

By: Senator(s) Ross

To: Judiciary

SENATE BILL NO. 2923

1 AN ACT TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE PENALTY FOR CHILD NEGLECT AND ABUSE; AND FOR RELATED
3 PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 SECTION 1. Section 97-5-39, Mississippi Code of 1972, is
6 amended as follows:

7 97-5-39. (1) Any parent, guardian or other person who
8 willfully commits any act or omits the performance of any duty,
9 which act or omission contributes to or tends to contribute to the
10 neglect or delinquency of any child or which act or omission
11 results in the abuse and/or battering of any child, as defined in
12 Section 43-21-105(m) of the Youth Court Law or who knowingly aids
13 any child in escaping or absenting himself from the guardianship
14 or custody of any person, agency or institution, or knowingly
15 harbors or conceals or aids in harboring or concealing any child
16 who has absented himself without permission from the guardianship
17 or custody of any person, agency or institution to which such
18 child shall have been committed by the youth court shall be guilty
19 of a felony, and upon conviction shall be punished by a fine not
20 to exceed Ten Thousand Dollars (\$10,000.00), or by imprisonment in
21 the state penitentiary not to exceed ten (10) years * * *, or by
22 both such fine and imprisonment.

23 (2) Any person who shall intentionally (a) burn any child,
24 (b) torture any child or, (c) except in self-defense or in order
25 to prevent bodily harm to a third party, whip, strike or otherwise
26 abuse or mutilate any child in such a manner as to cause serious

27 bodily harm, shall be guilty of felonious abuse and/or battery of
28 a child and, upon conviction, may be punished by imprisonment in
29 the penitentiary for not more than twenty (20) years.

30 (3) Nothing contained in this section shall prevent
31 proceedings against such parent, guardian or other person under
32 any statute of this state or any municipal ordinance defining any
33 act as a crime or misdemeanor. Nothing in the provisions of this
34 section shall preclude any person from having a right to trial by
35 jury when charged with having violated the provisions of this
36 section.

37 (4) After consultation with the Department of Human
38 Services, a regional mental health center or an appropriate
39 professional person, a judge may suspend imposition or execution
40 of a sentence provided in subsections (1) and (2) of this section
41 and in lieu thereof require treatment over a specified period of
42 time at any approved public or private treatment facility.

43 (5) In any proceeding resulting from a report made pursuant
44 to Section 43-21-353 of the Youth Court Law, the testimony of the
45 physician making the said report regarding the child's injuries or
46 condition or cause thereof shall not be excluded on the ground
47 that such physician's testimony violates the physician-patient
48 privilege or similar privilege or rule against disclosure. The
49 physician's report shall not be considered as evidence unless
50 introduced as an exhibit to his testimony.

51 (6) Any criminal prosecution arising from a violation of
52 this section shall be tried in the circuit, county, justice or
53 municipal court having jurisdiction; provided, however, that
54 nothing herein shall abridge or dilute the contempt powers of the
55 youth court.

56 SECTION 2. This act shall take effect and be in force from
57 and after July 1, 1999.