

**Adopted
AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2864

BY: Senator(s) Albritton, Tollison

1 **AMEND by striking Section 2 in its entirety and inserting in**
2 **lieu thereof the following:**

3 **SECTION *.** Section 97-5-39, Mississippi Code of 1972, is
4 amended as follows:

5 97-5-39. (1) (a) Except as otherwise provided in this
6 section, any parent, guardian or other person who willfully
7 commits any act or omits the performance of any duty, which act or
8 omission contributes to or tends to contribute to the neglect or
9 delinquency of any child or which act or omission results in the
10 abuse * * * of any child, as defined in Section 43-21-105(m) of
11 the Youth Court Law, or who knowingly aids any child in escaping
12 or absenting himself from the guardianship or custody of any
13 person, agency or institution, or knowingly harbors or conceals,
14 or aids in harboring or concealing, any child who has absented
15 himself without permission from the guardianship or custody of any
16 person, agency or institution to which the child shall have been
17 committed by the youth court shall be guilty of a misdemeanor, and
18 upon conviction shall be punished by a fine not to exceed One
19 Thousand Dollars (\$1,000.00), or by imprisonment not to exceed one
20 (1) year in jail, or by both such fine and imprisonment.

21 (b) If the child's deprivation of necessary food,
22 clothing, shelter, health care or supervision appropriate to the
23 child's age results in substantial harm to the child's physical,

24 mental or emotional health, the person may be sentenced to
25 imprisonment for not more than five (5) years or to payment of a
26 fine of not more than Five Thousand Dollars (\$5,000.00), or both.

27 (c) A parent, legal guardian or other person who
28 knowingly permits the continuing physical or sexual abuse of a
29 child is guilty of neglect of a child and may be sentenced to
30 imprisonment for not more than five (5) years or to payment of a
31 fine of not more than Five Thousand Dollars (\$5,000.00), or both.

32 (2) (a) Any person who shall intentionally (i) burn any
33 child, (ii) torture any child or, (iii) except in self-defense or
34 in order to prevent bodily harm to a third party, whip, strike or
35 otherwise abuse or mutilate any child in such a manner as to cause
36 serious bodily harm, shall be guilty of felonious abuse * * * of a
37 child and, upon conviction, shall be sentenced to imprisonment in
38 the custody of the Department of Corrections for life or such
39 lesser term of imprisonment as the court may determine, but not
40 less than ten (10) years. For any second or subsequent conviction
41 under this subsection, the person shall be sentenced to
42 imprisonment for life.

43 (b) (i) A parent, legal guardian or caretaker who
44 endangers a child's person or health by knowingly causing or
45 permitting the child to be present where any person is selling,
46 manufacturing or possessing immediate precursors or chemical
47 substances with intent to manufacture, sell or possess a
48 controlled substance as prohibited under Section 41-29-139 or
49 41-29-313, is guilty of child endangerment and may be sentenced to
50 imprisonment for not more than five (5) years or to payment of a
51 fine of not more than Five Thousand Dollars (\$5,000.00), or both.

52 (ii) If the endangerment results in substantial
53 harm to the child's physical, mental or emotional health, the
54 person may be sentenced to imprisonment for not more than ten (10)

55 years or to payment of a fine of not more than Ten Thousand
56 Dollars (\$10,000.00), or both.

57 (3) Nothing contained in this section shall prevent
58 proceedings against the parent, guardian or other person under any
59 statute of this state or any municipal ordinance defining any act
60 as a crime or misdemeanor. Nothing in the provisions of this
61 section shall preclude any person from having a right to trial by
62 jury when charged with having violated the provisions of this
63 section.

64 (4) After consultation with the Department of Human
65 Services, a regional mental health center or an appropriate
66 professional person, a judge may suspend imposition or execution
67 of a sentence provided in subsections (1) and (2) of this section
68 and in lieu thereof require treatment over a specified period of
69 time at any approved public or private treatment facility. A
70 person may be eligible for treatment in lieu of criminal penalties
71 no more than one (1) time.

72 (5) In any proceeding resulting from a report made pursuant
73 to Section 43-21-353 of the Youth Court Law, the testimony of the
74 physician making the * * * report regarding the child's injuries
75 or condition or cause thereof shall not be excluded on the ground
76 that the physician's testimony violates the physician-patient
77 privilege or similar privilege or rule against disclosure. The
78 physician's report shall not be considered as evidence unless
79 introduced as an exhibit to his testimony.

80 (6) Any criminal prosecution arising from a violation of
81 this section shall be tried in the circuit, county, justice or
82 municipal court having jurisdiction; provided, however, that
83 nothing herein shall abridge or dilute the contempt powers of the
84 youth court.