**UNITED STATES DISTRICT COURT**
**FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**
**NORTHERN DIVISION**

OFFICE OF STATE PUBLIC DEFENDER; ANDRÉ DE GRUY; and JENNIFER MORGAN, BRENDA LOCKE, and A. ARMAN MIRI, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

KATHARINE SURKIN, DIRECTOR OF ADMINISTRATIVE OFFICE OF THE COURTS, in her official capacity,

Defendant.

Case No.: 3:26-cv-00458-HTW-LGI

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

Plaintiffs Jennifer Morgan, Brenda Locke, and A. Arman Miri, individually and on behalf of all other Mississippi Youth Court attorneys (the "Youth Court Attorney class"), seek a temporary restraining order and preliminary injunction that would prevent irreparable harm to the fundamental rights of parents, children, and families across the entire state, and allow Plaintiffs and the Youth Court Attorney class to competently and ethically represent their clients. Specifically, Plaintiffs seek to enjoin enforcement of subsection 24 of Miss. Code Ann. § 43-21-261, which, on July 1, 2026, will repeal the statutory framework through which Plaintiffs and their clients are permitted some access to their Youth Court case records. Absent an injunction, on July 1, Defendant Katharine Surkin, in her official capacity as Director of Administrative Office of the Courts (hereafter "AOC" or "Defendant"), will cease providing records related to Youth Court cases to *anyone*, including all Youth Court attorneys and their clients, in violation of basic principles of due process. To prevent this systematic and uniform constitutional harm, and to

prevent all Youth Court proceedings from "grind[ing] to a halt," Ex. 1, Decl. of André de Gruy, at ¶¶ 45–46, this Court should provide the requested relief.

## I. BACKGROUND

### A. Mississippi's Youth Court System Is Shrouded in Secrecy.

In Mississippi, cases involving children whose parents are accused of abuse or neglect, or who are themselves accused of delinquent acts or of being a child in need of supervision ("CHINS"), are heard in Youth Court. Ex. 1 at ¶ 10. The Judges, Chancellors, and referees (together, "judicial officers") who preside over Youth Courts matters wield immense power: they end children's legal relationships with their parents, siblings, and grandparents; rearrange entire families; and confine children to jail cells. *See id.* at ¶¶ 15–16, 18. Youth Court matters all involve government action that seeks to infringe fundamental liberty interests: either the government seeks to separate a family temporarily or permanently, or the government accuses a youth of a delinquent act and seeks to curtail their liberty. *Id.* at ¶ 14; *see* Ex. 2, Decl. of Jennifer Morgan, at ¶¶ 5–6; Ex. 3, Decl. of Brenda Locke, at ¶¶ 6–7. For that reason, the consequences of an adverse Youth Court outcome can be profound, enduring, and life-altering. Ex. 4, Decl. of A. Arman Miri, at ¶ 5.

By and large, proceedings in Youth Court happen behind closed doors, and even parents, children, and their lawyers are routinely barred from accessing records and information about their own cases. Ex. 1 at ¶ 22, 61; Ex. 4 at ¶ 7. This is in part because Mississippi law makes case files and records for Youth Court proceedings confidential, subject only to certain exceptions set out in Miss. Code Ann. § 43-21-261. *See* Miss. Code Ann. §§ 43-21-251–43-21-265. Under two of those exceptions, parents, children, and their lawyers "shall have the right to" access their records upon request. *Id.* at § 43-21-261(3)–(4). These records, which are maintained and controlled by Defendant in the Mississippi Youth Court Information Delivery System ("MYCIDS"), include but are not limited to, court orders, petitions, summonses, notices, all documents filed in a Youth Court case, and all intake, custody, referral, petition, and hearing data related to a youth, his or her family, and the Youth Court's involvement with the same. *See id.* at §§ 43-21-251, 43-21-259; Ex. 1 at ¶ 56. However, AOC's current policy and practice is to deny MYCIDS access to any Youth Court

attorney and all parents and children with Youth Court cases, absent a court order. Ex. 1 at ¶¶ 27, 56–59.

