204(b). If a person already under the  
16 jurisdiction of the juvenile court is convicted or adjudicated  
17 a youthful offender in a criminal court of a crime committed  
18 at the age of 18 or older, the conviction or adjudication  
19 shall terminate the jurisdiction of the juvenile court.

20 ~~"(b) If a person already under the jurisdiction of~~  
21 ~~the juvenile court is convicted or adjudicated a youthful~~  
22 ~~offender in a criminal court of a crime committed after the~~  
23 ~~age of 18, the conviction or adjudication shall terminate the~~  
24 ~~jurisdiction of the juvenile court except that the juvenile~~  
25 ~~court shall retain jurisdiction until the child complies with~~

1 ~~any order of the juvenile court requiring the payment of~~  
2 ~~finer, costs, restitution, or other court ordered monies.~~

3 ~~"(c) Nothing in this section or Section 12-15-34.1~~  
4 ~~is intended to terminate the jurisdiction of a juvenile court~~  
5 ~~regarding In any case over which the juvenile court has~~  
6 ~~jurisdiction, the juvenile court shall retain jurisdiction~~  
7 ~~over an individual of any age for the enforcement of an order~~  
8 ~~any prior orders of the juvenile court requiring the payment~~  
9 ~~of fines, court costs, restitution, or other ~~court ordered~~~~  
10 ~~monies money ordered by the juvenile court until paid in full.~~

11 ~~"(d) For purposes of this chapter, any order of a~~  
12 ~~juvenile court requiring payment of fines, costs, restitution,~~  
13 ~~or other court ordered monies shall remain effective with~~  
14 ~~regard to the payments until the fines, costs, restitution, or~~  
15 ~~other court ordered monies are paid in full.~~

16 ~~"(e)(d) For purposes of enforcing any order of the~~  
17 ~~juvenile court requiring the payment of fines, court costs,~~  
18 ~~restitution, or other money ordered by the juvenile court~~  
19 ~~~~ordered monies~~, the remedies with regard to punishment for~~  
20 ~~contempt, including incarceration in jail of individuals 18~~  
21 ~~years of age or older, shall be available to the juvenile~~  
22 ~~court."~~

23 Section 6. Section 12-15-118 is added to the Code of  
24 Alabama 1975, to read as follows:

1           §12-15-118. Duties of juvenile court intake  
2 officers.

3           A person employed by the judicial branch of  
4 government who is designated by a juvenile court as a juvenile  
5 court intake officer shall perform the following duties:

6           (1) Receive and examine written complaints or  
7 petitions, made under oath, of allegations of delinquency, in  
8 need of supervision, or dependency or concerning proceedings  
9 filed pursuant to Section 12-15-132.

10          (2) Refer to the Department of Human Resources for  
11 investigations, reports, and recommendations those complaints  
12 and allegations of dependency or other appropriate matters and  
13 may refer to the Department of Human Resources for  
14 investigations, reports, and recommendations those complaints  
15 on children in need of supervision.

16          Section 7. Sections 12-15-50, 12-15-51, 12-15-52,  
17 12-15-53, 12-15-54, 12-15-55, 12-15-56, 12-15-57, 12-15-58,  
18 12-15-59, 12-15-65, 12-15-70, 12-15-73, 12-15-75, 12-15-100,  
19 12-15-101, 12-15-102, and 12-15-103 of the Code of Alabama  
20 1975, are amended and renumbered to read as follows:

21           "~~§12-15-51.~~

22           "§12-15-119. Informal adjustment of certain cases  
23 prior to filing of juvenile petition.

24           " After a verified complaint has been filed and  
25 before ~~Before~~ a petition alleging delinquency or in need of

1 supervision is filed, the ~~probation~~ juvenile court intake  
2 ~~officer or other officer of the court designated by it,~~  
3 subject to ~~its~~ the direction of the juvenile court, may give  
4 counsel and advice to the parties for the purpose of an  
5 informal adjustment pursuant to rules of procedure adopted by  
6 the Supreme Court of Alabama.

7 ~~"§12-15-50.~~

8 "§12-15-120. Cases initiated by filing of petitions  
9 by juvenile court intake officers.

10 "(a) Delinquency, child in need of supervision, and  
11 dependency cases and proceedings pursuant to Section 12-15-132  
12 ~~Cases~~ before the juvenile court shall be initiated by the  
13 filing of a petition by the juvenile court intake officer who  
14 shall receive verified complaints and proceed thereon pursuant  
15 to rules of procedure adopted by the Supreme Court of Alabama.

16 "(b) A petition alleging that a child is a  
17 delinquent child, dependent child, or a child in need of  
18 supervision shall not be filed by a juvenile court intake  
19 officer unless the juvenile court intake officer has  
20 determined and endorsed upon the petition that the juvenile  
21 court has subject matter jurisdiction and venue over the case  
22 and that the filing of the petition is in the best interests  
23 of the public and the child.

24 ~~"§12-15-52.~~

1           "§12-15-121. Form, contents, and execution of  
2     juvenile petitions.

3           "(a) A juvenile petition alleging delinquency, in  
4     need of supervision, or dependency may be signed by any person  
5     18 years of age or older, other than a juvenile court intake  
6     officer, who has knowledge of the facts alleged or is informed  
7     of them and believes that they are true. However, the person  
8     signing a dependency petition, in the petition or in an  
9     attached affidavit, shall give information, if reasonably  
10    ascertainable, as required in Section 30-3B-209.

11           "(b) A petition shall be entitled "In the matter of  
12    \_\_\_\_\_, a child" and shall be ~~verified by the person who signs~~  
13    it made under oath.

14           (c) The petition shall set forth with specificity  
15    all of the following:

16           "(1) The facts which bring the child ~~within~~ under  
17    the jurisdiction of the juvenile court, the facts constituting  
18    the alleged dependency, delinquency, or need of supervision  
19    and the facts showing that the child is in need of  
20    supervision, treatment, rehabilitation, care, or the  
21    protection of the state, as the case may be.

22           "(2) The name, age, and residence address, if ~~any~~  
23    known, of the child on whose behalf the petition is brought.

24           (3) The names and residence addresses, if known to  
25    the petitioner, of the ~~parents~~ parent, legal guardian, or

1 legal custodian of the child. If no parent, legal guardian, or  
 2 legal custodian resides or can be found within the state or if  
 3 their respective places of residence are unknown, the name of  
 4 any known adult relative residing within the ~~district~~ county  
 5 or, if there be none, the known adult relative residing  
 6 nearest to the location of the juvenile court; ~~and.~~

7 "(4) The place of ~~the child's~~ detention of the child  
 8 and the time he or she was taken into custody, if the child in  
 9 custody is alleged to be delinquent or in need of supervision.

10 "(d) When any of the facts required by subsection  
 11 (c) ~~of this section~~ are not known, except the facts required  
 12 by subdivision (4) of subsection (c) ~~of this section~~, the  
 13 petition shall so state.

14 "~~§12-15-53.~~

15 "§12-15-122. Issuance and service of summonses  
 16 generally; ~~endorsements upon summonses;~~ waiver of service of  
 17 summonses.

18 "(a) After a petition alleging delinquency, in need  
 19 of supervision, or dependency has been filed, the juvenile  
 20 court shall direct the issuance of summonses, ~~one~~ to be  
 21 directed to the child if ~~the child~~ he or she is 12 or more  
 22 years of age, ~~another~~ to the parents, legal guardian, or other  
 23 legal custodian, and to ~~others to such~~ other persons ~~as~~ who  
 24 appear to the juvenile court to be proper or necessary parties  
 25 to the proceedings, requiring them to appear personally before

1 the juvenile court at the time fixed to answer or testify as  
2 to the allegations of the petition. Where the legal custodian  
3 is summoned, the parent or legal guardian, or both, shall also  
4 be served with a summons.

5 "(b) A copy of the petition shall be attached to  
6 each summons.

7 "~~the court may endorse upon the summons an order~~  
8 directing shall direct the parents, legal guardian, or other  
9 legal custodian having the custody or control of the child to  
10 bring ~~the child~~ him or her to the hearing.

11 "~~(d) If it appears from an affidavit or sworn~~  
12 ~~statement presented to the court that the child needs to be~~  
13 ~~placed in detention or shelter or other care, the court may~~  
14 ~~endorse upon the summons an order that an officer serving the~~  
15 ~~summons shall at once take the child into custody and take the~~  
16 ~~child to the place of detention or shelter or other care~~  
17 ~~designated by the court. In any case where a child is alleged~~  
18 ~~to be delinquent for possessing a pistol, short-barreled~~  
19 ~~rifle, or short-barreled shotgun, the child shall be detained~~  
20 ~~in a detention facility until the hearing required by Section~~  
21 ~~12-15-60. "Pistol" as used in this section is defined in~~  
22 ~~Section 13A-11-70(1). "Short-barreled rifle and~~  
23 ~~short-barreled shotgun" as used in this section are defined in~~  
24 ~~Section 13A-11-62.~~

1           "~~(e)~~(d) A An adult who is a party, other than the  
2 child, may waive service of the summons by written stipulation  
3 or by voluntary appearance at the hearing.

4           "~~§12-15-54.~~

5           "§12-15-123. Manner of service of summons.

6           Service of ~~summons~~ summonses in cases filed in the  
7 jurisdiction of the juvenile court ~~coming within this chapter~~  
8 shall be pursuant to rules of procedure adopted by the Supreme  
9 Court of Alabama.

10          "~~§12-15-55.~~

11          "§12-15-124. Authority of juvenile court to make  
12 interlocutory or final dispositional orders in cases where  
13 parties served by publication.

14          The juvenile court shall ~~have authority to~~ make  
15 interlocutory and final dispositional orders in those cases in  
16 which a party or parties have been served by publication in  
17 accordance with rules adopted by the Supreme Court of Alabama.

18          "~~§12-15-56.~~

19          "§12-15-125. Taking into custody of children  
20 generally.

21          "(a) A child or minor may be taken into custody for  
22 any of the following reasons:

23                 "(1) Pursuant to an order of the juvenile court  
24 ~~under Sections 12-15-53 and 12-15-57,~~.



1           ~~"(2) For a delinquent act pursuant to the laws of~~  
 2 ~~arrest;~~

3           ~~"(3)(2) By a law enforcement officer having~~  
 4 reasonable grounds to believe that the child or minor has run  
 5 away from a juvenile detention, residential, shelter, or other  
 6 care facility.

7           ~~"(4)(3) By a law enforcement officer having~~  
 8 reasonable grounds to believe that the child or minor is  
 9 suffering from an illness or injury or is in immediate danger  
 10 from the ~~child's~~ surroundings of the child or minor and that  
 11 the ~~child's~~ immediate removal of the child or minor from ~~such~~  
 12 those surroundings is necessary for the protection of the  
 13 health and safety of ~~such~~ the child, or minor.

14           ~~"(5) By a law enforcement officer who has reasonable~~  
 15 ~~grounds to believe that the child has run away from his~~  
 16 ~~parents, guardian or other custodian;~~

17           ~~"(6) By a law enforcement officer who has reasonable~~  
 18 ~~grounds to believe that the child has no parent, guardian,~~  
 19 ~~custodian or other suitable person willing and able to provide~~  
 20 ~~supervision and care for such child;~~

21           "(b) In addition to the grounds listed in subsection  
 22 (a), a child may also be taken into custody for any of the  
 23 following reasons:

24           "(1) By a law enforcement officer for an alleged  
 25 delinquent act pursuant to the laws of arrest;

1           "(2) By a law enforcement officer who has reasonable  
 2 grounds to believe that the child has run away from his or her  
 3 parents, legal guardian, or other legal custodian;

4           "(3) By a law enforcement officer who has reasonable  
 5 grounds to believe that the child has no parent, legal  
 6 guardian, legal custodian, or other suitable person willing  
 7 and able to provide supervision and care for the child; or

8           "~~(7)~~(4) By a juvenile probation officer or  
 9 ~~representative of the Department of Human Resources,~~ pursuant  
 10 to Section ~~12-15-7,~~ or 12-15-107.

11           "~~(8) By a law enforcement officer pursuant to an~~  
 12 ~~order of the court directing that a child be taken into~~  
 13 ~~custody pending hearing on allegations that the child is~~  
 14 ~~suffering from illness or injury or is in immediate danger~~  
 15 ~~from his surroundings and ordering that the child's immediate~~  
 16 ~~removal from such surroundings is necessary for the protection~~  
 17 ~~of the health and safety of such child.~~

18           "~~§12-15-57.~~

19           "§12-15-126. Issuance of pick-up order for taking  
 20 into custody and bringing before court of child upon failure  
 21 of parents, etc., to bring child before court upon request.

22           "~~If a parent, guardian or other custodian fails,~~  
 23 ~~when requested, to bring the child before the court as~~  
 24 ~~provided in subdivision (2) of subsection (a) of Section~~

1 ~~12-15-58, the court may issue its order directing that the~~  
2 ~~child be taken into custody and brought before the court.~~

3 "If it appears from a sworn statement, written or  
4 verbal, presented to the juvenile court that a child needs to  
5 be placed in detention or shelter or other care, the juvenile  
6 court may issue a pick-up order that a law enforcement officer  
7 or other person authorized by this chapter shall at once take  
8 the child into custody and take him or her to the place of  
9 detention or shelter or other care designated by the juvenile  
10 court.

11 ~~"§12-15-58.~~

12 ~~"§12-15-127. Release, delivery to detention or~~  
13 ~~shelter care facility, medical facility, etc., of children~~  
14 ~~taken into custody generally.~~

15 "(a) A person taking a child into custody without an  
16 order of the juvenile court shall, with all possible speed,  
17 and in accordance with this chapter and the rules of court  
18 pursuant thereto:

19 "(1) Release the child to the ~~child's~~ parents, legal  
20 guardian, or legal custodian of the child or other suitable  
21 person able ~~and willing~~ to provide supervision and care for  
22 the child and issue ~~oral~~ verbal counsel and warning as may be  
23 appropriate.

24 "(2) Release the child to the ~~child's~~ parents, legal  
25 guardian, or legal custodian of the child upon ~~their~~ his or

1 her promise to bring the child before the juvenile court when  
2 requested, unless the ~~child's~~ placement of the child in  
3 detention or shelter care appears required. If a parent, legal  
4 guardian, or other legal custodian fails, when requested, to  
5 bring the child before the juvenile court as provided in this  
6 section, the juvenile court may issue an order directing that  
7 the child be taken into custody and brought before the  
8 juvenile court.

9 "(3) Bring the child, if not released, to the ~~intake~~  
10 ~~office of probation services or deliver the child to a place~~  
11 ~~of detention or shelter care~~ place designated by the juvenile  
12 court and, ~~in the most expeditious manner possible,~~ give  
13 written notice of the action taken, ~~together with a statement~~  
14 ~~of~~ and the reasons for taking the child into custody, ~~in~~  
15 ~~writing~~ to the juvenile court intake office officer, ~~to the~~  
16 court and to the parent, legal guardian, or other legal  
17 custodian of the child, and, in the case of dependency, to the  
18 Department of Human Resources, ~~except in the case of a~~  
19 ~~juvenile being taken into custody for a violation of a~~  
20 ~~municipal curfew ordinance. In curfew violation cases, if the~~  
21 ~~child is not released, the child may be taken to a facility~~  
22 ~~which has been previously approved by the court as a curfew~~  
23 ~~detention facility. A child taken to a curfew detention~~  
24 ~~facility shall be released within eight hours.~~

1           "~~(b) Whenever a child, taken into custody pursuant~~  
2 ~~to this chapter, is brought to a shelter or other care~~  
3 ~~facility established or approved by the Department of Human~~  
4 ~~Resources or the Department of Youth Services or to the intake~~  
5 ~~office, the person in charge of the intake office or the~~  
6 ~~representative of the Department of Human Resources, prior~~  
7 Prior to admitting authorizing the admission of the child to  
8 detention, shelter, or other for care, the juvenile court  
9 intake officer, on an allegation of delinquency or in need of  
10 supervision or of dependency, shall review the need for  
11 detention or shelter care, including reviewing the written  
12 notice of the person who took the child into custody without  
13 an order of the juvenile court, and shall direct the law  
14 enforcement officer or other person currently having the child  
15 in custody to release the child unless detention or shelter  
16 care is required ~~under~~ pursuant to Section 12-15-59 12-15-128.  
17 The juvenile court intake officer may allow release with or  
18 without electronic or telephone monitoring pending the 72-hour  
19 hearing requirement ~~or has been ordered by the court.~~

20           "(c) A person taking a child or minor into custody  
21 pursuant to ~~subdivisions (1) and (7) of Section 12-15-56~~  
22 subdivision (3) of Section 12-15-125 shall bring the child or  
23 minor to the place of detention or shelter care or to the  
24 intake office which shall thereupon proceed in accordance with  
25 this chapter a medical or mental health facility if the child

1 or minor is believed to be suffering from a serious mental  
2 health condition, illness, or injury which requires either  
3 prompt treatment or prompt diagnosis for the welfare of the  
4 child or minor or for evidentiary purposes, and, in the most  
5 expeditious manner possible, give notice of the action taken  
6 together with a statement of taking the child or minor into  
7 custody in writing to the court, the parents, legal guardian  
8 or other legal custodian and to the intake office and to the  
9 Department of Human Resources in the case of a dependency  
10 allegation.

11 ~~"(d) A person taking a child into custody pursuant~~  
12 ~~to subdivision (4) of Section 12-15-56 shall bring the child~~  
13 ~~to a medical or mental health facility designated by the court~~  
14 ~~if the child is believed to be suffering from a serious mental~~  
15 ~~health condition, illness, or injury which requires either~~  
16 ~~prompt treatment or prompt diagnosis for the child's welfare~~  
17 ~~or for evidentiary purposes, and, in the most expeditious~~  
18 ~~manner possible, give notice of the action taken together with~~  
19 ~~a statement of taking the child into custody in writing to the~~  
20 ~~court, the parents, guardian or other custodian and to the~~  
21 ~~intake office and to the Department of Human Resources in the~~  
22 ~~case of a dependency allegation.~~

23 ~~"§12-15-59.~~

1           "§12-15-128. Authority and criteria for continuation  
 2 of detention or shelter care of children taken into custody  
 3 beyond 72 hours.

4           "~~Unless otherwise ordered by the court pursuant~~  
 5 ~~to the provisions of this chapter, a~~ An allegedly delinquent  
 6 child, dependent child, or child in need of supervision  
 7 lawfully taken into custody ~~as an allegedly dependent or~~  
 8 ~~delinquent child or a child in need of supervision~~ shall  
 9 immediately be released, upon the ascertainment of the  
 10 necessary facts, to the care, custody, and control of ~~such~~  
 11 ~~child's~~ the parent, legal guardian, or legal custodian of the  
 12 child or other suitable person able ~~and willing~~ to provide  
 13 supervision and care for ~~such~~ the child, ~~except in situations~~  
 14 ~~where~~ unless the juvenile court or juvenile court intake  
 15 officer, subject to the limitations in Section 12-15-208,  
 16 finds any of the following:

17           "(1) The child has no parent, legal guardian, legal  
 18 custodian, or other suitable person able ~~and willing~~ to  
 19 provide supervision and care for ~~such~~ the child~~;~~.

20           "(2) The release of the child would present a clear  
 21 and substantial threat of a serious nature to the person or  
 22 property of others and where the child is alleged to be  
 23 delinquent~~;~~.

24           "(3) The release of ~~such~~ the child would present a  
 25 serious threat of substantial harm to ~~such~~ the child~~;~~~~or.~~

1           "(4) The child has a history of failing to appear  
2 for hearings before the juvenile court.

3           "(5) The child is alleged to be delinquent for  
4 possessing a pistol, short-barreled rifle, or short-barreled  
5 shotgun, in which case the child may be detained in a juvenile  
6 detention facility until the hearing required by Section  
7 12-15-207. Pistol as used in this section shall be as defined  
8 in subdivision (1) of Section 13A-11-70. Short-barreled rifle  
9 and short-barreled shotgun as used in this section shall be as  
10 defined in Section 13A-11-62.

11           "(b) The criteria for continuing the allegedly  
12 delinquent child or child in need of supervision in detention  
13 or shelter or other care, or for continuing the allegedly  
14 dependent child in shelter or other care, as set forth in  
15 subsection (a) ~~of this section~~ shall govern the decisions of  
16 all persons involved in determining whether the continued  
17 detention or shelter care is warranted pending juvenile court  
18 disposition and ~~such~~ those criteria shall be supported by  
19 clear and convincing evidence in support of the decision not  
20 to release the child.

21           "(c) In releasing a child, a juvenile court or the  
22 juvenile court intake officer may impose restrictions on the  
23 travel, association, or place of abode of the child or place  
24 the child under the supervision of a department, agency, or  
25 organization agreeing to supervise him or her, and may place



1 the child under supervision such as electronic or telephone  
2 monitoring, if available. A child, once placed in detention,  
3 may also be released pursuant to the same conditions should  
4 there be a need to release the child from a juvenile detention  
5 facility because of an overcrowded population.

6 ~~"§12-15-65.~~

7 ~~"§12-15-129. Conduct of hearings and disposition of~~  
8 ~~cases generally; special procedure for possible multiple needs~~  
9 ~~child; reasonable efforts.~~

10 ~~"(a) Hearings under~~ All hearings pursuant to this  
11 chapter shall be conducted by the juvenile court without a  
12 jury and separate from other proceedings. The general public  
13 shall be excluded from delinquency, in need of supervision, or  
14 dependency hearings and only the parties, their counsel,  
15 witnesses, and other persons requested by a party shall be  
16 admitted. Other persons as the juvenile court finds to have a  
17 proper interest in the case or in the work of the juvenile  
18 court may be admitted by the juvenile court on condition that  
19 the persons refrain from divulging any information which would  
20 identify the child under the jurisdiction of the juvenile  
21 court or family involved. If the juvenile court finds that it  
22 is in the best interest interests of the child under the  
23 jurisdiction of the juvenile court, the child may be  
24 temporarily excluded from the hearings, except while  
25 allegations of delinquency or in need of supervision are being

1 heard. ~~Relatives, pre-adoptive parents, or foster parents who~~  
2 ~~have been approved by the Department of Human Resources~~  
3 ~~providing care to a child shall be given notice and an~~  
4 ~~opportunity to be heard in any hearing to be held with respect~~  
5 ~~to a child in their care, except that no such person shall be~~  
6 ~~made a party to the case by virtue solely of such notice and~~  
7 ~~opportunity to be heard.~~

8           ~~"(b) After the filing of a petition when the~~  
9 ~~petition alleges or evidence reveals to the court that a child~~  
10 ~~may be a multiple needs child, and that previous plans~~  
11 ~~developed by an agency, or agencies, have not met the needs of~~  
12 ~~the child, the court, on its own motion or motion of a party~~  
13 ~~or party's parent or guardian or upon motion of the Department~~  
14 ~~of Youth Services, a school system, the Department of Human~~  
15 ~~Resources, the Department of Public Health, the Department of~~  
16 ~~Mental Health and Mental Retardation, or juvenile court~~  
17 ~~probation services, may refer the child to the county~~  
18 ~~children's services facilitation team for evaluation and~~  
19 ~~review. This evaluation may occur prior to any hearing, or the~~  
20 ~~court may suspend proceedings during the hearing or prior to~~  
21 ~~disposition to review the findings and recommendations of the~~  
22 ~~county children's services facilitation team.~~

23           ~~"(c) The parties shall be advised of their rights~~  
24 ~~under law in their first appearance at intake and before the~~  
25 ~~court. They shall be informed of the specific allegations in~~

1 ~~the petition and given an opportunity to admit or deny the~~  
2 ~~allegations.~~

3 ~~"(d) If the allegations are denied, the court shall~~  
4 ~~proceed to hear evidence on the petition. The court shall~~  
5 ~~record its findings on whether or not the child is a dependent~~  
6 ~~child or, if the petition alleges delinquency or in need of~~  
7 ~~supervision, as to whether or not the acts ascribed to the~~  
8 ~~child were committed by the child. If the court finds that the~~  
9 ~~allegations in the petition have not been established, it~~  
10 ~~shall dismiss the petition and order the child discharged from~~  
11 ~~any detention or temporary care, theretofore ordered in the~~  
12 ~~proceedings.~~

13 ~~"(e) If the court finds on proof beyond a reasonable~~  
14 ~~doubt, based upon competent, material, and relevant evidence,~~  
15 ~~that a child committed the acts by reason of which the child~~  
16 ~~is alleged to be delinquent or in need of supervision it may~~  
17 ~~proceed immediately to hear evidence as to whether the child~~  
18 ~~is in need of care or rehabilitation and to file its findings~~  
19 ~~thereon. In the absence of evidence to the contrary, evidence~~  
20 ~~of the commission of an act which constitutes a felony is~~  
21 ~~sufficient to sustain a finding that the child is in need of~~  
22 ~~care or rehabilitation. If the court finds that the child is~~  
23 ~~not in need of care or rehabilitation, it shall dismiss the~~  
24 ~~proceedings and discharge the child from any detention or~~  
25 ~~other temporary care theretofore ordered.~~

1           ~~"(f) If the court finds from clear and convincing~~  
2 ~~evidence, competent, material, and relevant in nature, that~~  
3 ~~the child is dependent and in need of care or supervision or~~  
4 ~~from clear and convincing evidence, competent, relevant, and~~  
5 ~~material in nature, that the child is in need of care or~~  
6 ~~rehabilitation as a delinquent child or a child in need of~~  
7 ~~supervision, or from clear and convincing evidence, competent,~~  
8 ~~relevant, and material in nature that parental rights should~~  
9 ~~be terminated, the court may proceed immediately, in the~~  
10 ~~absence of objection showing good cause or at a postponed~~  
11 ~~hearing, to make proper disposition of the case.~~

12           ~~"(g) If the court enters an order removing a child~~  
13 ~~from his or her home or continuing a child in a placement~~  
14 ~~outside of his or her home pursuant to this title, the order~~  
15 ~~shall contain as specific findings, if warranted by the~~  
16 ~~evidence, all of the following:~~

17           ~~"(1) That continuing the placement of a child in his~~  
18 ~~or her home would be contrary to the best interests of the~~  
19 ~~child.~~

20           ~~"(2) That reasonable efforts have been made to~~  
21 ~~prevent or eliminate the need for removal of the child from~~  
22 ~~his or her home, or that an emergency situation exists which~~  
23 ~~requires the immediate temporary removal of the child from his~~  
24 ~~or her home and that it is reasonable not to make efforts to~~

1 ~~prevent removal of the child from his or her home due to the~~  
2 ~~emergency situation.~~

3 ~~"(3) That reasonable efforts have been made or will~~  
4 ~~be made to reunite the child and his or her family, or that~~  
5 ~~efforts to reunite the child and his or her family have~~  
6 ~~failed.~~

7 ~~"(h) In disposition hearings all relevant and~~  
8 ~~material evidence helpful in determining the questions~~  
9 ~~presented, including oral and written reports, may be received~~  
10 ~~by the court and may be relied upon to the extent of its~~  
11 ~~probative value, even though not competent in a hearing on the~~  
12 ~~petition. The parties or their counsel shall be afforded an~~  
13 ~~opportunity to examine and controvert written reports so~~  
14 ~~received and to cross-examine individuals making reports.~~

15 ~~"(i) A statement made by a child under the age of 12~~  
16 ~~describing any act of sexual conduct performed with or on the~~  
17 ~~child by another, not otherwise admissible by statute or court~~  
18 ~~rule, is admissible in all dependency cases brought by the~~  
19 ~~State of Alabama acting by and through a local department of~~  
20 ~~human resources if:~~

21 ~~"(1) The statement was made to a social worker,~~  
22 ~~child sex abuse therapist or counselor, licensed psychologist,~~  
23 ~~physician, or school or kindergarten teacher or instructor,~~  
24 ~~and~~

1           ~~"(2) The court finds that the time, content, and~~  
2           ~~circumstances of the statement provide sufficient indicia of~~  
3           ~~reliability. In making its determination the court may~~  
4           ~~consider the physical and mental age and maturity of the~~  
5           ~~child, the nature and duration of the abuse or offense, the~~  
6           ~~relationship of the child to the offender, and any other~~  
7           ~~factor deemed appropriate.~~

8           ~~"A statement may not be admitted under this section~~  
9           ~~unless the proponent of the statement makes known to the~~  
10          ~~adverse party the proponent's intention to offer the statement~~  
11          ~~and the particulars of the statement sufficiently in advance~~  
12          ~~of the proceedings to provide the adverse party with a fair~~  
13          ~~opportunity to rebut the statement. This child hearsay~~  
14          ~~exception applies to all hearings involving dependency~~  
15          ~~including, but not limited to, the 72-hour hearing, the~~  
16          ~~dependency hearing, and the disposition hearing.~~

17          ~~"(j) This exception contained herein shall not apply~~  
18          ~~to a criminal proceeding or charge.~~

19          ~~"(k) On its own motion or that of a party, the court~~  
20          ~~may continue the disposition hearing under this section for a~~  
21          ~~reasonable period to receive reports and other evidence~~  
22          ~~bearing on the disposition or need for care or rehabilitation.~~  
23          ~~In this event, the court shall make an appropriate order for~~  
24          ~~detention or temporary care for the child, or the child's~~  
25          ~~release for detention or temporary care during the period of~~

1 ~~the continuance, subject to such conditions as the court may~~  
2 ~~impose.~~

3 ~~"(l) A proceeding to allow a child to withdraw from~~  
4 ~~school shall be commenced by petition. The petition shall be~~  
5 ~~granted only upon a showing of good cause for withdrawal. No~~  
6 ~~child shall be deemed incorrigible, in need of supervision, or~~  
7 ~~unamenable to treatment based on the filing of the petition.~~

8 ~~"In the case of any child 14 years of age or older,~~  
9 ~~where the court finds that the school officials have made a~~  
10 ~~diligent effort to meet the child's educational needs and,~~  
11 ~~after study, the court further finds that the child is not~~  
12 ~~able to benefit appreciably from further schooling, the court~~  
13 ~~may excuse the child from further compliance with any legal~~  
14 ~~requirement of compulsory school attendance and authorize the~~  
15 ~~child, notwithstanding the provisions of any other law, to be~~  
16 ~~employed in any occupation which is not legally declared~~  
17 ~~hazardous for children under the age of 18.~~

18 ~~"(m) As used in this chapter, "reasonable efforts"~~  
19 ~~refers to efforts made to preserve and reunify families prior~~  
20 ~~to the placement of a child in foster care, to prevent or~~  
21 ~~eliminate the need for removing the child from the child's~~  
22 ~~home, and to make it possible for a child to return safely to~~  
23 ~~the child's home. In determining the reasonable efforts to be~~  
24 ~~made with respect to a child, and in making such reasonable~~  
25 ~~efforts, the child's health and safety shall be the paramount~~

1 ~~concern. If continuation of reasonable efforts is determined~~  
2 ~~to be inconsistent with the permanency plan for the child,~~  
3 ~~reasonable efforts shall be made to place the child and to~~  
4 ~~complete whatever steps are necessary to finalize the~~  
5 ~~permanent placement of the child. Reasonable efforts shall not~~  
6 ~~be required to be made where the parental rights to a sibling~~  
7 ~~have been involuntarily terminated or where a court of~~  
8 ~~competent jurisdiction has determined that a parent has done~~  
9 ~~any of the following:~~

10 ~~"(1) Subjected the child to an aggravated~~  
11 ~~circumstance, including, but not limited to, abandonment,~~  
12 ~~torture, chronic abuse, substance abuse, or sexual abuse.~~

13 ~~"(2) Committed murder or voluntary manslaughter of~~  
14 ~~another child of such parent.~~

15 ~~"(3) Aided or abetted, attempted, conspired, or~~  
16 ~~solicited to commit murder or voluntary manslaughter of~~  
17 ~~another child of such parent.~~

18 ~~"(4) Committed a felony assault which resulted in~~  
19 ~~the serious bodily injury to the child or another child of~~  
20 ~~such parent. The term "serious bodily injury" means bodily~~  
21 ~~injury which involves substantial risk of death, extreme~~  
22 ~~physical pain, protracted and obvious disfigurement, or~~  
23 ~~protracted loss or impairment of the function of a bodily~~  
24 ~~member, organ, or mental faculty.~~



1           ~~"Nothing in the exceptions to making reasonable~~  
2 ~~efforts listed in this subsection shall be interpreted to~~  
3 ~~require the reunification of a child with a stepparent or~~  
4 ~~paramour of a parent under similar circumstances.~~

5           ~~"(n) If reasonable efforts are not made with respect~~  
6 ~~to a child as a result of a determination made by a court of~~  
7 ~~competent jurisdiction in situations as described above, a~~  
8 ~~permanency hearing, as provided in Section 12-15-62, shall be~~  
9 ~~held for the child within 30 days after the determination.~~  
10 ~~Reasonable efforts shall be made to place the child and to~~  
11 ~~complete whatever steps are necessary to finalize the~~  
12 ~~permanent placement of the child. Reasonable efforts to place~~  
13 ~~a child for adoption or with a legal guardian or custodian may~~  
14 ~~be made concurrently with other reasonable efforts.~~

15           ~~"§12-15-70.~~

16           ~~"§12-15-130. Ordering, conduct, and certification of~~  
17 ~~findings of mental and physical examinations of children;~~  
18 ~~proceedings as to minors or children believed to be mentally~~  
19 ~~ill or retarded generally; ordering of treatment or care for~~  
20 ~~children found in need of medical treatment, dental care,~~  
21 ~~etc., and payment therefor; granting by juvenile court of~~  
22 ~~authority to order emergency medical care for children.~~

23           ~~"(a) Where there are indications that a child may be~~  
24 ~~physically ill, mentally ill, or mentally retarded, or an~~  
25 ~~evaluation of a child is needed to help determine issues of~~

1 competency to understand judicial proceedings, mental state at  
2 the time of the offense, or the ability of the child to assist  
3 his or her attorney, the juvenile court, on its own motion or  
4 motion by the prosecutor, or that of the child's attorney or  
5 guardian ad litem for the child, may order the child to be  
6 examined at a suitable place by a physician, psychiatrist,  
7 psychologist, or other qualified examiner, under the  
8 supervision of a physician, psychiatrist, or psychologist who  
9 shall certify the findings of the examiner in writing, or a  
10 qualified examiner approved by the Department of Mental Health  
11 and Mental Retardation prior to a hearing on the merits of the  
12 petition.

