

By: Representatives Grady, Felsher, Hawkins, To: Judiciary B
McMillan

HOUSE BILL NO. 1231

1 AN ACT TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT FELONIOUS CHILD ABUSE IS COMMITTED WHEN A CHILD TESTS
3 POSITIVE AT BIRTH FOR CERTAIN CONTROLLED SUBSTANCES THAT WERE NOT
4 PRESCRIBED BY A PHYSICIAN; TO AMEND SECTION 43-21-105, MISSISSIPPI
5 CODE OF 1972, TO CONFORM; TO BRING FORWARD SECTION 43-21-353,
6 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR MANDATORY REPORTING
7 OF CHILD ABUSE AND IMMUNITY FOR REPORTING SUCH ABUSE; AND FOR
8 RELATED PURPOSES.

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

10 **SECTION 1.** Section 97-5-39, Mississippi Code of 1972, is
11 amended as follows:

12 97-5-39. (1) (a) Except as otherwise provided in this
13 section, any parent, guardian or other person who intentionally,
14 knowingly or recklessly commits any act or omits the performance
15 of any duty, which act or omission contributes to or tends to
16 contribute to the neglect or delinquency of any child or which act
17 or omission results in the abuse of any child, as defined in
18 Section 43-21-105(m) of the Youth Court Law, or who knowingly aids
19 any child in escaping or absenting himself from the guardianship
20 or custody of any person, agency or institution, or knowingly
21 harbors or conceals, or aids in harboring or concealing, any child



22 who has absented himself without permission from the guardianship
23 or custody of any person, agency or institution to which the child
24 shall have been committed by the youth court shall be guilty of a
25 misdemeanor, and upon conviction shall be punished by a fine not
26 to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not
27 to exceed one (1) year in jail, or by both such fine and
28 imprisonment.

29 (b) For the purpose of this section, a child is a
30 person who has not reached his eighteenth birthday. A child who
31 has not reached his eighteenth birthday and is on active duty for
32 a branch of the armed services, or who is married, is not
33 considered a child for the purposes of this statute.

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

38 (d) If the parent has failed to provide the child with
39 food, clothing, or shelter necessary to sustain the life or health
40 of the child, excluding failure caused by financial inability
41 unless relief services have been offered and refused and the child
42 is in imminent risk of harm, or the parent is unwilling to provide
43 reasonably necessary medical care, though that medical care does
44 not include recommended or optional vaccinations against childhood
45 or any other disease, the person may be sentenced to imprisonment
46 in custody of the Department of Corrections for not more than five



47 (5) years or to payment of a fine of not more than Five Thousand
48 Dollars (\$5,000.00), or both.

49 (e) A parent, legal guardian or other person who
50 knowingly permits the continuing physical or sexual abuse of a
51 child is guilty of neglect of a child and may be sentenced to
52 imprisonment in the custody of the Department of Corrections for
53 not more than ten (10) years or to payment of a fine of not more
54 than Ten Thousand Dollars (\$10,000.00), or both.

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

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

59 (i) Burn any child;

60 (ii) Torture any child;

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

63 (iv) Poison a child;

64 (v) Starve a child of nourishments needed to
65 sustain life or growth;

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

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

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

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



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

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

77 (c) If serious bodily harm to any child actually
78 occurs, and if the person shall intentionally, knowingly or
79 recklessly:

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

81 (ii) Disfigure or scar any child;

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

83 (d) Whether bodily harm results or not, if a child
84 tests positive at birth for a controlled substance as defined in
85 Section 41-29-105, unless the controlled substance was prescribed
86 by a physician.

87 (* * *e) Any person, upon conviction under paragraph
88 (a) or (c) of this subsection, shall be sentenced by the court to
89 imprisonment in the custody of the Department of Corrections for a
90 term of not less than five (5) years and up to life, as determined
91 by the court. Any person, upon conviction under paragraph (b) of
92 this subsection shall be sentenced by the court to imprisonment in
93 the custody of the Department of Corrections for a term of not
94 less than two (2) years nor more than ten (10) years, as
95 determined by the court. Upon conviction under paragraph (d) of
96 this subsection, the mother shall be sentenced to imprisonment in



97 the custody of the Department of Corrections for a term of not
98 more than five (5) years, and sentenced to a fine not to exceed
99 Five Thousand Dollars (\$5,000.00). For any second or subsequent
100 conviction under this subsection (2), the person shall be
101 sentenced to imprisonment for life.