When litigants and their attorneys do manage to obtain access to documents or information, any unauthorized disclosure of confidential material is punishable by civil contempt or criminal prosecution. Miss. Code Ann. § 43-21-267. Judges and prosecutors routinely threaten Plaintiffs and their clients that if they say anything about what happens in Youth Court or share documents, they could be criminally charged or held in civil contempt. Ex. 1 at ¶ 21. Officials with Child Protective Services ("CPS") and the Department of Human Resources ("DHS") threaten to report any unauthorized disclosure by Plaintiffs or their clients to the Judge. *Id.* Plaintiffs advise their clients not to talk about their cases, share their documents, or even mention their involvement with CPS or DHS to avoid jailing, a fine, contempt, or any kind of informal retaliation against them. *Id.*; Ex. 4 at ¶¶ 19–20.

Mississippi's confidentiality scheme, and especially the criminal penalties for violating it, silences parents and children. Ex. 1 at ¶ 22. It prevents them from seeking support in some of the most traumatic moments of their lives because they fear prosecution or that they will never be reunited with their children. *Id.* It also prevents them from identifying witnesses and evidence that could be important for their defense. *Id.*

Lack of timely and uniform access to Youth Court records, particularly as to Youth Court lawyers, renders the entire Youth Court system fundamentally unfair. It is impossible to get a fair hearing or for counsel to do their job if Plaintiffs and their clients cannot readily access charging documents, discovery, or court orders. *See* Ex. 2 at ¶ 26; Ex. 3 at ¶ 22. Judicial officers cannot make accurate decisions about fundamental liberty interests—such as freedom from incarceration and the right to family integrity—when key parties to a case do not have equal access to the information the government says justifies the infringements or a fair opportunity to test the veracity of the state's allegations. The system's draconian policies and practices relating to confidentiality result in the unnecessary separation of families and the unnecessary detention of children. They

also infringe children's and parents' rights to counsel and due process and impede Plaintiffs' ability to represent their clients. *See* Ex. 1 at ¶¶ 29–30.

The current statutory scheme routinely deprives counsel and their clients of timely access to critical documents, resulting in the unnecessary separation of families and the unnecessary detention of children, among other harms. These harms are about to get worse. Ex. 1 at ¶ 28. On July 1, 2026, the exceptions in Miss. Code Ann. § 43-21-261 ("Section 261") will be automatically repealed, and there will be no exceptions to the mandatory confidentiality provisions in the Mississippi Code. *Id.* at 29; *see* Miss. Code Ann. § 43-21-261(24) ("The provisions of this section shall stand repealed on July 1, 2026."). Youth Court judicial officers, CPS, and DHS, and Defendant will not be authorized to provide documents or information to anyone, including Plaintiffs and their clients. *See, e.g.*, Ex. 1 at ¶ 29. If the provision goes into effect, in the opinion of both state officials and Plaintiffs, all legal proceedings involving children "would grind to a halt." *Id.* at ¶¶ 46–47.

**B. Plaintiffs Defend the Fundamental Rights of Thousands of Mississippians.**

Plaintiff Office of State Public Defender ("OSPD") and its leaders provide legal representation to children in juvenile proceedings as well as indigent parents facing abuse and neglect allegations and potential termination of parental rights. Ex. 1 at ¶¶ 4–5. OSPD and its leaders also provide training and technical assistance to other defense attorneys who represent parents and children in Youth Court, like Plaintiff Miri. *Id.* Their clients are particularly vulnerable. They are indigent people whose lives are in turmoil; they are parents whose children have been taken by the state or minors who are in crisis, facing detention or other punishments. *Id.* at ¶ 18.