13 "(b) The examinations made prior to a hearing as  
14 provided for in subsection (a) shall be conducted on an  
15 outpatient basis unless the juvenile court finds that  
16 placement in a hospital or other appropriate facility is  
17 necessary.

18 "(c) The juvenile court, after a hearing, may order  
19 an examination, as described in subsection (a), of a parent,  
20 legal guardian, or legal custodian who gives his or her  
21 consent and whose ability to care for or supervise a child  
22 before the juvenile court is at issue.

23 "(d) The juvenile court ~~in its discretion may,~~  
24 either before or after a hearing, ~~may~~ cause any child ~~within~~  
25 ~~its~~ under the jurisdiction of the juvenile court to be given a

1 physical or mental examination, or both, by a competent  
2 physician, psychiatrist, psychologist, or other qualified  
3 examiner, under the supervision of a physician, psychiatrist,  
4 or psychologist who shall certify to the ~~examiner's~~ findings  
5 of the examiner in writing, or an examiner approved by the  
6 Department of Mental Health and Mental Retardation, to be  
7 designated by the juvenile court, ~~having jurisdiction of the~~  
8 ~~child~~ and the physician, psychiatrist, psychologist, or mental  
9 examiner shall certify to the juvenile court the condition in  
10 which the child is found.

11 "(e) If, upon ~~such the~~ examination, ~~or upon~~  
12 ~~procedure as provided in Section 12-15-90,~~ the court has there  
13 is reason to believe that a minor or child is mentally ill or  
14 mentally retarded, as defined by the Department of Mental  
15 Health and Mental Retardation, ~~in this chapter,~~ the court  
16 ~~shall proceed in the manner set out in a petition for mental~~  
17 commitment of the minor or child may be filed pursuant to  
18 Article 4, commencing with Section ~~12-15-90~~ 12-15-401.

19 "(f) Upon examination, if it appears that the child  
20 is in need of surgery, medical treatment or care, hospital  
21 care, or dental care, the juvenile court may cause the child  
22 to be treated by a competent physician, surgeon, or dentist or  
23 placed in a public hospital or other institution for training  
24 or care or in an approved private home, hospital, or  
25 institution, which will receive ~~it~~ him or her for like

1 purposes. The expense of ~~such~~ the treatment shall be a valid  
2 charge against the county unless otherwise provided for.

3 "(g) The juvenile court may grant authority to order  
4 emergency medical care to any such person, agency, or  
5 department charged with the detention, temporary shelter care, or  
6 or other care of a child ~~within its~~ under the jurisdiction of of  
7 the juvenile court.

8 "~~§12-15-73.~~

9 "§12-15-131. Issuance of orders restraining conduct  
10 of parties to proceedings.

11 "In any proceeding commenced ~~under~~ pursuant to this  
12 chapter, on ~~application~~ motion of the juvenile court or on  
13 motion of a party ~~or the court's own motion~~, the juvenile  
14 court may make an order restraining the conduct of any party  
15 over whom the juvenile court has obtained jurisdiction, if all  
16 of the following occur:

17 "(1) An order of disposition of a delinquent child,  
18 ~~or~~ dependent child, or a child in need of supervision has been  
19 made in a proceeding ~~under~~ pursuant to this chapter, and.

20 "(2) The juvenile court finds that the ~~person's~~  
21 conduct of the party is or may be detrimental or harmful to  
22 the delinquent child, dependent child, or child in need of  
23 supervision and will tend to defeat the execution of the order  
24 of disposition made, ~~and~~.

1           "(3) Notice of the ~~application or~~ motion and the  
2 grounds ~~therefor~~ therein and an opportunity to be heard  
3 thereon have been given to the ~~person~~ party against whom the  
4 order is directed.

5           "~~§12-15-75.~~

6           "§12-15-132. Proceedings against children violating  
7 terms of probation, or aftercare ~~or protective supervision;~~  
8 disposition of ~~such~~ these children.

9           "(a) A child on probation or aftercare incident to  
10 an adjudication as a delinquent child or a child in need of  
11 supervision who violates the terms of his or her probation or  
12 aftercare ~~or a child under protective supervision who fails to~~  
13 ~~conform to the terms of his protective supervision~~ may be  
14 proceeded against for a revocation of ~~such~~ the order.

15           "(b) A proceeding to revoke probation, or aftercare  
16 ~~or protective supervision~~ shall be commenced by the filing of  
17 a petition entitled "petition to revoke probation," or  
18 "petition to revoke aftercare." ~~or "petition to revoke~~  
19 ~~protective supervision."~~ Except as otherwise provided, ~~such~~  
20 these petitions shall be screened, reviewed, and prepared in  
21 the same manner and shall contain the same information as  
22 provided in Sections ~~12-15-50 and 12-15-52~~ 12-15-120 and  
23 12-15-121. The petition shall recite the date that the child  
24 was placed on probation, or aftercare ~~or under protective~~  
25 ~~supervision~~ and shall state the time and manner in which

1 notice of the terms of probation, or aftercare ~~or protective~~  
2 ~~supervision~~ was given.

3 "(c) Probation, or aftercare ~~or protective~~  
4 ~~supervision~~ revocation proceedings shall require clear and  
5 convincing evidence. In all other respects, proceedings to  
6 revoke probation, or aftercare ~~or protective~~ supervision shall  
7 be governed by the procedures, safeguards, and rights and  
8 duties applicable to delinquency, and child in need of  
9 supervision ~~and dependency~~ cases contained in this chapter.

10 "(d) If a child is found to have violated the terms  
11 of his or her probation or aftercare pursuant to a revocation  
12 hearing, the juvenile court may extend the period of probation  
13 or aftercare or make any other order of disposition specified  
14 for a child adjudicated delinquent or in need of supervision.  
15 ~~If a child is found to have violated the terms of his~~  
16 ~~protective supervision pursuant to a revocation hearing, the~~  
17 ~~court may extend the period of protective supervision or may~~  
18 ~~make any order of disposition specified for a child~~  
19 ~~adjudicated dependent.~~

20 "(e) A violation of probation for a child in need of  
21 supervision is not an adjudication of delinquency.

22 "~~§12-15-100.~~

23 "§12-15-133. Filing and inspection of records, ~~etc.~~

24 "(a) ~~Social, medical, and psychiatric or~~  
25 ~~psychological records, including reports of preliminary~~

1 ~~inquiries and predisposition studies, of delinquent, in need~~  
2 ~~of supervision and dependent children, including supervision~~  
3 ~~records of such children, shall be filed separate from other~~  
4 ~~files and records of the court and shall be open to inspection~~  
5 ~~and copying, only by the following: The following records,~~  
6 ~~reports, and information acquired or generated in juvenile~~  
7 ~~courts concerning children shall be confidential and shall not~~  
8 ~~be released to any person, department, agency, or entity,~~  
9 ~~except as provided elsewhere in this section:~~

10 "(1) Juvenile legal files (including formal  
11 documents as petitions, notices, motions, legal memoranda,  
12 orders, and decrees).

13 "(2) Social records, including but not limited to:

14 "a. Records of juvenile probation officers.

15 "b. Records of the Department of Human Resources.

16 "c. Records of the Department of Youth Services.

17 "d. Medical records.

18 "e. Psychiatric or psychological records.

19 "f. Reports of preliminary inquiries and  
20 predisposition studies.

21 "g. Supervision records.

22 "h. Birth certificates.

23 "i. Individualized service plans.

24 "j. Education records, including, but not limited  
25 to, individualized education plans.

1           "k. Detention records.

2           "l. Demographic information that identifies a child  
3 or the family of a child.

4           "(3) State Criminal Justice Information System  
5 records.

6           "(4) Juvenile criminal sex offender notification  
7 records.

8           "(b) The records, reports, and information described  
9 in subsection (a) shall be filed separately from other files  
10 and records of the court. The juvenile legal files described  
11 in subdivision (1) of subsection (a) shall be maintained in a  
12 separate file from all other juvenile records, reports, and  
13 information.

14           "(c) Subject to applicable federal law, the records,  
15 reports, and information described in subsection (a) shall be  
16 open to inspection and copying only by the following, under  
17 the specified circumstances:

18           "(1) The judge and, juvenile probation officers, and  
19 professional staff assigned to serve or contracted for service  
20 to the juvenile court.

21           "(2) Representatives of a public or private agency  
22 or department providing supervision or having legal custody of  
23 the child.



1           ~~"(3) Any other person or agency that the juvenile~~  
2 ~~court determines, after a hearing has a legitimate interest in~~  
3 ~~the case or in the work of the court.~~

4           ~~"(4) The probation and other professional staff~~  
5 ~~assigned to serve a criminal court, including the prosecutor~~  
6 ~~and the attorney for the defendant, for use in considering the~~  
7 ~~sentence to be imposed upon a convicted person, or one~~  
8 ~~adjudicated a youthful offender, who, prior thereto, had been~~  
9 ~~a party to the proceedings in court.~~

10           "(3) The parent (except when parental rights have  
11 been terminated), the legal guardian of the child, and the  
12 legal custodian of the child.

13           "(4) The subject of the proceedings and his or her  
14 counsel and guardian ad litem. As used in this section, the  
15 term counsel means a child's attorney and an attorney for a  
16 criminal defendant who was formerly a child subject to  
17 proceedings in juvenile court.

18           "(5) The judge, probation, and other professional  
19 staff assigned to serve serving a criminal court when handling  
20 criminal cases for investigating or considering youthful  
21 offender applications for an individual, who, prior thereto,  
22 had been the subject of proceedings in juvenile court.

23           ~~"(6) The parent of the child, except when parental~~  
24 ~~rights have been terminated, or guardian and the counsel and~~  
25 ~~the guardian ad litem of the child.~~

1           "(6) The judge, probation, and other professional  
2 staff, including the prosecutor and the attorney for the  
3 defendant, serving a court handling criminal cases for  
4 completing sentencing standards worksheets and considering the  
5 sentence upon a person charged with a criminal offense who,  
6 prior thereto, had been the subject of proceedings in juvenile  
7 court.

8           "(7) The principal of the school in which the child  
9 is enrolled, or the representative of the principal, ~~and other~~  
10 ~~school officials as the principal deems necessary,~~ upon  
11 written petition to the juvenile court setting forth the  
12 reasons why the safety or welfare, or both, of the school, its  
13 students, or personnel, necessitate production of the  
14 information and without which the safety and welfare of the  
15 school, its students, and personnel, would be threatened;  
16 provided, however, certain information concerning children  
17 adjudicated delinquent of certain offenses shall be provided  
18 as set forth in Section 12-15-217.

19           "(8) The Alabama Sentencing Commission, as set forth  
20 in Section 12-25-11.

21           ~~"(b) All or any part of the records enumerated in~~  
22 ~~subsection (a) or information secured from the records, when~~  
23 ~~presented to and used by the judge in court or otherwise in a~~  
24 ~~proceeding under this chapter, shall also be made available to~~

1 ~~the parties to the proceedings and their counsel and~~  
 2 ~~representatives.~~

3 ~~"(c) All other court records, including the docket,~~  
 4 ~~petitions, motions, and other papers filed with a case,~~  
 5 ~~transcripts of testimony, findings, verdicts, orders, and~~  
 6 ~~decrees shall be open to inspection by those persons and~~  
 7 ~~agencies designated in subsections (a) and (b).~~

8 "(d) Upon determining a legitimate need for access,  
 9 and subject to applicable federal law, the juvenile court may  
 10 also grant access to specific records, reports, and  
 11 information to another person, department, entity, or agency.  
 12 The determination of legitimate need by the juvenile court  
 13 shall be based upon a written request filed with the juvenile  
 14 court stating the following:

15 "(1) The reason the person, department, entity, or  
 16 agency is requesting the information.

17 "(2) The use to be made of the information.

18 "(3) The names of those persons or entities that  
 19 will have access to the information.

20 ~~"(d)(e) Petitions, motions, juvenile court notices,~~  
 21 ~~or dispositions shall be open to inspection and copying by the~~  
 22 ~~victim or the victim's representatives.~~

23 "(f) Subject to applicable confidentiality  
 24 disclosure and case restrictions imposed by federal or state  
 25 law, confidential juvenile legal files, as described in

1 subdivision (1) of subsection (a), may be placed on an  
2 automated information sharing system to be shared by those  
3 persons, departments, agencies, or entities who are entitled  
4 to access pursuant to this section.

5 "(e)(g) Whoever, except Except for the purposes  
6 permitted and in the manner provided by this section, whoever  
7 discloses or makes use of or knowingly permits the use of  
8 information concerning identifying a child before, or the  
9 family of a child, who is or was under the jurisdiction of the  
10 juvenile court, where this information is directly or  
11 indirectly derived from the records of the juvenile court or  
12 acquired in the course of official duties, upon conviction  
13 thereof, shall be guilty of a Class A misdemeanor within under  
14 the jurisdiction of the juvenile court and also may be subject  
15 to civil sanctions. Provided, however, that nothing in this  
16 section shall be construed to prohibit or otherwise limit  
17 counsel from disclosing confidential information obtained from  
18 the juvenile court file of the child as needed to investigate  
19 the case of the client or prepare a defense for that client,  
20 provided that the disclosure is in furtherance of counsel's  
21 representation of the party.

22 "(h) Anytime that a child commits a violent offense  
23 and is adjudicated delinquent, if that child as an adult  
24 commits the same or a similar offense, the court records

1 pertaining to the juvenile offense may be used in the  
2 prosecution of the adult offense."

3 ~~"§12-15-101.~~

4 ~~"§12-15-134. Maintenance and inspection of law~~  
5 ~~enforcement records, etc.~~

6 ~~"(a) The court shall, by rule, require all law~~ Law  
7 ~~enforcement agencies to shall~~ take special precautions to  
8 ~~insure~~ ensure that law enforcement records and files  
9 concerning a child will be maintained in a manner and ~~under~~  
10 ~~such~~ pursuant to those safeguards that will protect against  
11 disclosure to any unauthorized person, department, agency, or  
12 entity. Unless a charge of delinquency is transferred for  
13 criminal prosecution ~~under~~ pursuant to Section ~~12-15-34~~  
14 12-15-203 or the juvenile court otherwise orders in the  
15 ~~interest~~ interests of the child or of national security, the  
16 law enforcement records and files with respect to the child  
17 shall not be open to public inspection nor their contents  
18 disclosed to the public.

19 "(b) Law enforcement records and files described in  
20 subsection (a) shall be open to inspection and copying by the  
21 following:

22 "(1) A juvenile court having ~~the~~ a child currently  
23 before it in any proceeding.

24 "(2) ~~The officers~~ Personnel of the Department of  
25 Human Resources, the Department of Youth Services, public and

1 ~~nongovernmental~~ private institutions or agencies ~~to~~ of which  
2 the child ~~is currently committed~~ under the jurisdiction of the  
3 juvenile court has been placed into the legal custody and  
4 those responsible for his or her supervision after release.

5 ~~"(3) Any other person, agency, or institution, upon~~  
6 ~~written request, that the juvenile court determines to have a~~  
7 ~~legitimate interest in the case or in the work of the law~~  
8 ~~enforcement agency.~~

9 ~~"(4)~~ (3) Law enforcement officers of other  
10 jurisdictions when necessary for the discharge of their  
11 current official duties.

12 ~~"(5)~~ (4) The probation and other professional staff  
13 of a court in which the child is subsequently convicted of a  
14 criminal offense or adjudicated as a youthful offender for the  
15 purpose of a presentence report or other dispositional  
16 proceedings, officials of penal institutions and other penal  
17 facilities ~~to~~ into which the child is ~~committed~~ placed or a  
18 parole board in considering his or her parole or discharge or  
19 in exercising supervision over him or her.

20 ~~"(6)~~ (5) The probation and other professional staff  
21 serving a ~~criminal~~ court handling criminal cases when  
22 investigating or considering youthful offender applications.

23 ~~"(7)~~ (6) The parent, except when parental rights have  
24 been terminated, or legal guardian of the child ~~or other~~

1 ~~custodian and counsel for the child~~ the child's attorney and  
2 guardian ad litem.

3 "~~(8)~~ (7) The principal of the school in which the  
4 child is enrolled, or the representative of the principal, ~~and~~  
5 ~~other school officials as the principal deems necessary,~~ upon  
6 written petition to the juvenile court setting forth the  
7 reasons why the safety or welfare, or both, of the school, its  
8 students, or personnel, necessitate production of the  
9 information and without which the safety and welfare of the  
10 school, its students, and personnel, would be threatened.

11 "(c) Law enforcement records may be viewed by  
12 victims during the investigation of a crime at the discretion  
13 of the investigating officer.

14 "(d) All law enforcement agencies shall report to  
15 the Alabama Criminal Justice Information Center that a child  
16 has been charged with an act of delinquency along with any  
17 pertinent identifying information or historical data  
18 concerning that child, when either of the following occurs:

19 "(1) The child is taken into custody and charged  
20 with an act of delinquency for an act which would constitute a  
21 felony if committed by an adult, ~~or.~~

22 "(2) The child is taken into custody and charged  
23 with an act of delinquency for an act which would constitute a  
24 misdemeanor, according to subdivision (2) of Section 41-9-622  
25 if committed by an adult.

1           "(e) Nothing in this section shall be construed to  
2 prohibit or otherwise limit counsel from disclosing  
3 confidential law enforcement records relating to a client as  
4 needed to investigate the case of the client or prepare a  
5 defense for that client, provided that the disclosure is in  
6 furtherance of counsel's representation of the party.

7           "~~(e) (f) Whoever, except~~ Except as provided in  
8 subsections (a), (b), and (c) this section, whoever directly  
9 or indirectly discloses or makes use of or knowingly permits  
10 the use of information ~~concerning~~ described in this section  
11 that identifies a child described in those subsections, or the  
12 family of a child, who is or was under the jurisdiction of the  
13 juvenile court, upon conviction thereof, shall be guilty of a  
14 Class A misdemeanor within under the jurisdiction of the  
15 juvenile court.

16           "~~§12-15-102.~~

17           "§12-15-135. Taking and disposition of fingerprints,  
18 photographs, blood samples, ~~etc.~~

19           "(a) Fingerprints of a child who has been charged  
20 with ~~an~~ a delinquent act of delinquency shall be taken by the  
21 law enforcement agency taking the child into custody. The  
22 prints may be retained in a local file and a copy shall be  
23 filed with the Alabama Bureau of Investigation.

24           "(b) If latent fingerprints are found during the  
25 investigation of ~~an offense~~ a delinquent act and a law



1 enforcement officer has reason to believe that they are those  
2 of the child in custody, the officer may fingerprint the child  
3 regardless of age or ~~offense~~ delinquent act for purpose of  
4 immediate comparison with the latent fingerprints. The prints  
5 may be retained in a local file and copies shall be sent to  
6 the Alabama Bureau of Investigation.

7 "(c) ~~The court shall, by rule, require special~~  
8 Special precautions shall be taken to ~~insure~~ ensure that the  
9 fingerprints will be maintained in a manner and ~~under~~ pursuant  
10 to safeguards as to limit their use to inspection for  
11 comparison purposes by law enforcement officers or by staff of  
12 the depository only in the investigation of a crime.

13 "(d) A child who is charged with ~~an~~ a delinquent act  
14 ~~of delinquency~~ shall be photographed by the law enforcement  
15 agency taking the child into custody for criminal  
16 identification purposes. A child in custody for any other  
17 reason shall not be photographed for criminal identification  
18 purposes without the consent of the juvenile court. The  
19 photographs shall be retained in a local file with the same  
20 safeguards in place as for fingerprints.

21 "(e) Blood or other samples necessary for DNA  
22 testing may be taken for criminal identification purposes from  
23 a child who is charged with ~~an~~ a delinquent act that would  
24 constitute a Class A or B felony if committed by an adult. The  
25 samples, if taken, shall be submitted for DNA testing and the

1 DNA records shall be filed with the ~~Alabama~~ Department of  
 2 Forensic Sciences. ~~The court shall, by rule, require special~~  
 3 Special precautions shall be taken to ensure that the DNA  
 4 records will be maintained in a manner and ~~under~~ pursuant to  
 5 safeguards that will limit their use to inspection for  
 6 identification purposes by law enforcement officers or by  
 7 staff of the testing facility only in the investigation of a  
 8 crime.

9 "(f) Any person who willfully violates this section  
 10 ~~shall~~, upon conviction thereof, shall be guilty of a Class A  
 11 misdemeanor ~~within~~ under the jurisdiction of the juvenile  
 12 court.

13 "~~§12-15-103.~~

14 "§12-15-136. Proceedings for sealing ~~and destruction~~  
 15 ~~of~~ legal and social files and records of courts, ~~probation~~  
 16 ~~services, etc.~~, pertaining to certain persons and effect  
 17 thereof.

18 "(a) On motion of ~~the part of~~ a person who has been  
 19 the subject of a delinquency or child in need of supervision  
 20 ~~petition or on the court's own motion~~, the juvenile court  
 21 ~~shall vacate its order and findings and~~ may order the sealing  
 22 of the legal and social files and records of the juvenile  
 23 ~~court, probation services and of any other agency in the case~~  
 24 pertaining to the person if it finds that:

1           "(1) Two years have elapsed since the final  
 2 discharge of the person from legal custody or supervision or  
 3 two years after the entry of any other ~~court~~ order of the  
 4 juvenile court not involving custody or supervision; and

5           "(2) ~~He~~ The person has not been convicted ~~of a~~  
 6 ~~felony or misdemeanor involving moral turpitude~~ or adjudicated  
 7 delinquent or a youthful offender of any felony or a  
 8 misdemeanor involving sexual offenses, drugs, weapons, or  
 9 violence, or threats of violence, prior to the filing of the  
 10 motion and no proceeding is pending seeking ~~such~~ the  
 11 conviction or adjudication.

12           "(b) The motion and the order may include the ~~files~~  
 13 ~~and records,~~ reports, or information specified in Section  
 14 ~~12-15-100~~ 12-15-133.

15           "(c) ~~Reasonable notice~~ Notice of the motion shall be  
 16 given by the clerk of the juvenile court to all of the  
 17 following:

18           "(1) The prosecutor~~;~~.

19           "(2) The authority granting the discharge if the  
 20 final discharge was from an institution, parole~~,~~. or probation~~;~~  
 21 ~~and.~~.

22           "(3) The law enforcement officers, department~~,~~  
 23 agency, and central depository having custody of the files and  
 24 records specified in Section ~~12-15-100~~ 12-15-133 and included  
 25 in the motion.

1           "(d) Upon the entry of the order, the proceedings in  
2 the case shall be sealed. ~~treated as if they never occurred~~  
3 ~~and all index references shall be deleted and the court and~~  
4 ~~law enforcement officers and departments shall reply and the~~  
5 ~~person may reply to any inquiry that no record exists with~~  
6 ~~respect to such person. Inspection of the files and records~~  
7 ~~included in the order may thereafter be permitted by the court~~  
8 ~~only upon motion by the person who is the subject of such~~  
9 ~~records and only to those persons named in the motion;~~  
10 ~~provided, however, that the The juvenile court, in its~~  
11 ~~discretion may by special order in an individual case, may~~  
12 ~~permit inspection by or release of information in the records~~  
13 ~~to any clinic, hospital, or agency which has the person under~~  
14 ~~care.~~

15           "(e) Any adjudication of delinquency or youthful  
16 offender or conviction of a felony or ~~a crime involving moral~~  
17 ~~turpitude~~ misdemeanor involving sexual offenses, drugs,  
18 weapons, or violence, or threats of violence, subsequent to  
19 sealing shall have the effect of nullifying the sealing order.

20           "~~(f) A person who has been the subject of a~~  
21 ~~delinquency petition and has met the conditions stipulated in~~  
22 ~~subdivision (2) of subsection (a) of this section may, five~~  
23 ~~years after reaching the age of majority, file a motion~~  
24 ~~requesting the destruction of all records pertaining to his~~  
25 ~~case. If the court grants the motion, copies of the order~~

1 ~~shall be sent to all offices or agencies that are repositories~~  
2 ~~of such records and all such offices and agencies shall comply~~  
3 ~~with the order.~~

4 ~~"(g) Upon the entry of a sealing order or a~~  
5 ~~destruction order, all references including arrest, complaint,~~  
6 ~~referrals, petitions, reports and orders shall be removed from~~  
7 ~~all agency, official and institutional files and sealed or~~  
8 ~~destroyed as aforesaid and a finding of delinquency shall be~~  
9 ~~deemed never to have occurred. No child who has been the~~  
10 ~~subject of such a sealing or destruction order shall be deemed~~  
11 ~~to have been arrested ab initio within the meaning of the~~  
12 ~~general statutes with respect to proceedings so sealed or~~  
13 ~~destroyed and, in response to any inquiry or on any~~  
14 ~~application or in any proceeding, the person may state that he~~  
15 ~~has never been arrested, taken into custody, committed or~~  
16 ~~adjudicated a delinquent with regard to the proceedings so~~  
17 ~~sealed or destroyed.~~

18 ~~"(h) A person who has been the subject of a~~  
19 ~~delinquency petition shall be notified of his rights under~~  
20 ~~subsections (a) and (f) of this section at the time of his~~  
21 ~~final discharge."~~

22 Section 8. Section 12-15-137 is added to the Code of  
23 Alabama 1975, to read as follows:

1           §12-15-137. Proceedings for destruction of legal and  
2 social files and records of juvenile courts pertaining to  
3 certain persons and effect thereof.

4           (a) A person who has been the subject of a  
5 delinquency petition and has met the conditions stipulated in  
6 subdivision (2) of subsection (a) of Section 12-15-136, five  
7 years after reaching the age of majority, may file a motion  
8 requesting the destruction of all records pertaining to his or  
9 her case. If the juvenile court grants the motion, copies of  
10 the order shall be sent to all offices, departments, or  
11 agencies that are repositories of the records, and all the  
12 offices, departments, and agencies shall comply with the  
13 order.

14           (b) Upon the entry of a destruction order, all  
15 references including arrest, complaints, referrals, petitions,  
16 reports, and orders shall be removed from all department or  
17 agency official and institutional files and destroyed.

18           (c) A person who has been the subject of a  
19 delinquency petition shall be notified of his or her rights  
20 under subsection (a) of Section 12-15-136 and subsection (a)  
21 of this section and at the time of his or her final discharge.

22           Section 9. Sections 12-15-150, 12-15-151, 12-15-152,  
23 12-15-153, 12-15-154, 12-15-155, and 12-15-156 of the Code of  
24 Alabama 1975, are amended and renumbered to read as follows:

25           "~~§12-15-150.~~

1           "§12-15-138. Power of juvenile courts ~~exercising~~  
2 ~~juvenile jurisdiction~~ to enter protection or restraint ex  
3 parte order; when order may be entered; purpose of order.

4           "~~Any~~ The juvenile court ~~exercising juvenile~~  
5 ~~jurisdiction under Chapter 15 of Title 12 may,~~ at any time,  
6 after a dependency petition has been filed, or on an emergency  
7 basis, may enter an order of protection or restraint to  
8 protect the health or safety of ~~the~~ a child subject to the  
9 proceeding.

10           "~~§12-15-151.~~

11           "§12-15-139. Requisites for order; notice and  
12 hearing; evidentiary standard; showing of necessity to protect  
13 health or safety of child subject to a juvenile court  
14 proceeding, child's best interest interests of the child.

15           "A protection or restraint order may be ~~entered~~  
16 issued by the juvenile court, after notice and a hearing, upon  
17 proper showing by a preponderance of the evidence that ~~such~~ an  
18 order is necessary to protect the health or safety of the  
19 child subject to a juvenile court proceeding or is otherwise  
20 in the ~~child's best interest~~ interests of the child.

21           "~~§12-15-152.~~

22           "§12-15-140. Content of order; order may set forth  
23 reasonable conditions of behavior for parents, persons  
24 responsible for care, ~~etc.~~; enumeration of certain specific  
25 requirements which may be included in order.

1           "(a) The protection or restraint order may set forth  
 2 reasonable conditions of behavior to be observed by a person  
 3 who is a parent, legal guardian, legal custodian, or other  
 4 person legally responsible for the ~~child's~~ care of the child  
 5 subject to a juvenile court proceeding, or the spouse of the  
 6 parent, or spouse of any other person legally responsible for  
 7 the ~~child's~~ care of the child, or relatives of any of the  
 8 above, or residents of the ~~child's~~ home of the child, or any  
 9 other person.

10           "(b) The protection or restraint order ~~may,~~ among  
 11 other things, may require any ~~such person(s)~~ person or persons  
 12 to do any of the following:

13           "(1) ~~To stay~~ Stay away from the home in which the  
 14 child subject to a juvenile court proceeding resides, the  
 15 family or the child~~;~~.

16           "(2) ~~To vacate~~ Vacate the home in which the child  
 17 subject to a juvenile court proceeding resides~~;~~.

18           "(3) ~~To permit~~ Permit a parent, legal guardian, or  
 19 legal custodian to visit the child subject to a juvenile court  
 20 proceeding at stated periods ~~under~~ pursuant to stated  
 21 conditions or deny visitation~~;~~.

22           "(4) ~~To deny~~ Deny access to the home in which the  
 23 child subject to a juvenile court proceeding resides to  
 24 persons who have been harmful to the child~~;~~.



