First Chancery Court District of Mississippi

discOVERY of youth court records

a Guide to assist practitioners in obtaining youth court records for consideration in chancery matters

First Chancery Court District of Mississippi

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disCOVERY of youth court records

# instructions FOR practitioners

The following procedure should be followed for the discovery and disclosure of records involving a child when litigation is pending in Chancery Court.

Miss. Uniform Rules of Youth Court Practice Rule 6 sets forth the procedure to be followed when records are sought for use in a court other than a youth court, to-wit:

**(1) the party shall make an application to the court specifying which records are sought;**

**(2) the court shall issue a subpoena duces tecum to the youth court for these records;**

**(3) the youth court, unless a hearing is conducted pursuant to Rule 6(b) of these rules, shall transfer copies of the records to the court;**

**(4) the court shall conduct an *in camera* inspection of the records, in accordance with the procedures set forth in *Pennsylvania v. Ritchie*, 480 U.S. 39 (1987), to determine which records should be disclosed to the party;**

**(5) the court shall, at all times, protect the confidentiality of the records to the extent required of the youth court under Mississippi's Youth Court Law.**

Miss. Uniform Rules of Youth Court Practice Rule 6(a). Further, this rule specifically authorizes the youth court to require a hearing to “determine whether the court or parties have a legitimate interest to be allowed access to the confidential files” and in making such determination, the youth court is required to consider “the nature of the proceedings, the welfare and safety of the public, and the interest of the child.” Miss. Uniform Rules of Youth Court Practice Rule 6(b).

Based upon this procedure outlined in Rule 6, the Chancery Court has prepared the following uniform forms for use when seeking the disclosure of protected records relating to minor children for use in a matter pending within the First Chancery Court District, with approval from the respective Youth Court Referees and Judges within our District. Please modify as needed, but ensure that you follow the procedure as set forth in Rule 6 of the Miss. Uniform Rules of Youth Court Practice when seeking the disclosure of records.

disCOVERY of youth court records

# Forms

**IN THE CHANCERY COURT OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY, MISSISSIPPI**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ PETITIONER(S)**

**VS. CAUSE NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ RESPONDENT(S)**

**APPLICATION FOR ISSUANCE OF SUBPOENA DUCES TECUM**

COMES NOW before the Court **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, the **Petitioner(s)/Respondent(s)/Guardian ad Litem** in the above-styled action, and files this, **his/her/their** *Application for Issuance of Subpoena* *Duces Tecum* seeking the disclosure of certain records pertaining to the minor **child/children** at issue herein, and in support thereof the Applicant would show unto the Court the following:

1. That the minor **child/children** at issue to whom the subpoena *duces tecum* applies **are/is** as follows:

**NAME DATE OF BIRTH**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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1. That the records sought for the **child/children** named above are as follows:
2. **Youth Court records** as defined in section 43-21-251 of Mississippi’s Youth Court Law and including but not limited to any and all pleadings, orders, summonses, exhibits, physical evidence, witness lists, court and deposition transcripts, dockets, notices, papers, social records (including but not limited to social summaries, medical examination reports, and mental health examination reports) and Guardian *ad Litem* reports;
3. **Forensic interviews** conducted by a child advocacy center during any abuse or neglect investigation;
4. **Law enforcement records** as defined in section 43-21-255 of Mississippi’s Youth Court Law and including but not limited to any and all police reports, booking sheets, photographs, affidavits, grand jury indictments, audio and/or video records, physical evidence, medical records, oral and written statements, witness lists and forensic interviews;
5. **Agency records** as defined in section 43-21-257 of Mississippi’s Youth Court Law and including but not limited to Department of Child Protection Services files; and
6. All other documents maintained by any representative of the state, county, municipality, or other public agency insofar as they relate to the custody, adjudication, or disposition of a child who is the subject of a youth court cause or a Mississippi Department of Child Protection Services investigation.
7. That the Applicant further requests that the Court authorize a command to appear at trial or hearing to the Mississippi Department of Child Protection Services, authorizing their Family Protection Specialist, Supervisor, employee, or agent to appear and offer testimony regarding the agency’s records relevant to the minor child at issue.
8. That said records are relevant to the issues pending before this Court and that disclosure of said records would be in the best interest of the minor **child/children** and in furtherance of the litigation pending herein.

**WHEREFORE, PREMISES CONSIDERED,** Applicant prays that this Court would direct the issuance of a subpoena *duces tecum* directing the disclosure of certain records as set forth above, said records to be delivered to the Court under seal for an *in camera* inspection in accordance with the procedures set forth in *Pennsylvania v. Ritchie*, 480 U.S. 39 (1987), to determine which, if any, records should be disclosed. Further, Applicant would request that this Court authorize the inclusion within said subpoena *duces tecum* of a command to the Mississippi Department of Child Protection Services, authorizing their Family Protection Specialist, Supervisor, employee, or agent to appear and offer testimony regarding the agency’s records relevant to the minor child at issue.