102 (* * *f) For the purposes of this subsection (2),
103 "bodily harm" means any bodily injury to a child and includes, but
104 is not limited to, bruising, bleeding, lacerations, soft tissue
105 swelling, and external or internal swelling of any body organ.

106 (* * *g) For the purposes of this subsection (2),
107 "serious bodily harm" means any serious bodily injury to a child
108 and includes, but is not limited to, the fracture of a bone,
109 permanent disfigurement, permanent scarring, or any internal
110 bleeding or internal trauma to any organ, any brain damage, any
111 injury to the eye or ear of a child or other vital organ, and
112 impairment of any bodily function.

113 (* * *h) For purposes of this subsection (2),
114 "torture" means any act, omission, or intentional neglect
115 committed by an individual upon a child within his custody or
116 physical control, whereby unnecessary or unjustifiable physical or
117 mental pain or suffering is caused or permitted, regardless of
118 whether serious physical injury results. Child torture involves
119 treatment that is intentionally cruel, inhumane, and degrading,
120 including, but not limited to: intentionally starving a child;
121 forcing a child to sit in urine or feces; binding or restraining a



122 child; repeatedly physically injuring a child; exposing the child
123 to extreme temperatures without adequate clothing or shelter;
124 locking a child in closets or other small spaces; and forcing a
125 child into stress positions or exercise resulting in prolonged
126 suffering.

127 (* * *i) Nothing contained in paragraph (c) of this
128 subsection shall preclude a parent or guardian from disciplining a
129 child of that parent or guardian, or shall preclude a person in
130 loco parentis to a child from disciplining that child, if done in
131 a reasonable manner, and reasonable corporal punishment or
132 reasonable discipline as to that parent or guardian's child or
133 child to whom a person stands in loco parentis shall be a defense
134 to any violation charged under paragraph (c) of this subsection.

135 (* * *j) Reasonable discipline and reasonable corporal
136 punishment shall not be a defense to acts described in paragraphs
137 (a) and (b) of this subsection or if a child suffers serious
138 bodily harm as a result of any act prohibited under paragraph (c)
139 of this subsection.

140 (3) Nothing contained in this section shall prevent
141 proceedings against the parent, guardian or other person under any
142 statute of this state or any municipal ordinance defining any act
143 as a crime or misdemeanor. Nothing in the provisions of this
144 section shall preclude any person from having a right to trial by
145 jury when charged with having violated the provisions of this
146 section.



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

156 (b) If the endangerment results in substantial harm to
157 the child's physical, mental or emotional health, the person may
158 be sentenced to imprisonment for not more than twenty (20) years
159 or to payment of a fine of not more than Twenty Thousand Dollars
160 (\$20,000.00), or both.

161 (5) Nothing contained in this section shall prevent
162 proceedings against the parent, guardian or other person under any
163 statute of this state or any municipal ordinance defining any act
164 as a crime or misdemeanor. Nothing in the provisions of this
165 section shall preclude any person from having a right to trial by
166 jury when charged with having violated the provisions of this
167 section.

168 (6) After consultation with the Department of Child
169 Protection Services, a regional mental health center or an
170 appropriate professional person, a judge may suspend imposition or
171 execution of a sentence provided in subsections (1) and (2) of



172 this section and in lieu thereof require treatment over a
173 specified period of time at any approved public or private
174 treatment facility. A person may be eligible for treatment in
175 lieu of criminal penalties no more than one (1) time.

176 (7) In any proceeding resulting from a report made pursuant
177 to Section 43-21-353 of the Youth Court Law, the testimony of the
178 physician making the report regarding the child's injuries or
179 condition or cause thereof shall not be excluded on the ground
180 that the physician's testimony violates the physician-patient
181 privilege or similar privilege or rule against disclosure. The
182 physician's report shall not be considered as evidence unless
183 introduced as an exhibit to his testimony.

184 (8) Any criminal prosecution arising from a violation of
185 this section shall be tried in the circuit, county, justice or
186 municipal court having jurisdiction; provided, however, that
187 nothing herein shall abridge or dilute the contempt powers of the
188 youth court.

189 **SECTION 2.** Section 43-21-105, Mississippi Code of 1972, is
190 amended as follows:

191 43-21-105. The following words and phrases, for purposes of
192 this chapter, shall have the meanings ascribed herein unless the
193 context clearly otherwise requires:

- 194 (a) "Youth court" means the Youth Court Division.
195 (b) "Judge" means the judge of the Youth Court
196 Division.