Youth Court cases are complex. Ex. 1 at ¶ 15. All parties are entitled to counsel at most stages, and the rules of evidence govern most proceedings. *Id.* Judicial officers apply a range of discretionary legal standards to the facts and are responsible for considering and resolving factual and legal questions that implicate the fundamental liberty interests of children and parents. *Id.* Each one of the hearings that occur within any Youth Court case is adversarial in nature and

involves the substantive consideration of evidence, factfinding on disputed questions by a neutral arbiter, application of legal standards and precedent, and judicial officers' exercise of discretion. *Id.*

Under existing practices, Plaintiffs and other Youth Court attorneys are routinely denied access to MYCIDS. Ex. 1 at ¶¶ 57, 62; Ex. 2 at ¶ 24; Ex. 3 at ¶ 21; Ex. 4 at ¶¶ 9–10. As of July 1, Defendant AOC Director Surkin will cease providing Plaintiffs, all other Youth Court attorneys, and all parents and children involved in Youth Court cases access to any records—all of which attorneys must have in order to provide effective, competent, and ethical legal representation, and to ensure a fair hearing for Plaintiffs' clients, consistent with basic principles of due process. Counsel simply cannot do their jobs if they cannot access the many case records that contain critical information necessary to preparing a defense, including, among others, police reports, expert reports, Department of Youth Services recommendations, court histories, and court orders. *See* Ex. 1 at ¶ 34. Without access to these and all other documents related to a Youth Court case, and with significant limitations on what information can be shared with any third parties, Plaintiffs cannot prepare effectively for hearings, counsel their clients on their options, prepare a litigation strategy, or assess factual disputes. Ex. 1 at ¶ 34. In short, on July 1, 2026, Plaintiffs and every other Youth Court attorney will be unable to perform as competent, ethical Youth Court attorneys. Ex. 1 at ¶ 36; Ex. 2 at ¶ 26; Ex. 3 at ¶ 22; Ex. 4 at ¶ 11.

## II. ARGUMENT

Plaintiffs seek a temporary restraining order and a preliminary injunction to prevent the Mississippi Youth Court system from collapsing. This relief is necessary to protect Youth Court attorneys and their clients from irreparable harm while the parties litigate the merits of this case.

The Court must weigh four factors when deciding whether to grant a motion for a temporary restraining order or a preliminary injunction: (1) the likelihood of success on the merits; (2) the irreparable injury to the movants if the injunction is denied; (3) whether the threatened injury outweighs any damage that the injunction might cause the defendant; and (4) the public

interest. *Jackson Women's Health Org. v. Currier*, 760 F.3d 448, 452 (5th Cir. 2014). Here, the weight of these factors falls decidedly in Plaintiffs' favor.

**A. Plaintiffs Are Likely to Succeed on the Merits of the Procedural Due Process Claim.**

The Fourteenth Amendment guarantees that no state actor may "deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV. "The essence of due process is the requirement that a person in jeopardy of serious loss be given notice of the case against him and opportunity to meet it." *Mathews v. Eldridge*, 424 U.S. 319, 348–49 (1976) (citation modified). Because due process "is not a technical conception with a fixed content unrelated to time, place and circumstances," *Cafeteria & Rest. Workers Union, Loc. 473, AFL-CIO v. McElroy*, 367 U.S. 886, 895 (1961), this Court must consider what procedural protections "the particular situation demands," *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972)—that is, what procedural protections parents at risk of losing their children or children at risk of losing their liberty are entitled to.

In deciding what the "specific dictates of due process" are, courts must consider three factors: (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335.

There is no question that access to case records in any litigation impacting fundamental constitutional rights—especially where the case involves the government's attempt to end a parent-child relationship or lock up a child—is a basic procedural right that (1) affects significant private interests, (2) significantly mitigates the risk of erroneous deprivation of those interests, and (3) does not unduly burden the government. Accordingly, this Court should require Defendant to provide parents, children, and their attorneys with access to their case records, consistent with its practices prior to July 1, 2026, and enjoin Defendant from enforcing subsection 24 of Section 261.

