

By: Representative Scott

To: Judiciary B

HOUSE BILL NO. 475

1 AN ACT TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT ANY PERSON WHO KNOWINGLY CAUSES A CHILD TO VIOLATE  
3 THE UNIFORM CONTROLLED SUBSTANCE LAW OR TO PARTICIPATE IN GANGS OR  
4 GANG RELATED ACTIVITIES SHALL BE GUILTY OF CONTRIBUTING TO THE  
5 DELINQUENCY OF A MINOR; AND FOR RELATED PURPOSES.

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

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

9 97-5-39. (1) (a) Except as otherwise provided in this  
10 section, any parent, guardian or other person who intentionally,  
11 knowingly or recklessly commits any act or omits the performance  
12 of any duty, which act or omission contributes to or tends to  
13 contribute to the neglect or delinquency of any child or which act  
14 or omission results in the abuse of any child, as defined in  
15 Section 43-21-105(m) of the Youth Court Law, or who knowingly aids  
16 any child in escaping or absenting himself from the guardianship  
17 or custody of any person, agency or institution, or knowingly  
18 harbors or conceals, or aids in harboring or concealing, any child  
19 who has absented himself without permission from the guardianship



20 or custody of any person, agency or institution to which the child  
21 shall have been committed by the youth court, or knowingly causes  
22 any child to violate the Uniform Controlled Substances Law, or  
23 knowingly causes any child to participate in gang or gang related  
24 activities shall be guilty of a misdemeanor, and upon conviction  
25 shall be punished by a fine not to exceed One Thousand Dollars  
26 (\$1,000.00), or by imprisonment not to exceed one (1) year in  
27 jail, or by both such fine and imprisonment.

28 (b) For the purpose of this section, a child is a  
29 person who has not reached his eighteenth birthday. A child who  
30 has not reached his eighteenth birthday and is on active duty for  
31 a branch of the armed services, or who is married, is not  
32 considered a child for the purposes of this statute.

33 (c) If a child commits one (1) of the proscribed acts  
34 in subsection (2) (a), (b) or (c) of this section upon another  
35 child, then original jurisdiction of all such offenses shall be in  
36 youth court.

37 (d) If the child's deprivation of necessary clothing,  
38 shelter, health care or supervision appropriate to the child's age  
39 results in substantial harm to the child's physical, mental or  
40 emotional health, the person may be sentenced to imprisonment in  
41 custody of the Department of Corrections for not more than five  
42 (5) years or to payment of a fine of not more than Five Thousand  
43 Dollars (\$5,000.00), or both.



44 (e) A parent, legal guardian or other person who  
45 knowingly permits the continuing physical or sexual abuse of a  
46 child is guilty of neglect of a child and may be sentenced to  
47 imprisonment in the custody of the Department of Corrections for  
48 not more than ten (10) years or to payment of a fine of not more  
49 than Ten Thousand Dollars (\$10,000.00), or both.

50 (2) Any person shall be guilty of felonious child abuse in  
51 the following circumstances:

52 (a) Whether bodily harm results or not, if the person  
53 shall intentionally, knowingly or recklessly:

54 (i) Burn any child;

55 (ii) Physically torture any child;

56 (iii) Strangle, choke, smother or in any way  
57 interfere with any child's breathing;

58 (iv) Poison a child;

59 (v) Starve a child of nourishments needed to  
60 sustain life or growth;

61 (vi) Use any type of deadly weapon upon any  
62 child \* \* \*.

63 (b) If some bodily harm to any child actually occurs,  
64 and if the person shall intentionally, knowingly or recklessly:

65 (i) Throw, kick, bite, or cut any child;

66 (ii) Strike a child under the age of fourteen (14)  
67 about the face or head with a closed fist;



68 (iii) Strike a child under the age of five (5) in  
69 the face or head;

70 (iv) Kick, bite, cut or strike a child's genitals;  
71 circumcision of a male child is not a violation under this  
72 subparagraph (iv) \* \* \*.

73 (c) If serious bodily harm to any child actually  
74 occurs, and if the person shall intentionally, knowingly or  
75 recklessly:

76 (i) Strike any child on the face or head;

77 (ii) Disfigure or scar any child;

78 (iii) Whip, strike or otherwise abuse any  
79 child \* \* \*.