1           "(5) ~~To refrain~~ Refrain from acts of commission or  
 2           omission that tend to make the home in which the child subject  
 3           to a juvenile court proceeding resides an unsafe place for the  
 4           child~~7.~~

5           "(6) ~~To cooperate~~ Cooperate with any treatment or  
 6           Department of Human Resources service plan found necessary to  
 7           the best interests of the child subject to a juvenile court  
 8           proceeding7.

9           "(7) ~~To obtain~~ Obtain or participate in individual  
 10          or family counseling~~7.~~

11          "(8) ~~To refrain~~ Refrain from abusive, disruptive, or  
 12          harassing behavior toward the child subject to a juvenile  
 13          court proceeding, the other parent, legal guardian, or legal  
 14          custodian, or toward any person to whom custody of the child  
 15          is awarded7.

16          "(9) ~~To limit~~ Limit or refrain from contact or  
 17          communication with the child subject to a juvenile court  
 18          proceeding, family, children in the home, or any other child7  
 19          and.

20          "(10) ~~To pay~~ Pay temporary support for the child  
 21          subject to a juvenile court proceeding or other family  
 22          members; ~~to~~ pay the costs of medical, psychiatric, or physical  
 23          treatment or care of the child or other family members.

24          "~~§12-15-153.~~

1           "§12-15-141. Emergency ex parte orders authorized  
2 upon showing of verified evidence of abuse or neglect;  
3 evidence required; hearing required within 72 hours of  
4 issuance of order.

5           "The juvenile court may enter ~~a protection or~~  
6 ~~restraint~~ an ex parte order of protection or restraint on an  
7 emergency basis, without prior notice and a hearing, upon a  
8 showing of verified written or ~~oral~~ verbal evidence of abuse  
9 or neglect injurious to the health or safety of ~~the~~ a child  
10 subject to a juvenile court proceeding and the likelihood that  
11 ~~such~~ the abuse or neglect will continue unless the order is  
12 issued. If an emergency order is issued, a hearing, after  
13 notice, ~~must~~ shall be held within 72 hours of the written  
14 evidence or the next judicial business day thereafter, to  
15 either dissolve, continue, or modify the order.

16           "~~§12-15-154.~~

17           "§12-15-142. Modification, extension, or termination  
18 of order after notice and hearing for person subject thereto;  
19 findings required concerning ~~child's~~ best interests of the  
20 child subject to a juvenile court proceeding.

21           "After notice and opportunity for a hearing afforded  
22 to a person subject to a ~~protective~~ protection or restraint  
23 order, the order may be modified or extended for a further  
24 specified period, or both, or may be terminated if the

1 juvenile court finds that the best interests of the child  
 2 subject to a juvenile court proceeding will be served thereby.

3 ~~"§12-15-155.~~

4 "§12-15-143. Violations of orders punished as  
 5 contempt; ~~wilful~~ willful conduct rendering violator  
 6 responsible for court costs and attorney fees.

7 "(a) Any person violating an order of protection or  
 8 restraint shall be punishable for contempt of court, as in  
 9 other cases, and ~~shall~~ upon a finding of ~~wilful~~ willful  
 10 conduct, shall be responsible for the payment of court costs  
 11 and attorney fees incurred by any person in seeking  
 12 enforcement of the order.

13 "(b) Any person may also be charged with a willful  
 14 violation of a protection order pursuant to Section  
 15 30-5A-3(c).

16 ~~"§12-15-156.~~

17 "§12-15-144. Construction of ~~article~~ sections;  
 18 ~~article~~ sections to be read in pari materia with certain other  
 19 laws.

20 "The provisions of ~~this article~~ Sections 12-15-138  
 21 to 12-15-143, inclusive, shall be construed in pari materia  
 22 with Sections 30-5-1 through to 30-5-11, inclusive, as  
 23 amended, and other criminal laws relating to child abuse  
 24 except to the extent that there is ~~no~~ conflict herewith."

1           Section 10. The heading of Article 2 (commencing  
2 with Section 12-15-201) of Chapter 15 of Title 12 of the Code  
3 of Alabama 1975, is amended to read as follows:

4           ARTICLE 2. ~~JURISDICTION AND VENUE~~  
5           DELINQUENCY AND CHILDREN IN NEED OF SUPERVISION.

6           Section 11. Sections 12-15-201 and 12-15-202 are  
7 added to the Code of Alabama 1975, to read as follows:

8           §12-15-201. Definitions.

9           For purposes of this article, the following terms  
10 and phrases shall have the following meanings:

11           (1) AVERAGE COST OF DETENTION. The average cost of  
12 detention of children as determined from experience in Alabama  
13 and as computed by the Department of Youth Services.

14           (2) CONSENT DECREE. An order, entered after the  
15 filing of a delinquency or child in need of supervision  
16 petition and before the entry of an adjudication order,  
17 suspending the proceedings and placing the child under  
18 supervision pursuant to terms and conditions agreed to between  
19 the child and his or her parent, legal guardian, or legal  
20 custodian and approved by the juvenile court.

21           (3) NONOFFENDER. A child who is subject to the  
22 jurisdiction of the juvenile court for reasons other than the  
23 legally prohibited conduct of the child.

24           (4) STATUS OFFENDER. A status offender is an  
25 individual who has been charged with or adjudicated for

1 conduct that would not, pursuant to the law of the  
2 jurisdiction in which the offense was committed, be a crime if  
3 committed by an adult. An adjudicated status offender who  
4 violates the terms of his or her probation or aftercare  
5 remains a status offender for purposes of Section  
6 12-15-208(a)(1), unless the child is contemporaneously  
7 adjudicated for having committed a delinquent act that is not  
8 a status offense. Status offenses include, but are not limited  
9 to, the following:

10 a. Truancy.

11 b. Violations of municipal ordinances applicable  
12 only to children.

13 c. Runaway.

14 d. Beyond control.

15 e. Consumption or possession of tobacco products.

16 f. Possession and consumption of alcohol, which is a  
17 status offense by federal law, even though considered a  
18 delinquent act by state law.

19 g. Driving under the influence pursuant to Section  
20 32-5A-191(b), which is a status offense by federal law, even  
21 though considered a delinquent act by state law.

22 (5) VALID COURT ORDER. An order given by a juvenile  
23 court judge to a child who was brought before the juvenile  
24 court and made subject to the order; and who received, before  
25 the issuance of the order, the full due process rights

1 guaranteed to the child by the Constitution of the United  
2 States.

3 §12-15-202. Rights of the child.

4 (a) Rights of the child when taken into custody.

5 When a child is taken into custody, the person taking the  
6 child into custody shall inform the child of all of the  
7 following, in language understandable to the child:

8 (1) The reason that the child is being taken into  
9 custody.

10 (2) That the child has the right to communicate with  
11 his or her parent, legal guardian, or legal custodian whether  
12 or not that person is present. If necessary, reasonable means  
13 will be provided for the child to do so.

14 (3) The child has the right to communicate with an  
15 attorney. If the child does not have an attorney, one will be  
16 appointed for him or her. If the child has an attorney who is  
17 not present, reasonable means shall be provided for the child  
18 to communicate with the attorney.

19 (b) Rights of the child before being questioned  
20 while in custody. Before the child is questioned about  
21 anything concerning the charge on which the child was taken  
22 into custody, the person asking the questions shall inform the  
23 child of the following rights:

24 (1) That the child has the right to a child's  
25 attorney.

1           (2) That if the child is unable to pay for a child's  
2 attorney and if the parent, legal guardian, or legal custodian  
3 of the child has not provided a child's attorney, one will be  
4 appointed.

5           (3) That the child is not required to say anything  
6 and that anything the child says may be used against the  
7 child.

8           (4) That the child has a right to communicate with  
9 his or her parent, legal guardian, or legal custodian, whether  
10 or not that person is present. If necessary, reasonable means  
11 will be provided for the child to do so.

12           (5) That even if the child's attorney is not present  
13 or has not yet been appointed, the child has the right to  
14 communicate with him or her and that, if necessary, reasonable  
15 means will be provided for the child to do so.

16           (c) When a child is brought to the juvenile court  
17 intake office or delivered to a juvenile detention facility or  
18 shelter care facility, the juvenile court intake officer or  
19 person in charge of the facility shall immediately inform the  
20 child of the following:

21           (1) The reason for the detention of the child.

22           (2) The right of the child to a hearing to determine  
23 if continued detention or shelter care is needed as provided  
24 in this article.

1           (3) That the parent, legal guardian, or legal  
2           custodian will be informed of the whereabouts of the child and  
3           the reason for the detention of the child.

4           (d) Rights of the child upon detention in a juvenile  
5           court intake office or juvenile detention facility or shelter  
6           care facility. When a child is detained pursuant to subsection  
7           (c), the person in charge of the juvenile court intake office  
8           or the facility shall notify the child of the rights of the  
9           child as set out in subsection (b).

10          (1) The person in charge of the juvenile court  
11          intake office or the juvenile detention facility, in the most  
12          expeditious manner possible, shall ensure that the parent,  
13          legal guardian, or legal custodian of the child is notified of  
14          the whereabouts of the child and the reason for the detention  
15          of the child. Except in the situation provided herein, the  
16          person in charge shall also inform the parent, legal guardian,  
17          or legal custodian of the child of the rights of the child and  
18          of the right of the parent, legal guardian, or legal custodian  
19          to be represented by counsel. The parent, legal guardian, or  
20          legal custodian shall also be informed of the right of the  
21          child to remain silent. However, if the child has been read  
22          his or her rights, understands those rights, and knowingly,  
23          voluntarily, and intelligently waives those rights, then it is  
24          not necessary that the parent, legal guardian, or legal  
25          custodian be notified of the rights of the child or be present



1 during the interrogation. This notification to the parent,  
2 legal guardian, or legal custodian, if practicable, shall be  
3 made in person or by telephone; otherwise, the communication  
4 shall be by the best means practicable.

5 (2) A written statement containing the information  
6 in subdivision (1) shall be given to the parent, legal  
7 guardian, or legal custodian of the child at the first meeting  
8 with the juvenile court intake officer or person in charge of  
9 the facility. If the parent, legal guardian, or legal  
10 custodian does not appear at the facility within 24 hours  
11 after the placement of the child in the facility, or if the  
12 parent, legal guardian, or legal custodian fails to attend the  
13 detention or shelter care hearing, this written statement  
14 shall be mailed if an address may reasonably be ascertained.

15 (e) Rights of parties once a petition is filed. If a  
16 petition has been filed, the parties shall be informed of  
17 their rights as set out in subsections (b) and (d).  
18 Additionally, the juvenile court judge or referee shall inform  
19 the parties at the commencement of the detention or shelter or  
20 other care hearing of the contents of the petition and all of  
21 the parties shall be given an opportunity to admit or deny the  
22 allegations of the petition.

23 (f) Additional rights of the child include all of  
24 the following:

1           (1) The child has a right to be represented by a  
2 child's attorney at all stages of a juvenile court proceeding  
3 under this article.

4           a. In any proceeding in which there is a possibility  
5 that the child may be placed in an institution in which the  
6 freedom of the child may be curtailed, and in which proceeding  
7 a child's attorney has not been retained, a child's attorney  
8 shall be appointed for the child.

9           b. In all other juvenile court proceedings, the  
10 juvenile court may appoint a child's attorney in any case upon  
11 request or when it deems the appointment to be in the  
12 interests of justice.

13           c. In addition to those duties referenced in  
14 subdivision (5) of Section 12-15-102, the duties of a child's  
15 attorney include, but are not limited to, the following:

16           1. Irrespective of the age of the child, meet with  
17 the child prior to juvenile court hearings, when apprised of  
18 emergencies or significant events impacting on the child, and  
19 as necessary to prepare for the juvenile court proceeding. The  
20 child's attorney shall explain, in terms understandable to the  
21 child, what is expected to happen at each stage of the  
22 proceedings, as well as the rights of the child at each stage  
23 of the proceedings.

24           2. Conduct a prompt, thorough, and independent  
25 investigation of the facts, the health, family, social

1 history, and educational background of the child, possible  
2 defenses, and applicable law, and seek discovery from the  
3 prosecution.

4 3. Based upon the investigation, advise the child,  
5 in terms he or she can understand, as to his or her options  
6 for proceeding in the case and the likely outcomes of the  
7 various courses of action. Conduct the defense in accordance  
8 with the expressed interests of the client regarding whether  
9 to seek release from detention, whether to admit or deny the  
10 allegations, whether to testify, whether to enter into a  
11 negotiated settlement, whether to appeal, whether to accept or  
12 oppose a recommended disposition, and the overall goals of the  
13 representation.

14 4. Attend all hearings scheduled by the juvenile  
15 court and file all necessary pleadings and motions to promote  
16 the expressed interests of the child and protect his or her  
17 rights.

18 5. Maintain familiarity with the dispositional  
19 resources available through the juvenile court and in the  
20 community, and recommend appropriate services to the child and  
21 the family. Advocate in the dispositional process to protect  
22 the rights of the client, meet the goals of the  
23 representation, and ensure that the juvenile court is aware of  
24 any special needs of the child that should be addressed in the  
25 dispositional process.

1           (2) The child, through a child's attorney, has the  
2 right to cross-examine witnesses.

3           (3) The child has the right to confront all  
4 witnesses against the child, subject to limitations recognized  
5 by the United States Supreme Court.

6           (4) The child shall be furnished a transcript on  
7 appeal. If the child or the parent, legal guardian, or legal  
8 custodian of the child cannot afford a transcript, the  
9 juvenile court shall order that the transcript be paid for out  
10 of funds set aside for this purpose.

11           Section 12. Sections 12-15-34, 12-15-34.1, 12-15-35,  
12 12-15-36, 12-15-60, 12-15-61, 12-15-62, 12-15-63, and 12-15-64  
13 of the Code of Alabama 1975, are amended and renumbered to  
14 read as follows:

15           "~~§12-15-34.~~

16           "§12-15-203. Transfer of cases from juvenile court  
17 ~~to criminal court.~~

18           "(a) ~~The~~ A prosecutor ~~may,~~ before a hearing on ~~the~~ a  
19 delinquency petition on its merits and ~~following consultation~~  
20 ~~with~~ after notifying, verbally or in writing, the juvenile  
21 probation officer services, may file a motion requesting the  
22 juvenile court judge to transfer ~~the~~ a child for criminal  
23 prosecution to the circuit or district court, if the child was  
24 14 or more years of age at the time of the conduct charged and  
25 is alleged to have committed an act which would constitute a

1 ~~crime~~ criminal offense as defined by this code if committed by  
2 an adult.

3 "(b) The juvenile court judge shall conduct a  
4 hearing on all motions for the purpose of determining whether  
5 it is in the best ~~interest~~ interests of the child or the  
6 public to grant the motion. ~~If the court finds and~~ Only if  
7 there are no reasonable grounds to believe the child is  
8 committable to an institution, department, or agency for the  
9 mentally retarded or mentally ill, ~~it shall~~ may the juvenile  
10 court judge order the case transferred for criminal  
11 prosecution.

12 "(c) When there are grounds to believe that the  
13 child is committable to an institution, department, or agency  
14 for the mentally retarded or mentally ill, the juvenile court  
15 judge shall ~~proceed~~ order an examination pursuant to Section  
16 ~~12-15-70~~ 12-15-130.

17 "(d) Evidence of the following and other relevant  
18 factors shall be considered in determining whether the motion  
19 shall be granted:

20 "(1) The nature of the present alleged offense.

21 "(2) The extent and nature of the prior delinquency  
22 record of the child.

23 "(3) The nature of past treatment efforts and the  
24 nature of the response of the child to the efforts.

25 "(4) Demeanor.

1           "(5) The extent and nature of the physical and  
2 mental maturity of the child.

3           "(6) The interests of the community and of the child  
4 requiring that the child be placed under legal restraint or  
5 discipline.

6           "(e) Prior to a hearing on the motion by the  
7 prosecutor, a written study and report to the juvenile court,  
8 ~~in writing~~ judge, relevant to the factors listed in subsection  
9 (d) ~~of this section~~, shall be made by a juvenile probation  
10 ~~services~~ officer.

11           "(f) When a child is transferred for criminal  
12 prosecution, the juvenile court judge shall set forth in  
13 writing ~~its~~ his or her reasons for granting the motion, which  
14 shall include a finding of probable cause for believing that  
15 the allegations are true and correct.

16           "(g) The finding of probable cause by the juvenile  
17 court judge shall preclude the necessity for a preliminary  
18 hearing subsequent to the transfer of the case for criminal  
19 prosecution, and the court having jurisdiction of the offense  
20 or offenses charged may exercise any authority over the case  
21 and the child, subsequent to the transfer, which is otherwise  
22 applicable to cases involving adult offenders ~~under~~ pursuant  
23 to provisions of laws or rules of procedure adopted by the  
24 Supreme Court of Alabama.

1           ~~"(h) A child whose case is transferred for criminal~~  
2 ~~prosecution shall not be granted youthful offender status and,~~  
3 ~~if convicted, shall be sentenced as an adult if the act which~~  
4 ~~if committed by an adult would constitute any of the~~  
5 ~~following:~~

6           ~~"(1) A capital offense.~~

7           ~~"(2) A Class A felony.~~

8           ~~"(3) A felony which has as an element the use of a~~  
9 ~~deadly weapon.~~

10          ~~"(4) A felony which has as an element the causing of~~  
11 ~~death or serious physical injury.~~

12          ~~"(5) A felony which has as an element the use of a~~  
13 ~~dangerous instrument against any person who is:~~

14           ~~"a. A law enforcement officer or official.~~

15           ~~"b. A correctional officer or official.~~

16           ~~"c. A parole or probation officer or official.~~

17           ~~"d. A juvenile court probation officer or official.~~

18           ~~"e. A district attorney or other prosecuting officer~~  
19 ~~or official.~~

20           ~~"f. A judge or judicial official.~~

21           ~~"g. A court officer or official.~~

22           ~~"h. A person who is a grand juror, juror, or witness~~  
23 ~~in any legal proceeding of whatever nature when the offense~~  
24 ~~stems from, is caused by, or is related to the role of the~~  
25 ~~person as a juror, grand juror, or witness.~~

1           ~~"i. A teacher, principal, or employee of the public~~  
2 ~~education system of Alabama.~~

3           ~~"(6) Trafficking in drugs in violation of Section~~  
4 ~~13A-12-231.~~

5           ~~"(i)(h)~~ A child who is transferred to ~~criminal a~~  
6 court for criminal prosecution shall be tried as an adult for  
7 the offense charged and all lesser included offenses of the  
8 offense charged.

9           ~~"(j)(i)~~ A conviction or adjudication as a youthful  
10 offender ~~following the transfer of a child for criminal~~  
11 ~~prosecution as provided in this section~~ of a child of a  
12 criminal offense, with the exception of a nonfelony traffic  
13 offense, shall terminate the jurisdiction of the juvenile  
14 court over that child with respect to any future ~~criminal~~  
15 delinquent acts, ~~offenses, or violations of any nature~~ and  
16 with respect to any pending allegations of delinquency which  
17 have not been disposed of by the juvenile court at the time of  
18 the criminal conviction or adjudication as a youthful  
19 offender. Any pending or future criminal acts committed by the  
20 child shall be prosecuted as other criminal charges are  
21 prosecuted; ~~however, the juvenile court shall exercise~~  
22 ~~jurisdiction over the child for the purpose of obtaining~~  
23 ~~verification of a previous conviction or adjudication as a~~  
24 ~~youthful offender after being transferred for prosecution as~~  
25 ~~an adult, and for the purpose of authorizing release pending~~



1 ~~trial on bond or as otherwise provided by law.~~ Termination of  
2 the ~~juvenile court's~~ jurisdiction of the juvenile court over  
3 the child with respect to future criminal charges and pending  
4 allegations of delinquency, as provided herein, shall not  
5 affect the ~~juvenile court's~~ jurisdiction of the juvenile court  
6 over the child with respect to any other matter provided in  
7 this chapter, specifically including any prior allegations of  
8 delinquency which, at the time of the criminal conviction, has  
9 been disposed of by the juvenile court either through informal  
10 adjustment, consent decree, or adjudication. The juvenile  
11 court is specifically authorized, to the extent practicable,  
12 to continue exercising its jurisdiction over the child with  
13 respect to such previously disposed delinquency cases after  
14 the termination of its jurisdiction with respect to other  
15 criminal charges, including jurisdiction to enforce its order  
16 requiring the payment of fines, costs, restitution, or other  
17 money ordered by the juvenile court pursuant to Section  
18 12-15-117.

19 ~~"§12-15-34.1.~~

20 "§12-15-204. Acts for which ~~minor~~ person who has  
21 attained age 16 shall be charged, arrested, and tried as  
22 adult; removal of person from jurisdiction of juvenile court.

23 "(a) Notwithstanding any other provision of law, any  
24 person who has attained the age of 16 years at the time of the  
25 conduct charged and who is charged with the commission of any

1 act or conduct, which if committed by an adult would  
2 constitute any of the following, shall not be subject to the  
3 jurisdiction of juvenile court but shall be charged, arrested,  
4 and tried as an adult:

5 "(1) A capital offense.

6 "(2) A Class A felony.

7 "(3) A felony which has as an element thereof the  
8 use of a deadly weapon.

9 "(4) A felony which has as an element thereof the  
10 causing of death or serious physical injury.

11 "(5) A felony which has as an element thereof the  
12 use of a dangerous instrument against any person who is one of  
13 the following:

14 "a. A law enforcement officer or official.

15 "b. A correctional officer or official.

16 "c. A parole or probation officer or official.

17 "d. A juvenile court probation officer or official.

18 "e. A district attorney or other prosecuting officer  
19 or official.

20 "f. A judge or judicial official.

21 "g. A court officer or official.

22 "h. A person who is a grand juror, juror, or witness  
23 in any legal proceeding of whatever nature when the offense  
24 stems from, is caused by, or is related to the role of ~~such~~  
25 the person as a juror, grand juror, or witness.

1            "i. A teacher, principal, or employee of the public  
 2 education system of Alabama.

3            "(6) Trafficking in drugs in violation of Section  
 4 13A-12-231, or as the same may be amended.

5            "(7) Any lesser included offense of the above  
 6 offenses charged or any lesser felony offense charged arising  
 7 from the same facts and circumstances and committed at the  
 8 same time as the offenses listed above. Provided, however,  
 9 that the juvenile court shall maintain original jurisdiction  
 10 over these lesser included offenses if the grand jury fails to  
 11 indict for any of the offenses enumerated in subsections  
 12 (a) (1) to (a) (6), inclusive. The juvenile court shall also  
 13 maintain original jurisdiction over these lesser included  
 14 offenses, subject to double jeopardy limitations, if the court  
 15 handling criminal offenses dismisses all charges for offenses  
 16 enumerated in subsections (a) (1) to (a) (6), inclusive.

17            "(b) Notwithstanding any other provision of law, any  
 18 person who has been ~~tried~~ convicted or adjudicated a youthful  
 19 offender in ~~criminal~~ a court handling criminal offenses  
 20 pursuant to the provisions of this section shall not  
 21 thereafter be subject to the jurisdiction of juvenile court  
 22 for any pending or subsequent offense. ~~Provided, however, the~~  
 23 ~~provisions of this subsection shall not apply where the trial~~  
 24 ~~in criminal court resulted in an acquittal of all charges~~  
 25 pursuant to Section 12-15-117, the juvenile court shall retain

1 jurisdiction over an individual of any age for the enforcement  
2 of any prior orders of the juvenile court requiring the  
3 payment of fines, court costs, restitution, or other money  
4 ordered by the juvenile court until paid in full.

5 "(c) This section shall apply to all cases in which  
6 the alleged criminal conduct occurred after April 14, 1994.  
7 All conduct occurring before April 14, 1994, shall be governed  
8 by pre-existing law.

9 "~~§12-15-35.~~

10 "§12-15-205. Venue generally.

11 "~~(a)~~ If delinquency or in need of supervision is  
12 alleged, proceedings shall be commenced in the ~~district~~ county  
13 where the acts constituting the allegation occurred.

14 "~~(b) If dependency is alleged, proceedings shall be~~  
15 ~~commenced in the district where the child resides or in the~~  
16 ~~district where the child is present when the proceedings are~~  
17 ~~commenced.~~

18 "~~§12-15-36.~~

19 "§12-15-206. Transfer of delinquent and child in  
20 need of supervision proceedings between juvenile courts within  
21 the state.

22 "If ~~the~~ a child resides in a ~~district~~ county of the  
23 state and the delinquency or child in need of supervision  
24 proceeding is commenced in a juvenile court of another  
25 ~~district~~ county, ~~that~~ the juvenile court in the county in

1 which the proceeding was commenced, on its own motion or a  
2 motion of a party and after consultation with the receiving  
3 juvenile court, may transfer the proceeding to the ~~district~~  
4 county of the ~~child's~~ residence of the child for such further  
5 action or proceedings as the juvenile court receiving the  
6 transfer may deem proper.

7 "Like A transfer may also be made if the residence  
8 of the child changes pending the proceeding.

9 "The proceeding shall be so transferred if the child  
10 has been adjudicated delinquent or in need of supervision and  
11 other proceedings involving the child are pending in the  
12 juvenile court of the ~~district~~ county of his or her residence.

13 "Certified copies of all legal and social records  
14 pertaining to the case shall accompany the transfer.

15 "~~§12-15-60.~~

16 "§12-15-207. Filing of petition and conduct of  
17 hearing as to necessity for continuation of detention or  
18 shelter care of a child; violation of probation and aftercare.

19 "(a) When a child is not released from detention or  
20 shelter care as provided in Section ~~12-15-58~~ 12-15-127, a  
21 petition shall be filed and a hearing held within 72 hours of  
22 placement in detention or shelter care, Saturdays, Sundays,  
23 and holidays included, to determine probable cause and to  
24 determine whether or not continued detention or shelter care  
25 is required.

1           "(b) Notice of the detention or shelter care ~~or~~  
2 ~~other care~~ hearing, either ~~oral~~ verbal or written, stating the  
3 date, time, place, and purpose of the hearing and the right to  
4 counsel shall be given by a juvenile probation officer to the  
5 parent, legal guardian, or legal custodian if they can be  
6 found and to the child if ~~such~~ the child is over 12 years of  
7 age ~~or if delinquency is alleged. In every case of a dependent~~  
8 ~~child, the Department of Human Resources shall be notified.~~

9           "(c) At the commencement of the detention or shelter  
10 ~~or other~~ care hearing, the juvenile court shall advise the  
11 parent, legal guardian, legal custodian, and the parties of  
12 the right to counsel and shall appoint counsel if the juvenile  
13 court determines they are indigent as required. The parties  
14 shall be informed of the ~~child's~~ right of the child to remain  
15 silent ~~with respect to any allegation of delinquency. They~~ The  
16 parent, legal guardian, legal custodian, and the parties shall  
17 also be informed of the contents of the petition and ~~shall,~~  
18 except as provided herein, shall be given an opportunity to  
19 admit or deny the allegations of the petition. Prior to the  
20 acceptance of an admission of the allegations of the petition,  
21 the juvenile court shall: (1) ~~verify~~ Verify if the child was  
22 previously convicted or adjudicated a youthful offender  
23 pursuant to Section ~~12-15-34(h)~~ 12-15-203 or (2) rule on any  
24 motion of the prosecutor requesting the juvenile court to  
25 transfer the child for criminal prosecution. The juvenile

1 court shall not accept a plea of guilt or an admission to the  
2 allegations of the petition in any case in which the child  
3 will be transferred for prosecution as an adult, either by  
4 grant of the ~~prosecutor's~~ of the prosecutor to transfer  
5 or pursuant to Section ~~12-15-34(h)~~ 12-15-203.

6 "(d) All relevant and material evidence helpful in  
7 determining the need for detention or shelter care may be  
8 admitted by the juvenile court even though not ~~competent in a~~  
9 ~~hearing on the petition~~ admissible in subsequent hearings.

10 "(e) If the child is not released and no parent,  
11 legal guardian, or other legal custodian has been notified and  
12 none appeared or waived appearance at the hearing, upon the  
13 filing of an affidavit by the parent, legal guardian, or legal  
14 custodian stating these facts and requesting a hearing, the  
15 juvenile court shall rehear the matter within 24 hours,  
16 ~~Saturdays, Sundays, and holidays included~~.

17 "If a person 18 years of age or older is alleged  
18 to have violated a condition of probation or aftercare after  
19 the person was adjudicated to be delinquent, the juvenile  
20 court may order that the person be confined in the appropriate  
21 jail or lockup for adults as ordered by the juvenile court.

22 "~~§12-15-61~~.

23 "~~§12-15-208. Definitions; facilities~~ Facilities to  
24 be used for detention or shelter care of children generally;  
25 when ~~delinquent child, etc.~~, may be detained in jail or other

1 facility for detention of adults; notification of juvenile  
 2 court, ~~etc.~~, when child received at facility for detention of  
 3 adult offenders or persons charged with crimes; development of  
 4 statewide system; ~~department~~ Department of Youth Services to  
 5 subsidize detention in regional facilities, may contract for  
 6 detention; transfer of child to detention facility, ~~etc.~~, when  
 7 case transferred from juvenile court for criminal prosecution.

8 ~~"(a) For the purpose of this section, the following~~  
 9 ~~terms shall have the following meanings, respectively, unless~~  
 10 ~~the context clearly indicates otherwise:~~

11 ~~"(1) AVERAGE COST OF DETENTION. The average cost of~~  
 12 ~~detention of children as determined from experience in Alabama~~  
 13 ~~and as computed by the department.~~

14 ~~"(2) DEPARTMENT. The Department of Youth Services.~~

15 ~~"(3) REGIONAL DETENTION FACILITY. Any facility owned~~  
 16 ~~or operated by the state, any county or other legal entity~~  
 17 ~~licensed by and contracting with the department for the~~  
 18 ~~detention of children.~~

19 "(a) Persons who shall not be detained or confined  
 20 in secure custody include all of the following:

21 "(1) Status offenders. Effective October 1, 2009,  
 22 status offenders, as defined in this article, shall not be  
 23 detained or confined in secure custody, except that a status  
 24 offender who is charged with or who commits a violation of a  
 25 valid court order may be detained in secure custody in a



1 juvenile detention facility for up to 72 hours in any  
2 six-month period, provided that all conditions set forth in  
3 subdivision (3) of subsection (b) are satisfied. Short-term  
4 secure custody of accused status offenders may be necessary,  
5 such as detention in a juvenile detention facility for a brief  
6 period, not exceeding 24 hours, prior to formal juvenile court  
7 action, for investigative purposes, for identification  
8 purposes, or for the purpose of allowing return of a status  
9 offender to the parent, legal guardian, or legal custodian.  
10 Detention for a brief period of time pursuant to juvenile  
11 court authority may also be necessary in order to arrange for  
12 appropriate shelter care placement. If a petition regarding an  
13 alleged status offender is filed in juvenile court and if it  
14 is determined that the alleged status offender is at imminent  
15 risk of being placed in the legal or physical custody of the  
16 Department of Human Resources, the case shall be referred to  
17 the county children's services facilitation team, and the  
18 procedures in Article 5 shall be followed. Upon referral to  
19 the county children's services facilitation team, the juvenile  
20 probation officer shall continue to provide case management to  
21 the status offender unless the county children's services  
22 facilitation team appoints another person to act as case  
23 manager. The juvenile probation officer shall participate in  
24 county children's services facilitation team meetings and

1 share records information and reports on the status offender  
2 with the county children's services facilitation team.

3 "(2) Federal wards. Federal wards held beyond 24  
4 hours in secure custody in state and local juvenile detention  
5 facilities pursuant to a written contract or agreement with a  
6 federal agency and for the specific purpose of affecting a  
7 jurisdictional transfer or appearance as a material witness or  
8 for return to their lawful residence or country of citizenship  
9 shall be reported as violations of the deinstitutionalization  
10 of status offender requirement.