*1. The Private Interests at Stake Are Fundamental.*

Under the first *Mathews* factor, this Court must consider the interests at stake in Youth Court cases. 424 U.S. at 335. There is no dispute that Youth Court cases implicate some of the most sacred rights in our entire legal system. Judicial officers in delinquency and CHINS proceedings control children's liberty: they possess the "awesome [power to impose] incarceration in a state institution until the juvenile reaches the age of 21." *In re Gault*, 387 U.S. 1, 36–37 (1967). Dependency and termination proceedings impact equally important and fundamental rights. "The rights to conceive and to raise one's children have been deemed essential, basic civil rights of man, and rights far more precious than property rights." *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (citation modified); *see Moore v. Christian*, 56 Miss. 408, 410 (1879) (noting that parents' "right to the custody of their children" "is scarcely less sacred than the right to life and liberty"). Dependency proceedings, through which a child is removed from a natural parent's care and custody and the state seeks to designate a parent as unfit to raise their child, implicate these fundamental rights. *See Stanley*, 405 U.S. at 658 (requiring a hearing prior to deciding parental fitness "when the issue at stake is the dismemberment of [a] family"). And termination proceedings, through which the State seems "not simply to infringe upon" the fundamental right to care, custody, and control of one's child, "but to end it" can "work[] a unique kind of deprivation." *Lassiter v. Dep't of Soc. Servs. of Durham Cnty., N.C.*, 452 U.S. 18, 27 (1981); *see also Santosky v. Kramer*, 455 U.S. 745, 753 (1982) ("The fundamental liberty interest of natural parents in the care, custody, and management of their child does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State.").

In sum, the private interests at stake in Youth Court cases are "commanding." *Santosky*, 455 U.S. at 758.

*2. The Risk of Erroneous Deprivation Is High Without Access to Court Records.*

Under the second *Mathews* factor, this Court must consider "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of

additional or substitute procedural safeguards." 424 U.S. at 335. It should be obvious that records are necessary to ensure accurate fact-finding in a system that pits individuals against the State, and that access is an independent procedural protection required when the stakes are so high. Ex. 4 at ¶¶ 5–6. Moreover, this Court should consider the due process protections that are already guaranteed to Plaintiffs' clients, and the reasons for those protections, and conclude that implicit in them is guaranteed access to records.

Because delinquency, CHINS, dependency, and termination cases can result in serious and irreparable constitutional harm, *see infra* Section B, courts tasked with delineating what process is due in these types of proceedings generally have found that procedural safeguards should be near or equal to those applicable in adult criminal proceedings. *See, e.g.*, *In re Gault*, 387 U.S. at 27–28 (discussing similarities between criminal proceedings and delinquency proceedings and concluding that "it would be extraordinary if our Constitution did not require the procedural regularity and the exercise of care implied in the phrase 'due process'" in delinquency proceedings); *M.L.B. v. S.L.J.*, 519 U.S. 102, 124 (1996) (holding that certain procedural protections afforded to defendants in criminal cases, such as access to transcripts for an appeal, cannot be denied arbitrarily in termination proceedings, which are "quasi criminal in nature," based on ability to pay).[1] It is firmly established that the constitutional guarantee of due process is applicable in delinquency proceedings, requiring the following procedural protections to prevent an erroneous deprivation of a child's bodily liberty: (1) timely notice of the factual allegations, which must identify "the alleged misconduct with particularity" and must be provided "sufficiently in advance of scheduled court proceedings so that reasonable opportunity to prepare will be afforded;" (2) assistance of counsel; (3) a privilege against self-incrimination; and (4) the opportunity to confront witnesses and conduct cross examination. *In re Gault*, 387 U.S. at 33–57. The *Gault* court also noted that "the consequences of failure to provide an appeal, to record the

