

By: Representative Rogers (61st) (By Request)

To: Judiciary B

HOUSE BILL NO. 754

1 AN ACT TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO  
2 CLARIFY THE CRIME OF CHILD ENDANGERMENT; 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) (a) Except as otherwise provided in this  
7 section, any parent, guardian or other person who willfully  
8 commits any act or omits the performance of any duty, which act or  
9 omission contributes to or tends to contribute to the neglect or  
10 delinquency of any child or which act or omission results in the  
11 abuse of any child, as defined in Section 43-21-105(m) of the  
12 Youth Court Law, or who knowingly aids any child in escaping or  
13 absenting himself from the guardianship or custody of any person,  
14 agency or institution, or knowingly harbors or conceals, or aids  
15 in harboring or concealing, any child who has absented himself  
16 without permission from the guardianship or custody of any person,  
17 agency or institution to which the child shall have been committed  
18 by the youth court shall be guilty of a misdemeanor, and upon  
19 conviction shall be punished by a fine not to exceed One Thousand  
20 Dollars (\$1,000.00), or by imprisonment not to exceed one (1) year  
21 in jail, or by both such fine and imprisonment.

22 (b) If the child's deprivation of necessary food,  
23 clothing, shelter, health care or supervision appropriate to the  
24 child's age results in substantial harm to the child's physical,  
25 mental or emotional health, the person may be sentenced to  
26 imprisonment for not more than five (5) years or to payment of a  
27 fine of not more than Five Thousand Dollars (\$5,000.00), or both.

28           (c) A parent, legal guardian or other person who  
29 knowingly permits the continuing physical or sexual abuse of a  
30 child is guilty of neglect of a child and may be sentenced to  
31 imprisonment for not more than ten (10) years or to payment of a  
32 fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

33           (d) A person commits the offense of child endangerment  
34 if he intentionally, knowingly, recklessly, or with criminal  
35 negligence, by act or omission, engages in conduct that places a  
36 child younger than eighteen (18) years in imminent danger of  
37 death, bodily injury, or physical or mental impairment, and the  
38 person may be sentenced to imprisonment for not more than ten (10)  
39 years or to payment of a fine of not more than Ten Thousand  
40 Dollars (\$10,000.00), or both.

41           (2) (a) Any person who shall intentionally (i) burn any  
42 child, (ii) torture any child or, (iii) except in self-defense or  
43 in order to prevent bodily harm to a third party, whip, strike or  
44 otherwise abuse or mutilate any child in such a manner as to cause  
45 serious bodily harm, shall be guilty of felonious abuse of a child  
46 and, upon conviction, shall be sentenced to imprisonment in the  
47 custody of the Department of Corrections for life or such lesser  
48 term of imprisonment as the court may determine, but not less than  
49 ten (10) years. For any second or subsequent conviction under  
50 this subsection, the person shall be sentenced to imprisonment for  
51 life.

52           (b) (i) A parent, legal guardian or caretaker who  
53 endangers a child's person or health by knowingly causing or  
54 permitting the child to be present where any person is selling,  
55 manufacturing or possessing immediate precursors or chemical  
56 substances with intent to manufacture, sell or possess a  
57 controlled substance as prohibited under Section 41-29-139 or  
58 41-29-313, is guilty of child endangerment and may be sentenced to  
59 imprisonment for not more than ten (10) years or to payment of a  
60 fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

61                   (ii) If the endangerment results in substantial  
62 harm to the child's physical, mental or emotional health, the  
63 person may be sentenced to imprisonment for not more than twenty  
64 (20) years or to payment of a fine of not more than Twenty  
65 Thousand Dollars (\$20,000.00), or both.

66           (3) Nothing contained in this section shall prevent  
67 proceedings against the parent, guardian or other person under any  
68 statute of this state or any municipal ordinance defining any act  
69 as a crime or misdemeanor. Nothing in the provisions of this  
70 section shall preclude any person from having a right to trial by  
71 jury when charged with having violated the provisions of this  
72 section.

73           (4) After consultation with the Department of Human  
74 Services, a regional mental health center or an appropriate  
75 professional person, a judge may suspend imposition or execution  
76 of a sentence provided in subsections (1) and (2) of this section  
77 and in lieu thereof require treatment over a specified period of  
78 time at any approved public or private treatment facility. A  
79 person may be eligible for treatment in lieu of criminal penalties  
80 no more than one (1) time.

81           (5) In any proceeding resulting from a report made pursuant  
82 to Section 43-21-353 of the Youth Court Law, the testimony of the  
83 physician making the report regarding the child's injuries or  
84 condition or cause thereof shall not be excluded on the ground  
85 that the physician's testimony violates the physician-patient  
86 privilege or similar privilege or rule against disclosure. The  
87 physician's report shall not be considered as evidence unless  
88 introduced as an exhibit to his testimony.

89           (6) Any criminal prosecution arising from a violation of  
90 this section shall be tried in the circuit, county, justice or  
91 municipal court having jurisdiction; provided, however, that  
92 nothing herein shall abridge or dilute the contempt powers of the  
93 youth court.

94           **SECTION 2.** This act shall take effect and be in force from  
95 and after July 1, 2007.