11 "(3) Nonoffenders. Nonoffenders, as defined in this  
12 article, shall not be detained or confined in secure custody.

13 "(4) Children 10 years of age and younger. Children  
14 10 years of age and younger shall not be detained or confined  
15 in secure custody, unless the children are charged with  
16 offenses causing death or serious bodily injury to persons or  
17 offenses that would be classified as Class A felonies if  
18 committed by adults. Children 11 or 12 years of age may only  
19 be detained or confined in secure custody by orders of  
20 juvenile courts, unless the children are charged with offenses  
21 causing death or serious bodily injury to persons or offenses  
22 that would be classified as Class A felonies if committed by  
23 adults.

24 "(b) Persons who may be detained or confined in  
25 secure custody include all of the following:

1           "(1) Persons who violate the federal law, which  
2 prohibits possession of a handgun by a child under the age of  
3 18 years, or who violate a similar state or municipal law, may  
4 be placed in secure custody in juvenile detention facilities.

5           "(2) Persons in custody pursuant to the Interstate  
6 Compact on Juveniles, contained in Section 44-2-1, et seq.,  
7 may be placed in secure custody in juvenile detention  
8 facilities.

9           "(3) Status offenders who violate a valid court  
10 order. A status offender who is charged with or has committed  
11 a violation of a valid court order may be detained in secure  
12 custody in a juvenile detention facility for up to 72 hours in  
13 any six-month period. Status offenders who violate valid court  
14 orders shall not be committed to the Department of Youth  
15 Services, nor shall they be held in jails or lockups for adult  
16 offenders. For this valid court order exception to apply, the  
17 following actions must occur whenever a status offender is  
18 taken into custody for violating a valid court order:

19           "a. The juvenile detention facility shall  
20 immediately notify the juvenile court intake or probation  
21 officer that the child is being held in secure custody for  
22 violating a valid court order. The notice shall include the  
23 date and time the child entered the juvenile detention  
24 facility.

1           "b. Within the first 24 hours during which a status  
2 offender is held in secure custody for violating a valid court  
3 order, not including weekends or holidays, a juvenile court  
4 intake or probation officer, or an authorized representative  
5 of the department or agency having custody or supervision of  
6 the child, shall interview the child, in person.

7           "c. Within 48 hours of the admission of the status  
8 offender to secure custody for violating a valid court order,  
9 not including weekends or holidays:

10           "1. The individual who interviewed the child shall  
11 submit a written assessment report to the juvenile court  
12 regarding the immediate needs of the child; and

13           "2. If the juvenile court has not yet determined  
14 whether the child has, in fact, violated the order, the  
15 juvenile court shall conduct a hearing to determine whether  
16 there is reasonable cause to believe that the child violated  
17 the order and the appropriate placement of the child pending  
18 disposition of the alleged violation.

19           "(c) Compliance with jail removal. No person under  
20 the age of 18 years shall be detained or confined in any jail  
21 or lockup for adults except for the following exceptions:

22           "(1) A child may be detained in a jail or lockup for  
23 adults for up to 6 hours while processing the case of the  
24 child.

1           "(2) A child transferred for criminal prosecution  
2 pursuant to Section 12-15-203 may be detained in a jail or  
3 lockup for adults.

4           "(3) A person charged pursuant to Section 12-15-204  
5 may be detained in a jail or lockup for adults.

6           "When a case is transferred to another court for  
7 criminal prosecution, the person shall be transferred to the  
8 appropriate officer or jail or lockup in accordance with the  
9 law governing the detention of the person charged with the  
10 crime. Jails and lockups used for holding adults shall not  
11 hold status offenders in secure custody at any time. An  
12 accused status offender may be detained in a nonsecure area of  
13 a jail or lockup for processing while waiting transportation  
14 to a nonsecure shelter care facility or a juvenile detention  
15 facility or while waiting for release to a parent, legal  
16 guardian, or legal custodian.

17           Nothing in this subsection shall prohibit a circuit  
18 court judge exercising criminal jurisdiction from recommending  
19 that a child described in subdivision (2) or (3) should be  
20 placed in a juvenile detention center instead of an adult jail  
21 or lockup.

22           "(d) Compliance with separation. Accused or  
23 adjudicated delinquent children or status offenders shall not  
24 have contact with adult inmates, including trustees. Contact  
25 is defined to include any physical or sustained sight and

1 sound contact. Sight contact is defined as clear visual  
2 contact between adult inmates and accused or adjudicated  
3 delinquent children or status offenders within close proximity  
4 to each other. Sound contact is defined as direct verbal  
5 communication between adult inmates and accused or adjudicated  
6 delinquent children or status offenders.

7 "No child shall enter pursuant to public authority,  
8 for any amount of time, in secure custody in a secure section  
9 of a jail, lockup, or correctional facility for adults as a  
10 disposition of an offense or as a means of modifying his or  
11 her behavior (e.g., Shock Incarceration or Scared Straight).

12 ~~"(b)(e) Except as provided in subsection (d) of this~~  
13 ~~section above,~~ in providing detention and shelter or other  
14 care for children referred to or coming under the jurisdiction  
15 of the juvenile court, the juvenile court shall utilize only  
16 ~~such~~ those facilities as have been established, licensed, or  
17 approved by the Department of Youth Services or Department of  
18 Human Resources for ~~such~~ those purposes.

19 ~~"(c)(f) After October 1, 1991, the Department of~~  
20 Youth Services shall accept all children committed to it  
21 within seven days of notice of disposition.

22 ~~"(d) A child alleged or adjudicated to be delinquent~~  
23 ~~may be detained in a jail or other facility for the detention~~  
24 ~~of adults for not more than 7 days pursuant to a court order~~  
25 ~~and only if all of the following conditions are met: (i) the~~

1 ~~detention is approved by the official or officer in charge of~~  
2 ~~the jail; (ii) the jail contains, at the time of the order, an~~  
3 ~~available room in which the child can be detained separate and~~  
4 ~~removed from all contact with adult inmates; and (iii)~~  
5 ~~adequate supervision is available at the time detention in the~~  
6 ~~jail is ordered. A child who has been transferred for~~  
7 ~~criminal prosecution, or who is no longer subject to the~~  
8 ~~juvenile court's jurisdiction shall be detained as an adult.~~

9       ~~"(e)(g)~~ Except as provided in ~~subsection (d) above,~~  
10 the official in charge of a jail or ~~other facility~~ lockup for  
11 the detention of adult offenders or persons charged with ~~crime~~  
12 crimes shall inform the juvenile court immediately when a  
13 child, who is or appears to be a child as defined by this  
14 chapter, is received at the ~~facility, and~~ jail or lockup. Upon  
15 request, the official shall deliver the child to the juvenile  
16 court ~~upon request~~ or transfer him or her to a juvenile  
17 detention facility designated by the juvenile court.

18       ~~"(f)(h)~~ The ~~department~~ Department of Youth Services  
19 shall continue to develop ~~prior to October 1, 1991,~~ and  
20 implement a statewide system of ~~regional~~ juvenile detention  
21 ~~centers~~ facilities which shall be licensed by the Department  
22 of Youth Services for the detention of children.

23       ~~"(g)(i)~~ The ~~department~~ Department of Youth Services  
24 shall subsidize the detention of children in the ~~regional~~  
25 juvenile detention facilities in an amount up to one half the

1 average cost of detention, which term is defined in this  
 2 article, the amount depending on the provision of funds by the  
 3 Legislature to the ~~department~~ Department of Youth Services.  
 4 ~~Regional~~ Juvenile detention facilities may contract with the  
 5 ~~department~~ Department of Youth Services or other counties for  
 6 the detention of children.

7 ~~"(h)(j)~~ (j) When a case is transferred to another court  
 8 for criminal prosecution, the child shall be transferred to  
 9 the appropriate officer or ~~detention facility~~ jail or lockup  
 10 in accordance with the law governing the detention of the  
 11 person charged with ~~crime~~ criminal offenses.

12 ~~"(i)(k)~~ (k) Any law enforcement ~~official shall~~ officer,  
 13 at the direction of the juvenile court, shall provide security  
 14 and transportation services for the juvenile court in  
 15 transporting children to and from ~~secure~~ juvenile detention  
 16 facilities.

17 ~~"§12-15-62.~~

18 ~~"§12-15-209. Child~~ Children to be released when  
 19 full-time detention or shelter care not required; conditions  
 20 imposed upon release; amendment of conditions or return of  
 21 child to custody upon failure to conform to conditions  
 22 imposed; ~~permanency hearing.~~

23 ~~"(a)~~ When the juvenile court finds that ~~a child's~~  
 24 full-time detention or shelter care of a child is not  
 25 required, the juvenile court shall order ~~his~~ the release of



1 the child, and in so doing, may impose one or more of the  
2 following conditions ~~singly or in combination~~:

3 "(1) Place the child in the custody of a parent,  
4 legal guardian, legal custodian, or any other person whom the  
5 juvenile court deems proper, or ~~under the supervision of an~~  
6 place the child with a department, agency, or organization  
7 agreeing to supervise ~~him or her,~~ the child.

8 "(2) Place restrictions on the ~~child's~~ travel,  
9 association, or place of abode of the child during the period  
10 of his or her release, or place the child under electronic or  
11 telephone monitoring, if available. ~~or~~

12 "(3) Impose any other condition deemed reasonably  
13 necessary and consistent with the criteria for detaining  
14 children specified in Section ~~12-15-59~~ 12-15-128, including a  
15 condition requiring that the child return to custody as  
16 required.

17 "(b) An order releasing a child on any conditions  
18 specified in subsection (a) ~~of this section~~ may at any time be  
19 amended to impose additional or different conditions of  
20 release or to return the child to custody for failure to  
21 conform to the conditions originally imposed.

22 ~~"(c) Within 12 months of any court order placing a~~  
23 ~~child in foster care the court shall hold a permanency~~  
24 ~~hearing. The Department of Human Resources shall present to~~  
25 ~~the court at such hearing a permanent plan for said child. If~~

1 ~~a permanent plan is not presented to the court at this hearing~~  
2 ~~there shall be a rebuttable presumption that the child should~~  
3 ~~be returned to the family. This provision is intended to~~  
4 ~~insure that a permanent plan is prepared by the Department of~~  
5 ~~Human Resources and presented to the court within 12 months of~~  
6 ~~the placement of any child in foster care. The purpose of the~~  
7 ~~permanency hearing shall be to determine the permanency plan~~  
8 ~~for the child which may include whether, and, if applicable,~~  
9 ~~when, the child shall be (i) returned to the parent, (ii)~~  
10 ~~placed for adoption wherein the Department of Human Resources~~  
11 ~~shall file a petition for termination of parental rights, or~~  
12 ~~(iii) referred for legal custody. The permanency hearing shall~~  
13 ~~determine whether the plan will include placement in another~~  
14 ~~planned permanent living arrangement in cases where the~~  
15 ~~department has documented to the court a compelling reason for~~  
16 ~~determining that it would not be in the best interests of the~~  
17 ~~child to return home, be referred for termination of parental~~  
18 ~~rights, be placed for adoption, or be placed with a fit and~~  
19 ~~willing relative, or with a legal custodian. For the purposes~~  
20 ~~of this subsection only, a child shall be considered to have~~  
21 ~~entered foster care on the earlier of (i) the date of the~~  
22 ~~first judicial finding that the child has been subjected to~~  
23 ~~abuse or neglect, or (ii) that date that is 60 days after the~~  
24 ~~date on which the child is removed from the home.~~

25 ~~"§12-15-63.~~

1           "§12-15-210. Notification ~~of to~~ children, ~~parents,~~  
2           ~~guardians, etc.,~~ of right to counsel; appointment of counsel  
3           by juvenile court.

4           "(a) In delinquency and child in need of supervision  
5           cases, a child and his ~~parents~~ or her parent, legal guardian,  
6           or legal custodian shall be advised by the juvenile court or  
7           its representative at intake that the child has the right to  
8           be represented at all stages of the proceedings by ~~counsel~~ a  
9           child's attorney retained by them or, if they are unable to  
10          afford ~~counsel~~ a child's attorney, by ~~counsel~~ a child's  
11          attorney appointed by the juvenile court.

12          "(b) If ~~counsel~~ a child's attorney is not retained  
13          for by the child or a party in a juvenile court proceeding in  
14          which there is a reasonable likelihood such may result in a  
15          ~~commitment to~~ placement in an institution in which the freedom  
16          of the child is curtailed, ~~counsel~~ a child's attorney shall be  
17          appointed ~~for~~ to defend the child.

18          "(c) In delinquency and child in need of supervision  
19          proceedings, a juvenile court may appoint a guardian ad litem  
20          in addition to the child's attorney described in this section.

21          "(d) The juvenile court may appoint counsel in any  
22          case when it deems such in the ~~interest~~ interests of justice.

23          "~~(b)~~ In dependency cases, the parents, guardian or  
24          custodian shall be informed of their right to be represented  
25          by counsel and, upon request, counsel shall be appointed where

1 ~~the parties are unable for financial reasons to retain their~~  
2 ~~own.~~

3 ~~"The court shall also appoint counsel for the child~~  
4 ~~in dependency cases where there is an adverse interest between~~  
5 ~~parent and child or where the parent is an unmarried minor or~~  
6 ~~is married, widowed, widowed or divorced and under the age~~  
7 ~~of 18 years or counsel is otherwise required in the interests~~  
8 ~~of justice.~~

9 ~~"§12-15-64.~~

10 ~~"§12-15-211. Suspension of proceedings and~~  
11 ~~continuation of cases under terms and conditions agreed to by~~  
12 ~~parties.~~

13 ~~"At any time after the filing of a petition, the~~  
14 ~~court may suspend proceedings and continue the case, under~~  
15 ~~terms and conditions agreed to by all parties, pursuant to~~  
16 ~~rules adopted by the Supreme Court.~~

17 ~~"(a) The juvenile court may suspend delinquency or~~  
18 ~~child in need of supervision proceedings pursuant to a consent~~  
19 ~~decree. The terms and conditions of the consent decree shall~~  
20 ~~be agreed to by the child and his or her parent, legal~~  
21 ~~guardian, or legal custodian. The consent decree shall be~~  
22 ~~entered at any time after the filing of a delinquency or child~~  
23 ~~in need of supervision petition and before the entry of an~~  
24 ~~adjudication order. The child and his or her parent, legal~~

1 guardian, or legal custodian shall be advised of their rights,  
2 including the right to counsel.

3 "(b) Where an objection is made by the prosecutor,  
4 the juvenile court, after considering the objection and the  
5 reasons therefor, shall proceed to determine whether it is  
6 appropriate to enter a consent decree.

7 "(c) A consent decree shall remain in force for six  
8 months unless the child is discharged sooner by the juvenile  
9 court. Upon application of a juvenile probation officer or  
10 other department or agency supervising the child, made before  
11 the expiration of the six-month period, a consent decree may  
12 be extended by the juvenile court for an additional six  
13 months.

14 "(d) If prior to discharge by the juvenile probation  
15 officer or expiration of the consent decree, a new delinquency  
16 or child in need of supervision petition is filed against the  
17 child, or the child otherwise fails to fulfill express terms  
18 and conditions of the decree, the petition under which the  
19 child was continued under supervision may be reinstated after  
20 a hearing and the case may proceed to adjudication.

21 "(e) Upon satisfaction by the child of the  
22 conditions of the consent decree or upon the child being  
23 otherwise discharged by the juvenile court, the petition shall  
24 be dismissed with prejudice.

1           Section 13. Section 12-15-212 is added to the Code  
2 of Alabama 1975, to read as follows:

3           §12-15-212. Conduct of delinquency and child in need  
4 of supervision hearings.

5           (a) If the allegations are denied, the juvenile  
6 court shall proceed to hear evidence on the petition. If the  
7 juvenile court finds on proof beyond a reasonable doubt, based  
8 upon competent, material, and relevant evidence, that the  
9 child committed the acts by reason of which the child is  
10 alleged to be delinquent or in need of supervision, the  
11 juvenile court shall record its findings and proceed to  
12 determine whether the child is in need of care or  
13 rehabilitation. If the juvenile court finds that the  
14 allegations in the petition have not been established, the  
15 juvenile court shall dismiss the petition and order the child  
16 discharged from any detention or temporary care, theretofore  
17 ordered in the proceedings.

18           (b) If the child admits to the allegations contained  
19 in the petition, the juvenile court shall record its findings  
20 and proceed to determine whether the child is in need of care  
21 or rehabilitation.

22           (c) When the allegations have been proven pursuant  
23 to subsections (a) or (b), the juvenile court may proceed  
24 immediately to hear evidence as to whether the child is in  
25 need of care or rehabilitation and to file its findings

1       thereon. In the absence of evidence to the contrary, a finding  
2       that the child has committed an act that constitutes a felony  
3       is sufficient to sustain a finding that the child is in need  
4       of care or rehabilitation. If the juvenile court finds that  
5       the child is not in need of care or rehabilitation, it shall  
6       dismiss the proceedings and discharge the child from any  
7       detention or other temporary care. If the juvenile court finds  
8       from clear and convincing evidence, competent, material, and  
9       relevant in nature, that the child is in need of care or  
10      rehabilitation in the absence of objection showing good cause  
11      or at a postponed hearing, the juvenile court may make proper  
12      disposition of the case.

13               (d) In dispositional hearings, all relevant and  
14      material evidence helpful in determining the questions  
15      presented, including verbal and written reports, may be  
16      received by the juvenile court and may be relied upon to the  
17      extent of its probative value, even though not competent in a  
18      hearing on the petition. The parties or their counsel shall be  
19      afforded an opportunity to examine and controvert written  
20      reports so received and to cross-examine individuals making  
21      reports.

22               (e) On its own motion or that of a party, the  
23      juvenile court may continue the dispositional hearing for a  
24      reasonable period to receive reports and other evidence  
25      bearing on the disposition or need for care or rehabilitation.

1 In this event, the juvenile court shall make an appropriate  
2 order for detention or temporary care for the child, or the  
3 release of the child from detention or temporary care during  
4 the period of the continuance, subject to those conditions as  
5 the juvenile court may impose.

6 Section 14. Sections 12-15-66, 12-15-69, 12-15-71,  
7 12-15-104, 12-15-105, 12-15-11.1, 12-15-71.1, 12-15-72, and  
8 12-15-74 of the Code of Alabama 1975, are amended and  
9 renumbered to read as follows:

10 ~~"§12-15-66.~~

11 "§12-15-213. Children charged with delinquent acts  
12 or alleged to be in need of supervision to be accorded  
13 privilege against self-incrimination; admissibility in  
14 evidence, ~~etc.,~~ of ~~extra judicial~~ extrajudicial statements of  
15 children and evidence illegally seized or obtained; double  
16 jeopardy.

17 "(a) A child charged with a delinquent act or who is  
18 alleged to be in need of supervision shall be accorded the  
19 ~~privilege against self-incrimination~~ rights and privileges  
20 afforded by the Constitution of the United States and the  
21 Constitution of Alabama of 1901.

22 "(b) An ~~extra judicial~~ extrajudicial statement which  
23 would be constitutionally inadmissible in a criminal  
24 proceeding ~~shall~~ may not be received in evidence over  
25 objection. Evidence illegally seized or obtained ~~shall~~ may not



1 be received in evidence over objection to establish the  
2 allegations against ~~him~~ the child. An ~~extra judicial~~  
3 extrajudicial admission or confession made by the child out of  
4 court is insufficient to support a finding that the child  
5 committed the acts alleged in the petition unless it is  
6 corroborated by other evidence.

7 "(c) Criminal proceedings and other juvenile  
8 proceedings based upon the offense alleged in the petition or  
9 an offense based upon the same conduct are barred where the  
10 juvenile court has begun taking evidence or where the juvenile  
11 court has accepted from the child a ~~child's~~ plea of guilty to  
12 the petition.

13 "~~§12-15-69.~~

14 "§12-15-214. Ordering and preparation of  
15 ~~predisposition~~ study and written report concerning child,  
16 ~~family, etc.;~~ ordering, conduct and certification of findings  
17 of physical or mental examination of child prior to hearing on  
18 petition generally; examination of parent, legal guardian, or  
19 legal custodian after hearing where ability to care for or  
20 supervise child in issue.

21 "~~(a) After a petition alleging delinquency, in need~~  
22 ~~of supervision or dependency has been filed, the court may~~  
23 ~~direct that a predisposition study and report to the court be~~  
24 ~~made by probation services where the petition alleges that the~~  
25 ~~child is delinquent or in need of supervision or by the~~

1 ~~Department of Human Resources when the petition alleges that~~  
2 ~~the child is dependent~~ The juvenile court may direct that a  
3 juvenile probation officer conduct a study and submit a  
4 written report to the juvenile court with recommendations  
5 concerning ~~the~~ a child, his or her family, his or her  
6 environment, and other matters relevant to the need for  
7 treatment or disposition of the case. The recommendations may  
8 indicate that the child needs further mental health  
9 evaluation, especially, in some cases, for the purpose of  
10 determining whether the child is competent to stand trial. The  
11 recommendations may also include a request that the juvenile  
12 court proceed pursuant to Section 12-15-130.

13 ~~"(b) Where there are indications that the child may~~  
14 ~~be physically ill, mentally ill or mentally retarded, the~~  
15 ~~court, on its own motion or motion by the prosecutor or that~~  
16 ~~of counsel for the child, may order the child to be examined~~  
17 ~~at a suitable place by a physician, psychiatrist, psychologist~~  
18 ~~or other qualified examiner, under the supervision of a~~  
19 ~~physician, psychiatrist or psychologist who shall certify such~~  
20 ~~examiner's findings in writing, or an examiner approved by the~~  
21 ~~Department of Mental Health prior to a hearing on the merits~~  
22 ~~of the petition.~~

23 ~~"(c) The examinations made prior to hearing as~~  
24 ~~provided for in subsection (b) of this section or as part of~~  
25 ~~the study provided for in subsection (a) of this section shall~~

1 ~~be conducted on an outpatient basis unless the court finds~~  
 2 ~~that placement in a hospital or other appropriate facility is~~  
 3 ~~necessary.~~

4 ~~"(d) The court, after hearing, may order an~~  
 5 ~~examination as described in subsection (b) of this section of~~  
 6 ~~a parent or custodian who gives his consent and whose ability~~  
 7 ~~to care for or supervise a child before the court is in issue.~~

8 ~~"§12-15-71.~~

9 ~~"§12-15-215. Disposition of dependent children,~~  
 10 ~~delinquent children, multiple needs children, or children in~~  
 11 ~~need of supervision generally; evaluative role of children's~~  
 12 ~~services facilitation team; placement in alternative school.~~

13 ~~"(a) If a child is found to be dependent, the court~~  
 14 ~~may make any of the following orders of disposition to protect~~  
 15 ~~the welfare of the child:~~

16 ~~"(1) Permit the child to remain with the parents,~~  
 17 ~~guardian, or other custodian of the child, subject to~~  
 18 ~~conditions and limitations as the court may prescribe.~~

19 ~~"(2) Place the child under protective supervision as~~  
 20 ~~herein provided or under the supervision of the Department of~~  
 21 ~~Human Resources.~~

22 ~~"(3) Transfer legal custody to any of the following:~~

23 ~~"a. The Department of Human Resources, provided,~~  
 24 ~~that the department is equipped to care for the child.~~

1           ~~"b. A local public child-placing agency or private~~  
2           ~~organization or facility willing and able to assume the~~  
3           ~~education, care, and maintenance of the child and which is~~  
4           ~~licensed by the Department of Human Resources or otherwise~~  
5           ~~authorized by law to receive and provide care for the child.~~

6           ~~"c. A relative or other individual who, after study~~  
7           ~~by the Department of Human Resources, is found by the court to~~  
8           ~~be qualified to receive and care for the child.~~

9           ~~"(4) Make any other order as the court in its~~  
10          ~~discretion shall deem to be for the welfare and best interests~~  
11          ~~of the child.~~

12          ~~"(5) In appropriate cases, award permanent custody~~  
13          ~~to the Department of Human Resources or to a licensed~~  
14          ~~child-placing agency with termination of parental rights and~~  
15          ~~authorization to place for adoption, without appointing a~~  
16          ~~legal guardian or guardian of the person, or award temporary~~  
17          ~~custody to the same without appointing a legal custodian or~~  
18          ~~guardian or guardian of the person.~~

19          ~~"(6) There shall be a rebuttable presumption that~~  
20          ~~children cannot be removed from custody of parents solely~~  
21          ~~because of a need for emergency housing.~~

22          ~~"(b) Unless a child found dependent shall also be~~  
23          ~~found to be delinquent, the child shall not be committed to or~~  
24          ~~confined in an institution established for the care and~~  
25          ~~rehabilitation of delinquent children or detention facility.~~

1 ~~Nothing in this subsection shall be construed to prohibit the~~  
2 ~~placement of dependent children in any other residential~~  
3 ~~facility as defined in subdivision (22) of Section 12-15-1.~~

4 ~~"(c)(a) If a child is found to be delinquent or in~~  
5 ~~need of supervision, the court may make any of the following~~  
6 ~~orders or dispositions for the child's supervision, care, and~~  
7 ~~rehabilitation: If the juvenile court finds on proof beyond a~~  
8 ~~reasonable doubt, based upon competent, material, and relevant~~  
9 ~~evidence, that a child committed the acts by reason of which~~  
10 ~~the child is alleged to be delinquent or in need of~~  
11 ~~supervision, it may proceed immediately to hear evidence as to~~  
12 ~~whether the child is in need of care or rehabilitation and to~~  
13 ~~file its findings thereon. In the absence of evidence to the~~  
14 ~~contrary, a finding that the child has committed an act which~~  
15 ~~constitutes a felony is sufficient to sustain a finding that~~  
16 ~~the child is in need of care or rehabilitation. If the~~  
17 ~~juvenile court finds that the child is not in need of care or~~  
18 ~~rehabilitation, it shall dismiss the proceedings and discharge~~  
19 ~~the child from any detention or other temporary care~~  
20 ~~theretofore ordered. If the juvenile court finds that the~~  
21 ~~child is in need of care or rehabilitation, it may make any of~~  
22 ~~the following orders or dispositions, subject to the~~  
23 ~~limitations and prohibitions on secure custody contained in~~  
24 ~~Section 12-15-208:~~

1           "(1) Permit the child to remain with the ~~parents~~  
2 parent, legal guardian, or other legal custodian of the child,  
3 subject to the conditions and limitations the juvenile court  
4 may prescribe.

5           "(2) Place the child on probation ~~under~~ pursuant to  
6 conditions and limitations the juvenile court may prescribe.

7           "(3) Transfer legal and physical custody to any of  
8 the following:

9           "a. The Department of Youth Services, with or  
10 without ~~a commitment~~ an order to a specific institution.

11           "b. In the case of a child in need of supervision,  
12 the Department of Youth Services, or the Department of Human  
13 Resources; provided however (i) that prior to any transfer of  
14 custody to the Department of Human Resources, the case shall  
15 first be referred to the county children's services  
16 facilitation team, which must proceed according to Article 5;  
17 and (ii) that the child's commission of one or more status  
18 offenses shall not constitute a sufficient basis for transfer  
19 of legal or physical custody to the Department of Human  
20 Resources. Upon referral to the county children's services  
21 facilitation team, the juvenile probation officer shall  
22 continue to provide case management to the status offender  
23 unless the county children's services facilitation team  
24 appoints another person to act as case manager. The juvenile  
25 probation officer shall participate in county children's

1 services facilitation team meetings and share records  
2 information and reports on the status offender with the county  
3 children's services facilitation team. When the juvenile court  
4 transfers legal and physical custody to the Department of  
5 Human Resources, all requirements which shall be met for a  
6 child to be eligible for federal funding shall apply,  
7 including, but not limited to, the requirements set out in  
8 Sections 12-15-312, 12-15-315, and 12-15-317.

9 "c. A local, public, or private agency,  
10 organization, or facility willing and able to assume the  
11 education, care, and maintenance of the child and which is  
12 licensed or otherwise authorized by law to receive and provide  
13 care for children.

14 "d. ~~A~~ During the term of supervision, a relative or  
15 other individual who ~~, after study by the probation services,~~  
16 is found by the juvenile court to be qualified to receive and  
17 care for the child.

18 "(4) Make any other order as the juvenile court in  
19 its discretion shall deem to be for the welfare and best  
20 interests of the child, including random drug screens,  
21 assessment of fines not to exceed two hundred fifty dollars  
22 (\$250), and restitution against the parent, legal guardian,  
23 legal custodian, or child, as the juvenile court deems  
24 appropriate. Costs for juvenile court-ordered drug screening  
25 may be ordered paid for by the state out of moneys

1 appropriated as "court costs not otherwise provided for." Any  
 2 ~~costs for drug screening recouped by order of court for drug~~  
 3 ~~screening shall be paid to the State General Fund.~~ Restitution  
 4 against the parent, legal guardian, legal custodian, or child  
 5 shall be governed by the same principles applicable in ~~Article~~  
 6 ~~4A of Chapter 18 of Title 15 (~~ the Restitution to Victims of  
 7 Crime Act, commencing ~~at~~ with Section 15-18-65).

8 "(5) Direct the parent, legal guardian, or legal  
 9 custodian of the child to perform ~~such~~ reasonable acts as are  
 10 deemed necessary to promote the best ~~interest~~ interests of the  
 11 child.

12 "(6) In any case where a child is adjudicated  
 13 delinquent for possessing a pistol, short-barreled rifle, or  
 14 short-barreled shotgun, any pistol, short-barreled rifle, or  
 15 short-barreled shotgun possessed by that child is forfeited  
 16 and shall be ordered to be destroyed by the juvenile court.

17 "~~(d)~~ (b) No child by virtue of a disposition ~~under~~  
 18 pursuant to this section shall be committed or transferred to  
 19 a penal institution or other facility used for the execution  
 20 of sentences of persons convicted of a crime.

21 "~~(e)~~ (c) No child ~~found to be~~ in need of supervision,  
 22 unless also ~~found to be~~ a delinquent child, shall be ~~committed~~  
 23 ~~to or~~ ordered to be placed in an institution or facility  
 24 established for the care and rehabilitation of delinquent  
 25 children unless the juvenile probation officer submits a



1 written recommendation and the juvenile court finds upon a  
 2 further hearing that the child is not amenable to treatment or  
 3 rehabilitation under pursuant to any prior disposition or  
 4 unless the child is again alleged to be a child in need of  
 5 supervision and the court, after hearing, so finds.

6 "In determining if a child is not amenable to  
 7 treatment or rehabilitation, the juvenile court shall consider  
 8 evidence of the following and other relevant factors:

9 "(1) Prior treatment efforts, such as, but not  
 10 limited to:

11 "a. Mental health counseling, if any.

12 "b. Individualized educational plans, if any.

13 "c. Other educational records.

14 "d. Individualized service plans, if any.

15 "(2) The age of the child.

16 "(3) The history of the child being involved with  
 17 the juvenile court, including, but not limited to, informal  
 18 adjustments, consent decrees, adjudications, and prior  
 19 placements.

20 "(4) Other factors contributing to the behavioral  
 21 difficulties of the child.

22 "The written recommendations of the juvenile  
 23 probation officer shall include evidence of the foregoing and  
 24 other relevant factors.

1           "~~(f)~~(d) When a delinquent child ~~is~~ may be  
2 committable to the Department of Mental Health and Mental  
3 Retardation ~~an institution or agency for the mentally retarded~~  
4 ~~or mentally ill~~, the juvenile court shall proceed as provided  
5 in Article 4, commencing with Section 12-15-401 ~~12-15-70~~  
6 ~~rather than committing to an institution or facility for the~~  
7 ~~care and rehabilitation of delinquent children.~~

8           "~~(g)~~(e) Whenever the juvenile court vests legal  
9 custody in an agency or department, it shall transmit with the  
10 order copies of the clinical reports, predisposition study,  
11 and other information it has pertinent to the care and  
12 treatment of the child.