[1] *See also In re Adoption of R. I.*, 312 A.2d 601, 602 (Pa. 1973) (discussing due process cases in the criminal context and noting that "the logic behind them is equally applicable to a case involving an indigent parent faced with the loss of her child").

proceedings, or to make findings or state the grounds for the juvenile court's conclusion" undermined the administration of justice. *Id.* at 58. Under Mississippi law, a delinquency adjudication can be reversed if notice is inadequate. *See, e.g.*, *In re Edwards*, 298 So.2d 703, 704 (Miss. 1974); *E.K. v. Miss. Dep't of Child Prot. Servs.*, 249 So.3d 377, 383 (Miss. 2018).

Courts have held that similar procedural protections apply in dependency and termination proceedings. "[P]arents are constitutionally entitled to a hearing on their fitness before their children are removed from their custody" in part because the failure to make meaningful individualized determinations "needlessly risks running roughshod over the important interests of both parent and child." *Stanley*, 405 U.S. at 657–58; *see Sinquefield v. Valentine*, 132 So. 81, 82 (Miss. 1931) (holding that the state could not "deprive a parent of the custody of his minor children without notice to such parent and a hearing and proof of the allegations of the petition"); *In re Wilford J.*, 32 Cal.Rptr.3d 317, 322 (Cal. Ct. App. 2005) (holding that parents "enjoy[] a due process right to be informed of the nature of the hearing, as well as the allegations upon which the deprivation of custody is predicated, in order that he or she may make an informed decision whether to appear and contest the allegations"). As a matter of state law, Mississippi recognizes a right to counsel in all Youth Court proceedings. Miss. Code Ann. § 43-21-201(1)(a)–(b). And courts have recognized that the effective assistance of counsel can be vital in dependency and termination proceedings. *See, e.g.*, *M.L.B.*, 519 U.S. at 123 ("When deprivation of parental status is at stake . . . counsel is sometimes part of the process that is due.") (citing *Lassiter*, 452 U.S. at 31–32); *In re T.M.*, 319 P.3d 338, 355 (Haw. 2014) ("counsel is essential to ensuring that parents [in termination proceedings] are provided a 'fair procedure'"); *In re A.S.*, 87 P.3d 408, 414 (Mont. 2004) ("[O]ne wonders how counsel can effectively represent a client [in termination proceedings] without, for example, investigating the case, researching and understanding the law, meeting with the client, and assiduously advocating for the client at trial."); *Flores v. Flores*, 598 P.2d 893, 896 (Alaska 1979) ("A parent who is without the aid of counsel in marshalling and presenting the arguments in his favor will be at a decided and frequently decisive disadvantage.").

Additionally, Mississippi law affords parents the right "to subpoena, confront and examine" any person who prepared "an investigation, record or report" that is "admitted into evidence" in a dependency or termination case. Miss. Code Ann. § 43-21-203(9)(a)–(b). A clerk must "issue a summons" for the child and parent to appear at a Youth Court hearing. Miss. Code Ann. § 43-21-501(1)(a)–(d). Parents have the right to subpoena witnesses, to cross-examine witnesses testifying against them, and to appeal Youth Court decisions. Miss. Code Ann. § 43-21-557(1). Notice is a jurisdictional prerequisite. *E.K.*, 249 So.3d at 383. These procedural protections are all afforded through, and compliance with them is recorded in, case records.