**SO REQUESTED,** this the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **APPLICANT/APPLICANT’S COUNSEL**

**CERTIFICATE OF SERVICE**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as **Petitioner/Respondent/Guardian ad Litem**/**counsel for the Petitioner(s)/Respondent(s)** herein, do hereby certify that I have this day forwarded a true and correct copy of the ***Application for Issuance of Subpoena Duces Tecum*** filed on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ by **United States Postal Service (postage prepaid)/electronic mail/facsimile**, to the following:

**[Insert name(s) and contact information of all other attorneys of record in the matter, *pro se* parties, and the Chancellor to whom the matter is assigned.]**

 **SO CERTIFIED**, this the day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**APPLICANT’S COUNSEL**

**IN THE CHANCERY COURT OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY, MISSISSIPPI**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ PETITIONER(S)**

**VS. CAUSE NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ RESPONDENT(S)**

**SUBPOENA DUCES TECUM**

**STATE OF MISSISSIPPI**

**COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**TO: Youth Court of \_\_\_\_\_\_\_\_\_\_ County, Mississippi**

**ATTN: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 **AT: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**YOU ARE HEREBY SUMMONED AND COMMANDED** to provide the following documents within ten (10) days of your receipt of this Subpoena *Duces Tecum*:

1. Documents identified herein pertaining to the following **minor** **child/children** at issue:

**NAME DATE OF BIRTH**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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1. Records under your control which are to be produced are as follows:
2. **Youth Court records** as defined in section 43-21-251 of Mississippi’s Youth Court Law and including but not limited to any and all pleadings, orders, summonses, exhibits, physical evidence, witness lists, court and deposition transcripts, dockets, notices, papers, social records (including but not limited to social summaries, medical examination reports, and mental health examination reports) and Guardian *ad Litem* reports;
3. **Forensic interviews** conducted by a child advocacy center during any abuse or neglect investigation;
4. **Law enforcement records** as defined in section 43-21-255 of Mississippi’s Youth Court Law and including but not limited to any and all police reports, booking sheets, photographs, affidavits, grand jury indictments, audio and/or video records, physical evidence, medical records, oral and written statements, witness lists and forensic interviews;
5. **Agency records** as defined in section 43-21-257 of Mississippi’s Youth Court Law and including but not limited to Department of Child Protection Services files; and
6. All other documents maintained by any representative of the state, county, municipality, or other public agency insofar as they relate to the custody, adjudication, or disposition of a child who is the subject of a youth court cause or a Mississippi Department of Child Protection Services investigation and which may be maintained in the records of the entity to whom this command is issued.

Said records shall be disclosed to the undersigned Chancellor for an *in camera* inspection in accordance with the procedures set forth in *Pennsylvania v.* *Ritchie*, 480 U.S. 39 (1987) and delivered in person to 200 West Jefferson Street, Tupelo, Mississippi 38804 or delivered via United States Postal Service, postage prepaid, the address of Post Office Box 7395, Tupelo, Mississippi 38802.

Further, you are hereby directed to authorize the Mississippi Department of Child Protection Services, their Family Protection Specialist, Supervisor, Employee, or Agent assigned to this matter to appear and offer testimony regarding the agency’s records relevant to the minor child at issue upon the matter being called for hearing before this Court.

**HAVE YOU THEN AND HERE** this writ, and fail not under penalty of law.

**SO ISSUED**, this the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**CHANCELLOR**

**IN THE YOUTH COURT OF\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY, MISSISSIPPI**

**IN RE: THE INTEREST OF:**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,**

**A MINOR CAUSE NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**DATE OF BIRTH \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**ORDER PERMITTING LIMITED DISCLOSURE
OF RECORDS INVOLVING A CHILD**

**ON THIS DAY,** this cause came on to be heard upon the request for disclosure of certain records pertaining to the minor child named hereinabove, and this Court having heard and considered the same, does herby find that this Court has authority under Mississippi Code Annotated § 43-21­-261(1) to order a limited disclosure of the child’s records to the recipient who is and shall be:

1. The judge of another youth court or member of another youth court staff;
2. The court of the parties in a child custody or adoption cause in another court;
3. A judge of any other court or members of another court staff;
4. D. A representative of a public or private agency providing supervision or having custody of the child under order of the youth court;
5. A person engaged in a bona fide research purpose;
6. A duly authorized representative of the Mississippi Department of Employment Security for the purpose of a child's enrollment into the Job Corps Training Program as authorized by Title IV of the Comprehensive Employment Training Act of 1973 (29 USCS § 923 et seq.);
7. A person for which there are compelling circumstances affecting the health or safety of the child and that such disclosure is in the best interest of the child, to wit:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_;
8. A person who was subject of a knowingly made false allegation of child abuse or neglect which has resulted in a conviction of a perpetrator in accordance with Section *97-35-47* or which allegation was referred by CPS to a prosecutor or law enforcement official in accordance with the provision of Section 43-21-353(4)and that disclosure of such records is required for the best interest of the child, the public safety and/or the functioning of the youth court; or to identify a person who knowingly made a false allegation of child abuse or neglect.