13           "~~(h) (1)~~ ~~Regardless of the nature of the petition or~~  
14 ~~allegation, when evidence is presented to the court that a~~  
15 ~~child is at imminent risk of an out-of-home placement or a~~  
16 ~~placement in a more restrictive environment as a result of the~~  
17 ~~conditions of emotional disturbance, behavior disorder, mental~~  
18 ~~retardation, mental illness, dependency, chemical dependency,~~  
19 ~~education deficits, lack of supervision, delinquency, physical~~  
20 ~~illness or disability, or any combination thereof, and if such~~  
21 ~~conditions require the services of two or more agencies~~  
22 ~~pursuant to Section 12-15-1(19), the juvenile court shall~~  
23 ~~refer the child to the county children's services facilitation~~  
24 ~~team for assessment and recommendations unless a current~~  
25 ~~facilitation team plan is available to the court. Within 21~~

1 ~~days of receipt of the referral, the county children's~~  
2 ~~services facilitation team shall present to the court a~~  
3 ~~preliminary plan of services addressing the needs of the child~~  
4 ~~and the respective responsibilities of agencies composing this~~  
5 ~~team. Upon receipt of these preliminary recommendations, the~~  
6 ~~juvenile court may adjudge the child as a "multiple needs~~  
7 ~~child" and in accordance with the county children's services~~  
8 ~~facilitation team plan, unless the court finds it not in the~~  
9 ~~best interest of the child, order the use of any dispositional~~  
10 ~~alternative or service available for dependent or delinquent~~  
11 ~~children or children-in-need-of-supervision, children who are~~  
12 ~~emotionally disturbed, mentally retarded, or mentally ill, or~~  
13 ~~children who need specialized educational services, or~~  
14 ~~children who need health services, or any combination thereof.~~  
15 ~~The county children's services facilitation team shall be~~  
16 ~~responsible for developing a final service plan which shall be~~  
17 ~~filed with the court. The member agencies shall be responsible~~  
18 ~~for the implementation of any ordered service plan. The court~~  
19 ~~may, on its own motion, or on motion of a party, a party's~~  
20 ~~parent or guardian, or a member of the county or state~~  
21 ~~children's services facilitation team, set additional~~  
22 ~~hearings.~~

23 ~~"(2) No child, unless alleged or adjudicated~~  
24 ~~delinquent, may be placed in detention facilities established~~  
25 ~~primarily for delinquents.~~

1           ~~"(3) The juvenile court shall determine the~~  
2           ~~appropriate custodial entity, based on the child's~~  
3           ~~characteristics of behavior and type of treatment needed and~~  
4           ~~in accord, as far as possible, with the provisions of this~~  
5           ~~chapter for vesting legal custody in an entity, person, or~~  
6           ~~department of a child determined to be dependent, in need of~~  
7           ~~supervision, delinquent, mentally ill, or mentally retarded.~~  
8           ~~Nothing in this subsection, however, shall require an order of~~  
9           ~~commitment for a child to (i) receive services or (ii) be~~  
10           ~~placed in the custody of a state agency or department as an~~  
11           ~~adjudicated multiple needs child. It shall be the duty of~~  
12           ~~probation services, and the Departments of Education, Youth~~  
13           ~~Services, Mental Health and Mental Retardation, Public Health,~~  
14           ~~and Human Resources to provide services both at an in-home,~~  
15           ~~community, or residential setting for multiple needs children~~  
16           ~~when ordered by the court.~~

17           ~~"(4) The juvenile court may appoint a guardian ad~~  
18           ~~litem for a multiple needs child.~~

19           ~~"(5) The provisions of subdivisions (h) (1), (2),~~  
20           ~~(3), and (4) which require new or additional services beyond~~  
21           ~~those already provided by the agencies are mandated only to~~  
22           ~~the extent that additional funds are appropriated to the State~~  
23           ~~Multiple Needs Children Fund to implement its provisions. The~~  
24           ~~Departments of Human Resources, Mental Health and Mental~~  
25           ~~Retardation, Youth Services, and Education along with juvenile~~

1 ~~probation services shall develop a program of services for~~  
2 ~~multiple needs children. Nothing in the provisions relating to~~  
3 ~~multiple needs children shall prohibit or restrict departments~~  
4 ~~or agencies charged with the duty of providing services for~~  
5 ~~children and families from working cooperatively and providing~~  
6 ~~financial assistance to address needs which have been~~  
7 ~~identified prior to a case being referred to a children's~~  
8 ~~services facilitation team.~~

9           ~~"(i)(f)~~ When a child is placed in the legal custody  
10 of ~~the Department of Human Resources, Department of Mental~~  
11 ~~Health and Mental Retardation, or Department of Youth Services~~  
12 ~~and a department, agency, organization, entity, or person as~~  
13 ~~provided in this section,~~ when the parents or guardians have  
14 parent, legal guardian, or legal custodian of the child has  
15 resources for child support, the juvenile court shall order  
16 child support in conformity with the child support guidelines  
17 as set out in Rule 32, Alabama Rules of Judicial  
18 Administration. The child support shall be paid to the  
19 department, agency, organization, entity, or person in whose  
20 primary legal custody the child is placed and may be expended  
21 for those matters that are necessary for the welfare and  
22 well-being of those children placed in the departments,  
23 agencies, organizations, entities, or persons. In these cases,  
24 the juvenile court shall issue income withholding orders  
25 subject to state law. ~~Any petition for custody of a child~~

1 ~~filed by the Department of Human Resources shall contain a~~  
2 ~~request for child support.~~

3 ~~"(j)(g) Whenever the juvenile court commits a child~~  
4 ~~to a state or local department or agency or orders a state or~~  
5 ~~local department or agency to provide services or treatment~~  
6 ~~for a child, that department or agency shall accept the child~~  
7 ~~for commitment, ordered services, or treatment within seven~~  
8 ~~days of the court's order of the juvenile court. ~~However~~~~  
9 ~~Notwithstanding the foregoing, if compliance with the court's~~  
10 ~~order of the juvenile court within seven days would place ~~an a~~~~  
11 ~~department or agency in violation of either a state statute or~~  
12 ~~standard, then compliance is not required.~~

13 ~~"(k) When the court finds a juvenile to be~~  
14 ~~delinquent and commits the juvenile to a juvenile detention~~  
15 ~~facility, boot camp, or to the Department of Youth Services,~~  
16 ~~but the juvenile detention facility, boot camp, or the~~  
17 ~~Department of Youth Services is unable to take the juvenile~~  
18 ~~due to a lack of space and the juvenile is enrolled in public~~  
19 ~~school, unless good cause is shown that the juvenile should~~  
20 ~~not attend an alternative school, the court shall order that~~  
21 ~~the juvenile attend an alternative school if an alternative~~  
22 ~~school is available pending availability of space at the~~  
23 ~~facility.~~

24 ~~"(l) After completion of a term of commitment with~~  
25 ~~the Department of Youth Services and when the juvenile is~~

1 ~~admitted back into public school, the juvenile shall be placed~~  
2 ~~in an alternative school until such time when he or she meets~~  
3 ~~all requirements set by the local board of education.~~

4 ~~"(m) When a court, upon holding a hearing pursuant~~  
5 ~~to Section 12-15-34, orders a juvenile case to be transferred~~  
6 ~~to the circuit court for criminal prosecution and the juvenile~~  
7 ~~is enrolled in public school, unless good cause is shown that~~  
8 ~~the juvenile should not attend an alternative school, the~~  
9 ~~court shall order that the juvenile attend an alternative~~  
10 ~~school if an alternative school is available until disposition~~  
11 ~~of the criminal charges in the circuit court. If the criminal~~  
12 ~~charges result in conviction and the juvenile is sentenced to~~  
13 ~~a term of imprisonment in a penal facility, then the juvenile~~  
14 ~~shall remain in an alternative school pending the serving of~~  
15 ~~the sentence. After completion of the sentence or if the~~  
16 ~~juvenile is convicted but not sentenced to a term of~~  
17 ~~imprisonment in a penal facility, when the juvenile is~~  
18 ~~admitted back into school, the juvenile shall remain in an~~  
19 ~~alternative school until such time as he or she meets the~~  
20 ~~requirements set by the local board of education.~~

21 ~~"(n) The juvenile court is authorized to release the~~  
22 ~~order referred to in subsections (k), (l), and (m) to the~~  
23 ~~appropriate local school board where the public school or~~  
24 ~~public schools in which the juvenile attempts to enroll are~~  
25 ~~located. No hearing pursuant to Section 12-15-100 governing~~

1 ~~the confidentiality of juvenile records is required to release~~  
2 ~~the order to the school board.~~

3 ~~"(o) (1) If a juvenile age 16 or over is enrolled in~~  
4 ~~school and is charged with a crime pursuant to Section~~  
5 ~~12-15-34.1, or is charged with distribution of a controlled~~  
6 ~~substance, then upon notice or knowledge of the charge, the~~  
7 ~~local public school system shall assign the juvenile to an~~  
8 ~~alternative school, if an alternative school is available,~~  
9 ~~unless good cause is shown that the juvenile should not attend~~  
10 ~~an alternative school. The decision to assign a student to an~~  
11 ~~alternative school shall include a review and consideration of~~  
12 ~~the exceptional status of the student pursuant to Chapter 39~~  
13 ~~of Title 16, if applicable, and any appropriate federal and~~  
14 ~~state statutory and case law.~~

15 ~~"(2) Any person convicted of a crime specified in~~  
16 ~~subdivision (1) and readmitted to the public schools of this~~  
17 ~~state shall attend an alternative school until the juvenile~~  
18 ~~meets the requirements set by the local board of education.~~

19 ~~"§12-15-104.~~

20 ~~"§12-15-216. Legislative intent.~~

21 "The Legislature reaffirms its belief that juvenile  
22 court records, in general, should be confidential. However, it  
23 is the intent of the Legislature by Act 99-433, 1999 Regular  
24 Session, to provide for limited exceptions to juvenile court  
25 record confidentiality to promote more effective communication



1 among juvenile courts, law enforcement agencies, and schools  
2 to aid in the rehabilitation of ~~juvenile criminal offenders~~  
3 children as well as to lessen the potential for ~~drugs~~ drug  
4 use, violence, and other forms of delinquency.

5 "~~§12-15-105.~~

6 "12-15-217. Notice of delinquent acts.

7 "(a) Notwithstanding ~~subsections~~ subsection (a) and  
8 ~~(c)~~ of Section ~~12-15-100~~ 12-15-133, written notice that a  
9 child enrolled in a school, kindergarten to grade 12,  
10 ~~inclusive~~, has been found delinquent of an act which if  
11 committed by an adult would be a Class A or B felony or any  
12 other crime, at the discretion of the judge juvenile court,  
13 shall be provided within seven days to the superintendent of  
14 the school district of attendance, or, if the child attends a  
15 private school, to the principal of the school. The juvenile  
16 court shall provide the notice using whatever method it deems  
17 appropriate or otherwise as decided by the Administrative  
18 Office of Courts. The prosecutor may recommend to the juvenile  
19 court that notice be given to the school for any delinquent  
20 act. Written notice shall include only the offenses,  
21 enumerated by the appropriate code section and brief  
22 description, found to have been committed by the child and the  
23 disposition of the ~~child's~~ case involving the child. Where  
24 applicable, this notice shall be expeditiously transmitted by  
25 the district superintendent to the principal at the school of

1 attendance. The principal shall disseminate the information to  
2 those counselors directly supervising or reporting on the  
3 behavior or progress of the child. In addition, the principal  
4 may disseminate the information to any teacher, administrator,  
5 or other school employee directly supervising or reporting on  
6 the behavior or progress of the child whom the principal  
7 believes needs the information to work with the pupil in  
8 appropriate fashion or to protect other students and staff.

9 "(b) Any information received by a teacher,  
10 counselor, administrator, or other school employee ~~under~~  
11 pursuant to this section shall be received in confidence for  
12 the limited purpose of rehabilitating the child and protecting  
13 students and staff, and shall not be further disseminated by  
14 the teacher, counselor, or administrator, except insofar as  
15 communication with the ~~juvenile child~~, his or her ~~parents or~~  
16 ~~guardians~~ parent, legal guardian, legal custodian, law  
17 enforcement personnel, and the ~~juvenile's~~ juvenile probation  
18 officer of the child is necessary to effectuate the ~~juvenile's~~  
19 rehabilitation of the child or to protect students and staff.

20 "(c) An intentional violation of the confidentiality  
21 provisions of this section is a Class A misdemeanor ~~within~~  
22 under the jurisdiction of the juvenile court.

23 "~~§12-15-11.1.~~

1           "§12-15-218. Order requiring ~~parents or parent,~~  
2     legal guardian, or legal custodian to assist ~~delinquent~~ child  
3     in complying with terms of probation; penalties; exemptions.

4           "(a) In all cases where a child ~~has been declared a~~  
5     ~~delinquent child and~~ has been granted probation, the juvenile  
6     court, as a condition of granting probation to the child, may  
7     order the ~~parents or parent,~~ legal guardian, or legal  
8     custodian of the child, if he or she is made a party to the  
9     proceedings, to assist the juvenile court in ensuring that the  
10    child complies with the terms of his or her probation.

11          "(b) Prior to granting probation, the juvenile court  
12    shall explain to the ~~parents~~ parent, legal guardian, or legal  
13    custodian and the child the terms of his or her probation,  
14    including the responsibility and the penalty which may be  
15    imposed on ~~both~~ all parties for failure to comply with the  
16    terms of the probation.

17          "(c) A parent, legal guardian, or legal custodian,  
18    who after being made a party fails to assist ~~his or her~~ the  
19    child in complying with the terms of the probation, may be  
20    held in civil or criminal contempt of court, or both, ~~and may~~  
21    ~~be fined in an amount not exceeding three hundred dollars~~  
22    ~~(\$300) and imprisonment not exceeding 30 days, or both.~~

23          "(d) This section shall not apply to the parent,  
24    legal guardian, or legal custodian of a child, ~~and parents, or~~

1 ~~legal guardian,~~ who initiated a case by filing a petition  
 2 alleging delinquency of the child.

3 ~~"§12-15-71.1.~~

4 "§12-15-219. Serious juvenile offenders;  
 5 disposition; serious juvenile offender review panel; facility  
 6 and programs.

7 "(a) The juvenile court may find a child to be a  
 8 serious juvenile offender if:

9 "(1) The child is adjudicated delinquent and the  
 10 delinquent act or acts charged in the petition would  
 11 constitute any of the following if committed by an adult:

12 "a. A Class A felony.

13 "b. A felony resulting in serious physical injury  
 14 ~~fas defined in subdivision (9)~~ (14) of Section 13A-1-27.

15 c. A felony involving deadly physical force ~~fas~~  
 16 defined in subdivision ~~(10)~~ (6) of Section 13A-1-27; or a  
 17 deadly weapon ~~fas defined in~~ subdivision (7) ~~(11)~~ of Section  
 18 13A-1-27; or a dangerous instrument ~~fas defined in~~  
 19 subdivision ~~(12)~~ (5) of Section 13A-1-27; ~~or.~~

20 "(2) The child has been adjudicated delinquent for  
 21 an act which would constitute a Class A or B felony or  
 22 burglary in the third degree involving a residence and the  
 23 child has previously been adjudicated delinquent of two  
 24 previous acts which would have been a Class A or B felony or

1 burglary in the third degree involving a residence if ~~such~~ the  
2 acts had been committed by an adult.

3 "(b) A child found to be a serious juvenile offender  
4 shall be committed to the custody of the ~~Alabama~~ Department of  
5 Youth Services, where he or she shall remain for a minimum of  
6 one year.

7 "(c) A serious juvenile offender review panel shall  
8 be created by the Board of the ~~Alabama~~ Department of Youth  
9 Services. The serious juvenile offender review panel shall  
10 review quarterly the progress of each serious juvenile  
11 offender and determine at the end of the one-year term served  
12 by each child, a further treatment plan for that child. The  
13 panel may extend the commitment, order alternative treatment,  
14 or release the child. The serious juvenile offender review  
15 panel ~~must~~ shall provide the juvenile court with all reports  
16 and recommendations, and notify the judge in writing of the  
17 decision to release the child at least 30 days in advance of  
18 ~~said~~ the release.

19 "(d) The ~~Alabama~~ Department of Youth Services shall  
20 maintain and staff a separate, secure facility and implement  
21 programs for serious juvenile offenders. The minimum one-year  
22 term required by this section shall be served at ~~said~~ the  
23 facility and the review panel may extend the period of  
24 confinement in ~~said~~ the facility as determined necessary.

1           "(e) Nothing in this section shall be construed to  
2 prevent the juvenile court from transferring a child for  
3 criminal prosecution pursuant to Section ~~12-15-34~~ 12-15-203.

4           "~~§12-15-72.~~

5           "§12-15-220. Orders of disposition, ~~etc.~~, not to be  
6 deemed convictions, impose civil disabilities, etc.;  
7 disposition of child and evidence in hearing not admissible in  
8 another court.

9           "(a) An order of disposition or other adjudication  
10 in ~~proceedings under~~ a proceeding pursuant to subsection (a)  
11 of Section ~~12-15-30~~ 12-15-114 shall not be considered to be a  
12 conviction or impose any civil disabilities ordinarily  
13 resulting from a conviction of a crime or operate to  
14 disqualify the child in any civil service application or  
15 appointment.

16           "(b) The disposition of a child and evidence given  
17 in a hearing in the juvenile court shall not be admissible as  
18 evidence against him or her in any case or proceeding in any  
19 other court, ~~whether before or after reaching majority, except~~  
20 in a ~~disposition~~ dispositional hearing in a juvenile court or  
21 in sentencing proceedings after conviction of a crime for the  
22 purposes of a presentence study and report or for  
23 consideration of an application for youthful offender status.

24           "~~§12-15-74.~~

1           "§12-15-221. Modification, extension or ~~revocation~~  
2 ~~termination~~ of orders of custody, or probation ~~or protective~~  
3 ~~supervision~~ generally.

4           "(a) ~~At any time prior to expiration, an~~ An order  
5 ~~vesting~~ awarding legal custody or an order of probation ~~or~~  
6 ~~protective supervision~~ made by the juvenile court in the case  
7 of a child may be modified, revoked, or extended on motion by:

8           "(1) A child, whose legal custody has been  
9 transferred to a department, institution, agency, or person,  
10 requesting the juvenile court for a modification or  
11 termination of the order, alleging that ~~he~~ the child is no  
12 longer in need of ~~commitment, placement or probation or~~  
13 ~~protective supervision~~ and the department, institution,  
14 agency, or person has denied application for release of the  
15 child or has failed to act upon the application within a  
16 reasonable time; or

17           "(2) A department, institution, agency, or person  
18 vested with legal custody or responsibility for probation ~~or~~  
19 ~~protective supervision~~, requesting the juvenile court for a  
20 modification, an extension, or a termination of the order on  
21 the grounds that ~~such~~ the action is in the best interests of  
22 the child or necessary to safeguard the welfare of the child  
23 or the public ~~interest~~ interests.

24           "(b) The juvenile court may dismiss the motions  
25 filed ~~under~~ pursuant to subsection (a) ~~of this section~~ if,

1 after preliminary investigation, it finds that they are  
 2 without substance. If ~~it~~ the juvenile court is of the opinion  
 3 that the order should be reviewed, ~~it may,~~ upon due notice to  
 4 all necessary parties as prescribed by rules of court, it may  
 5 proceed to a hearing in the same manner and under the same  
 6 safeguards provided for in this chapter for the issuance of  
 7 the original order. It may thereupon terminate the order if it  
 8 finds the child is no longer in need of care, ~~supervision~~ or  
 9 rehabilitation or it may enter an order extending or modifying  
 10 the original order if it finds ~~such~~ this action necessary to  
 11 safeguard the child or the public interest."

12 Section 15. The heading of Article 3 (commencing  
 13 with Section 12-15-301) of Chapter 15 of Title 12 of the Code  
 14 of Alabama 1975, is amended to read as follows:

15 ARTICLE 3. ~~PROCEDURE~~ GENERALLY

16 DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS.

17 Section 16. Sections 12-15-301, 12-15-302, and  
 18 12-15-303 are added to the Code of Alabama 1975, to read as  
 19 follows:

20 §12-15-301. Definitions.

21 For purposes of this article, the following words  
 22 and phrases shall have the following meanings:

23 (1) ABANDONMENT. A voluntary and intentional  
 24 relinquishment of the custody of a child by a parent, or a  
 25 withholding from the child, without good cause or excuse, by



1 the parent, of his or her presence, care, love, protection,  
2 maintenance, or the opportunity for the display of filial  
3 affection, or the failure to claim the rights of a parent, or  
4 failure to perform the duties of a parent.

5 (2) ABUSE. Harm or the risk of harm to the  
6 emotional, physical health, or welfare of a child. Harm or the  
7 risk of harm to the emotional, physical health, or welfare of  
8 a child can occur through nonaccidental physical or mental  
9 injury, sexual abuse, or attempted sexual abuse or sexual  
10 exploitation or attempted sexual exploitation.

11 (3) CHILD-PLACING AGENCY. The same as the term is  
12 defined in subdivision (3) of Section 38-7-2.

13 (4) NEGLECT. Negligent treatment or maltreatment of  
14 a child, including, but not limited to, the failure to provide  
15 adequate food, medical treatment, supervision, education,  
16 clothing, or shelter.

17 (5) PROTECTIVE SUPERVISION. A legal status created  
18 by order of the juvenile court following an adjudication of  
19 dependency whereby a child is placed with a parent or other  
20 person subject to supervision by the Department of Human  
21 Resources.

22 (6) REASONABLE EFFORTS. Efforts made to preserve and  
23 reunify families prior to the placement of a child in foster  
24 care, to prevent or eliminate the need for removing the child  
25 from his or her home, and to make it possible for a child to

1 return safely to his or her home. Reasonable efforts also  
2 refers to efforts made to place the child in a timely manner  
3 in accordance with the permanency plan, and to complete  
4 whatever steps are necessary to finalize the permanency  
5 placement of the child. In determining the reasonable efforts  
6 to be made with respect to a child, and in making these  
7 reasonable efforts, the health and safety of the child shall  
8 be the paramount concern.

9 (7) RELATIVE. An individual who is legally related  
10 to the child by blood, marriage, or adoption within the fourth  
11 degree of kinship, including only a brother, sister, uncle,  
12 aunt, first cousin, grandparent, great grandparent, great  
13 aunt, great uncle, great great grandparent, niece, nephew,  
14 grand niece, grand nephew, or a stepparent.

15 (8) SEXUAL ABUSE. Sexual abuse includes the  
16 employment, use, persuasion, inducement, enticement, or  
17 coercion of any child to engage in, or having a child assist  
18 any person to engage in, any sexually explicit conduct or any  
19 simulation of the conduct for the purpose of producing any  
20 visual depiction of the conduct. Sexual abuse also includes  
21 rape, molestation, prostitution, or other forms of sexual  
22 exploitation or abuse of children, or incest with children, as  
23 those acts are defined in this article or by Alabama law.

24 (9) SEXUAL EXPLOITATION. Sexual exploitation  
25 includes allowing, permitting, or encouraging a child to

1 engage in prostitution and allowing, permitting, encouraging,  
2 or engaging in the obscene or pornographic photographing,  
3 filming, or depicting of a child.

4 (10) TERMINATION OF PARENTAL RIGHTS. A severance of  
5 all rights of a parent to a child.

6 §12-15-302. Venue generally.

7 (a) Dependency proceedings shall be commenced in the  
8 county where the child resides, in the county where the child  
9 is present when the proceedings are commenced, or in the  
10 county where the acts that are the basis of the dependency  
11 petition occurred.

12 (b) Regardless of the county where the child  
13 currently resides, when a petition is filed seeking to modify  
14 an award of custody or visitation pursuant to an adjudication  
15 of dependency, and one of the individuals who was a party to  
16 the original proceeding still resides in the county of the  
17 juvenile court of original jurisdiction, the petition shall be  
18 filed in the juvenile court of the original jurisdiction.

19 (c) When a petition is filed seeking to modify an  
20 award of custody or visitation pursuant to an adjudication of  
21 dependency in which all parties to the original action,  
22 including the child, no longer reside in the county of  
23 original jurisdiction, the petition shall be filed in the  
24 county where the child resides at the time the petition is

1 filed. The petition shall be accompanied by a certified copy  
2 of the most recent order to be modified.

3 (d) For purposes of this section, county where the  
4 child resides means the county in which the child and legal  
5 custodian have established legal residence or have resided for  
6 six or more months of a calendar year. This term shall not  
7 include placements by a state department or agency.

8 §12-15-303. Transfer of dependency proceedings  
9 between juvenile courts within the state.

10 (a) If a dependency proceeding is commenced in a  
11 county other than the county of the residence of the child,  
12 the juvenile court in which the proceedings were commenced, on  
13 its own motion or a motion of a party and after consultation  
14 with the receiving juvenile court, may transfer the proceeding  
15 before or after adjudication to the county of the residence of  
16 the child for the purpose of adjudication, disposition,  
17 supervision, or review as mandated by federal and state law  
18 for children in foster care or in the custody of the state, or  
19 any combination thereof.

20 (b) For purposes of this section, county of the  
21 residence of the child means the county in which the child and  
22 legal custodian have established legal residence or have  
23 resided for six or more months of a calendar year. This term  
24 shall not include placements by a state department or agency.

1           (c) Certified copies of all legal and social records  
2           pertaining to the case shall accompany the transfer.

3           Section 17. Section 12-15-8 of the Code of Alabama  
4           1975, is amended and renumbered to read as follows:

5           "~~§12-15-8.~~

6           "§12-15-304. Appointment by juvenile courts of  
7           guardians ad litem ~~or guardians of the person for children.~~

8           "(a) ~~The~~ In all dependency and termination of  
9           parental rights proceedings, the juvenile court, at any stage  
10           ~~of a proceeding under this chapter, may~~ shall appoint a  
11           guardian ad litem for a child who is a party to the  
12           proceedings and whose primary responsibility shall be to  
13           protect the best interests of the child ~~proceeding if he has~~  
14           ~~no parent or guardian or custodian appearing on his behalf or~~  
15           ~~their interests conflict with those of the child. A party to~~  
16           ~~the proceeding or his employee or representative shall not be~~  
17           ~~so appointed.~~

18           "~~(b) The court, in any proceeding under this~~  
19           ~~chapter, shall appoint a guardian of the person for a child in~~  
20           ~~any case where it finds that the child does not have a natural~~  
21           ~~or adoptive parent in a position to exercise effective~~  
22           ~~guardianship or a legally appointed guardian of his person. No~~  
23           ~~officer or employee of a state or local public agency or~~  
24           ~~private agency which is vested with legal custody of a child~~  
25           ~~shall be appointed guardian of the person of the child, except~~

1 ~~when parental rights have been terminated and the agency has~~  
2 ~~been authorized to place the child for adoption.~~

3 "(b) The duties of the guardian ad litem include,  
4 but shall not be limited to, the following:

5 "(1) Irrespective of the age of the child, meet with  
6 the child prior to juvenile court hearings and when apprised  
7 of emergencies or significant events impacting the child. In  
8 addition, the guardian ad litem shall explain, in terms  
9 understandable to the child, what is expected to happen  
10 before, during, and after each juvenile court hearing.

11 "(2) Conduct a thorough and independent  
12 investigation.

13 "(3) Advocate for appropriate services for the child  
14 and the family.

15 "(4) Attend all juvenile court hearings scheduled by  
16 the juvenile court and file all necessary pleadings to  
17 facilitate the best interests of the child.

18 "(c) Before being appointed by the juvenile court,  
19 every guardian ad litem appointed in juvenile dependency or  
20 termination of parental rights cases shall receive training  
21 appropriate to their role.

22 "(d) Nothing in this section shall prohibit the  
23 juvenile court from appointing trained volunteers in addition  
24 to guardians ad litem in promoting the best interests of the  
25 child.

1           "(e) A guardian ad litem may be appointed to protect  
2 the best interests of more than one child of the same parent.  
3 A guardian ad litem also may be appointed to protect the best  
4 interests of both a minor (or otherwise incapacitated) parent  
5 and the child."

6           Section 18. Sections 12-15-305, 12-15-306,  
7 12-15-307, 12-15-308, 12-15-309, 12-15-310, 12-15-311,  
8 12-15-312, 12-15-313, 12-15-314, 12-15-315, and 12-15-316 are  
9 added to the Code of Alabama 1975, to read as follows:

10           §12-15-305. Right to counsel for petitioners or  
11 respondent parents, legal guardians, or legal custodians in  
12 dependency proceedings.

13           (a) Upon request and a finding of indigency, the  
14 juvenile court may appoint an attorney to represent the  
15 petitioner and may order recoupment of the fees of the  
16 attorney to be paid to the State of Alabama.

17           (b) In dependency and termination of parental rights  
18 cases, the respondent parent, legal guardian, or legal  
19 custodian shall be informed of his or her right to be  
20 represented by counsel and, if the juvenile court determines  
21 that he or she is indigent, counsel shall be appointed where  
22 the respondent parent, legal guardian, or legal custodian is  
23 unable for financial reasons to retain his or her own counsel.

24           §12-15-306. Removing a child from the custody of a  
25 parent, legal guardian, or legal custodian.

1           (a) A child may be removed by a law enforcement  
2 officer from the custody of a parent, legal guardian, or legal  
3 custodian if there are reasonable grounds to believe any of  
4 the following:

5           (1) The child is suffering from an illness or injury  
6 or is in imminent danger from the surroundings of the child  
7 and that the removal of the child is necessary for the  
8 protection of the health and safety of the child.

9           (2) The child has no parent, legal guardian, legal  
10 custodian, or other suitable person able to provide  
11 supervision and care for the child.

12           (b) The person removing the child shall immediately  
13 deliver the child to the Department of Human Resources.

14           §12-15-307. Notice and right to be heard to be given  
15 to relatives, preadoptive parents, or foster parents.

16           Relative caregivers, preadoptive parents, and foster  
17 parents of a child in foster care under the responsibility of  
18 the state shall be given notice, verbally or in writing, of  
19 the date, time, and place of any juvenile court proceeding  
20 being held with respect to a child in their care.

21           Foster parents, preadoptive parents, and relative  
22 caregivers of a child in foster care under the responsibility  
23 of the state have a right to be heard in any juvenile court  
24 proceeding being held with respect to a child in their care.



1           No foster parent, preadoptive parent, and relative  
2 caregiver of a child in foster care under the responsibility  
3 of the state shall be made a party to a juvenile court  
4 proceeding solely on the basis of this notice and right to be  
5 heard pursuant to this section.

6           §12-15-308. Filing of petition and conduct of  
7 72-hour hearing as to necessity for continuation of shelter  
8 care of a child.

9           (a) When a child alleged to be dependent has been  
10 removed from the custody of the parent, legal guardian, or  
11 legal custodian and has not been returned to same, a hearing  
12 shall be held within 72 hours from the time of removal,  
13 Saturdays, Sundays, and holidays included, to determine  
14 whether continued shelter care is required.

15           (b) Notice of the 72-hour hearing requirement,  
16 either verbal or written, stating the date, time, place, and  
17 purpose of the hearing and the right to counsel shall be given  
18 to the parent, legal guardian, or legal custodian if he or she  
19 can be found.

