

By: Representative Scott

To: Judiciary B

HOUSE BILL NO. 284

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 child;

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

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

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

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



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

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

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

76 (ii) Disfigure or scar any child;

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

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

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



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

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

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

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



118 jury when charged with having violated the provisions of this
119 section.

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

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

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

141 (6) After consultation with the Department of Child
142 Protection Services, a regional mental health center or an



143 appropriate professional person, a judge may suspend imposition or
144 execution of a sentence provided in subsections (1) and (2) of
145 this section and in lieu thereof require treatment over a
146 specified period of time at any approved public or private
147 treatment facility. A person may be eligible for treatment in
148 lieu of criminal penalties no more than one (1) time.

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

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

162 **SECTION 2.** This act shall take effect and be in force from
163 and after July 1, 2024.