Ultimately, none of the existing procedural protections available to parents and children in Youth Court proceedings are effective without litigants' and counsels' access to case records. Most obviously, notice cannot be adequate without a written document memorializing the allegations. The effective assistance of counsel is impossible if the attorney does not have access to court orders and pleadings and evidence filed by adverse parties. Ex. 4 at ¶ 9. For example, an attorney needs copies of court orders to advise a client on how to comply with the court's requirements. *Id.* Attorneys and clients need access to psychological evaluations, drug tests, and forensic reports to fully understand the government's arguments for removal, separation, or termination, and in order to identify expert witnesses and conduct other investigation. *Id.* Without access to case records that may contain not just evidence in favor of the state's allegations but in favor of the child's or parent's defense, the deck is stacked against parents and children. *See United States v. Valenzuela-Bernal*, 458 U.S. 858, 867 (1982) (discussing "what might loosely be called the area of constitutionally guaranteed access to evidence"). In short, without ongoing access to records, parents, children, and their attorneys will be "effectively blindfolded" at critical junctures. Ex. 4 at ¶ 9. And without the documents and information necessary to contest the government's allegations, the chance that the judicial officer will make the wrong decision is high because counsel cannot effectively cross-examine witnesses or test the reliability of the government's evidence. Ex. 4 at ¶ 12; *see* Ex. 1 at ¶ 53 ("The risk of error in a proceeding where one party has an ineffective lawyer and no access to records and information about the state's allegations and

the evidence the government intends to use to prove its case is extreme."). Making matters worse, erroneous decisions are unlikely to be corrected on appeal because meaningful appellate review will be impossible without access to transcripts, court orders, and the trial record. Ex. 4 at ¶ 9.

*3. The Government's Interest Also Supports Plaintiffs' Claim.*

The third *Matthews* factor also supports Plaintiffs' claim. 424 U.S. at 335. The Mississippi government has an interest in "protect[ing] children, support[ing] families, and encourage[ing] lasting family connections."[2] It also has an interest in keeping children in their local community and "help[ing] court-involved youth choose individualized paths to success."[3] Given these interests, the government necessarily "shares the parent's interest in an accurate and just decision" in dependency and termination cases, *Lassiter*, 452 U.S. at 27, and it shares an interest with a child and their families in not needlessly restraining a child's liberty. *See In re Gault*, 387 U.S. at 27–29; Ex. 1 at ¶ 54.

Finally, the government has relatively weak, if not nonexistent, pecuniary interests because it already administers a system intended to provide access to records and need only continue to provide that access. *See id.;* Ex. 1 at ¶¶ 43–45. Since 2015, Youth Courts have been required to use MYCIDS for filing and docket management and to ensure all documents associated with a Youth Court case are uploaded to MYCIDS. Ex. 1 at ¶ 56. Under current practices, when a parent or child, through counsel or on their own, requests access to certain records or information related to their own case, judicial officers exercise broad discretion to decide whether and what to share. *Id.* at ¶ 58. If an attorney is granted access to MYCIDS, Defendant will issue a username and password. *Id.* at ¶ 60. Through this motion, Plaintiffs ask simply that Defendant be enjoined from enforcing Miss. Code Ann. § 43-21-261(24) and that it continue granting access as it has been prior to July 1, 2026.

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[2] Mississippi Department of Child Protection Services, "Our Mission for Mississippi's Families," https://www.mdcps.ms.gov/node/17.

[3] Mississippi Department of Human Services, Division of Youth Services, https://www.mdhs.ms.gov/youth/.

Ultimately, without access to case records, both litigants and their lawyers will be functionally precluded from having a meaningful opportunity to formulate and present a defense prior to the deprivation of fundamental rights. In all, because parents' and children's "interests [are] at their strongest, the State's interests [are] at their weakest, and the risks of error [are] at their peak," this Court should find that Plaintiffs are likely to succeed on the merits of their claim that the impending blanket, total, and universal deprivation of counsels' and litigants' access to case records violates procedural due process. *Lassiter*, 452 U.S. at 31.