20           (c) At the commencement of the 72-hour hearing  
21 requirement, the juvenile court shall advise the parent, legal  
22 guardian, or legal custodian of the right to counsel and shall  
23 appoint counsel if the juvenile court determines he or she is  
24 indigent. If the juvenile court already has not done so, it  
25 shall appoint a guardian ad litem for a child who is a party

1 to the proceeding. It is the responsibility of the guardian ad  
2 litem to present evidence supporting the best interests of the  
3 child. The parent, legal guardian, or legal custodian shall  
4 also be informed of the contents of the petition and, except  
5 as provided herein, shall be given an opportunity to admit or  
6 deny the allegations of the petition.

7 (d) All relevant and material evidence helpful in  
8 determining the need for shelter care may be admitted by the  
9 juvenile court, even though not admissible in subsequent  
10 hearings.

11 (e) If the child is not released and no parent,  
12 legal guardian, or other legal custodian has been notified and  
13 none appeared or waived appearance at the hearing, upon the  
14 filing of an affidavit by the parent, legal guardian, or legal  
15 custodian stating these facts and requesting a hearing, the  
16 juvenile court shall hear the matter within 24 hours.

17 (f) If the child is not released, the juvenile  
18 court, at the earliest opportunity in the case, including the  
19 72-hour hearing requirement or the adjudicatory hearing, may  
20 order the parent, legal guardian, or legal custodian to  
21 provide a list of names and, if possible, addresses and  
22 telephone numbers, of known paternal and maternal relatives to  
23 the juvenile court.

24 §12-15-309. Alleged dependent child to be released  
25 when continued shelter care not required; conditions imposed

1 upon release; amendment of conditions or return of child to  
2 custody upon failure to conform to conditions imposed.

3 (a) When the juvenile court finds that continued  
4 shelter care is not required for a child, the juvenile court  
5 shall order the return of the child, and in so doing, may  
6 impose one or more of the following conditions singly or in  
7 combination:

8 (1) Return the child to the custody of the parent,  
9 legal guardian, or legal custodian and, if necessary, place  
10 the child under the supervision of the Department of Human  
11 Resources.

12 (2) Place restrictions on travel, associations, or  
13 living conditions of the child pending the adjudicatory  
14 hearing.

15 (b) An order releasing a child on any conditions  
16 specified may at any time be amended to impose additional or  
17 different conditions.

18 §12-15-310. Conduct of adjudicatory hearings.

19 (a) An adjudicatory hearing is a hearing at which  
20 evidence is presented for a juvenile court to determine if a  
21 child is dependent. At the commencement of the hearing, if the  
22 parties are not represented by counsel, they shall be informed  
23 of the specific allegations in the petition. The parties shall  
24 be permitted to admit or deny the allegations prior to the  
25 taking of testimony.

1           (b) If the allegations are denied by the parties or  
2 if they fail to respond, the juvenile court shall proceed to  
3 hear evidence on the petition. The juvenile court shall record  
4 its findings on whether the child is dependent. If the  
5 juvenile court finds that the allegations in the petition have  
6 not been proven by clear and convincing evidence, the juvenile  
7 court shall dismiss the petition.

8           (c) A statement made by a child under the age of 12  
9 describing any act of sexual conduct performed with or on the  
10 child by another, not otherwise admissible by statute or court  
11 rule, is admissible in all dependency cases brought by the  
12 State of Alabama acting by and through a local department of  
13 human resources if:

14           (1) The statement was made to a social worker, child  
15 sexual abuse therapist or counselor, licensed psychologist,  
16 physician, or school or kindergarten teacher or instructor;  
17 and

18           (2) The juvenile court finds that the time, content,  
19 and circumstances of the statement provide sufficient indicia  
20 of reliability. In making its determination, the juvenile  
21 court may consider the physical and mental age and maturity of  
22 the child, the nature and duration of the abuse or offense,  
23 the relationship of the child to the offender, and any other  
24 factor deemed appropriate.

1           (d) A statement may not be admitted pursuant to this  
2 section unless the proponent of the statement makes known to  
3 the adverse party the intention of the proponent to offer the  
4 statement and the particulars of the statement sufficiently in  
5 advance of the proceedings to provide the adverse party with a  
6 fair opportunity to rebut the statement. This child hearsay  
7 exception applies to all hearings involving dependency  
8 including, but not limited to, the 72-hour hearing  
9 requirement, the adjudicatory hearing, and the dispositional  
10 hearing. The exception contained in this subsection shall not  
11 apply to a criminal proceeding or charge.

12           §12-15-311. Dispositional hearing.

13           (a) If the juvenile court finds from clear and  
14 convincing evidence, competent, material, and relevant in  
15 nature, that a child is dependent, the juvenile court may  
16 proceed immediately, in the absence of objection showing good  
17 cause or at a postponed hearing, to make proper disposition of  
18 the case.

19           (b) In dispositional hearings, all relevant and  
20 material evidence helpful in determining the best interests of  
21 the child, including verbal and written reports, may be  
22 received by the juvenile court even though not admissible in  
23 the adjudicatory hearing. The parties or their counsel shall  
24 be afforded an opportunity to examine and controvert written

1 reports so received and to cross-examine individuals making  
2 reports.

3 (c) On its own motion or that of a party, the  
4 juvenile court may continue the dispositional hearing pursuant  
5 to this section for a reasonable period to receive reports and  
6 other evidence bearing on the disposition or need for care or  
7 rehabilitation. In this event, the juvenile court shall make  
8 an appropriate order for temporary care for the child, or the  
9 release of the child from temporary care during the period of  
10 the continuance, subject to those conditions as the juvenile  
11 court may impose.

12 §12-15-312. Reasonable efforts in judicial  
13 determinations; situations in which reasonable efforts are not  
14 required to be made.

15 (a) When the juvenile court enters an order removing  
16 a child from his or her home and places the child into foster  
17 care or custody of the Department of Human Resources pursuant  
18 to this chapter, the order shall contain specific findings, if  
19 warranted by the evidence, within the following time periods  
20 while making child safety the paramount concern:

21 (1) In the first order of the juvenile court that  
22 sanctions the removal, whether continuation of the residence  
23 of the child in the home would be contrary to the welfare of  
24 the child. This order may be the pick-up order that the  
25 juvenile court issues on the filing of a dependency petition.

1           (2) Within 60 days after the child is removed from  
2 the home of the child, whether reasonable efforts have been  
3 made to prevent removal of the child or whether reasonable  
4 efforts were not required to be made.

5           (3) Within 12 months after the child is removed from  
6 the home of the child and not less than every 12 months  
7 thereafter during the continuation of the child in out-of-home  
8 care, whether reasonable efforts have been made to finalize  
9 the existing permanency plan.

10           (b) As used in this chapter, reasonable efforts  
11 refers to efforts made to preserve and reunify families prior  
12 to the placement of a child in foster care, to prevent or  
13 eliminate the need for removing the child from the home of the  
14 child, and to make it possible for a child to return safely to  
15 the home of the child. In determining the reasonable efforts  
16 to be made with respect to a child, and in making these  
17 reasonable efforts, the health and safety of the child shall  
18 be the paramount concern. If continuation of reasonable  
19 efforts is determined to be inconsistent with the permanency  
20 plan for the child, reasonable efforts shall be made to place  
21 the child in a timely manner in accordance with the permanency  
22 plan including, if appropriate, through an interstate  
23 placement, and to complete whatever steps are necessary to  
24 finalize a permanent plan for the child.

1           (c) Reasonable efforts shall not be required to be  
2 made with respect to a parent of the child if the juvenile  
3 court has determined that the parental rights of the parent to  
4 a sibling have been involuntarily terminated or that a parent  
5 has done any of the following:

6           (1) Subjected a child to an aggravated circumstance  
7 against the child or a sibling of the child and the risk of  
8 child abuse or neglect is too high for the child to remain at  
9 home safely or to be returned home. An aggravated circumstance  
10 includes, but is not limited to, rape, sodomy, incest,  
11 aggravated stalking, abandonment, torture, chronic abuse, or  
12 sexual abuse. An aggravated circumstance may also include any  
13 of the following:

14           a. Allowing a child to use alcohol or illegal drugs  
15 to the point of abuse, neglect, or substantial risk of harm.

16           b. Substance misuse or abuse, or both, by a parent  
17 or interfering with the ability to keep the child safe and  
18 refusal of a parent to participate in or complete treatment,  
19 or where treatment has been unsuccessful.

20           c. A parent demonstrating extreme disinterest in the  
21 child by doing either of the following:

22           1. Not complying with the steps outlined in the  
23 individualized service plan or case plan over a period of six  
24 months.



1           2. Repeatedly leaving the child with someone who is  
2 unwilling or incapable of providing care and not returning for  
3 the child as promised.

4           d. Abandoning an infant or young child when the  
5 identity of the child is unknown and the parent is unknown or  
6 unable to be located after a diligent search.

7           e. When the parent has an emotional or mental  
8 condition and there is clearly no treatment that can improve  
9 or strengthen the condition enough to allow the child to  
10 remain at home safely or to return home safely.

11           f. When a parent is incarcerated and the child is  
12 deprived of a safe, stable, and permanent parent-child  
13 relationship.

14           (2) Committed murder or manslaughter of another  
15 child or murder or manslaughter of the other parent of the  
16 child.

17           (3) Aided or abetted, attempted, conspired, or  
18 solicited to commit murder or manslaughter of another child or  
19 aided or abetted, attempted, conspired, or solicited to commit  
20 murder or manslaughter of the other parent of the child.

21           (4) Committed a felony assault which resulted in  
22 serious bodily injury to the child or another child or to the  
23 other parent of the child. The term serious bodily injury  
24 means bodily injury which involves substantial risk of death,  
25 extreme physical pain, protracted and obvious disfigurement,

1 or protracted loss or impairment of the function of a bodily  
2 member, organ, or mental faculty.

3 (d) Nothing in the exceptions to making reasonable  
4 efforts listed in subsection (c) shall be interpreted to  
5 require the reunification of a child with a stepparent or  
6 paramour of a parent under similar circumstances. The crimes  
7 listed in subsection (c) may include those from other states  
8 or federal crimes if the elements of the crimes are  
9 substantially similar to those crimes in this state.

10 (e) If reasonable efforts are not made with respect  
11 to a child as a result of a determination made by a juvenile  
12 court in situations as described above, a permanency hearing,  
13 as provided in Section 12-15-315, in which in-state or  
14 out-of-state placement options for the child are considered,  
15 shall be held for the child within 30 days after the  
16 determination. Reasonable efforts shall be made to place the  
17 child in a timely manner in accordance with the permanency  
18 plan and to complete whatever steps are necessary to finalize  
19 permanent placement of the child. Reasonable efforts to place  
20 a child for adoption or with a legal guardian or legal  
21 custodian, including identifying appropriate in-state and  
22 out-of-state placements, may be made concurrently with other  
23 reasonable efforts.

24 §12-15-313. Ordering and preparation of report  
25 concerning a child and family; ordering, conduct, and

1 certification of findings of physical or mental examination of  
2 child prior to hearing on petition generally; examination of  
3 parent, legal guardian, or legal custodian after hearing where  
4 ability to care for or supervise child at issue.

5 (a) After a petition alleging dependency has been  
6 filed, the juvenile court may direct that a study and report  
7 to the juvenile court be made by the Department of Human  
8 Resources with recommendations concerning the child, his or  
9 her family, his or her environment, and other matters relevant  
10 to the need for treatment or disposition of the case.

11 (b) Where there are indications that the child may  
12 be physically ill, mentally ill, or mentally retarded, the  
13 juvenile court, on its own motion or motion of a party, may  
14 order the child to be examined at a suitable place by a  
15 physician, psychiatrist, psychologist, or other qualified  
16 examiner under the supervision of a physician, psychiatrist,  
17 or psychologist who shall certify the findings of the examiner  
18 in writing prior to a hearing on the merits of the petition.

19 §12-15-314. Dispositions for dependent children.

20 (a) If a child is found to be dependent, the  
21 juvenile court may make any of the following orders of  
22 disposition to protect the welfare of the child:

23 (1) Permit the child to remain with the parent,  
24 legal guardian, or other legal custodian of the child, subject

1 to conditions and limitations as the juvenile court may  
2 prescribe.

3 (2) Place the child under protective supervision  
4 under the Department of Human Resources.

5 (3) Transfer legal custody to any of the following:

6 a. The Department of Human Resources.

7 b. A local public or private agency, organization,  
8 or facility willing and able to assume the education, care,  
9 and maintenance of the child and which is licensed by the  
10 Department of Human Resources or otherwise authorized by law  
11 to receive and provide care for the child.

12 c. A relative or other individual who, after study  
13 by the Department of Human Resources, is found by the juvenile  
14 court to be qualified to receive and care for the child.

15 Unless the juvenile court finds it not in the best interests  
16 of the child, a willing, fit, and able relative shall have  
17 priority for placement or custody over a non-relative.

18 (4) Make any other order as the juvenile court in  
19 its discretion shall deem to be for the welfare and best  
20 interests of the child.

21 (5) In appropriate cases, award permanent custody to  
22 the Department of Human Resources or to a licensed  
23 child-placing agency after termination of parental rights and  
24 authorization to place for adoption, without appointing a  
25 legal guardian, or award temporary custody to the department

1 or a licensed child-placing agency without appointing a legal  
2 custodian or legal guardian.

3 (b) Unless a child found dependent shall also be  
4 found to be delinquent, the child shall not be confined in an  
5 institution established for the care and rehabilitation of  
6 delinquent children or in a juvenile detention facility.  
7 Nothing in this subsection shall be construed to prohibit the  
8 placement of dependent children in any other residential  
9 facility as defined in subdivision (22) of Section 12-15-102.

10 (c) There shall be a rebuttable presumption that  
11 children cannot be removed from the custody of their parents  
12 solely because of a need for emergency housing.

13 (d) In providing shelter or other care for children  
14 referred to or coming under the jurisdiction of the juvenile  
15 court, the juvenile court and the Department of Human  
16 Resources shall utilize only those facilities as have been  
17 established, licensed, or approved by law, or by agencies  
18 pursuant to law, for those purposes.

19 (e) When a child is placed in the legal custody of  
20 the Department of Human Resources or any other department,  
21 agency, organization, entity, or person pursuant to this  
22 section and when the parent, legal guardian, or legal  
23 custodian of the child has resources for child support, the  
24 juvenile court shall order child support in conformity with  
25 the child support guidelines as set out in Rule 32, Alabama

1 Rules of Judicial Administration. The child support shall be  
2 paid to the Department of Human Resources or department,  
3 agency, any other organization, entity, or person in whose  
4 legal custody the child is placed and may be expended for  
5 those matters that are necessary for the welfare and  
6 well-being of those children placed in the Department of Human  
7 Resources or any other departments, agencies, organizations,  
8 entities, or person. In these cases, the juvenile court shall  
9 issue income withholding orders subject to state law. Any  
10 petition alleging dependency of a child filed by the  
11 Department of Human Resources shall contain a request for  
12 child support.

13 §12-15-315. Permanency hearing for Department of  
14 Human Resources cases only.

15 (a) Within 12 months of the date a child is removed  
16 from the home and placed in out-of-home care, and not less  
17 frequently than every 12 months thereafter during the  
18 continuation of the child in out-of-home care, the juvenile  
19 court shall hold a permanency hearing. The Department of Human  
20 Resources shall present to the juvenile court at the hearing a  
21 permanent plan for the child. The juvenile court shall consult  
22 with the child, in an age-appropriate manner, regarding the  
23 permanency plan and any transition plan to independent living.  
24 If a permanent plan is not presented to the juvenile court at  
25 this hearing, there shall be a rebuttable presumption that the

1 child should be returned home. This provision is intended to  
2 ensure that a permanent plan is prepared by the Department of  
3 Human Resources and presented to the juvenile court within 12  
4 months of the placement of any child in foster care and no  
5 less frequently than every 12 months thereafter. The purpose  
6 of the permanency hearing shall be to determine the permanency  
7 plan for the child which may include whether, and, if  
8 applicable, when, the child shall be: (1) Returned home on a  
9 specific date; (2) placed for adoption with no identified  
10 resource or with the current foster parent wherein the  
11 Department of Human Resources shall file a petition for  
12 termination of parental rights; (3) permanently placed with a  
13 relative with a transfer of legal and physical custody to the  
14 relative or with a transfer of physical custody to the  
15 relative but with the Department of Human Resources retaining  
16 legal custody; (4) placed in adult custodial care; or (5)  
17 placed in another planned permanent living arrangement. In the  
18 case of a child who will not be returned home, at the  
19 permanency hearing, the juvenile court shall consider in-state  
20 and out-of-state placement options. If the juvenile court  
21 determines the permanent plan shall be placement in another  
22 planned permanent living arrangement, the Department of Human  
23 Resources must document to the juvenile court a compelling  
24 reason for determining that it would not be in the best  
25 interests of the child to return home, be placed for adoption

1 with no identified resource or with the current foster parent,  
2 or be permanently placed with a relative, with a transfer of  
3 legal and physical custody to the relative or with a transfer  
4 of physical custody to the relative but with the Department of  
5 Human Resources retaining legal custody, or be placed in adult  
6 custodial care. If the child has been placed in foster care  
7 outside the State of Alabama, at the permanency hearing, the  
8 juvenile court shall determine whether the out-of-state  
9 placement continues to be appropriate and in the best  
10 interests of the child. In the case of a child who has  
11 attained the age of 16 years, at the permanency hearing, the  
12 juvenile court shall consider the services needed to assist  
13 the child to make the transition from foster care to  
14 independent living. In any permanency hearing held with  
15 respect to the child, including any hearing regarding the  
16 transition of the child from foster care to independent  
17 living, the juvenile court shall consult, in an  
18 age-appropriate manner, with the child regarding the proposed  
19 permanency or transition plan for the child. Permanency plans  
20 may be concurrent and the Department of Human Resources may  
21 make reasonable efforts concurrently towards multiple  
22 permanency goals.

23 (b) The permanency hearing order of the juvenile  
24 court shall address whether the Department of Human Resources



1 has made reasonable efforts to finalize any existing  
2 permanency plan for the child.

3 (c) The Department of Human Resources shall provide  
4 a copy of available health and education records of the foster  
5 child to the foster parent or foster care provider at the time  
6 of placement and provide a copy of available health and  
7 education records to the foster child, at no cost, at the time  
8 the child is emancipated or released from foster care by  
9 reason of attaining the age of majority.

10 §12-15-316. Modification, extension, or termination  
11 of orders of custody or protective supervision generally.

12 An order awarding legal custody or an order of  
13 protective supervision made by the juvenile court in the case  
14 of a child may be modified, terminated, or extended on motion  
15 by any of the following:

16 (1) A child, whose legal custody has been  
17 transferred to a department, institution, agency, or person,  
18 requesting the juvenile court for a modification or  
19 termination of the order, alleging that the child is no longer  
20 dependent or that protective supervision is no longer  
21 necessary.

22 (2) A department, institution, agency, or person  
23 vested with legal custody or responsibility for protective  
24 supervision, requesting the juvenile court for a modification,

1 an extension, or a termination of the order on the grounds  
2 that this action is in the best interests of the child.

3 Section 19. Sections 26-18-5, 26-18-6, 26-18-7,  
4 26-18-8, 26-18-9, and 26-18-10 of the Code of Alabama 1975,  
5 are amended and renumbered to read as follows:

6 ~~"§26-18-5.~~

7 "§12-15-317. Who may file petition.

8 ~~"(a) A petition may be filed by the Department of~~  
9 ~~Human Resources, any public or private licensed child-placing~~  
10 ~~agency or parent, with permission of the court, or any~~  
11 ~~interested party.~~

12 "The Department of Human Resources, any public or  
13 private licensed child-placing agency, parent, child, or any  
14 interested person may file a petition to terminate the  
15 parental rights of a parent or parents of a child.

16 "(1) Mandatory filing of petition by the Department  
17 of Human Resources. The Department of Human Resources shall be  
18 required to file a petition to terminate the parental rights  
19 of a parent or parents of a child, or if the petition has been  
20 filed by another party, shall seek to be joined as a party to  
21 the petition, and, concurrently, to identify, recruit,  
22 process, and approve a qualified family for adoption, in the  
23 following circumstances:

1           "a. In the case of a child who has been in foster  
2 care in the custody of the Department of Human Resources for  
3 15 of the most recent 22 months.

4           "b. If a child has been abandoned.

5           "c. If the parent has committed murder of another  
6 child of that parent.

7           "d. If the parent has committed manslaughter of  
8 another child of that parent.

9           "e. If the parent has aided, abetted, attempted,  
10 conspired, or solicited to commit murder or manslaughter of  
11 another child of that parent.

12           "f. If the parent has committed a felony assault  
13 that has resulted in serious bodily injury, as defined in  
14 Section 12-15-319(a)(5)c., to the child, to another child of  
15 the parent, or to the other parent of the child.

16           "(2) Exceptions to mandatory filing shall include  
17 any of the following factors:

18           "a. The child is being cared for by a relative.

19           "b. The Department of Human Resources has documented  
20 in the individualized service plan, which shall be available  
21 for review by the juvenile court, a compelling reason for  
22 determining that filing a petition would not be in the best  
23 interests of the child.

24           "c. The Department of Human Resources has not  
25 provided to the family of the child, consistent with the time

1 period in the individualized service plan of the Department of  
2 Human Resources, such services as the Department of Human  
3 Resources deems necessary for the safe return of the child to  
4 his or her home, if reasonable efforts are required to be made  
5 with respect to the child.

6 ~~"(b) In the case of a child who has been in foster~~  
7 ~~care under the responsibility of the department for 15 of the~~  
8 ~~most recent 22 months, or, if a child has been abandoned or~~  
9 ~~the parent has committed murder of another child of that~~  
10 ~~parent, committed voluntary manslaughter of another child of~~  
11 ~~that parent, or has aided, abetted, attempted, conspired, or~~  
12 ~~solicited to commit such a murder or such a voluntary~~  
13 ~~manslaughter, or has committed a felony assault that has~~  
14 ~~resulted in serious bodily injury, as defined in Section~~  
15 ~~26-18-7, to the child or to another child of the parent, the~~  
16 ~~department shall file a petition to terminate the parental~~  
17 ~~rights of the parents of the child, or if the petition has~~  
18 ~~been filed by another party, seek to be joined as a party to~~  
19 ~~the petition, and, concurrently, to identify, recruit,~~  
20 ~~process, and approve a qualified family for adoption unless~~  
21 ~~one of the following occurs:~~

22 ~~"(1) The child is being cared for by a relative.~~

23 ~~"(2) The department has documented in the case plan,~~  
24 ~~which shall be available for court review, a compelling reason~~

1 ~~for determining that filing a petition would not be in the~~  
2 ~~best interests of the child.~~

3 ~~"(3) The department has not provided to the family~~  
4 ~~of the child, consistent with the time period in the~~  
5 ~~department's case plan, such services as the department deems~~  
6 ~~necessary for the safe return of the child to the child's~~  
7 ~~home, if reasonable efforts are required to be made with~~  
8 ~~respect to the child.~~

9 ~~"§26-18-6.~~

10 ~~"§12-15-318. Service of process.~~

11 ~~"(a) This section shall be known and cited as the~~  
12 ~~"Child Abandonment Act."~~

13 ~~"(b) Except as otherwise provided by the Alabama~~  
14 ~~Rules of Juvenile Procedure and this section, service of~~  
15 ~~process shall be made in accordance with the Alabama Rules of~~  
16 ~~Civil Procedure.~~

17 ~~"(c) The state shall have jurisdiction over an~~  
18 ~~abandoned child and the absent parent or parents, whether they~~  
19 ~~reside within the state or outside of the state, with respect~~  
20 ~~to all issues under this section.~~

21 ~~"(d) The state agency or private agency having~~  
22 ~~custody of the abandoned child shall make every reasonable~~  
23 ~~effort to determine if the child was intentionally abandoned~~  
24 ~~by the parent or parents.~~

1           ~~"(e) Within 14 calendar days following the period~~  
2 ~~required under Section 26-18-7, the state agency or private~~  
3 ~~agency having custody of the abandoned child shall petition~~  
4 ~~the juvenile court having jurisdiction over the child to~~  
5 ~~terminate parental rights to the abandoned child.~~

6           ~~"(f) The state agency or private agency having~~  
7 ~~custody of the abandoned child shall within 90 days complete~~  
8 ~~service of process on the child's parent or parents or, upon~~  
9 ~~failure of service of process, petition the court to order~~  
10 ~~service by publication.~~

11           ~~"(g) Service of process by publication may be used~~  
12 ~~by a juvenile court having jurisdiction over an abandoned~~  
13 ~~child when all of the following conditions are met:~~

14           ~~"(1) The court has reached a point in the~~  
15 ~~proceedings concerning an abandoned child where the only~~  
16 ~~remaining proceeding is the final disposition of the case.~~

17           ~~"(2) The final disposition sought is the termination~~  
18 ~~of parental rights for the purpose of placing the child for~~  
19 ~~adoption.~~

20           ~~"(3) The child who is the subject of the proceedings~~  
21 ~~was abandoned in the state.~~

22           ~~"(4) The state agency or private agency having~~  
23 ~~custody of the child has established, by evidence presented to~~  
24 ~~the court of competent jurisdiction, that the absent parent or~~  
25 ~~parents are avoiding service of process or their whereabouts~~

1 ~~are unknown and cannot be ascertained with reasonable~~  
2 ~~diligence.~~

3 ~~"(h) Service of process by publication may be~~  
4 ~~ordered by the court if the requirements of subsection (g) are~~  
5 ~~met. Service shall be made by publication in a newspaper of~~  
6 ~~general circulation in the county of the court having~~  
7 ~~jurisdiction and in the county of the last known address of~~  
8 ~~the parent or parents of the abandoned child, at least once a~~  
9 ~~week for four consecutive weeks.~~

10 ~~"(i) For purposes of this section, "abandoned child"~~  
11 ~~means a minor abandoned by his or her parents as defined in~~  
12 ~~Sections 26-18-3 and 26-18-7.~~

13 "(a) Except as otherwise provided by the Alabama  
14 Rules of Juvenile Procedure and this section, service of  
15 process of termination of parental rights actions shall be  
16 made in accordance with the Alabama Rules of Civil Procedure.

17 "(b) If service of process has not been completed  
18 within 90 days of the filing of the termination of parental  
19 rights petition, the petitioner shall request service by  
20 publication.

21 "(c) Service of process by publication may not be  
22 ordered by the juvenile court unless the following conditions  
23 are met:

24 "(1) The child who is the subject of the proceedings  
25 was abandoned in the state.

1           "(2) The state or private department or agency  
2 having custody of the child has established, by evidence  
3 presented to the juvenile court, that the absent parent or  
4 parents are avoiding service of process or their whereabouts  
5 are unknown and cannot be ascertained with reasonable  
6 diligence.

7           "(d) Service shall be made by publication in a  
8 newspaper of general circulation in the county of the juvenile  
9 court having jurisdiction and in the county of the last known  
10 address of the parent or parents of the abandoned child, at  
11 least once a week for four consecutive weeks.

12           "~~§26-18-7.~~

13           "§12-15-319. Grounds for termination of parental  
14 rights; factors considered; presumption arising from  
15 abandonment.

16           "(a) If the juvenile court finds from clear and  
17 convincing evidence, competent, material, and relevant in  
18 nature, that the parents of a child are unable or unwilling to  
19 discharge their responsibilities to and for the child, or that  
20 the conduct or condition of the parents ~~is such as to render~~  
21 renders them unable to properly care for the child and that  
22 ~~such~~ the conduct or condition is unlikely to change in the  
23 foreseeable future, it may terminate the parental rights of  
24 the parents. In determining whether or not the parents are  
25 unable or unwilling to discharge their responsibilities to and



1 for the child and to terminate the parental rights, the  
2 juvenile court shall consider, ~~and in cases of voluntary~~  
3 ~~relinquishment of parental rights may consider~~ the following  
4 factors including, but not ~~be~~ limited to, the following:

5 "(1) That the parents have abandoned the child,  
6 provided that in ~~such~~ these cases, proof shall not be required  
7 of reasonable efforts to prevent removal or reunite the child  
8 with the parents.

9 "(2) Emotional illness, mental illness, or mental  
10 deficiency of the parent, or excessive use of alcohol or  
11 controlled substances, of ~~such~~ a duration or nature as to  
12 render the parent unable to care for needs of the child.

13 "(3) That the parent has tortured, abused, cruelly  
14 beaten, or otherwise maltreated the child, or attempted to  
15 torture, abuse, cruelly beat, or otherwise maltreat the child,  
16 or the child is in clear and present danger of being thus  
17 tortured, abused, cruelly beaten, or otherwise maltreated as  
18 evidenced by ~~such~~ the treatment of a sibling.

19 "(4) Conviction of and imprisonment for a felony.

20 "(5) Commission by the parents of any of the  
21 following:

22 "a. Murder or manslaughter of another child of that  
23 parent.

1           "b. Aiding, abetting, attempting, conspiring, or  
 2           soliciting to commit murder or manslaughter of another child  
 3           of that parent.

4           "c. A felony assault or abuse which results in  
 5           serious bodily injury to the surviving child or another child  
 6           of that parent. The term serious bodily injury shall mean  
 7           bodily injury which involves substantial risk of death,  
 8           extreme physical pain, protracted and obvious disfigurement,  
 9           or protracted loss or impairment of the function of a bodily  
 10           member, organ, or mental faculty.

11           ~~"(5)(6) Unexplained serious physical injury to the~~  
 12           ~~child under such those circumstances as would indicate that~~  
 13           ~~such the injuries resulted from the intentional conduct or~~  
 14           ~~willful neglect of the parent.~~

15           ~~"(6)(7) That reasonable efforts by the Department of~~  
 16           ~~Human Resources or licensed public or private child care~~  
 17           ~~agencies leading toward the rehabilitation of the parents have~~  
 18           ~~failed.~~

19           ~~"(7) That the parent has been convicted by a court~~  
 20           ~~of competent jurisdiction of any of the following:~~

21           ~~"a. Murder or voluntary manslaughter of another~~  
 22           ~~child of that parent.~~

23           ~~"b. Aiding, abetting, attempting, conspiring, or~~  
 24           ~~soliciting to commit murder or voluntary manslaughter of~~  
 25           ~~another child of that parent.~~

1           ~~"c. A felony assault or abuse which results in~~  
2 ~~serious bodily injury to the surviving child or another child~~  
3 ~~of that parent. The term "serious bodily injury" means bodily~~  
4 ~~injury which involves substantial risk of death, extreme~~  
5 ~~physical pain, protracted and obvious disfigurement, or~~  
6 ~~protracted loss or impairment of the function of a bodily~~  
7 ~~member, organ, or mental faculty.~~

8           "(8) That parental rights to a sibling of the child  
9 have been involuntarily terminated.

10           ~~"(b) Where a child is not in the physical custody of~~  
11 ~~its parent or parents appointed by the court, the court, in~~  
12 ~~addition to the foregoing, shall also consider, but is not~~  
13 ~~limited to the following:~~

14           ~~"(1)(9)~~ Failure by the parents to provide for the  
15 material needs of the child or to pay a reasonable portion of  
16 its support of the child, where the parent is able to do so.

17           ~~"(2)(10)~~ Failure by the parents to maintain regular  
18 visits with the child in accordance with a plan devised by the  
19 ~~department~~ Department of Human Resources, or any public or  
20 licensed private child care agency, and agreed to by the  
21 parent.

22           ~~"(3)(11)~~ Failure by the parents to maintain  
23 consistent contact or communication with the child.

24           ~~"(4)(12)~~ Lack of effort by the parent to adjust his  
25 or her circumstances to meet the needs of the child in

1 accordance with agreements reached, including agreements  
2 reached with local departments of human resources or licensed  
3 child-placing agencies, in an administrative review or a  
4 judicial review.