197 (c) "Designee" means any person that the judge appoints
198 to perform a duty which this chapter requires to be done by the
199 judge or his designee. The judge may not appoint a person who is
200 involved in law enforcement or who is an employee of the
201 Mississippi Department of Human Services or the Mississippi
202 Department of Child Protection Services to be his designee.

203 (d) "Child" and "youth" are synonymous, and each means
204 a person who has not reached his eighteenth birthday. A child who
205 has not reached his eighteenth birthday and is on active duty for
206 a branch of the armed services or is married is not considered a
207 "child" or "youth" for the purposes of this chapter.

208 (e) "Parent" means the father or mother to whom the
209 child has been born, or the father or mother by whom the child has
210 been legally adopted.

211 (f) "Guardian" means a court-appointed guardian of the
212 person of a child.

213 (g) "Custodian" means any person having the present
214 care or custody of a child whether such person be a parent or
215 otherwise.

216 (h) "Legal custodian" means a court-appointed custodian
217 of the child.

218 (i) "Delinquent child" means a child who has reached
219 his tenth birthday and who has committed a delinquent act.

220 (j) "Delinquent act" is any act, which if committed by
221 an adult, is designated as a crime under state or federal law, or



222 municipal or county ordinance other than offenses punishable by
223 life imprisonment or death. A delinquent act includes escape from
224 lawful detention and violations of the Uniform Controlled
225 Substances Law and violent behavior.

226 (k) "Child in need of supervision" means a child who
227 has reached his seventh birthday and is in need of treatment or
228 rehabilitation because the child:

229 (i) Is habitually disobedient of reasonable and
230 lawful commands of his parent, guardian or custodian and is
231 ungovernable; or

232 (ii) While being required to attend school,
233 willfully and habitually violates the rules thereof or willfully
234 and habitually absents himself therefrom; or

235 (iii) Runs away from home without good cause; or

236 (iv) Has committed a delinquent act or acts.

237 (l) "Neglected child" means a child:

238 (i) Whose parent, guardian or custodian or any
239 person responsible for his care or support, neglects or refuses,
240 when able so to do, to provide for him proper and necessary care
241 or support, or education as required by law, or medical, surgical,
242 or other care necessary for his well-being; however, a parent who
243 withholds medical treatment from any child who in good faith is
244 under treatment by spiritual means alone through prayer in
245 accordance with the tenets and practices of a recognized church or
246 religious denomination by a duly accredited practitioner thereof



247 shall not, for that reason alone, be considered to be neglectful
248 under any provision of this chapter; or

249 (ii) Who is otherwise without proper care,
250 custody, supervision or support; or

251 (iii) Who, for any reason, lacks the special care
252 made necessary for him by reason of his mental condition, whether
253 the mental condition is having mental illness or having an
254 intellectual disability; or

255 (iv) Who is not provided by the child's parent,
256 guardian or custodian, with food, clothing, or shelter necessary
257 to sustain the life or health of the child, excluding such failure
258 caused primarily by financial inability unless relief services
259 have been offered and refused and the child is in imminent risk of
260 harm.

261 (m) "Abused child" means a child whose parent, guardian
262 or custodian or any person responsible for his care or support,
263 whether legally obligated to do so or not, has caused or allowed
264 to be caused, upon the child, sexual abuse, sexual exploitation,
265 commercial sexual exploitation, emotional abuse, mental injury,
266 nonaccidental physical injury or other maltreatment, or a child
267 who tests positive at birth for a controlled substance, as defined
268 by Section 41-29-105, unless the controlled substance was
269 prescribed by a physician. However, physical discipline,
270 including spanking, performed on a child by a parent, guardian or
271 custodian in a reasonable manner shall not be deemed abuse under



272 this section. "Abused child" also means a child who is or has
273 been trafficked within the meaning of the Mississippi Human
274 Trafficking Act by any person, without regard to the relationship
275 of the person to the child.

276 (n) "Sexual abuse" means obscene or pornographic
277 photographing, filming or depiction of children for commercial
278 purposes, or the rape, molestation, incest, prostitution or other
279 such forms of sexual exploitation of children under circumstances
280 which indicate that the child's health or welfare is harmed or
281 threatened.

282 (o) "A child in need of special care" means a child
283 with any mental or physical illness that cannot be treated with
284 the dispositional alternatives ordinarily available to the youth
285 court.