80 (d) Any person, upon conviction under paragraph (a) or  
81 (c) of this subsection, shall be sentenced by the court to  
82 imprisonment in the custody of the Department of Corrections for a  
83 term of not less than five (5) years and up to life, as determined  
84 by the court. Any person, upon conviction under paragraph (b) of  
85 this subsection shall be sentenced by the court to imprisonment in  
86 the custody of the Department of Corrections for a term of not  
87 less than two (2) years nor more than ten (10) years, as  
88 determined by the court. For any second or subsequent conviction  
89 under this subsection (2), the person shall be sentenced to  
90 imprisonment for life.

91 (e) For the purposes of this subsection (2), "bodily  
92 harm" means any bodily injury to a child and includes, but is not



93 limited to, bruising, bleeding, lacerations, soft tissue swelling,  
94 and external or internal swelling of any body organ.

95 (f) For the purposes of this subsection (2), "serious  
96 bodily harm" means any serious bodily injury to a child and  
97 includes, but is not limited to, the fracture of a bone, permanent  
98 disfigurement, permanent scarring, or any internal bleeding or  
99 internal trauma to any organ, any brain damage, any injury to the  
100 eye or ear of a child or other vital organ, and impairment of any  
101 bodily function.

102 (g) Nothing contained in paragraph (c) of this  
103 subsection shall preclude a parent or guardian from disciplining a  
104 child of that parent or guardian, or shall preclude a person in  
105 loco parentis to a child from disciplining that child, if done in  
106 a reasonable manner, and reasonable corporal punishment or  
107 reasonable discipline as to that parent or guardian's child or  
108 child to whom a person stands in loco parentis shall be a defense  
109 to any violation charged under paragraph (c) of this subsection.

110 (h) Reasonable discipline and reasonable corporal  
111 punishment shall not be a defense to acts described in paragraphs  
112 (a) and (b) of this subsection or if a child suffers serious  
113 bodily harm as a result of any act prohibited under paragraph (c)  
114 of this subsection.

115 (3) Nothing contained in this section shall prevent  
116 proceedings against the parent, guardian or other person under any  
117 statute of this state or any municipal ordinance defining any act



118 as a crime or misdemeanor. Nothing in the provisions of this  
119 section shall preclude any person from having a right to trial by  
120 jury when charged with having violated the provisions of this  
121 section.

122 (4) (a) A parent, legal guardian or caretaker who endangers  
123 a child's person or health by knowingly causing or permitting the  
124 child to be present where any person is selling, manufacturing or  
125 possessing immediate precursors or chemical substances with intent  
126 to manufacture, sell or possess a controlled substance as  
127 prohibited under Section 41-29-139 or 41-29-313, is guilty of  
128 child endangerment and may be sentenced to imprisonment for not  
129 more than ten (10) years or to payment of a fine of not more than  
130 Ten Thousand Dollars (\$10,000.00), or both.

131 (b) If the endangerment results in substantial harm to  
132 the child's physical, mental or emotional health, the person may  
133 be sentenced to imprisonment for not more than twenty (20) years  
134 or to payment of a fine of not more than Twenty Thousand Dollars  
135 (\$20,000.00), or both.

136 (5) Nothing contained in this section shall prevent  
137 proceedings against the parent, guardian or other person under any  
138 statute of this state or any municipal ordinance defining any act  
139 as a crime or misdemeanor. Nothing in the provisions of this  
140 section shall preclude any person from having a right to trial by  
141 jury when charged with having violated the provisions of this  
142 section.



143 (6) After consultation with the Department of Human  
144 Services, a regional mental health center or an appropriate  
145 professional person, a judge may suspend imposition or execution  
146 of a sentence provided in subsections (1) and (2) of this section  
147 and in lieu thereof require treatment over a specified period of  
148 time at any approved public or private treatment facility. A  
149 person may be eligible for treatment in lieu of criminal penalties  
150 no more than one (1) time.

151 (7) In any proceeding resulting from a report made pursuant  
152 to Section 43-21-353 of the Youth Court Law, the testimony of the  
153 physician making the report regarding the child's injuries or  
154 condition or cause thereof shall not be excluded on the ground  
155 that the physician's testimony violates the physician-patient  
156 privilege or similar privilege or rule against disclosure. The  
157 physician's report shall not be considered as evidence unless  
158 introduced as an exhibit to his testimony.

159 (8) Any criminal prosecution arising from a violation of  
160 this section shall be tried in the circuit, county, justice or  
161 municipal court having jurisdiction; provided, however, that  
162 nothing herein shall abridge or dilute the contempt powers of the  
163 youth court.

164 **SECTION 2.** This act shall take effect and be in force from  
165 and after July 1, 2018.