5 ~~"(c)(b) In any case where the parents have abandoned~~  
6 ~~a child and such abandonment continues for a period of four~~  
7 ~~months next preceding the filing of the petition, such facts~~  
8 ~~shall constitute a rebuttable presumption that the parents are~~  
9 ~~unable or unwilling to act as parents. A rebuttable~~  
10 ~~presumption that the parents are unable or unwilling to act as~~  
11 ~~parents exists in any case where the parents have abandoned a~~  
12 ~~child and this abandonment continues for a period of four~~  
13 ~~months next preceding the filing of the petition. Nothing in~~  
14 this subsection is intended to prevent the filing of a  
15 petition in an abandonment case prior to the end of the  
16 four-month period.

17 ~~"§26-18-8. Transfer of custody.~~

18 ~~"§12-15-320. Dispositions.~~

19 ~~"(a) Termination of parental rights cases shall be~~  
20 ~~given priority over other cases.~~

21 ~~"(b) If the juvenile court determines that the~~  
22 ~~parents of a child are incapable unwilling or unable to act as~~  
23 ~~parents and terminates their parental rights, it may do the~~  
24 ~~following:~~

1           "(1) Transfer or continue the permanent legal  
2 custody of the child to the ~~department~~ Department of Human  
3 Resources or to any public or private licensed child-placing  
4 agency able and willing to assume the care and maintenance of  
5 the child, ~~with or without an order to proceed with plans for~~  
6 ~~the adoptive placement of the child. A court~~ An order of the  
7 juvenile court which terminates parental rights and awards  
8 permanent legal custody to the Department of Human Resources  
9 or to a licensed child-placing agency shall mean that the ~~said~~  
10 ~~department~~ Department of Human Resources or ~~said the~~ licensed  
11 child-placing agency shall have authority to make permanent  
12 plans for the child, including the authority to place for  
13 adoption and consent to adoption.

14           "(2) Transfer or continue the permanent legal  
15 custody of the child to ~~a relative or other individual~~ the  
16 petitioner who, after study by the ~~department~~ Department of  
17 Human Resources, is found to be able to properly receive and  
18 care for the child.

19           "~~§26-18-9.~~

20           "§12-15-321. Periodic review of efforts to achieve  
21 adoption of child in custody of another after parental rights  
22 terminated.

23           Where the juvenile court has terminated the parental  
24 rights ~~and responsibilities of the parents~~ and has placed  
25 legal custody of the child with the ~~department~~ Department of

1     Human Resources or with a public or private licensed  
 2     child-placing agency, ~~or with an individual,~~ the juvenile  
 3     court ~~shall,~~ at least ~~yearly~~ annually, shall review the  
 4     circumstances of the child to determine what efforts have been  
 5     made to achieve ~~the adoption of~~ permanency for the child.

6             "~~§26-18-10.~~

7             "§12-15-322. Authority of one in custody to place  
 8     child for adoption or consent to adoption.

9             Upon the ~~court's~~ termination of parental rights by  
 10     the juvenile court and placement of permanent custody of a  
 11     child with any agency, ~~person~~ or department, ~~any such the~~  
 12     agency, ~~person~~ or department ~~shall have the authority to~~ may  
 13     place ~~said the~~ the child for adoption or ~~to~~ consent to ~~said the~~  
 14     adoption of the child."

15             Section 20. Section 12-15-323 is added to the Code  
 16     of Alabama 1975, to read as follows:

17             §12-15-323. Appeals of dependency and termination of  
 18     parental rights cases.

19             Appeals relating to dependency and termination of  
 20     parental rights cases shall take priority over other cases  
 21     filed on appeal except for emergency matters, including  
 22     appeals from denial of waiver of parental consent for  
 23     abortion.

24             Section 21. Section 12-15-401 is added to the Code  
 25     of Alabama 1975, to read as follows:

1 §12-15-401. Definitions.

2 For purposes of this article, the following words  
 3 and phrases shall have the following meanings:

4 (1) COMMIT. Transfer legal and physical custody.

5 (2) DEPARTMENT. The Department of Mental Health and  
 6 Mental Retardation.

7 Section 22. Section 12-15-90 of the Code of Alabama  
 8 1975, is amended and renumbered to read as follows:

9 "~~§12-15-90.~~

10 "§12-15-402. Authority and procedure.

11 "(a) The state, any county ~~or, any~~ municipality, or  
 12 any governmental department or agency, including, but not  
 13 limited to, the Department of Human Resources or the  
 14 Department of Youth Services, or any person, including a  
 15 parent, legal guardian, or other person standing in loco  
 16 parentis legal custodian, may file a petition in the juvenile  
 17 court to have any minor or child, as defined in this chapter,  
 18 committed to the custody of the ~~State Department of Mental~~  
 19 ~~Health and Mental Retardation~~ department on the basis that  
 20 ~~such~~ the minor or child is mentally ill or mentally retarded  
 21 and, as a consequence of such that mental illness or mental  
 22 retardation, poses a real and present threat of substantial  
 23 harm to ~~himself~~ self or to others.

24 "(b) The ~~Such~~ petition shall be verified and filed  
 25 in the county in which ~~such~~ the minor or child is located or

1 resides, petitioning the juvenile court to commit such the  
2 minor or child to the custody of the ~~State Department of~~  
3 ~~Mental Health and Mental Retardation~~ department.

4 ~~"(b) When any such petition is filed, the court~~  
5 ~~shall immediately review the petition and may require the~~  
6 ~~petitioner to be sworn and answer under oath questions in~~  
7 ~~regard to the petition and the minor or child sought to be~~  
8 ~~committed.~~

9 ~~"If it appears from the face of the petition or from~~  
10 ~~the testimony of the petitioner that the petition is totally~~  
11 ~~without merit, the court may order the petition dismissed~~  
12 ~~without further proceedings.~~

13 ~~"(c) Service of the petition upon the minor or child~~  
14 ~~sought to be committed and upon his parents and other persons~~  
15 ~~having legal responsibility shall be as provided in this~~  
16 ~~chapter for service on minors and children generally or as~~  
17 ~~otherwise provided by rule promulgated by the supreme court.~~

18 ~~"(d) (1) When any child or minor against whom a~~  
19 ~~petition has been filed seeking to commit such child or minor~~  
20 ~~to the custody of the Department of Mental Health and Mental~~  
21 ~~Retardation is initially brought before the court, the court~~  
22 ~~shall read the petition to such minor or child and to his~~  
23 ~~parents, guardian and counsel, and inform such persons orally~~  
24 ~~and in writing of the date, time and place of the next hearing~~  
25 ~~to be held in regard to such minor or child, the purpose of~~



1 ~~such hearing, the rights of such child or minor at such~~  
2 ~~hearing and the possible consequences of such hearing.~~

3 ~~"(2) The court shall ascertain the need for and~~  
4 ~~ability to pay an attorney to represent the minor or child and~~  
5 ~~shall appoint an attorney or guardian ad litem as in other~~  
6 ~~proceedings under this chapter. No statement made or act done~~  
7 ~~by such minor or child in the presence of the court prior to~~  
8 ~~such minor or child obtaining the services of an attorney, by~~  
9 ~~appointment or otherwise, shall be considered by the court in~~  
10 ~~determining if such minor or child should be committed to the~~  
11 ~~custody of the State Department of Mental Health and Mental~~  
12 ~~Retardation.~~

13 ~~"(3) Notice of the filing of a petition under this~~  
14 ~~section and of the date of final hearing shall be given to the~~  
15 ~~State Department of Mental Health and Mental Retardation as~~  
16 ~~provided by rules promulgated by the supreme court. Said~~  
17 ~~notice shall constitute an application for admission to a~~  
18 ~~facility maintained, operated or under the supervision and~~  
19 ~~control of the Department of Mental Health and Mental~~  
20 ~~Retardation.~~

21 ~~"Not less than 24 hours prior to the final hearing,~~  
22 ~~said mental health department shall notify the district court~~  
23 ~~whether adequate facilities are available for the minor or~~  
24 ~~child and to which facility the minor or child should be sent~~  
25 ~~if the district judge should determine that such minor or~~

1 ~~child is to be committed. No person shall be accepted if the~~  
2 ~~facility does not have adequate facilities available or if~~  
3 ~~acceptance would result in an overcrowded condition.~~

4 ~~"(e) At such time as a minor or child sought to be~~  
5 ~~committed is first brought before the court, the court shall~~  
6 ~~determine what limitations, if any, shall be placed upon such~~  
7 ~~minor or child's liberty pending further hearings. No~~  
8 ~~limitations shall be placed upon such minor or child's liberty~~  
9 ~~unless such limitations are necessary to prevent such minor or~~  
10 ~~child from doing substantial harm to himself or to others or~~  
11 ~~to prevent such minor or child from leaving the jurisdiction~~  
12 ~~of the court.~~

13 ~~"No such minor or child shall be placed in a~~  
14 ~~juvenile detention facility or jail or other facility for~~  
15 ~~persons accused of or convicted of committing crimes unless~~  
16 ~~such minor or child poses a real and present threat of harm to~~  
17 ~~himself or others and no other facility is available to safely~~  
18 ~~detain such minor or child.~~

19 ~~"The court shall order such minor or child to appear~~  
20 ~~at the times and places set for hearing the petition and may~~  
21 ~~order and require the minor or child to appear at designated~~  
22 ~~times and places to be examined by medical doctors or mental~~  
23 ~~health professionals.~~

24 ~~"(f) If the district court shall find it necessary~~  
25 ~~to temporarily confine or restrain any minor or child, pending~~

1 ~~final hearing on a petition for commitment, in the custody of~~  
2 ~~any person or persons or agency other than his parent or~~  
3 ~~parents or legal guardian, the court at the time such~~  
4 ~~restraint or confinement is ordered shall set the petition for~~  
5 ~~hearing within seven days to determine if probable cause~~  
6 ~~exists that such minor or child should be committed.~~

7 ~~"Upon a finding of probable cause that such minor or~~  
8 ~~child should be committed, the court shall enter an order so~~  
9 ~~stating and setting the date, time and place of the hearing on~~  
10 ~~the merits of such petition.~~

11 ~~"At such probable cause hearing the court shall~~  
12 ~~determine if it is necessary to continue the restraint or~~  
13 ~~confinement pending final hearing.~~

14 ~~"The final hearing shall be held on the merits of~~  
15 ~~such petition within 30 days of the date that such minor or~~  
16 ~~child was served with a copy of the petition seeking to commit~~  
17 ~~such minor or child.~~

18 ~~"(g) At all hearings conducted in relation to a~~  
19 ~~petition to commit any minor or child to the custody of the~~  
20 ~~State Department of Mental Health and Mental Retardation, the~~  
21 ~~following rules shall apply:~~

22 ~~"(1) The minor or child sought to be committed shall~~  
23 ~~be present, unless prior to the hearing the attorney for such~~  
24 ~~minor or child has filed in writing a waiver of the presence~~  
25 ~~of such minor or child on the ground that the presence of such~~

1 ~~minor or child would be dangerous to such person's physical or~~  
2 ~~mental health or that such minor or child's conduct could~~  
3 ~~reasonably be expected to prevent the hearing from being held~~  
4 ~~in an orderly manner and the court has determined from~~  
5 ~~evidence that the waiver should be granted and has entered an~~  
6 ~~order approving the waiver.~~

7 ~~"(2) The minor or child sought to be committed shall~~  
8 ~~have the right to compel the attendance of and offer the~~  
9 ~~testimony of witnesses, to be confronted with the witnesses in~~  
10 ~~support of the petition and to cross-examine them and to~~  
11 ~~testify in his own behalf, but no such minor or child shall be~~  
12 ~~compelled to testify against himself.~~

13 ~~"(3) The court shall cause the hearing to be~~  
14 ~~recorded stenographically, mechanically or electronically and~~  
15 ~~shall retain such recording for a period of not less than~~  
16 ~~three years from the date the petition is denied or granted~~  
17 ~~and not less than the duration of any commitment pursuant to~~  
18 ~~such hearing.~~

19 ~~"(4) All hearings shall be heard by the court~~  
20 ~~without a jury, and the persons who may be present shall be as~~  
21 ~~provided for in subsection (a) of Section 12-15-65.~~

22 ~~"(h) An attorney representing the state, any county~~  
23 ~~or municipality or the Department of Youth Services or the~~  
24 ~~Department of Human Resources or an attorney representing the~~  
25 ~~person or persons filing a petition to have a minor or child~~

1 ~~committed may serve as the advocate in support of the petition~~  
2 ~~to commit in all matters in regard to a petition to commit.~~

3 ~~"(i) At the final hearing upon a petition seeking to~~  
4 ~~commit a minor or child to the custody of the Department of~~  
5 ~~Mental Health and Mental Retardation on the basis that he is~~  
6 ~~mentally ill, the court may grant the petition if substantial~~  
7 ~~evidence proves that:~~

8 ~~"(1) The minor or child sought to be committed is~~  
9 ~~mentally ill; and~~

10 ~~"(2) As a consequence of the mental illness, the~~  
11 ~~minor or child poses a real and present threat of substantial~~  
12 ~~harm to himself or to others; and~~

13 ~~"(3) The threat of substantial harm has been~~  
14 ~~evidenced by a recent overt act; and~~

15 ~~"(4) Treatment is available for the minor's or~~  
16 ~~child's mental illness or that confinement is necessary to~~  
17 ~~prevent the minor or child from causing substantial harm to~~  
18 ~~himself or to others; and~~

19 ~~"(5) Commitment is the least restricting alternative~~  
20 ~~necessary and available for treatment of the minor's or~~  
21 ~~child's illness. Upon such findings, the court shall enter an~~  
22 ~~order setting forth the findings and may order the person~~  
23 ~~committed to the custody of the State Department of Mental~~  
24 ~~Health and Mental Retardation.~~

1           ~~"(j) At the final hearing upon a petition seeking to~~  
2           ~~commit a minor or child to the State Department of Mental~~  
3           ~~Health and Mental Retardation on the basis that he is mentally~~  
4           ~~retarded, the court may grant the petition if substantial~~  
5           ~~evidence proves that:~~

6           ~~"(1) The minor or child sought to be committed is~~  
7           ~~mentally retarded; and~~

8           ~~"(2) The said mentally retarded minor or child is~~  
9           ~~not borderline or mildly retarded. For the purposes of making~~  
10          ~~this determination, the following definitions shall apply:~~

11          ~~"A borderline retarded person is an individual who~~  
12          ~~is functioning between one and two standard deviations below~~  
13          ~~the mean, and the mildly retarded person is an individual who~~  
14          ~~is functioning between two and three standard deviations below~~  
15          ~~the mean on a standardized intelligence test such as the~~  
16          ~~Stanford Binet scale and on measures of adaptive behavior such~~  
17          ~~as the American Adaptive Behavior scale; and~~

18          ~~"(3) The minor or child, if allowed to remain in the~~  
19          ~~community, is likely to cause serious injury to himself or~~  
20          ~~others, or that adequate care, rehabilitation and training~~  
21          ~~opportunities are available only at a facility provided by the~~  
22          ~~department of mental health and mental retardation.~~

23          ~~"Upon such findings, the court shall enter an order~~  
24          ~~setting forth the findings, and may order the minor or child~~

1 committed to the custody of the State Department of Mental  
2 Health and Mental Retardation.

3           ~~"(k) Any minor or child committed to the custody of~~  
4 ~~the Department of Mental Health and Mental Retardation who, in~~  
5 ~~the judgment of the Commissioner of Mental Health and Mental~~  
6 ~~Retardation, has gained maximum benefit from institutional~~  
7 ~~treatment or is no longer in need of the services of the~~  
8 ~~Department of Mental Health and Mental Retardation or has~~  
9 ~~gained maximum benefit from the programs of the Department of~~  
10 ~~Mental Health and Mental Retardation shall be discharged from~~  
11 ~~the custody of the Department of Mental Health and Mental~~  
12 ~~Retardation and shall not be received again by the Department~~  
13 ~~of Mental Health and Mental Retardation under the original~~  
14 ~~commitment order unless deemed appropriate by a court of~~  
15 ~~proper jurisdiction holding a subsequent hearing.~~

16           ~~"(l) The Department of Mental Health and Mental~~  
17 ~~Retardation shall notify the committing court in writing at~~  
18 ~~least 10 days in advance of the release. The committing court,~~  
19 ~~at the time of release, shall then invest custody in a party~~  
20 ~~or state agency which the court deems suitable.~~

21           ~~"(m) The court committing any minor or child to the~~  
22 ~~custody of the State Department of Mental Health and Mental~~  
23 ~~Retardation shall retain jurisdiction over such minor or child~~  
24 ~~concurrently with the district court of the county in which~~  
25 ~~the minor or child is subsequently located for so long as the~~

1 ~~minor or child is in the custody of the Department of Mental~~  
2 ~~Health and Mental Retardation."~~

3 Section 23. Sections 12-15-403, 12-15-404,  
4 12-15-405, 12-15-406, 12-15-407, 12-15-408, 12-15-409,  
5 12-15-410, 12-15-411, 12-15-412, and 12-15-413 are added the  
6 Code of Alabama 1975, to read as follows:

7 §12-15-403. Review of the petition by the juvenile  
8 court.

9 (a) When at the time a petition is filed, a juvenile  
10 court shall immediately review the petition and may require  
11 the petitioner to be sworn and answer under oath questions in  
12 regard to the petition and the minor or child sought to be  
13 committed.

14 (b) If it appears from the face of the petition or  
15 from the testimony of the petitioner that the petition is  
16 totally without merit, the juvenile court shall order the  
17 petition dismissed without further proceedings.

18 §12-15-404. Service of the petition.

19 Service of the petition upon the minor or child  
20 sought to be committed and upon his or her parent, legal  
21 guardian, or legal custodian shall be as provided in this  
22 chapter for service on minors and children generally or as  
23 otherwise provided by rules of court promulgated by the  
24 Supreme Court of Alabama.



1           §12-15-405. Notice of hearing; appointment of  
2 counsel for the minor or child.

3           (a) When any minor or child against whom a petition  
4 has been filed seeking to commit the minor or child to the  
5 custody of the department is initially brought before the  
6 juvenile court, the juvenile court shall provide a copy of the  
7 petition and if requested, read the petition to the minor or  
8 child and to his or her parent, legal guardian, or legal  
9 custodian and counsel, and inform those persons verbally and  
10 in writing of the date, time, and place of the next hearing to  
11 be held in regard to the minor or child, the purpose of the  
12 hearing, the rights of the minor or child at the hearing, and  
13 the possible consequences of the hearing.

14           (b) The juvenile court shall appoint a child's  
15 attorney for the minor or child. The juvenile court may  
16 appoint a guardian ad litem in addition to the child's  
17 attorney. No statement made or act done by the minor or child  
18 in the presence of the juvenile court prior to the minor or  
19 child obtaining the services of a child's attorney, or a  
20 guardian ad litem, shall be considered by the juvenile court  
21 in determining if the minor or child should be committed to  
22 the custody of the department.

23           (c) Notice of the filing of a petition pursuant to  
24 this section and of the date of final hearing shall be given  
25 to the department by the juvenile court within 14 days prior

1 to the hearing. The notice shall constitute an application for  
2 admission to a facility maintained, operated, or under the  
3 supervision and control of the department.

4 (d) Not less than 24 hours prior to the final  
5 hearing, the department shall notify the juvenile court  
6 whether adequate facilities are available for the minor or  
7 child and to which facility the minor or child should be sent  
8 if the juvenile court should determine that the minor or child  
9 is to be committed. The minor or child shall not be accepted  
10 if the facility does not have adequate facilities available or  
11 if acceptance of the minor or child would result in an  
12 overcrowded condition.

13 §12-15-406. Determination of placement of the minor  
14 or child.

15 (a) At the time that a minor or child sought to be  
16 committed is first brought before the juvenile court, the  
17 juvenile court shall determine the placement of the minor or  
18 child pending further hearings. No limitations shall be placed  
19 upon the minor or child unless limitations shall be necessary  
20 to prevent the minor or child from doing substantial harm to  
21 self or to others or to prevent the minor or child from  
22 leaving the jurisdiction of the juvenile court.

23 (b) No child shall be placed in a juvenile detention  
24 facility unless the child is charged with a delinquent act.

1           (c) The juvenile court may order the minor or child  
 2 to be held in a public or private facility pending receipt by  
 3 the department.

4           (d) The juvenile court shall order the minor or  
 5 child to appear at the times and places set for hearing the  
 6 petition and may order and require the minor or child to  
 7 appear at designated times and places to be examined by  
 8 medical doctors or mental health professionals.

9           §12-15-407. Probable cause hearings for temporary  
 10 confinement of the minor or child.

11           (a) If the juvenile court finds it necessary to  
 12 temporarily confine or restrain the minor or child, pending  
 13 final hearing upon a petition for mental commitment of the  
 14 minor or child in the custody of any person, department, or  
 15 agency other than his or her parent, legal guardian, or legal  
 16 custodian, the juvenile court at the time the confinement is  
 17 ordered shall set the matter for a hearing within seven days  
 18 to determine if probable cause exists that the minor or child  
 19 should be committed. At the probable cause hearing, the  
 20 juvenile court shall determine if it is necessary to continue  
 21 the restraint or confinement pending the final hearing.

22           (b) Upon a finding of probable cause that the minor  
 23 or child should be committed, the juvenile court shall enter  
 24 an order so stating and setting the date, time, and place of  
 25 the hearing on the merits of the petition.

1           (c) The final hearing shall be held on the merits of  
2 the petition within 30 days of the date that the minor or  
3 child was served with a copy of the petition seeking to commit  
4 the minor or child.

5           §12-15-408. Conducting hearings to commit the minor  
6 or child.

7           At all hearings conducted pursuant to this section  
8 to commit a minor or child to the custody of the department,  
9 the following shall apply:

10           (1) The minor or child sought to be committed shall  
11 be present unless, prior to the hearing, the child's attorney  
12 for the minor or child has filed in writing a waiver of the  
13 presence of the minor or child on the ground that the presence  
14 of the minor or child would be dangerous to his or her  
15 physical or mental health or that the conduct of the minor or  
16 child could reasonably be expected to prevent the hearing from  
17 being held in an orderly manner and the juvenile court has  
18 determined from the evidence that the waiver should be granted  
19 and has entered an order approving the waiver.

20           (2) The minor or child sought to be committed shall  
21 have the right to compel the attendance of and offer the  
22 testimony of witnesses, to be confronted with the witnesses in  
23 support of the petition and to cross-examine those witnesses,  
24 and to testify in his or her own behalf. No minor or child  
25 shall be compelled to testify against himself or herself.

1           (3) The juvenile court shall cause the hearing to be  
 2 recorded stenographically, mechanically, or electronically and  
 3 shall retain the recording for a period of not less than three  
 4 years from the date the petition is denied or granted, and not  
 5 less than the duration of any commitment pursuant to the  
 6 hearing.

7           (4) All hearings shall be heard by the juvenile  
 8 court without a jury, and the persons who may be present shall  
 9 be as provided in Section 12-15-129.

10           §12-15-409. Role of attorney as advocate.

11           (a) An attorney representing the state, any county,  
 12 or municipality or the Department of Youth Services or the  
 13 Department of Human Resources or an attorney representing the  
 14 person or persons filing a petition to have a minor or child  
 15 committed may serve as the advocate in support of the petition  
 16 to commit in all matters regarding the petition.

17           (b) At the final hearing upon a petition seeking to  
 18 commit a minor or child to the custody of the department on  
 19 the basis that the minor or child is mentally ill, the  
 20 juvenile court may grant the petition if clear and convincing  
 21 evidence proves all of the following:

22           (1) That the minor or child sought to be committed  
 23 is mentally ill.

1           (2) That, as a consequence of the mental illness,  
2 the minor or child poses a real and present threat of  
3 substantial harm to himself, herself, or to others.

4           (3) That the threat of substantial harm has been  
5 evidenced by a recent overt act.

6           (4) That treatment is available for the mental  
7 illness of the minor or child or that confinement is necessary  
8 to prevent the minor or child from causing substantial harm to  
9 himself, herself, or to others.

10           (5) That commitment is the least restricting  
11 alternative necessary and available for treatment of the  
12 illness of the minor or child.

13           (c) Upon these findings, the juvenile court shall  
14 enter an order setting forth the findings and may order the  
15 minor or child committed to the custody of the department.

16           §12-15-410. Evidence in commitment proceedings for  
17 mentally retarded minors and children.

18           (a) At the final hearing upon a petition seeking to  
19 commit a minor or child to the department on the basis that  
20 the minor or child is mentally retarded, the juvenile court  
21 may grant the petition if clear and convincing evidence proves  
22 all of the following:

23           (1) The minor or child sought to be committed is  
24 mentally retarded.

1           (2) The mentally retarded minor or child is not  
2 mildly retarded, as defined by the department.

3           (3) The minor or child, if allowed to remain in the  
4 community, is likely to cause serious injury to himself,  
5 herself, or others, or that adequate care, rehabilitation, and  
6 training opportunities are available only at a facility  
7 provided by the department.

8           (b) Upon these findings, the juvenile court shall  
9 enter an order setting forth the findings, and may order the  
10 minor or child committed to the custody of the department.

11           §12-15-411. Discharge of the minor or child from  
12 custody of the department.

13           (a) Any minor or child committed to the custody of  
14 the department who has gained maximum benefit from  
15 institutional treatment, who is no longer in need of the  
16 services of the department, or who has gained maximum benefit  
17 from the programs of the department shall be discharged from  
18 the custody of the department. The minor or child shall not be  
19 received again by the department pursuant to the original  
20 commitment order unless deemed appropriate by a court of  
21 proper jurisdiction holding a subsequent hearing.

22           (b) The department shall notify the committing  
23 juvenile court or the court to which the case is transferred  
24 and the parties to the commitment action in writing, which  
25 must be received by the juvenile court at least 10 days in

1 advance of the proposed discharge. The committing juvenile  
2 court, at the time of discharge, shall transfer custody to a  
3 person or another state department or agency deemed suitable  
4 by the juvenile court.

5 §12-15-412. Retention of jurisdiction.

6 The juvenile court committing any minor or child to  
7 the custody of the department shall retain jurisdiction over  
8 the minor or child so long as the minor or child is in the  
9 custody of the department regarding the original commitment.

10 §12-15-413. Combining probable cause and final  
11 hearings.

12 The probable cause hearing provided in Section  
13 12-15-407 and the final hearing provided in Section 12-15-408  
14 may be consolidated with the consent of all the parties.

15 Section 24. The heading of Article 5 (commencing  
16 with Section 12-15-501) of Chapter 15 of Title 12 of the Code  
17 of Alabama 1975, is amended to read as follows:

18 ARTICLE 5. ~~RECORDS, FINGERPRINTS, AND PHOTOGRAPHS~~  
19 MULTIPLE NEEDS CHILD PROVISIONS.

20 Section 25. Sections 12-15-501, 12-15-502, and  
21 12-15-503 are added to the Code of Alabama 1975, to read as  
22 follows:

23 §12-15-501. Definitions.

24 For purposes of this article, the following words  
25 and phrases shall have the following meanings:



1           (1) COUNTY TEAM. A county children's services  
2 facilitation team.

3           (2) MULTIPLE NEEDS CHILD. A child coming to the  
4 attention of the juvenile court or one of the entities listed  
5 herein who is at imminent risk of out-of-home placement or a  
6 placement in a more restrictive environment, and whose needs  
7 require the services of two or more of the following entities:  
8 Department of Youth Services, public school system (services  
9 for exceptional needs), Department of Human Resources,  
10 Department of Public Health, juvenile probation officers, or  
11 Department of Mental Health and Mental Retardation.

12           (3) STATE TEAM. The Alabama Children's Services  
13 Facilitation Team.

14           §12-15-502. Referral of multiple needs child case to  
15 county team.

16           After the filing of a petition alleging that a child  
17 is delinquent, dependent, or in need of supervision, or after  
18 the filing of a petition seeking mental commitment of a minor  
19 or child pursuant to Section 12-15-401, the juvenile court, on  
20 its own motion or motion of a party, may refer the  
21 above-referenced child to the county team for recommendation  
22 if the petition alleged or evidence reveals to the juvenile  
23 court that the child may be a multiple needs child. If the  
24 case involves a child in need of supervision, or a status  
25 offender as defined in subdivision (4) of Section 12-15-201,

1 who is at imminent risk of being placed in the legal or  
2 physical custody of the Department of Human Resources, the  
3 juvenile court shall refer the case to the county team. This  
4 referral may occur prior to any hearing, or the juvenile court  
5 may suspend proceedings during the hearing or prior to  
6 disposition to review the findings and recommendations of the  
7 county team. Upon referral to the county children's services  
8 facilitation team, the juvenile probation officer shall  
9 continue to provide case management to the status offender  
10 unless the county children's services facilitation team  
11 appoints another person to act as case manager. The juvenile  
12 probation officer shall participate in county children's  
13 services facilitation team meetings and share records  
14 information and reports on the status offender with the county  
15 children's services facilitation team.

16 §12-15-503. Recommendation by county team; decision  
17 by juvenile court of multiple needs child.

18 (a) Within 21 days of receipt of a juvenile court  
19 referral or within another time specified by the juvenile  
20 court, the county team shall present to the juvenile court a  
21 plan of services addressing the needs of the child referred to  
22 the county team and the respective responsibilities of  
23 departments, agencies, and organizations composing this county  
24 team. Upon receipt of this plan, the juvenile court may find  
25 the child a multiple needs child. When the juvenile court

1 finds it is in the best interests of the multiple needs child,  
2 the juvenile court may order the use of any dispositional  
3 alternative or service available for dependent children,  
4 delinquent children, or children in need of supervision,  
5 children who are emotionally disturbed, mentally retarded, or  
6 mentally ill, or children who need specialized educational  
7 services, or children who need health services, or any  
8 combination thereof. The departments, agencies, or  
9 organizations shall be responsible for the implementation of  
10 the service plan adopted by the juvenile court.

11 (b) No multiple needs child, unless alleged or  
12 adjudicated delinquent, shall be placed in secure custody,  
13 except as provided in Section 12-15-208.

14 (c) The juvenile court may appoint a guardian ad  
15 litem for a multiple needs child.

16 (d) The provisions of subsections (a), (b), and (c)  
17 which require new or additional services beyond those already  
18 provided by the departments or agencies which are members of  
19 the State Team are mandated only to the extent that additional  
20 funds are appropriated to the State Multiple Needs Children  
21 Fund to implement its provisions. Nothing in the provisions  
22 relating to multiple needs children shall prohibit or restrict  
23 departments or agencies charged with the duty of providing  
24 services for children and families from working cooperatively  
25 and providing financial assistance to address needs which have

1 been identified prior to a case being referred to a county  
2 team.

3 Section 26. Sections 12-15-170, 12-15-171,  
4 12-15-172, 12-15-173, 12-15-174, 12-15-175, and 12-15-120 of  
5 the Code of Alabama 1975, are amended and renumbered to read  
6 as follows:

7 ~~"§12-15-170.~~

8 "§12-15-504. Creation of Executive Council of the  
9 ~~Alabama Children's Services Facilitation~~ State Team;  
10 membership; duties.

11 "There is created an Executive Council of the  
12 ~~Alabama Children's Services Facilitation~~ State Team consisting  
13 of the heads of the following departments or agencies:  
14 Department of Education, Department of Human Resources,  
15 Department of Mental Health and Mental Retardation, Department  
16 of Public Health, and the Department of Youth Services. The  
17 Executive Council shall exercise general supervision and  
18 oversight over the ~~Alabama Children's Services Facilitation~~  
19 State Team, approve its state plan and its budget, oversee all  
20 financial arrangements, approve all policies and procedures,  
21 as well as amendments thereto, and establish minimum standards  
22 for the operation of county ~~children's services facilitation~~  
23 teams.

24 ~~"§12-15-171.~~

1           ~~"§12-15-505. Children's Services Facilitation State~~  
2 Team established; membership; term; duties; hiring authority.