286 (p) A "dependent child" means any child who is not a
287 child in need of supervision, a delinquent child, an abused child
288 or a neglected child, and which child has been voluntarily placed
289 in the custody of the Department of Child Protection Services by
290 his parent, guardian or custodian.

291 (q) "Custody" means the physical possession of the
292 child by any person.

293 (r) "Legal custody" means the legal status created by a
294 court order which gives the legal custodian the responsibilities
295 of physical possession of the child and the duty to provide him
296 with food, shelter, education and reasonable medical care, all



297 subject to residual rights and responsibilities of the parent or
298 guardian of the person.

299 (s) "Detention" means the care of children in
300 physically restrictive facilities.

301 (t) "Shelter" means care of children in physically
302 nonrestrictive facilities.

303 (u) "Records involving children" means any of the
304 following from which the child can be identified:

305 (i) All youth court records as defined in Section
306 43-21-251;

307 (ii) All forensic interviews conducted by a child
308 advocacy center in abuse and neglect investigations;

309 (iii) All law enforcement records as defined in
310 Section 43-21-255;

311 (iv) All agency records as defined in Section
312 43-21-257; and

313 (v) All other documents maintained by any
314 representative of the state, county, municipality or other public
315 agency insofar as they relate to the apprehension, custody,
316 adjudication or disposition of a child who is the subject of a
317 youth court cause.

318 (v) "Any person responsible for care or support" means
319 the person who is providing for the child at a given time. This
320 term shall include, but is not limited to, stepparents, foster
321 parents, relatives, nonlicensed babysitters or other similar



322 persons responsible for a child and staff of residential care
323 facilities and group homes that are licensed by the Department of
324 Human Services or the Department of Child Protection Services.

325 (w) The singular includes the plural, the plural the
326 singular and the masculine the feminine when consistent with the
327 intent of this chapter.

328 (x) "Out-of-home" setting means the temporary
329 supervision or care of children by the staff of licensed day care
330 centers, the staff of public, private and state schools, the staff
331 of juvenile detention facilities, the staff of unlicensed
332 residential care facilities and group homes and the staff of, or
333 individuals representing, churches, civic or social organizations.

334 (y) "Durable legal custody" means the legal status
335 created by a court order which gives the durable legal custodian
336 the responsibilities of physical possession of the child and the
337 duty to provide him with care, nurture, welfare, food, shelter,
338 education and reasonable medical care. All these duties as
339 enumerated are subject to the residual rights and responsibilities
340 of the natural parent(s) or guardian(s) of the child or children.

341 (z) "Status offense" means conduct subject to
342 adjudication by the youth court that would not be a crime if
343 committed by an adult.

344 (aa) "Financially able" means a parent or child who is
345 ineligible for a court-appointed attorney.



346 (bb) "Assessment" means an individualized examination
347 of a child to determine the child's psychosocial needs and
348 problems, including the type and extent of any mental health,
349 substance abuse or co-occurring mental health and substance abuse
350 disorders and recommendations for treatment. The term includes,
351 but is not limited to, a drug and alcohol, psychological or
352 psychiatric evaluation, records review, clinical interview or the
353 administration of a formal test and instrument.

354 (cc) "Screening" means a process, with or without the
355 administration of a formal instrument, that is designed to
356 identify a child who is at increased risk of having mental health,
357 substance abuse or co-occurring mental health and substance abuse
358 disorders that warrant immediate attention, intervention or more
359 comprehensive assessment.

360 (dd) "Durable legal relative guardianship" means the
361 legal status created by a youth court order that conveys the
362 physical and legal custody of a child or children by durable legal
363 guardianship to a relative or fictive kin who is licensed as a
364 foster or resource parent.

365 (ee) "Relative" means a person related to the child by
366 affinity or consanguinity within the third degree.

367 (ff) "Fictive kin" means a person not related to the
368 child legally or biologically but who is considered a relative due
369 to a significant, familial-like and ongoing relationship with the
370 child and family.



371 (gg) "Reasonable efforts" means the exercise of
372 reasonable care and due diligence by the Department of Human
373 Services, the Department of Child Protection Services, or any
374 other appropriate entity or person to use services appropriate to
375 the child's background, accessible, and available to meet the
376 individualized needs of the child and child's family to prevent
377 removal and reunify the family as soon as safely possible
378 consistent with the best interests of the child. Reasonable
379 efforts must be made in collaboration with the family and must
380 address the individualized needs of the family that brought the
381 child to the attention of the Department of Child Protection
382 Services and must not consist of required services that are not
383 related to the family's needs.

