

By: Representative Snowden

To: Judiciary B

## HOUSE BILL NO. 1058

1 AN ACT TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT ALLOWING CHILDREN TO BE PRESENT WHERE CONTROLLED  
3 SUBSTANCES ARE MANUFACTURED OR DISTRIBUTED SHALL BE CHILD ABUSE;  
4 AND FOR RELATED 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.

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

29 (17) years to be present in a place where methamphetamine,  
30 amphetamine or any of their analogues, precursors, or any  
31 controlled substances are manufactured, compounded, produced,  
32 prepared, tested or analyzed or sold or distributed, shall be  
33 guilty of felonious abuse and/or battery of a child and, upon  
34 conviction, may be punished by imprisonment in the Penitentiary  
35 for not more than twenty (20) years.

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

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

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

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

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