

Barrister's Battle: Youth Court Jeopardy

Questions and Answers

Transfers

- Q: A motion to transfer shall be filed on a day prior to the date set for the adjudicatory hearing but not more than _____ after the filing of the petition.
- A: What is “10 days”? MS Code §43-21-157(2)
- Q: The only part of a transfer hearing that a child, with the assistance of counsel, can waive.
- A: What is “probable cause”? §43-21-157(3)
- Q: How many factors shall be considered by the youth court in determining the reasonable prospects of rehabilitation within the juvenile justice system?
- A: What is “13”? §43-21-157(5)
- Q: Under §43-21-157, Transfer to other courts, what court may a youth court judge, after a hearing on the motion, transfer jurisdiction of the alleged offense or a lesser included offense to?
- A: What is “the criminal court which would have trial jurisdiction of the offense if committed by an adult”? §43-21-157(1)
- Q: The burden of proof by which the court must find that there are no reasonable prospects of rehabilitation within the juvenile justice system in order to transfer the alleged offense and the youth to the jurisdiction of the adult court.
- A: What is “clear and convincing evidence”? §43-21-157(4)

Petitions & Service of Process

- Q: FILL IN THE BLANK: A petition shall be filed within _____ from the date of a detention hearing continuing custody or in noncustody cases within _____ of the court order authorizing the filing of a petition.
- A: What is “5 days” and “10 days”? §43-21-451
- Q: FILL IN THE BLANK: During the _____ process no petition will be filed.

- A:** What is “informal adjustment”? §43-21-405(3)(c)
- Q:** FILL IN THE BLANK: A petition may be amended at any time on order of the youth court for good cause shown as long as there is _____.
- A:** What is “no prejudice to the parties”? §43-21-457
- Q:** Which of the following must be met before a child may waive the three (3) days' time of service of process before the hearing ?
- (a) the child fully understands his rights and fully understands the potential consequences of the hearing
 - (b) the child's parent consents to the waiver
 - (c) the child voluntarily, intelligently, and knowingly waives his right to three (3) days' time before the hearing
 - (d) the child is effectively represented by counsel
 - (e) the child has had, in fact, sufficient time to prepare
 - (f) all of the above
 - (g) none of the above
- A:** What is “(a), (c), (d), (e)”? §43-21-507(3)
- (a) the child fully understands his rights and fully understands the potential consequences of the hearing
 - (c) the child voluntarily, intelligently, and knowingly waives his right to three (3) days' time before the hearing
 - (d) the child is effectively represented by counsel
 - (e) the child has had, in fact, sufficient time to prepare
- Q:** FILL IN THE BLANK: The petition must recite factual allegations with the same particularity required in a _____ but need not have the same technical form.
- A:** What is “criminal indictment”? §43-21-455(4)

DETENTION

Q: **FILL IN THE BLANK:** A child taken into custody shall not be held in custody for a period longer than reasonably necessary, but not to exceed _____, and shall be released to his parent, guardian or custodian unless the judge or his designee authorizes temporary custody.

A: What is “twenty-four (24) hours”? §43-21-303(4)

Q: These do not apply in regard to testimony at a detention hearing.

A: What are “the Rules of Evidence”? §43-21-309(3)

Q: **TRUE OR FALSE:** Detention hearings are conducted informally therefore, witnesses need not be placed under oath and may testify in a narrative form.

A: What is “False”? §43-21-309(3)

Q: After being taken into temporary custody which of the following may a child waive?

(a) The time of the detention hearing

(b) The right to counsel

(c) The detention hearing

(d) All of the above

(e) None of the above

A: What is “(a) and (c)”? §43-21-309(5) §43-21-201(1)(b)

(a) The time of the detention hearing

(b) The detention hearing

NOTE: 43-21-309(5) The child with advice of counsel may waive in writing the time of the detention hearing or the detention hearing itself. The child's guardian ad litem, and parent, guardian or custodian, and child may waive in writing the time of the shelter hearing or the shelter hearing itself. If the child has not reached his tenth birthday, the child's consent shall not be required.

(43-21-201(1)(b) In delinquency matters the court shall appoint legal defense counsel who is not also a guardian ad litem for the same child. If the party is a child, the child shall be represented by counsel at all critical stages: detention,

adjudicatory and disposition hearings; parole or probation revocation proceedings; and post-disposition matters. If indigent, the child shall have the right to have counsel appointed for him by the youth court.

Q: The findings the court must make at the detention hearing in order to hold a child in custody longer than temporarily.

A: What is ?

(i) there is probable cause the child is within the jurisdiction of the court; and

(ii) there is probable cause that custody is necessary.

**** (ii) Custody is necessary because of any of the following reasons:**

(a) the child is in danger of a significant risk of harm,

(b) any person would be in danger of a significant risk of harm by the child,

(c) to ensure the child's attendance in court at such time as required, or a parent, guardian or custodian is not available to provide for the care and supervision of the child; AND

(iii) There is no reasonable alternative to custody.

APPEALS

Q: A hearing held by a Chancellor on motion of a party filed within three days of receiving notice of the subject order. This hearing is held on the previous hearing's record. However, the judge may allow additional evidence to be admitted at their discretion.

A: What is "Motion for Rehearing of Referee's Order"? §43-21-111(5)

Q: The person or entity that the notice of appeal shall be filed with within thirty (30) days after the entry of the judgement or order appealed from.