384 (hh) "Commercial sexual exploitation" means any sexual
385 act or crime of a sexual nature, which is committed against a
386 child for financial or economic gain, to obtain a thing of value
387 for quid pro quo exchange of property or for any other purpose.

388 **SECTION 3.** Section 43-21-353, Mississippi Code of 1972, is
389 brought forward as follows:

390 43-21-353. (1) Any attorney, physician, dentist, intern,
391 resident, nurse, psychologist, social worker, family protection
392 worker, family protection specialist, child caregiver, minister,
393 law enforcement officer, public or private school employee or any
394 other person having reasonable cause to suspect that a child is a
395 neglected child, an abused child, or a victim of commercial sexual



396 exploitation or human trafficking shall cause an oral report to be
397 made immediately by telephone or otherwise and followed as soon
398 thereafter as possible by a report in writing to the Department of
399 Child Protection Services, and immediately a referral shall be
400 made by the Department of Child Protection Services to the youth
401 court intake unit, which unit shall promptly comply with Section
402 43-21-357. In the course of an investigation, at the initial time
403 of contact with the individual(s) about whom a report has been
404 made under this Youth Court Act or with the individual(s)
405 responsible for the health or welfare of a child about whom a
406 report has been made under this chapter, the Department of Child
407 Protection Services shall inform the individual of the specific
408 complaints or allegations made against the individual. Consistent
409 with subsection (4), the identity of the person who reported his
410 or her suspicion shall not be disclosed at that point. Where
411 appropriate, the Department of Child Protection Services shall
412 additionally make a referral to the youth court prosecutor.

413 Upon receiving a report that a child has been sexually
414 abused, is a victim of commercial sexual exploitation or human
415 trafficking or has been burned, tortured, mutilated or otherwise
416 physically abused in such a manner as to cause serious bodily
417 harm, or upon receiving any report of abuse that would be a felony
418 under state or federal law, the Department of Child Protection
419 Services shall immediately notify the law enforcement agency in
420 whose jurisdiction the abuse occurred. Within forty-eight (48)



421 hours, the department must notify the appropriate prosecutor and
422 the Statewide Human Trafficking Coordinator. The department shall
423 have the duty to provide the law enforcement agency all the names
424 and facts known at the time of the report; this duty shall be of a
425 continuing nature. The law enforcement agency and the department
426 shall investigate the reported abuse immediately and shall file a
427 preliminary report with the appropriate prosecutor's office within
428 twenty-four (24) hours and shall make additional reports as new or
429 additional information or evidence becomes available. The
430 department shall advise the clerk of the youth court and the youth
431 court prosecutor of all cases of abuse reported to the department
432 within seventy-two (72) hours and shall update such report as
433 information becomes available. In addition, if the Department of
434 Child Protection Services determines that a parent or other person
435 responsible for the care or welfare of an abused or neglected
436 child maintains active duty status within the military, the
437 department shall notify the applicable military installation
438 family advocacy program that there is an allegation of abuse or
439 neglect that relates to that child.

440 (2) Any report shall contain the names and addresses of the
441 child and his parents or other persons responsible for his care,
442 if known, the child's age, the nature and extent of the child's
443 injuries, including any evidence of previous injuries, any other
444 information that might be helpful in establishing the cause of the
445 injury, and the identity of the perpetrator.



446 (3) The Department of Child Protection Services shall
447 maintain a statewide incoming wide-area telephone service or
448 similar service for the purpose of receiving reports of suspected
449 cases of child abuse, commercial sexual exploitation or human
450 trafficking; provided that any attorney, physician, dentist,
451 intern, resident, nurse, psychologist, social worker, family
452 protection worker, family protection specialist, child caregiver,
453 minister, law enforcement officer or public or private school
454 employee who is required to report under subsection (1) of this
455 section shall report in the manner required in subsection (1).

