

By: Senator(s) Watson, Caughman

To: Public Health and
Welfare; Judiciary, Division
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SENATE BILL NO. 2113

1 AN ACT TO CREATE THE OFFENSE OF CHEMICAL ENDANGERMENT OF A
2 CHILD OR FETUS AND TO PRESCRIBE PUNISHMENT THEREFOR; TO MANDATE
3 THAT PROSECUTORS OFFER SUBSTANCE ABUSE TREATMENT PROGRAMS AS AN
4 ALTERNATIVE TO PROSECUTION; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** (1) A person commits the crime of chemical
7 endangerment of a child if the person knowingly, recklessly or
8 intentionally causes or permits a child or a fetus to be exposed
9 to, to ingest or inhale, or to have contact with:

10 (a) A controlled substance; or

11 (b) A precursor drug or chemical as defined in Section
12 41-29-313.

13 (2) A person who violates this section shall be guilty of a
14 felony and, upon conviction, punished as follows:

15 (a) If the child or fetus suffers serious physical
16 injury by exposure to, ingestion of, inhalation of or contact with
17 a controlled substance or precursor drug or chemical substance, by
18 confinement in the custody of the Department of Corrections for a
19 period not to exceed five (5) years;



20 (b) If the exposure to, ingestion of, inhalation of or
21 contact with a controlled substance or precursor drug or chemical
22 substance results in the death of the child or fetus, by
23 confinement in the custody of the Department of Corrections for a
24 period not to exceed twenty (20) years.

25 (3) The court shall impose punishment pursuant to this
26 section rather than imposing punishment authorized under any other
27 provision of law, unless another provision of law provides for a
28 greater penalty or a longer term of imprisonment.

29 (4) It is an affirmative defense to a violation of this
30 section that the controlled substance was:

31 (a) Provided by lawful prescription for the child, and
32 that it was administered to the child in accordance with the
33 prescription instructions provided with the controlled substance.

34 (b) Provided by lawful prescription for the pregnant
35 mother of the fetus, and that it was administered to the mother in
36 accordance with the prescription instructions provided with the
37 controlled substance.

38 (5) (a) In all cases brought under this section against a
39 mother or a pregnant woman for chemical endangerment of a fetus or
40 an infant, the prosecutor must offer the defendant the option of
41 treatment for substance abuse in lieu of prosecution upon the
42 entry of a plea of guilty. The court shall withhold acceptance of
43 the plea and sentence thereon pending successful completion of



44 treatment for substance abuse, including drug, alcohol,
45 psychological or psychiatric treatment.

46 (b) When the court has imposed upon the defendant the
47 conditions set out in this subsection, the court shall release the
48 bail bond, if any.

49 (c) Upon completion of the court-imposed conditions,
50 the court shall direct that the cause be dismissed and the case be
51 closed. The court shall expunge the record of the case.

52 **SECTION 2.** This act shall take effect and be in force from
53 and after July 1, 2019.