A: Who is "the clerk of the trial court"? M.R.A.P. 4(a)

Q: TRUE OR FALSE: An appeal automatically stays the enforcement of the youth court's disposition of the case unless the court specifically orders otherwise.

A: What is "False"?

Q: TRUE, FALSE OR MAYBE: An order transferring a youth from the jurisdiction of the youth court to circuit court (adult court) is a final order for the purposes of appeal to the Supreme Court.

A: What is “True/Maybe”? Final Orders in youth court include orders that grant durable legal custody or durable legal relative guardianship, transfer jurisdiction over the minor child to another court, such as for an adoption, or otherwise terminate the jurisdiction of the youth court over the minor child.

§ 43-21-651. Review by supreme court (1)(a) The court to which appeals may be taken from final orders or decrees of the youth court shall be the Supreme Court of Mississippi pursuant to the Rules of Appellate Procedure. Final Orders in youth court include orders that grant durable legal custody or durable legal relative guardianship, transfer jurisdiction over the minor child to another court, such as for an adoption, or otherwise terminate the jurisdiction of the youth court over the minor child.

In the Interest WATKINS, 324 So.2d 232 (1975). We hold that no appeal to this Court lies from a youth court order that does no more than decline jurisdiction and certify the case to the circuit court. Otherwise in youth court cases two appeals to this Court would be possible: one from the order of transfer and the other from the conviction in the circuit court. Such a result would be intolerably burdensome and would defeat the purpose of the act through unacceptable delay in final disposition of the case.

Considerable discretion must be allowed the Youth Court Judge in determining whether, in a transfer hearing, the transfer should or should not be made. And while the investigation required by [Mississippi Code Annotated section 43-21-31 \(1972\)](#), is essential to the validity of the transfer order, a direct appeal to this Court will not lie from such an order. Adequacy of the youth court investigation may be challenged by motion to quash an indictment returned pursuant of the transfer, and an adverse ruling of the circuit court on such a motion may be assigned as error on appeal to this Court if a conviction follows. However, a decision of the youth court to transfer, made after investigation, will not be disturbed by this Court in the absence of a clear showing of an abuse of discretion. In order to preserve the question on appeal, the motion to quash an indictment, on the ground that the youth court investigation was inadequate, must be filed and presented prior to trial of the case on the merits in the circuit court, and not afterwards.

Q: State agency which has been given statutory authority to represent, at their discretion, indigent youth who have been adjudicated delinquent by a county or chancery court on appeal to the Mississippi Supreme Court.

A: Who is “The Office of State Public Defender”? §99-40-1(2)

Disposition

Q: The youth court may not order a youth to apply for or attend this program.

A: What is the “Youth Challenge Program”? §43-21-605(1)(h)

Q: The requirement necessary for a youth court to recommit a child to the training school or any other secure facility.

A: What is “an adjudication of a new offense or probation or parole violation”? §43-21-605(1)(g)

Q: Which of the following are relevant factors the youth court should consider in a delinquency case before entering a disposition order?

(a) The nature of the offense;

(b) The manner the offense was committed;

(c) The nature and number of a child's prior adjudicated offenses;

(d) The child's need for care and assistance;

(e) The child's current medical and mental health history, including medication and diagnosis;

(f) Disciplinary records from the school of record;

(g) (a), (b), (c,) & (f)

(h) (a) through (g)

A: What is “(h) options a-g? §43-21-603(3)

Q: This person shall not be committed to a detention center for more than ninety (90) days until all other options in §43-21-605 have been considered and the court makes a specific finding of fact by a preponderance of the evidence that there is no reasonable alternative to a nonsecure setting and therefore commitment to a detention center is appropriate.

A: Who is “a first-time nonviolent youth offender”? §43-21-605(l)(i)

Q: FILL IN THE BLANK: The court may order the disposition of any count to run _____ to any other count(s) or current dispositions, as it deems in the best interest of the child and in the interest of justice.

A: What is “concurrent or consecutive”? MS R YCP Rule 20

Adjudication

Q: **FILL IN THE BLANKS:** An adjudicatory hearing shall be held within _____ after the filing of the petition.

If the child is in detention, the adjudicatory hearing shall be held as soon as possible but not later than _____ after the child is first detained by the court.

A: What is “ninety (90) days” and “twenty-one (21) days”? §43-21-551(1), (2), MS R YCP Rule 24

Q: **TRUE OR FALSE:** The judge may accept a youth’s admission to a delinquency allegation in youth court, if they find that the youth making the admission voluntarily, intelligently and knowingly admits to all facts necessary to constitute a basis for court action and that the youth hasn’t in the reported admission to the allegation set forth facts that, if found to be true, constitute a defense.

A: What is “True”? §43-21-553(b)(c)

Q: This type of admission by the child, even if otherwise admissible, shall be insufficient to support an adjudication that the child is a delinquent child unless the admission is corroborated, in whole or in part, by other competent evidence.

A: What is “an out of court admission”? §43-21-559(2)

Q: This person may appear as a witness in youth court except that no such person may testify as to an admission or confession made to them by a child.

A: Who is a “member of the youth court staff”? §43-21-559(2)

Q: **TRUE OR FALSE:** No statements, admissions or confessions made by or incriminatory information obtained from a child in the course of a screening or assessment that is done in conjunction with any proceedings under this chapter, including, that which is court-ordered, shall be admitted into evidence against the child on the issue of whether they committed a delinquent act under this chapter or on the issue of guilt in any criminal proceedings.

A: What is “True”? §43-21-559(4)(a)