

By: Representative Yates

To: Judiciary B

HOUSE BILL NO. 444

1 AN ACT TO CREATE THE OFFENSE OF FAILING TO EXECUTE PARENTAL
 2 RESPONSIBILITY OF A CHILD; TO PROVIDE THAT SUCH OFFENSE MAY BE
 3 COMMITTED BY A PARENT, LAWFUL GUARDIAN OR OTHER PERSON LAWFULLY
 4 CHARGED WITH THE CARE OR CUSTODY OF A CHILD WHO IS UNDER SEVENTEEN
 5 YEARS OF AGE; TO PROVIDE THAT SUCH OFFENSE IS COMMITTED WHEN THE
 6 CHILD COMMITS CERTAIN VIOLENT ACTS AND THE CHILD HAS BEEN
 7 PREVIOUSLY CHARGED WITH OR CONVICTED OF SIMILAR ACTS AND THE
 8 PARENT, LAWFUL GUARDIAN OR OTHER PERSON KNEW OR SHOULD HAVE KNOWN
 9 OF SUCH PREVIOUS ACT OR ACTS COMMITTED BY THE CHILD; TO PROVIDE
 10 CERTAIN AFFIRMATIVE DEFENSES FOR THE PARENT, LAWFUL GUARDIAN OR
 11 OTHER PERSON LAWFULLY CHARGED WITH THE CHARGE OR CUSTODY OF THE
 12 CHILD; TO PROVIDE CERTAIN PENALTIES FOR THOSE CONVICTED OF FAILING
 13 TO EXECUTE PARENTAL RESPONSIBILITY OF A CHILD; TO AMEND SECTION
 14 43-21-151, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
 15 SECTION; TO BRING FORWARD SECTION 43-21-619, MISSISSIPPI CODE OF
 16 1972, WHICH PERTAINS TO RESTITUTION THAT MAY BE PAID BY THE
 17 PARENTS OF A CHILD WHO IS UNDER THE JURISDICTION OF THE YOUTH
 18 COURT, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED
 19 PURPOSES.

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

21 **SECTION 1.** (1) Subject to the condition prescribed under
 22 subsection (3) of this section, a person commits the offense of
 23 failing to execute parental responsibility of a child if the
 24 person is the parent, lawful guardian or other person lawfully
 25 charged with the care or custody of a child under seventeen (17)
 26 years of age and such child:



27 (a) Attempts or commits any act, which if such act
28 committed by an adult would be punishable under state or federal
29 law by life imprisonment or death, and such act committed by the
30 child will be in the original jurisdiction of the circuit court;

31 (b) Attempts or commits any act that is defined as a
32 violent crime under Section 97-3-2, and such act will be in the
33 original jurisdiction of the circuit court; or

34 (c) Commits any delinquent act that is a felony, and
35 the act causes the child to be committed to the state training
36 school.

37 (2) Nothing in this section applies to any child care
38 facility as defined under Section 43-20-5 or to foster parents.

39 (3) Before a person, as described in subsection (1) of this
40 section, commits the offense of failing to execute parental
41 responsibility of a child, such person must have:

42 (a) Known or reasonably should have known that his or
43 her child has been previously charged with or convicted of a
44 similar act; and

45 (b) Failed to take reasonable steps to control the
46 conduct of the child so as to prevent the commission of such
47 future offense(s).

48 (4) In a prosecution of a person for failing to execute
49 parental responsibility of a child under this section, it is an
50 affirmative defense that the person (i) reported the act to the
51 appropriate authorities or (ii) the person took reasonable steps



52 to control the conduct of the child at the time the person is
53 alleged to have committed the offense of failing to execute
54 parental responsibility of a child.

55 (5) (a) If a person pleads guilty or is found guilty of
56 failing to execute parental responsibility of a child under this
57 section and if the person has not previously been convicted of
58 failing to execute parental responsibility of a child, the court
59 shall order the person to complete a parental effectiveness
60 program approved by the court. Upon the person's completion of
61 the parental effectiveness program to the satisfaction of the
62 court, the court may discharge the person. If the person fails to
63 complete the parental effectiveness program to the satisfaction of
64 the court, the court may impose a sentence authorized by this
65 section.

66 (b) Upon a subsequent conviction of a person who has
67 committed the offense of failing to execute parental
68 responsibility of a child, the court shall order such person to
69 pay restitution to the victim for economic damages arising from
70 the act of the child and such restitution shall not exceed Two
71 Thousand Five Hundred Dollars (\$2,500.00) or the court may order
72 the person to serve a sentence in the county jail that shall not
73 exceed six (6) months, or both.

74 (6) The juvenile court has jurisdiction over a first offense
75 of failing to execute the parental responsibility of a child under



76 this section, and any consequential offenses of such offense shall
77 be in the jurisdiction of the circuit court.