456 (4) Reports of abuse, neglect and commercial sexual
457 exploitation or human trafficking made under this chapter and the
458 identity of the reporter are confidential except when the court in
459 which the investigation report is filed, in its discretion,
460 determines the testimony of the person reporting to be material to
461 a judicial proceeding or when the identity of the reporter is
462 released to law enforcement agencies and the appropriate
463 prosecutor pursuant to subsection (1). Reports made under this
464 section to any law enforcement agency or prosecutorial officer are
465 for the purpose of criminal investigation and prosecution only and
466 no information from these reports may be released to the public
467 except as provided by Section 43-21-261. Disclosure of any
468 information by the prosecutor shall be according to the
469 Mississippi Uniform Rules of Circuit and County Court Procedure.
470 The identity of the reporting party shall not be disclosed to



471 anyone other than law enforcement officers or prosecutors without
472 an order from the appropriate youth court. Any person disclosing
473 any reports made under this section in a manner not expressly
474 provided for in this section or Section 43-21-261 shall be guilty
475 of a misdemeanor and subject to the penalties prescribed by
476 Section 43-21-267. Notwithstanding the confidentiality of the
477 reporter's identity under this section, the Department of Child
478 Protection Services may disclose a reporter's identity to the
479 appropriate law enforcement agency or prosecutor if the department
480 has reason to suspect the reporter has made a fraudulent report,
481 and the Department of Child Protection Services must provide to
482 the subject of the alleged fraudulent report written notification
483 of the disclosure.

484 (5) All final dispositions of law enforcement investigations
485 described in subsection (1) of this section shall be determined
486 only by the appropriate prosecutor or court. All final
487 dispositions of investigations by the Department of Child
488 Protection Services as described in subsection (1) of this section
489 shall be determined only by the youth court. Reports made under
490 subsection (1) of this section by the Department of Child
491 Protection Services to the law enforcement agency and to the
492 district attorney's office shall include the following, if known
493 to the department:

- 494 (a) The name and address of the child;
- 495 (b) The names and addresses of the parents;



496 (c) The name and address of the suspected perpetrator;

497 (d) The names and addresses of all witnesses, including
498 the reporting party if a material witness to the abuse;

499 (e) A brief statement of the facts indicating that the
500 child has been abused, including whether the child experienced
501 commercial sexual exploitation or human trafficking, and any other
502 information from the agency files or known to the family
503 protection worker or family protection specialist making the
504 investigation, including medical records or other records, which
505 may assist law enforcement or the district attorney in
506 investigating and/or prosecuting the case; and

507 (f) What, if any, action is being taken by the
508 Department of Child Protection Services.

509 (6) In any investigation of a report made under this chapter
510 of the abuse or neglect of a child as defined in Section
511 43-21-105(1) or (m), the Department of Child Protection Services
512 may request the appropriate law enforcement officer with
513 jurisdiction to accompany the department in its investigation, and
514 in such cases the law enforcement officer shall comply with such
515 request.

516 (7) Anyone who willfully violates any provision of this
517 section shall be, upon being found guilty, punished by a fine not
518 to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in
519 jail not to exceed one (1) year, or both.



520 (8) If a report is made directly to the Department of Child
521 Protection Services that a child has been abused or neglected or
522 experienced commercial sexual exploitation or human trafficking in
523 an out-of-home setting, a referral shall be made immediately to
524 the law enforcement agency in whose jurisdiction the abuse
525 occurred and the department shall notify the district attorney's
526 office and the Statewide Human Trafficking Coordinator within
527 forty-eight (48) hours of such report. The Department of Child
528 Protection Services shall investigate the out-of-home setting
529 report of abuse or neglect to determine whether the child who is
530 the subject of the report, or other children in the same
531 environment, comes within the jurisdiction of the youth court and
532 shall report to the youth court the department's findings and
533 recommendation as to whether the child who is the subject of the
534 report or other children in the same environment require the
535 protection of the youth court. The law enforcement agency shall
536 investigate the reported abuse immediately and shall file a
537 preliminary report with the district attorney's office within
538 forty-eight (48) hours and shall make additional reports as new
539 information or evidence becomes available. If the out-of-home
540 setting is a licensed facility, an additional referral shall be
541 made by the Department of Child Protection Services to the
542 licensing agency. The licensing agency shall investigate the
543 report and shall provide the department, the law enforcement
544 agency and the district attorney's office with their written



545 findings from such investigation as well as that licensing
546 agency's recommendations and actions taken.

547 (9) If a child protective investigation does not result in
548 an out-of-home placement, a child protective investigator must
549 provide information to the parent or guardians about community
550 service programs that provide respite care, counseling and support
551 for children who have experienced commercial sexual exploitation
552 or human trafficking, voluntary guardianship or other support
553 services for families in crisis.

554 **SECTION 4.** This act shall take effect and be in force from
555 and after July 1, 2025.