**B. Plaintiffs and Their Clients Will Suffer Irreparable Harm in the Absence of an Injunction.**

"To show irreparable injury if threatened action is not enjoined . . . [Plaintiffs] need show only a significant threat of injury from the impending action, that the injury is imminent, and that money damages would not fully repair the harm." *Humana, Inc. v. Jacobson*, 804 F.2d 1390, 1394 (5th Cir. 1986). It is well established that "the loss of constitutional freedoms 'for even minimal periods of time . . . unquestionably constitutes irreparable injury.'" *BST Holdings, L.L.C. v. Occupational Safety & Health Admin.*, 17 F.4th 604, 618 (5th Cir. 2021) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

Here, the impending procedural due process violations themselves constitute irreparable harm on their own, and they are likely to generate additional harms of substantive rights, including violations of the constitutional right to effective counsel in delinquency cases, violations of the statutory right to counsel in dependency and termination proceedings, and other "irremediable" constitutional violations, including the fundamental right to family integrity. *See Sagastizado v. Noem*, 802 F. Supp. 3d 992, 1014–15 (S.D. Tex. 2025) (granting a preliminary injunction where Petitioner alleged not just harm to his Fifth Amendment procedural due process rights, but also "the particularized irreparable injury of being removed to a country in which he fears persecution"). Lack of access to court records will strip Plaintiffs' clients of procedural due process protections that are essential to ensuring that any government infringement on their substantive rights are justified. *See supra* Part II.A.2. And as Plaintiffs have personally attested, lack of access

will also prevent Plaintiffs and the Youth Court Attorney class from competently and ethically representing their clients, depriving Plaintiffs' clients of the effective assistance of counsel. *See, e.g.*, Ex. 4 at ¶ 11 ("Without records, I cannot . . . prepare effectively for hearings, counsel my clients on their options, prepare a litigation strategy, assess factual disputes, conduct a meaningful investigation, or hire relevant experts."). These constitutional infirmities will inevitably result in the unlawful and unnecessary separation of families and jailing of children. Accurate decisions cannot be made in an adversarial system when all counsel and litigants do not have the same basic access to records.

Further, the threat of injury is imminent. The confidentiality exceptions will be repealed by operation of law in less than a week, affecting hundreds of pending and future Youth Court cases. Finally, monetary damages would clearly not fully repair the harm of these constitutional infringements. *See Mock v. Garland*, 697 F. Supp. 3d 564, 577 (N.D. Tex. 2023) ("Upon a showing that an 'alleged' fundamental right is 'either threatened or in fact being impaired,' a movant is substantially threatened with irreparable injury that "cannot be undone by monetary relief."). Accordingly, Plaintiffs have established they and their clients will suffer irreparable injury if the injunction is denied.

### C. An Injunction Will Serve the Public Interest, and No One Will Suffer Harm from Preserving Defendant's Current Ability to Grant State-Court Orders to Provide Documents to Plaintiffs and Their Clients.

Because "the threatened injury outweighs any damage that the injunction might cause the defendant" and injunctive relief is in the public interest, the Court should grant Plaintiffs' motion. *Jackson Women's Health*, 760 F.3d at 452. A temporary restraining order and preliminary injunction will simply preserve the status quo pending the Court's resolution of the merits. Defendant will suffer no harm because Mississippi's Youth Courts will simply continue to operate as before without needless disruption. Further, the public interest will be served by an injunction that protects parents and children from unlawful infringements on family integrity and physical liberty and prevents the total collapse of Mississippi's Youth Court system. Absent injunctive

relief, not only will Defendant refuse to provide Plaintiffs with access to Youth Court records, Defendant will be unable to provide records to anyone. As CPS Commissioner Andrea Sanders has explained, parents who are bound by youth court orders involving their children will not have access to those orders. Ex. 1 at ¶ 30. CPS will not be able to provide records and information about children in CPS custody to health insurance providers like Medicaid, children's advocacy centers, medical and mental health providers, schools, foster parents, relatives offering support, and even the youth courts. *Id.* And CPS may not be able to draw down federal funding because it will not be able to provide the files and information required for auditing purposes. *Id.* The system will "grind to a halt." Ex. 1 at ¶¶ 45–46. As state and local officials have expressed both publicly and privately, subsection 24 of Section 261 will precipitate catastrophic effects on children, parents, families, and the Youth Court system as a whole if permitted to go into effect. Ex. 1 at ¶ 55.

