

By: Representative Morris

To: Judiciary B

HOUSE BILL NO. 501

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

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

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

6 97-5-39. (1) Any parent, guardian or other person who
7 willfully commits any act or omits the performance of any duty,
8 which act or omission contributes to or tends to contribute to the
9 neglect or delinquency of any child or which act or omission
10 results in the abuse and/or battering of any child, as defined in
11 Section 43-21-105(m) of the Youth Court Law or who knowingly aids
12 any child in escaping or absenting himself from the guardianship
13 or custody of any person, agency or institution, or knowingly
14 harbors or conceals or aids in harboring or concealing any child
15 who has absented himself without permission from the guardianship
16 or custody of any person, agency or institution to which such
17 child shall have been committed by the youth court shall be guilty
18 of a misdemeanor, and upon conviction shall be punished by a fine
19 not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment
20 not to exceed one (1) year in jail, or by both such fine and
21 imprisonment.

22 (2) Any person who shall intentionally (a) burn any child,
23 (b) torture any child, (c) withhold nourishment from any child or,
24 (d) except in self-defense or in order to prevent bodily harm to a
25 third party, whip, strike or otherwise abuse or mutilate any child
26 in such a manner as to cause serious bodily harm, shall be guilty
27 of felonious abuse and/or battery of a child and, upon conviction,



28 may be punished by imprisonment in the penitentiary for not more
29 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 Public
38 Welfare, 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, 2001.

