

By: Representative Gipson

To: Judiciary B

HOUSE BILL NO. 929

1 AN ACT TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE PROVISIONS REGULATING CHILD ENDANGERMENT; AND FOR  
3 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) (a) Except as otherwise provided in this  
8 section, any parent, guardian or other person who intentionally,  
9 knowingly or recklessly commits any act or omits the performance  
10 of any duty, which act or omission contributes to or tends to  
11 contribute to the neglect or delinquency of any child or which act  
12 or omission results in the abuse 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 the child



19 shall have been committed by the youth court shall be guilty of a  
20 misdemeanor, and upon conviction shall be punished by a fine not  
21 to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not  
22 to exceed one (1) year in jail, or by both such fine and  
23 imprisonment.

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

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

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

40 (e) A parent, legal guardian or other person who  
41 knowingly permits the continuing physical or sexual abuse of a  
42 child is guilty of neglect of a child and may be sentenced to  
43 imprisonment in the custody of the Department of Corrections for



44 not more than ten (10) years or to payment of a fine of not more  
45 than Ten Thousand Dollars (\$10,000.00), or both.

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

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

50 (i) Burn any child;

51 (ii) Physically torture any child;

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

54 (iv) Poison a child;

55 (v) Starve a child of nourishments needed to  
56 sustain life or growth;

57 (vi) Use any type of deadly weapon upon any child;

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

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

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

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

65 (iv) Kick, bite, cut or strike a child's genitals;  
66 circumcision of a male child is not a violation under this  
67 subparagraph (iv);



68 (c) If serious bodily harm to any child actually  
69 occurs, and if the person shall intentionally, knowingly or  
70 recklessly:

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

72 (ii) Disfigure or scar any child;

73 (iii) Whip, strike or otherwise abuse any child;

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

85 (e) For the purposes of this subsection (2), "bodily  
86 harm" means any bodily injury to a child and includes, but is not  
87 limited to, bruising, bleeding, lacerations, soft tissue swelling,  
88 and external or internal swelling of any body organ.

89 (f) For the purposes of this subsection (2), "serious  
90 bodily harm" means any serious bodily injury to a child and  
91 includes, but is not limited to, the fracture of a bone, permanent  
92 disfigurement, permanent scarring, or any internal bleeding or



93 internal trauma to any organ, any brain damage, any injury to the  
94 eye or ear of a child or other vital organ, and impairment of any  
95 bodily function.

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

104 (h) Reasonable discipline and reasonable corporal  
105 punishment shall not be a defense to acts described in paragraphs  
106 (a) and (b) of this subsection or if a child suffers serious  
107 bodily harm as a result of any act prohibited under paragraph (c)  
108 of this subsection.

109 (3) Nothing contained in this section shall prevent  
110 proceedings against the parent, guardian or other person under any  
111 statute of this state or any municipal ordinance defining any act  
112 as a crime or misdemeanor. Nothing in the provisions of this  
113 section shall preclude any person from having a right to trial by  
114 jury when charged with having violated the provisions of this  
115 section.

116 (4) (a) A parent, legal guardian or caretaker who endangers  
117 a child's person or health by knowingly causing or permitting the



118 child to be present where any person \* \* \* sells, possesses, or  
119 manufactures a controlled substance or possesses with intent to  
120 sell, transfer or manufacture a controlled substance as prohibited  
121 under Section 41-29-139, or possesses an immediate precursor or  
122 chemical substances with intent to manufacture a controlled  
123 substance as prohibited under Section 41-29-313, is guilty of  
124 child endangerment and may be sentenced to imprisonment for not  
125 more than ten (10) years or to payment of a fine of not more than  
126 Ten Thousand Dollars (\$10,000.00), or both.

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

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

139 (6) After consultation with the Department of Human  
140 Services, a regional mental health center or an appropriate  
141 professional person, a judge may suspend imposition or execution  
142 of a sentence provided in subsections (1) and (2) of this section



143 and in lieu thereof require treatment over a specified period of  
144 time at any approved public or private treatment facility. A  
145 person may be eligible for treatment in lieu of criminal penalties  
146 no more than one (1) time.

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

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

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