78 **SECTION 2.** Section 43-21-151, Mississippi Code of 1972, is
79 amended as follows:

80 43-21-151. (1) The youth court shall have exclusive
81 original jurisdiction in all proceedings concerning a delinquent
82 child, a child in need of supervision, a neglected child, an
83 abused child or a dependent child except in the following
84 circumstances:

85 (a) Any act attempted or committed by a child, which if
86 committed by an adult would be punishable under state or federal
87 law by life imprisonment or death, will be in the original
88 jurisdiction of the circuit court;

89 (b) Any act attempted or committed by a child with the
90 use of a deadly weapon, the carrying of which concealed is
91 prohibited by Section 97-37-1, or a shotgun or a rifle, which
92 would be a felony if committed by an adult, will be in the
93 original jurisdiction of the circuit court; and

94 (c) When a charge of abuse of a child first arises in
95 the course of a custody action between the parents of the child
96 already pending in the chancery court and no notice of such abuse
97 was provided prior to such chancery proceedings, the chancery
98 court may proceed with the investigation, hearing and
99 determination of such abuse charge as a part of its hearing and
100 determination of the custody issue as between the parents,



101 notwithstanding the other provisions of the Youth Court Law. The
102 proceedings in chancery court on the abuse charge shall be
103 confidential in the same manner as provided in youth court
104 proceedings.

105 When a child is expelled from the public schools, the youth
106 court shall be notified of the act of expulsion and the act or
107 acts constituting the basis for expulsion.

108 (2) Jurisdiction of the child in the cause shall attach at
109 the time of the offense and shall continue thereafter for that
110 offense until the child's twentieth birthday, unless sooner
111 terminated by order of the youth court. The youth court shall not
112 have jurisdiction over offenses committed by a child on or after
113 his eighteenth birthday.

114 (3) No child who has not reached his thirteenth birthday
115 shall be held criminally responsible or criminally prosecuted for
116 a misdemeanor or felony; however, the parent, guardian or
117 custodian of such child may be civilly liable for any criminal
118 acts of such child. No child under the jurisdiction of the youth
119 court shall be held criminally responsible or criminally
120 prosecuted by any court for any act designated as a delinquent
121 act, unless jurisdiction is transferred to another court under
122 Section 43-21-157.

123 (4) The youth court shall also have jurisdiction of offenses
124 committed by a child which have been transferred to the youth



125 court by an order of a circuit court of this state having original
126 jurisdiction of the offense, as provided by Section 43-21-159.

127 (5) The youth court shall regulate and approve the use of
128 teen court as provided in Section 43-21-753.

129 (6) The youth court shall have jurisdiction over a first
130 offense of failing to execute parental responsibility of a child
131 as prescribed under Section 1 of this act.

132 (* * *7) Nothing in this section shall prevent the circuit
133 court from assuming jurisdiction over a youth who has committed an
134 act of delinquency upon a youth court's ruling that a transfer is
135 appropriate pursuant to Section 43-21-157.

136 **SECTION 3.** Section 43-21-619, Mississippi Code of 1972, is
137 brought forward as follows:

138 43-21-619. (1) The youth court may order financially able
139 parents to pay for court ordered medical and other examinations
140 and treatment of a child; for reasonable attorney's fees and court
141 costs; and for other expenses found necessary or appropriate in
142 the best interest of the child as determined by the youth court.
143 The youth court is authorized to enforce payments ordered under
144 this subsection.

145 (2) The youth court may order the parents, guardians or
146 custodians who exercise parental custody and control of a child
147 who is under the jurisdiction of the youth court and who has
148 willfully or maliciously caused personal injury or damaged or
149 destroyed property, to pay such damages or restitution through the



150 court to the victim in an amount not to exceed the actual loss and
151 to enforce payment thereof. Restitution ordered by the youth
152 court under this section shall not preclude recovery of damages by
153 the victim from such child or parent, guardian or custodian or
154 other person who would otherwise be liable. The youth court also
155 may order the parents, guardians or custodians of a child who is
156 under the jurisdiction of the youth court and who willfully or
157 maliciously has caused personal injury or damaged or destroyed
158 property to participate in a counseling program or other suitable
159 family treatment program for the purpose of preventing future
160 occurrences of malicious destruction of property or personal
161 injury.

162 (3) Such orders under this section shall constitute a civil
163 judgment and may be enrolled on the judgment rolls in the office
164 of the circuit clerk of the county where such order was entered,
165 and further, such order may be enforced in any manner provided by
166 law for civil judgments.

167 **SECTION 4.** This act shall take effect and be in force from
168 and after July 1, 2023.

