

By: Representatives Carlton, Calhoun,
Fillingane, Moore, Whittington

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 753

1 AN ACT TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO
2 CREATE THE FELONY OFFENSE OF CHILD ENDANGERMENT; TO PROVIDE
3 PENALTIES; AND FOR RELATED 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) (a) Any person who shall intentionally (i) burn any
24 child, (ii) torture any child or, (iii) except in self-defense or
25 in order to prevent bodily harm to a third party, whip, strike or
26 otherwise abuse or mutilate any child in such a manner as to cause
27 serious bodily harm, shall be guilty of felonious abuse and/or

28 battery of a child and, upon conviction, may be punished by
29 imprisonment in the penitentiary for not more than twenty (20)
30 years.

31 (b) Any person who intentionally, recklessly or
32 negligently places a child at unreasonable substantial risk of
33 serious bodily harm or injury commits the felony of child
34 endangerment and, upon conviction, shall be imprisoned for up to
35 five (5) years in the Penitentiary or fined Five Thousand Dollars
36 (\$5,000.00), or both.

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

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

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

58 (6) Any criminal prosecution arising from a violation of
59 this section shall be tried in the circuit, county, justice or
60 municipal court having jurisdiction; provided, however, that

61 nothing herein shall abridge or dilute the contempt powers of the
62 youth court.

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