

By: Senator(s) McCaughn

To: Judiciary, Division B

SENATE BILL NO. 2121

1 AN ACT TO CREATE THE OFFENSE OF CHEMICAL ENDANGERMENT OF A  
2 CHILD OR FETUS AND TO PRESCRIBE PUNISHMENT; TO MANDATE THAT  
3 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 to be exposed to, to  
9 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 (c) Marijuana or synthetic cannabinoids.

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



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

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

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

53 **SECTION 2.** This act shall take effect and be in force from  
54 and after July 1, 2023.

