

By: Representatives Carlton, Pierce,
Aldridge, Beckett, Calhoun, Ellington,
Fillingane, Formby, Holloway, Moore, Snowden,
Weathersby, Wells-Smith, Whittington

To: Judiciary A

HOUSE BILL NO. 752

1 AN ACT TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT COURTS MAY ORDER A PARENT OR GUARDIAN TO ATTEND
3 SCHOOL WITH THEIR CHILD AS PUNISHMENT FOR TRUANCY; AND FOR RELATED
4 PURPOSES.

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

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

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

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

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

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

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

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

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

58 **SECTION 2.** This act shall take effect and be in force from
59 and after July 1, 2005.