**THEREFORE, IT IS HEREBY ORDERED** that the records involving the minor child named in the above styled cause be disclosed only as specified below:

1. The court, person, or agency to whom the records shall be disclosed is:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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1. The extent of the records which shall be disclosed is:
2. **Youth Court records** as defined in Section 43-21-251 of Mississippi’s Youth Court Law: Any and all pleadings, orders, summonses, exhibits, physical evidence, witness lists, court and deposition transcripts, dockets, notices and Guardian ad Litem reports;
3. **Agency records** as defined in Section 43-21-257 of Mississippi’s Youth Court Law:

Department of Child Protection Services files, Guardian ad litem files, medical records and reports, psychiatric records and reports;

1. **Law enforcement records** as defined in Section 43-21-255 of Mississip pi’s Youth Court Law: Any and all police reports, booking sheets, photographs, affidavits, grand jury indictments, audio and/or video records, physical evidence, medical records, oral and written statements, witness lists and forensic interviews; and
2. All other documents maintained by any representative of the state, county, municipality, or other public agency insofar as they relate to the custody, adjudication, or disposition of a child who is the subject of a youth court cause or a Mississippi Department of Child Protection Services investigation.
3. All other documents maintained by any representative of the state, county, municipality, or other public agency insofar as they relate to the custody, adjudication, or disposition of a child who is the subject of a youth court cause or a Mississippi Department of Child Protection Services investigation and which may be maintained in the records of the entity to whom this command is issued.
4. The purpose of the disclosure is:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**IT IS FURTHER ORDERED** that pursuant to Mississippi Code Annotated § 43-21­261(2), any records which are disclosed under this order and the contents thereof shall be kept confidential by the person or entity to whom the records are disclosed except as provided in this order. Any further disclosure of any record involving the Child shall be made only under and by order of this Court or a Court receiving the records pursuant to the instant Order.

**IT IS FURTHER ORDERED** thatthe Family Protection Specialist(s), Supervisor(s), Employee(s), or Agent(s) of the Mississippi Department of Human Services who have knowledge or prior involvement in matters pertaining to the minor child identified above shall be authorized to appear and offer testimony regarding the agency’s records relevant to the minor child at issue upon the matter being called for hearing before the Chancery Court issuing a Subpoena Duces Tecum for the records being disclosed hereunder.

**ALL SO ORDERED,** this the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**YOUTH COURT JUDGE/REFEREE**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY**

**IN THE CHANCERY COURT OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_ COUNTY, MISSISSIPPI**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ PETITIONER(S)**

**VS. CAUSE NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ RESPONDENT(S)**

**ORDER FOR DISCLOSURE OF RECORDS**

**CAME BEFORE THE COURT** on the Court’s own motionfor disclosure of certain Youth Court records received by the Court from the \_\_\_\_\_\_\_\_\_\_\_\_ County Youth Court / \_\_\_\_\_\_\_\_\_\_\_\_ Department of Child Protection Services pertaining to the minor child, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date of birth \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_), and the Court, finding that it is necessary that the records be reviewed by counsel for the parties during the course of the instant litigation, does hereby **FIND, ORDER, ADJUDGE, AND DECREE** as follows:

1. That pursuant to a Subpoena Duces Tecum issued \_\_\_\_\_\_\_\_\_\_\_, this Court received copies of all records relevant to the minor child, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date of birth \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_), as maintained by the \_\_\_\_\_\_\_\_\_\_\_\_ County Youth Court / \_\_\_\_\_\_\_\_\_\_\_\_ Department of Child Protection Services.
2. That said records have been reviewed by the Court in accordance with the procedures set forth in *Pennsylvania v. Ritchie*, 480 U.S. 39 (1987), and having reviewed said records, the Court does find that disclosure of said records would be in the best interest of the minor child named herein, in furtherance of the litigation.
3. That, upon their appearing and requesting same, said records shall be disclosed to the attorneys of record for the parties hereto. That each attorney of record shall have the right to inspect, review, and copy the records received by the Court.
4. That each attorney receiving a copy of the aforementioned records shall maintain these records under his or her control as strictly confidential.
5. That each attorney may review the records with the party who is his or her respective client, but shall not provide copies to said client unless otherwise authorized by this Court.
6. Any further disclosure of any record being disclosed involving the child named herein shall be made only under and by order of this Court.

**ALL SO ORDERED, ADJUDGED, AND DECREED,** this the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CHANCELLOR**