

By: Representative Carlton

To: Juvenile Justice;  
Judiciary A

HOUSE BILL NO. 832

1 AN ACT TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT COURTS MAY ORDER A PARENT OR GUARDIAN TO ATTEND  
3 SCHOOL WITH THEIR CHILD AS PUNISHMENT FOR TRUANCY; AND FOR RELATED  
4 PURPOSES.

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

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

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

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

29 mental or emotional health, the person 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 (c) A parent, legal guardian or other person who  
33 knowingly permits the continuing physical or sexual abuse of a  
34 child is guilty of neglect of a child and may be sentenced to  
35 imprisonment for not more than ten (10) years or to payment of a  
36 fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

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

48 (b) (i) A parent, legal guardian or caretaker who  
49 endangers a child's person or health by knowingly causing or  
50 permitting the child to be present where any person is selling,  
51 manufacturing or possessing immediate precursors or chemical  
52 substances with intent to manufacture, sell or possess a  
53 controlled substance as prohibited under Section 41-29-139 or  
54 41-29-313, is guilty of child endangerment and may be sentenced to  
55 imprisonment for not more than ten (10) years or to payment of a  
56 fine of not more than Ten Thousand Dollars (\$10,000.00), or both.

57 (ii) If the endangerment results in substantial  
58 harm to the child's physical, mental or emotional health, the  
59 person may be sentenced to imprisonment for not more than twenty  
60 (20) years or to payment of a fine of not more than Twenty  
61 Thousand Dollars (\$20,000.00), or both.

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

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

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

85           (6) Any criminal prosecution arising from a violation of  
86 this section shall be tried in the circuit, county, justice or  
87 municipal court having jurisdiction; provided, however, that  
88 nothing herein shall abridge or dilute the contempt powers of the  
89 youth court.

90           **SECTION 2.** This act shall take effect and be in force from  
91 and after July 1, 2006.