

By: Senator(s) Scoper

To: Judiciary

SENATE BILL NO. 2651

1 AN ACT TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE OFFENSE OF ABUSE OR NEGLECT OF A CHILD; 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 misdemeanor, and upon conviction shall be punished by a fine
20 not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment
21 not to exceed one (1) year in jail, or by both such fine and
22 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) Any person who is responsible for the safety or welfare
31 of a child under the age of four (4), including, but not limited
32 to, the child's parent, stepparent, guardian, school teacher or
33 baby sitter who recklessly or negligently causes or allows the
34 child to suffer physical, mental or emotional injury, or who
35 recklessly or negligently deprives the child of any of the basic
36 necessities of life, shall be punished by a fine of not less than
37 Five Hundred Dollars (\$500.00), or by imprisonment not to exceed
38 fifteen (15) years, or both.

39 (4) Nothing contained in this section shall prevent
40 proceedings against such parent, guardian or other person under
41 any statute of this state or any municipal ordinance defining any
42 act as a crime or misdemeanor. Nothing in the provisions of this
43 section shall preclude any person from having a right to trial by
44 jury when charged with having violated the provisions of this
45 section.

46 (5) After consultation with the Department of Public
47 Welfare, a regional mental health center or an appropriate
48 professional person, a judge may suspend imposition or execution
49 of a sentence provided in subsections (1) and (2) of this section
50 and in lieu thereof require treatment over a specified period of
51 time at any approved public or private treatment facility.

52 (6) In any proceeding resulting from a report made pursuant
53 to Section 43-21-353 of the Youth Court Law, the testimony of the
54 physician making the said report regarding the child's injuries or
55 condition or cause thereof shall not be excluded on the ground
56 that such physician's testimony violates the physician-patient
57 privilege or similar privilege or rule against disclosure. The
58 physician's report shall not be considered as evidence unless
59 introduced as an exhibit to his testimony.



60 (7) Any criminal prosecution arising from a violation of
61 this section shall be tried in the circuit, county, justice or
62 municipal court having jurisdiction; provided, however, that
63 nothing herein shall abridge or dilute the contempt powers of the
64 youth court.

65 **SECTION 2.** This act shall take effect and be in force from
66 and after its passage.