3           "(a) The ~~State Alabama Children's Services~~  
4 ~~Facilitation~~ Team is created and shall consist of a  
5 representative appointed by the head of the following  
6 departments, agencies, or organizations: The Department of  
7 Education, the Department of Human Resources, the Department  
8 of Mental Health and Mental Retardation, the Department of  
9 Public Health, the Department of Youth Services, and the  
10 ~~Association of Alabama~~ Chief Juvenile Probation Officers  
11 Association. ~~As used in this article, "state team" means~~  
12 ~~Alabama Children's Services Facilitation Team.~~

13           "(b) The appointments to the state team shall be for  
14 a term of three years beginning October 1, 1993, and each  
15 three years thereafter and until their successors are  
16 appointed, except that the initial appointments of the  
17 representatives of the Department of Human Resources and the  
18 Department of Mental Health and Mental Retardation shall be  
19 for three years; the initial appointments of the  
20 representatives of the Department of Education and the  
21 Department of Youth Services shall be for two years; and the  
22 initial appointments of representatives of the Department of  
23 Public Health and the ~~Association of Alabama~~ Chief Juvenile  
24 Probation Officers Association shall be for one year. Any  
25 vacancies in the appointed positions shall be filled in like

1 manner as their ~~predecessor~~ predecessors and shall serve for  
2 the remainder of the ~~their predecessor's~~ term of their  
3 predecessors and until a successor is appointed.

4 Representatives may be reappointed for additional terms.

5 "(c) The ~~state team~~ State Team shall annually select  
6 one of its members to serve as chair and may select other  
7 officers as needed.

8 "(d) The ~~state team~~ State Team shall meet at least  
9 monthly at a time and place that is mutually agreeable. ~~The~~  
10 ~~initial meeting shall be called by the Commissioner of the~~  
11 ~~Department of Human Resources within three months of May 27,~~  
12 ~~1993.~~

13 "(e) The ~~state team~~ State Team shall:

14 "(1) Develop and implement interagency plans for  
15 statewide services for multiple needs children.

16 "(2) Develop guidelines, policies, and procedures,  
17 for the allocation of available resources for services to  
18 multiple needs children. ~~Such~~ These guidelines, policies, and  
19 procedures shall be approved by the Executive Council of the  
20 ~~Alabama Children's Services Facilitation~~ State Team.

21 "(3) Be authorized to exchange records, documents,  
22 and information among members of the state and county teams as  
23 well as the departments or agencies the members represent for  
24 the purposes of assessment, planning, and delivery of services  
25 to children.

1           "(4) Consult with the county ~~children's services~~  
2 ~~facilitation~~ teams to ensure that all efforts to provide  
3 services locally and in the least restrictive environment are  
4 exhausted before a case is referred to the ~~state team~~ State  
5 Team. Upon receiving a referral, the ~~Alabama Children's~~  
6 ~~Services Facilitation~~ State Team shall develop a plan which  
7 shall be binding on the county ~~children's services~~  
8 ~~facilitation~~ team. The ~~Alabama Children's Services~~  
9 ~~Facilitation~~ State Team shall ~~have the authority to~~ may  
10 allocate resources to implement the plan for services and  
11 treatment in accordance with the budget approved by the  
12 Executive Council of the ~~Alabama Children's Services~~  
13 ~~Facilitation~~ State Team.

14           "(5) The ~~state team is authorized to~~ State Team may  
15 accept and use funds available to it from all sources,  
16 including, but not limited to, grants, appropriations, gifts,  
17 and donations for the purpose of implementing ~~the provisions~~  
18 ~~of~~ this section. All ~~such~~ these funds shall be deposited into  
19 the State Multiple Needs Children Fund, which shall be under  
20 the management of the ~~Alabama Children's Services Facilitation~~  
21 State Team. ~~Monies~~ Moneys of the fund may be withdrawn by  
22 vouchers authorized by the ~~chair of the state team~~ Director of  
23 the Multiple Needs Child Office in accordance with the  
24 operations plan approved by the ~~executive council~~ Executive  
25 Council of the State Team.

1           "(6) The ~~state team~~ State Team shall report  
2 periodically to the Alabama Children's Policy Council on the  
3 services available within the state, the number of cases upon  
4 which the ~~state team~~ State Team has been consulted or  
5 requested to formulate a service plan, and budgetary needs or  
6 constraints affecting delivery of services.

7           "(f) The ~~Alabama Children's Services Facilitation~~  
8 State Team ~~shall be authorized to~~ may employ staff,  
9 conditioned upon appropriation of funds, to carry out the  
10 duties of the ~~team~~ State Team. Employment may be through  
11 contract or appointment ~~under~~ pursuant to the State Merit  
12 System, utilizing one of the member departments or agencies as  
13 the appointing or contracting authority. Supervision of ~~any~~  
14 ~~staff provided under this section~~ the Director of the Multiple  
15 Needs Child Office shall be by the chair of the ~~Alabama~~  
16 ~~Children's Services Facilitation~~ State Team.

17           "~~§12-15-172.~~

18           "§12-15-506. County ~~facilitation~~ teams established;  
19 appointments; meetings; duties.

20           "(a) A county ~~children's services facilitation~~ team  
21 is created in each county of the state. ~~As used in this~~  
22 ~~article, "county team" means a county children's services~~  
23 ~~facilitation team.~~ The county team shall consist of a  
24 representative appointed by the head of the following  
25 departments, agencies, or organizations: The local education



1 agency or agencies, the county department of human resources,  
2 the Department of Mental Health and Mental Retardation, the  
3 Department of Youth Services, and a ~~representative from~~  
4 ~~juvenile probation services~~ juvenile probation officer  
5 appointed by the presiding juvenile court judge.

6 "(b) Appointments to the county team shall be for a  
7 term of three years beginning October 1, 1993, and each three  
8 years thereafter and until their successors are appointed,  
9 except that the initial appointments of the representatives of  
10 the county department of human resources and the Department of  
11 Mental Health and Mental Retardation shall be for three years;  
12 the initial appointments of the representatives of the local  
13 education agency or agencies and the Department of Youth  
14 Services shall be for two years; and the initial appointment  
15 of the ~~representative of the~~ juvenile probation ~~services~~  
16 officer shall be for one year. Any vacancies in the appointed  
17 positions shall be filled in like manner as their ~~predecessor~~  
18 predecessors and shall serve for the remainder of ~~their~~  
19 ~~predecessor's~~ the term of their predecessors and until a  
20 successor is appointed. Representatives may be reappointed for  
21 additional terms.

22 "(c) The county team shall annually select one of  
23 its members to serve as chair and may select other officers as  
24 needed.

1           "~~(d) An organizational meeting of the county team~~  
2 ~~shall be called by the county director of the county~~  
3 ~~department of human resources within three months after May~~  
4 ~~27, 1993. Other meetings~~ Meetings of the county team may be  
5 held as needed. The county team shall meet ~~within seven days~~  
6 ~~of~~ during its normally scheduled time when a case ~~being~~ is  
7 referred by a juvenile court or from notice of a member that  
8 there is a need for the county team to develop a service plan.

9           "(e) The county team shall:

10           "(1) Comply with the guidelines, policies, and  
11 procedures promulgated by the ~~Alabama Children's Services~~  
12 ~~Facilitation~~ State Team and approved by the Executive Council  
13 of the ~~Alabama Children's Services Facilitation~~ State Team.

14           "(2) Be authorized to develop guidelines, policies,  
15 and procedures, not in conflict with the minimum standards  
16 established by the ~~state team~~ State Team, for the county team.

17           "(3) Be authorized to exchange records, documents,  
18 and information among members of the county and ~~state teams~~  
19 State Teams, as well as the departments or agencies the  
20 members represent, for the purposes of assessment, planning,  
21 and delivery of services to children.

22           "(4) By consensus, develop an individualized service  
23 plan to meet the needs of each child who is accepted by the  
24 county team.

1           "~~(5) Consult with the Alabama Children's Services~~  
2 ~~Facilitation~~ State Team whenever the county team is unable to  
3 reach an agreement as to a service plan. In the event a county  
4 team requests assistance of the ~~state team~~ State Team because  
5 of an inability to agree on a ~~service plan~~ or needs assistance  
6 developing or implementing a plan, the service plan developed  
7 by the ~~state team~~ State Team shall be binding on the ~~local~~  
8 county team, as well as the departments, agencies, or  
9 organizations represented.

10           "~~(6) The county team shall work~~ Work with the  
11 county children's policy council to ensure that appropriate  
12 local services are developed, modified, or expanded as the  
13 needs of children within the community are identified.

14           "~~(7) Be authorized to add representatives of other~~  
15 ~~community agencies, temporarily or permanently, based on~~  
16 ~~circumstances of the needs of a child referred to the county~~  
17 ~~team.~~

18           "~~(8) (7) The county children's services facilitation~~  
19 ~~team is~~ Be authorized to accept and use funds available to it  
20 from all sources, including, but not limited to, grants,  
21 appropriations, gifts, and donations for the purpose of  
22 implementing ~~the provisions of~~ this section. All ~~such~~ these  
23 funds shall be deposited into the county multiple needs  
24 children fund, which shall be under the management of the  
25 county ~~children's services facilitation~~ team. ~~Monies~~ Moneys of

1 the fund may be withdrawn by vouchers or checks authorized by  
 2 the chair of the county team in accordance with the operations  
 3 plan approved by the county team.

4 ~~"§12-15-173.~~

5 "§12-15-507. Reimbursement available for team member  
 6 expenses.

7 The members of the state and county teams shall be  
 8 entitled to be reimbursed for their expenses, including  
 9 travel, lodging, food, and other expenses at the same rate as  
 10 state employees. The expenses shall be paid by their  
 11 respective departments, agencies, or organizations. Travel  
 12 expenses of members of the team not otherwise reimbursed by  
 13 the respective departments, agencies, or organizations may be  
 14 paid from funds available to the teams.

15 ~~"§12-15-174.~~

16 "§12-15-508. State Multiple Needs Children Fund  
 17 established; use; limitations; accounting system to be  
 18 maintained; provisions for yearly audit.

19 "(a) There is established in the State Treasury a  
 20 fund to be known as the State Multiple Needs Children Fund  
 21 which shall be administered by the agency designated by the  
 22 Executive Council of the ~~Alabama Children's Services~~  
 23 ~~Facilitation~~ State Team. This fund shall consist of all ~~monies~~  
 24 monies appropriated for these purposes from the State General  
 25 Fund ~~or,~~ the Alabama ~~Special Educational~~ Education Trust Fund,

1 or the Children First Trust Fund, donations, grants, bequests,  
2 loans, or any other sources, either public or private,  
3 relating to providing services for children identified as  
4 multiple needs children.

5 "(b) The State Multiple Needs Children Fund shall be  
6 used to provide services not otherwise provided by state  
7 departments or agencies for multiple needs children ~~as defined~~  
8 ~~in subdivision (19) of Section 12-15-1.~~ Administrative costs  
9 connected with the expenditures of state multiple needs  
10 children funds shall not exceed a percentage amount  
11 established by the ~~executive council~~ Executive Council of the  
12 State Team.

13 "(c) All funds now or hereafter deposited to the  
14 credit of the State Multiple Needs Children Fund shall be  
15 expended for the purposes of carrying out ~~the provisions of~~  
16 this article; provided, however, that no funds shall be  
17 withdrawn nor expended for any purpose whatsoever unless the  
18 same shall have been allotted and budgeted in accordance with  
19 the provisions of Article 4 of Chapter 4 of Title 41, and only  
20 in the amounts and for the purposes provided by the  
21 Legislature in the general appropriations bill for any  
22 specific fiscal year.

23 "(d) The Chief Examiner of the Department of Public  
24 Accounts shall develop a uniform accounting system for the  
25 State Multiple Needs Children Fund conforming to generally

1 accepted accounting principles. County ~~children's services~~  
 2 ~~facilitation~~ teams and programs shall establish and maintain  
 3 the uniform accounting system.

4 "(e) The annual reports and all records of accounts  
 5 and financial records of all funds received by the State  
 6 Multiple Needs Children Fund by grant, contract, or otherwise  
 7 from state, local, or federal sources, shall be subject to  
 8 audit annually by the Chief Examiner of the Department of  
 9 Public Accounts. All audits shall be completed as soon as  
 10 practicable after the end of the fiscal year of the team.

11 "~~§12-15-175.~~

12 "§12-15-509. Executive Council to adopt allocation  
 13 guidelines; granting role of ~~state team~~ State Team; eligible  
 14 recipients; prerequisites to maintaining funding; penalty for  
 15 noncompliance; reporting requirement.

16 "(a) The Executive Council of the ~~Alabama Children's~~  
 17 ~~Services Facilitation~~ State Team shall adopt policies and  
 18 procedures relating to the allocation of available resources  
 19 for providing services for multiple needs children; for  
 20 granting funds for programs and services on individuals; and  
 21 for monitoring, evaluating, and reviewing services provided by  
 22 programs where funds are provided. Funds available to provide  
 23 services for multiple needs children may be allocated by the  
 24 ~~Alabama Children's Services Facilitation~~ State Team:

1           "(1) To counties, or groups of counties, based on  
2 detailed proposals, for establishing new, needs-based local  
3 services or expanding existing programs.

4           "(2) To provide treatment for individual children.

5           "(3) For other activities consistent with the  
6 purposes of this article.

7           "(b) The ~~state team~~ State Team, with approval of the  
8 ~~executive council~~ Executive Council, shall determine the  
9 amount and duration of grants made for new programs provided  
10 for one or more counties. The ~~state team~~ State Team shall also  
11 determine the amount of funding to be awarded and the duration  
12 in individual cases where local resources have been exhausted.  
13 The ~~state team~~ State Team may select projects which meet the  
14 criteria and are compatible with the purposes of the multiple  
15 needs children program for financial awards.

16           "(c) In order to remain eligible for continued grant  
17 funding, a recipient shall substantially comply with the  
18 standards and administrative regulations defining program  
19 effectiveness which shall be promulgated by the ~~executive~~  
20 ~~council~~ Executive Council of the ~~state team~~ State Team. Each  
21 recipient ~~will~~ shall participate in an evaluation to determine  
22 local and state program effectiveness. The form of this  
23 evaluation ~~will~~ shall be a part of the promulgated policies  
24 and procedures.

1           "(d) Continued grant funding shall be based on  
2 demonstrated effectiveness in providing services to meet the  
3 identified needs.

4           "(e) If it is determined that there are reasonable  
5 grounds to believe that a participating county team is not  
6 complying with its plan or the minimum standards, the ~~state~~  
7 ~~team~~ State Team shall give 30 days' written notice to the  
8 participating entity. If the ~~state team~~ State Team finds that  
9 a participating entity is not complying with its plan or the  
10 established minimum standards, the ~~state team~~ State Team shall  
11 require the entity to provide a letter of intent as to how and  
12 when specific deficiencies identified will be corrected. If no  
13 letter is submitted to the ~~state team~~ State Team within the  
14 time limit specified, or if the deficiencies are not corrected  
15 within 45 days after the letter has been submitted to the  
16 entity, the funding may be suspended in part or in whole until  
17 compliance is achieved.

18           "~~(d)~~ (f) A quarterly report shall be submitted to the  
19 Alabama Children's Policy Council showing the awards initiated  
20 by the ~~state team~~ State Team during the quarter and the  
21 cumulative totals for each new services awards, ~~awards for~~  
22 ~~each individual child,~~ and awards for each special project. An  
23 annual report shall also be compiled.

24           "~~§12-15-120.~~



1           "~~§12-15-601. Appeals from judgments, and orders,~~  
2 ~~etc.,~~ of juvenile courts.

3           "~~(a) An aggrieved A party, including the state or~~  
4 ~~any subdivision of the state, has the right to appeal a~~  
5 ~~judgment or order from any juvenile court proceeding pursuant~~  
6 ~~to this chapter. The procedure for appealing these cases shall~~  
7 ~~be pursuant to rules of procedure adopted by the Supreme Court~~  
8 ~~of Alabama except in criminal cases, delinquency cases and in~~  
9 ~~need of supervision cases, may appeal from a final order,~~  
10 ~~judgment or decree of the juvenile court to the circuit court~~  
11 ~~by filing written notice of appeal within 14 days after the~~  
12 ~~entry of the order, judgment or decree. All appeals under from~~  
13 ~~juvenile court proceedings pursuant to this chapter shall take~~  
14 ~~precedence over all other business of the court to which the~~  
15 ~~appeal is taken.~~

16           "~~(b) Upon appeal, the circuit court shall try the~~  
17 ~~case de novo and shall proceed to render such judgment as is~~  
18 ~~otherwise provided for by law in such cases.~~

19           "~~(c) Upon the rendition of such judgment, the~~  
20 ~~circuit court shall cause to be filed with the juvenile court~~  
21 ~~a copy of its judgment which shall thereupon become the~~  
22 ~~judgment of the juvenile court. If the circuit court does not~~  
23 ~~dismiss the proceedings and discharge the child, it shall~~  
24 ~~remand the child to the jurisdiction of the juvenile court for~~  
25 ~~supervision and care under the terms of the judgment of the~~

1 ~~circuit court, and thereafter the child shall be and remain~~  
2 ~~under the jurisdiction of the juvenile court in the same~~  
3 ~~manner as if the juvenile court had rendered the judgment in~~  
4 ~~the first instance.~~

5 ~~"(d) The appeal shall not stay the order, judgment~~  
6 ~~or decree appealed from, but the circuit court may otherwise~~  
7 ~~order, on application and hearing consistent with this~~  
8 ~~chapter, if suitable provision is made for the care and~~  
9 ~~custody of the child. If the order, judgment or decree~~  
10 ~~appealed from grants the custody of the child to or withholds~~  
11 ~~it from one or more of the parties to the appeal, it shall be~~  
12 ~~heard at the earliest time practicable.~~

13 ~~"(e) When a case has been transferred to the circuit~~  
14 ~~court docket in the first instance as provided in Section~~  
15 ~~12-15-3, an appeal shall lie therefrom in conformance with~~  
16 ~~procedures promulgated by the Supreme Court.~~

17 Section 27. The headings of Article 7 (commencing  
18 with Section 12-15-130), Article 8 (commencing with Section  
19 12-15-150), and Article 9 (commencing with Section 12-15-170)  
20 of Chapter 15 of Title 12 of the Code of Alabama 1975, are  
21 repealed.

22 Section 28. Sections 12-15-130, 12-15-131,  
23 12-15-132, 12-15-133, 12-15-134, and 12-15-135 of the Code of  
24 Alabama 1975, are amended and renumbered to read as follows:

25 ~~"§12-15-130.~~

1           "§26-24-30. Alabama Children's Policy Council.

2           "(a) The Alabama Children's Policy Council is hereby  
3 created and shall consist of the following members: Three  
4 appointees from business and industry made by the Governor;  
5 the Lieutenant Governor; the Speaker of the House of  
6 Representatives; two members of the Alabama Senate, one  
7 appointed by the Lieutenant Governor and one appointed by the  
8 President Pro Tempore of the Senate; two members of the House  
9 of Representatives appointed by the Speaker of the House of  
10 Representatives; the Chief Justice of the Supreme Court of  
11 Alabama; the legal advisor to the Governor; the Attorney  
12 General; the President of the Juvenile and Family Court  
13 Judges' Association; the Commissioner of the Department of  
14 Corrections; the President of the District Attorneys'  
15 Association; the President of the Chief Juvenile Probation  
16 Officers' Association; the Commissioner of the Department of  
17 Human Resources; the Administrative Director of Courts; the  
18 Commissioner of the Department of Children's Affairs; the  
19 Commissioner of the Department of Mental Health and Mental  
20 Retardation; the Executive Director of the Department of Youth  
21 Services; the State Superintendent of Education; the State  
22 Health Officer; the Executive Director of the Alabama  
23 Children's Trust Fund; the President of the Alabama  
24 Parent-Teachers Association; the Director of the Alabama  
25 Department of Economic and Community Affairs; the Commissioner

1 of the Department of Rehabilitation Services; the Commissioner  
2 of the Alabama Medicaid Agency; the Director of the Department  
3 of Public Safety; the Administrator of the Alcoholic Beverage  
4 Control Board; the Director of the Office of School Readiness;  
5 the Director of Voices for Alabama's Children; the Director of  
6 A Journey to Manhood; the President of A Coalition of 100  
7 Black Women; the President of 21st Century Youth Leadership  
8 Program; the Director of the Children First Foundation; the  
9 Director of the Multiple Needs Child Office; and five persons  
10 to be appointed by the ~~council~~ Alabama Children's Policy  
11 Council. The appointed members of the ~~council~~ Alabama  
12 Children's Policy Council shall reflect the racial, gender,  
13 geographic, urban/rural, and economic diversity of the state.  
14 All appointments are subject to Senate confirmation and shall  
15 be effective until acted upon by the Senate.

16 " (b) The Commissioner of the Department of  
17 Children's Affairs shall serve as ~~chairman~~ chair and the Chief  
18 Justice of the Supreme Court of Alabama as vice chair. The  
19 five ~~council~~ Alabama Children's Policy Council appointees and  
20 the three appointees of the Governor shall serve on the  
21 Alabama Children's Policy Council for two years from October 1  
22 following their appointment and until their successors are  
23 selected, and may be reappointed for additional terms. Any  
24 vacancies in ~~such~~ the appointed positions shall be filled in  
25 like manner as their predecessor and shall serve for a full

1 term and until their successors are selected. If the ~~council~~  
2 Alabama Children's Policy Council deems it necessary or  
3 advisable, it may elect other officers ~~as necessary~~ and adopt  
4 bylaws. The vice ~~chairman~~ chair and any other officers of the  
5 ~~council~~ Alabama Children's Policy Council, other than the  
6 ~~chairman~~ chair, shall hold ~~said~~ these offices for ~~such~~ a  
7 period as designated by the ~~council~~ Alabama Children's Policy  
8 Council, or for so long as they remain members of the ~~council~~  
9 Alabama Children's Policy Council. The ~~council~~ Alabama  
10 Children's Policy Council shall meet at the call of the  
11 ~~chairman~~ chair at least once annually prior to September 1 of  
12 each fiscal year, and at ~~such~~ other times as, in the opinion  
13 of the ~~chairman~~ chair, additional meetings are needed.

14 "(c) It shall be the duty of the Alabama Children's  
15 Policy Council and the Chief Justice of the Supreme Court of  
16 Alabama to review the report prepared by the Department of  
17 Children's Affairs pursuant to Section ~~12-15-134~~ 26-24-34 and  
18 to make ~~such~~ recommendations as it deems necessary and  
19 appropriate to the Governor and Legislature by October 1 of  
20 each fiscal year. It shall also be the duty of the Alabama  
21 Children's Policy Council to develop a state resource guide,  
22 which may be automated, including procedural information  
23 concerning how to access ~~such~~ these services. This guide shall  
24 be distributed to departments, agencies, and organizations

1 serving children, as well as the county children's policy  
2 councils in each county of the state and the general public.

3 ~~"§12-15-131.~~

4 "§26-24-31. Alabama Children's Policy Council Fund.

5 "(a) There is hereby established the Alabama  
6 Children's Policy Council Fund into which there is  
7 automatically appropriated ~~\$20,000.00~~ twenty thousand dollars  
8 (\$20,000) annually at the beginning of each fiscal year. Any  
9 funds remaining in the Alabama Children's Policy Council Fund  
10 at the end of any fiscal year shall not revert to the State  
11 General Fund. The Comptroller shall transfer ~~said the~~ moneys  
12 from the State General Fund to the Alabama Children's Policy  
13 Council Fund annually at the beginning of each fiscal year and  
14 the moneys in ~~said the~~ fund shall be expended for the travel  
15 expenses of members of the ~~council~~ Alabama Children's Policy  
16 Council who are not otherwise reimbursed by the state and such  
17 other necessary operating costs and expenses as approved by  
18 the ~~chairman~~ chair of the Alabama Children's Policy Council.  
19 Travel and per diem for all members of the ~~council~~ Alabama  
20 Children's Policy Council shall be calculated and paid at the  
21 same rate applicable to state employees. Any expenses of the  
22 Alabama Children's Policy Council, including printing,  
23 postage, and mailing costs, which cannot be paid ~~due to~~  
24 because of insufficient funds, shall be charged to the  
25 departments and agencies represented by membership on the

1 ~~council~~ Alabama Children's Policy Council on a pro-rata basis,  
 2 as calculated by the ~~chairman~~ chair.

3 "(b) The Alabama Children's Policy Council ~~is~~  
 4 ~~authorized to~~ may accept and use funds available to it from  
 5 all sources, including, but not limited to, grants,  
 6 appropriations, gifts, and donations for the purpose of  
 7 implementing ~~the provisions of this article~~ chapter. All ~~such~~  
 8 funds shall be deposited into the Alabama Children's Policy  
 9 Council Fund, which shall be under the management of the  
 10 Alabama Children's Policy Council. Moneys of the fund may be  
 11 withdrawn by vouchers or checks signed by the ~~chairman~~ chair  
 12 of the Alabama Children's Policy Council.

13 "~~§12-15-132.~~

14 "§26-24-32. Expenses of ~~council~~ Alabama Children's  
 15 Policy Council members who are state officers or employees.

16 "The members of the Alabama Children's Policy  
 17 Council who are officers or employees of the State of Alabama  
 18 shall be entitled to be reimbursed for their expenses,  
 19 including travel, lodging, food, and other expenses at the  
 20 same rate as other state employees. ~~Such~~ These expenses shall  
 21 be paid by the Comptroller from funds appropriated from the  
 22 State Treasury to the department or agency which the member  
 23 represents.

24 "~~§12-15-133.~~

1           "§26-24-33. County children's policy councils -  
2 Generally.

3           "(a) A county children's policy council is hereby  
4 created in each county of the state. ~~Said~~ The county  
5 children's policy council shall consist of the following  
6 members: ~~The~~ A juvenile court ~~judge(s)~~ judge in ~~said~~ each  
7 county; the county director of the Department of Human  
8 Resources; a county representative of the Department of Mental  
9 Health and Mental Retardation; a county representative of the  
10 Department of Youth Services; a county representative of the  
11 Department of Rehabilitation Services, the Medicaid Agency,  
12 the Department of Public Safety, and the Alcoholic Beverage  
13 Control Board, provided they have a physical presence in the  
14 county; the county ~~and/or~~ superintendent of education and any  
15 city superintendent ~~superintendent(s)~~ of education in the  
16 county; the county chief juvenile probation officer; a  
17 representative of the county health department; the district  
18 attorney; local legislators; the ~~chairperson~~ chair of the  
19 county commission; the sheriff, and at least seven persons to  
20 be appointed by the county children's policy council from the  
21 community including, but not limited to, state and local  
22 government officials, practicing attorneys, community  
23 organizations, business and industry, and representatives of  
24 any other agencies or organizations providing services to  
25 families and children in the county.



1           "(b) All members of the county children's policy  
 2 council shall serve on ~~said~~ the county children's policy  
 3 council for two years and until their successors are  
 4 appointed, except those who serve by virtue of holding a  
 5 designated office. The county children's policy council shall  
 6 be convened at least once each quarter at the call of the  
 7 ~~senior juvenile court judge who shall serve as the chairman.~~  
 8 chair. The juvenile court judge presiding over the county  
 9 children's policy council may nominate a member to serve as  
 10 chair. At the first meeting of the county children's policy  
 11 council, ~~said~~ the county children's policy council shall  
 12 select its ~~seven~~ additional council members. If the county  
 13 children's policy council deems it necessary or advisable, it  
 14 may elect ~~a vice chairman, secretary and such other officers~~  
 15 ~~as it may determine necessary~~ and adopt bylaws. ~~Such~~ The  
 16 additional officers shall hold office for ~~such~~ the period as  
 17 designated by the county children's policy council.

18           "~~§12-15-134.~~

19           "§26-24-34. County Children's children's policy  
 20 councils - Duties.

21           "~~It shall be the duty~~ The duties of the county  
 22 children's policy council ~~to review~~ shall include, but not be  
 23 limited to, the following: Reviewing the needs of children in  
 24 the county and the responsibilities assigned each department  
 25 or agency by law; to determine determining areas of

1 responsibility and ~~identify~~ identifying areas of duplication  
2 ~~and/or~~ or conflict between departments and agencies in the  
3 county; ~~to identify~~ identifying local resources; and ~~to~~  
4 ~~develop~~ developing, in conjunction with the Department of  
5 Children's Affairs, ~~and~~ ~~up-date~~ up-dating annually, a local  
6 resource guide to services available to children which shall  
7 include procedural information concerning how to access ~~such~~  
8 those local services; ~~to articulate~~ articulating and  
9 ~~communicate~~ communicating to the local community the needs of  
10 children; and ~~to submit~~ submitting an annual report to the  
11 ~~Administrative Office of Courts~~, Department of Children's  
12 Affairs, ~~and the Chief Justice of the Supreme Court of Alabama~~  
13 by July 1 of each year on the local services provided to  
14 children, local needs of children, and recommendations of the  
15 county children's policy council based on data from the  
16 previous fiscal year ending September 30. The Department of  
17 Children's Affairs shall then, by September 1 of each year,  
18 submit its summary recommendations based on ~~said~~ the reports,  
19 along with a copy of each local report to the Alabama  
20 Children's Policy Council. The local resource guides shall be  
21 used by the Alabama Children's Policy Council in compiling a  
22 state resource guide, ~~which~~ may be automated and shall be  
23 distributed to the general public and to agencies and  
24 organizations serving children.

25 "~~§12-15-135.~~

1           "§26-24-35. Juvenile justice coordinating councils  
2 renamed.

3           "All references to the "Alabama Juvenile Justice  
4 Coordinating Council" and to "county juvenile justice  
5 coordinating councils" in this code, are changed to the  
6 "Alabama Children's Policy Council" and "county children's  
7 policy councils" respectively. All other laws, rules,  
8 regulations, and legal references of any kind to the "Alabama  
9 Juvenile Justice Coordinating Council" or to "county juvenile  
10 justice coordinating councils" shall be changed to the  
11 "Alabama Children's Policy Council" or to "county children's  
12 policy councils" respectively when this code is next reprinted  
13 and in other laws, rules, regulations, and legal references as  
14 is appropriate, timely, and economically feasible."

15           Section 29. No other laws, or parts of laws, which  
16 are in any manner inconsistent with this act shall be  
17 construed to supersede or in any way alter or affect the  
18 provisions of this act, and no law shall be operative to the  
19 extent it may be in conflict and inconsistent with this act.  
20 Specifically, Section 16-28-3, establishing the compulsory  
21 school attendance age, shall remain in full force and effect.

22           Section 30. Sections 12-15-9, 12-15-10.1, 12-15-14,  
23 12-15-33, 12-15-68, 12-15-76, 12-15-176, 26-18-1, 26-18-2,  
24 26-18-3, and 26-18-4 of the Code of Alabama 1975, are  
25 specifically repealed.

1           Section 31. All laws or parts of laws which conflict  
2 with this act are repealed.

3           Section 32. Although this bill would have as its  
4 purpose or effect the requirement of a new or increased  
5 expenditure of local funds, the bill is excluded from further  
6 requirements and application under Amendment 621, now  
7 appearing as Section 111.05 of the Official Recompilation of  
8 the Constitution of Alabama of 1901, as amended, because the  
9 bill defines a new crime or amends the definition of an  
10 existing crime.

11           Section 33. This act shall become effective on  
12 January 1 following its passage and approval by the Governor,  
13 or its otherwise becoming law except that the provisions of  
14 subdivision (1) of subsection (a) of Section 12-15-208 and  
15 Section 12-15-215 (a) (3)b., Code of Alabama 1975, regarding  
16 status offenders, shall not become effective until October 1,  
17 2009.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 06-MAR-08, as amended.

Greg Pappas  
Clerk

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Senate

30-APR-08

Passed