**D. The Court Should Exercise Its Discretion to Waive the Posting of Security.**

Federal Rule of Civil Procedure 65(c) normally requires the moving party to post security to protect the other party from any financial harm likely to be caused by a temporary injunction if that party is later found to have been wrongfully enjoined. Rule 65(c), however, vests the Court with broad discretion to determine the amount of security required, or to waive the bond requirement. *City of Atlanta v. Metro. Atlanta Rapid Transit Auth.*, 636 F.2d 1084, 1094 (5th Cir. 1981); *see also ODonnell v. Harris Cnty*, 251 F. Supp. 3d 1052, 1159 (S.D. Tex. 2017), *aff'd as modified*, 882 F.3d 528 (5th Cir. 2018) (waiving the bond requirement). This Court should waive the bond requirement because Plaintiffs' are engaged in litigation meant to serve the public interest. *Id.* at 1159–60; *City of Atlanta*, 636 F.2d at 1094 (upholding district court's decision to waive the bond requirement because "plaintiffs were engaged in public-interest litigation, an area in which the courts have recognized an exception to the Rule 65 security requirement."). Moreover, Defendant is unlikely to suffer any harm from an improperly issued injunction requiring them to continue operating under its existing practices, *Steward v. West*, 449 F.2d 324, 325 (5th Cir. 1971) (finding that no injunction bond need be posted when "it is very unlikely that the defendant will suffer any harm"), and Plaintiffs are overwhelmingly likely to succeed on the merits.

### E. The Court May Provide Classwide Relief by Provisionally Certifying a Class.

Plaintiffs ask this Court to enjoin Defendant from enforcing subsection 24 of Section 261 to the extent that provision can be interpreted to impose a blanket, universal prohibition on providing Youth Court documents to Youth Court attorneys and litigants. Classwide relief is merited for the reasons stated in Plaintiffs' concurrently filed Motion for Class Certification. This Court need not rule on the certification motion or formally certify a to issue preliminary injunctive relief. *See Padres Unidos de Tulsa v. Drummond*, 783 F. Supp. 3d 1324, 1350 (W.D. Okla. 2025) (noting that "[n]umerous courts have found provisional certification alone sufficient for purposes of awarding preliminary relief" and collecting cases); *L.M.L v. Martin*, No. 1:26-CV-01170, 2026 WL 1355237, at *28 (W.D. Tex. May 14, 2026) ("[G]iven the pendency of the motion for preliminary injunction and imminent enforcement of [the challenged statutory] provisions that this Court has determined are likely preempted, Plaintiffs have presented a strong case as to provisionally certifying the class."); *Newberg & Rubenstein on Class Actions* § 4:30 (6th ed. 2026) ("[A] court may issue a classwide preliminary injunction in a putative class action suit prior to a ruling on the class certification motion."). Even if the Court does not grant provisional class certification or order statewide relief, it should at minimum issue an injunction as to the named Plaintiffs in this case.

## III. CONCLUSION

For the foregoing reasons, this Court should issue a temporary restraining order injunction requiring Defendant to provide the Youth Court Attorney class and their Youth Court clients with access to Youth Court records—including, but not limited to, court orders, petitions, summonses, notices, all documents filed in a Youth Court case, and all intake, custody, referral, petition, and hearing data related to a youth, his or her family, and the Youth Court's involvement with the same—in Defendant's custody or control, consistent with Defendant's practices prior to July 1, 2026. Plaintiffs respectfully request that the Court provide relief no later than June 30, 2026, because subsection 24 of Section 261 has an effective date of July 1, 2026.

Dated: June 24, 2026

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 24, 2026, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to all counsel of record.

*/s/ Graham P. Carner*

Graham P. Carner