

By: Senator(s) Fillingane

To: Judiciary, Division B

SENATE BILL NO. 2183

1 AN ACT TO AMEND SECTION 97-5-39, MISSISSIPPI CODE OF 1972, TO
 2 REVISE THE CRIME OF CHILD ENDANGERMENT TO INCLUDE CAUSING OR
 3 PERMITTING A CHILD TO BE PRESENT WITH ANY PERSON IS SELLING,
 4 MANUFACTURING OR POSSESSING ANY CONTROLLED SUBSTANCE; TO AMEND
 5 SECTION 41-29-139, MISSISSIPPI CODE OF 1972, TO REVISE THE CRIME
 6 OF AGGRAVATED TRAFFICKING TO INCLUDE AN AMOUNT OF DOSAGE UNITS;
 7 AND FOR RELATED PURPOSES.

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

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

11 97-5-39. (1) (a) Except as otherwise provided in this
 12 section, any parent, guardian or other person who intentionally,
 13 knowingly or recklessly commits any act or omits the performance
 14 of any duty, which act or omission contributes to or tends to
 15 contribute to the neglect or delinquency of any child or which act
 16 or omission results in the abuse of any child, as defined in
 17 Section 43-21-105(m) of the Youth Court Law, or who knowingly aids
 18 any child in escaping or absenting himself from the guardianship
 19 or custody of any person, agency or institution, or knowingly
 20 harbors or conceals, or aids in harboring or concealing, any child



21 who has absented himself without permission from the guardianship
22 or custody of any person, agency or institution to which the child
23 shall have been committed by the youth court shall be guilty of a
24 misdemeanor, and upon conviction shall be punished by a fine not
25 to exceed One Thousand Dollars (\$1,000.00), or by imprisonment not
26 to exceed one (1) year in jail, or by both such fine and
27 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 or any
124 controlled substance with intent to manufacture, sell or possess a
125 controlled substance as prohibited under Section 41-29-139 or
126 41-29-313, is guilty of child endangerment and may be sentenced to
127 imprisonment for not more than ten (10) years or to payment of a
128 fine of not more than 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.** Section 41-29-139, Mississippi Code of 1972, is
163 amended as follows:

164 41-29-139. (a) **Transfer and possession with intent to**
165 **transfer.** Except as authorized by this article, it is unlawful
166 for any person knowingly or intentionally:



167 (1) To sell, barter, transfer, manufacture, distribute,
168 dispense or possess with intent to sell, barter, transfer,
169 manufacture, distribute or dispense, a controlled substance; or

170 (2) To create, sell, barter, transfer, distribute,
171 dispense or possess with intent to create, sell, barter, transfer,
172 distribute or dispense, a counterfeit substance.

173 (b) **Punishment for transfer and possession with intent to**
174 **transfer.** Except as otherwise provided in Section 41-29-142, any
175 person who violates subsection (a) of this section shall be, if
176 convicted, sentenced as follows:

177 (1) For controlled substances classified in Schedule I
178 or II, as set out in Sections 41-29-113 and 41-29-115, other than
179 marijuana or synthetic cannabinoids:

180 (A) If less than two (2) grams or ten (10) dosage
181 units, by imprisonment for not more than eight (8) years or a fine
182 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

183 (B) If two (2) or more grams or ten (10) or more
184 dosage units, but less than ten (10) grams or twenty (20) dosage
185 units, by imprisonment for not less than three (3) years nor more
186 than twenty (20) years or a fine of not more than Two Hundred
187 Fifty Thousand Dollars (\$250,000.00), or both.

188 (C) If ten (10) or more grams or twenty (20) or
189 more dosage units, but less than thirty (30) grams or forty (40)
190 dosage units, by imprisonment for not less than five (5) years nor



191 more than thirty (30) years or a fine of not more than Five
192 Hundred Thousand Dollars (\$500,000.00), or both.

193 (2) (A) For marijuana:

194 1. If thirty (30) grams or less, by
195 imprisonment for not more than three (3) years or a fine of not
196 more than Three Thousand Dollars (\$3,000.00), or both;

197 2. If more than thirty (30) grams but less
198 than two hundred fifty (250) grams, by imprisonment for not more
199 than five (5) years or a fine of not more than Five Thousand
200 Dollars (\$5,000.00), or both;

201 3. If two hundred fifty (250) or more grams
202 but less than five hundred (500) grams, by imprisonment for not
203 less than three (3) years nor more than ten (10) years or a fine
204 of not more than Fifteen Thousand Dollars (\$15,000.00), or both;

205 4. If five hundred (500) or more grams but
206 less than one (1) kilogram, by imprisonment for not less than five
207 (5) years nor more than twenty (20) years or a fine of not more
208 than Twenty Thousand Dollars (\$20,000.00), or both.

209 (B) For synthetic cannabinoids:

210 1. If ten (10) grams or less, by imprisonment
211 for not more than three (3) years or a fine of not more than Three
212 Thousand Dollars (\$3,000.00), or both;

213 2. If more than ten (10) grams but less than
214 twenty (20) grams, by imprisonment for not more than five (5)



215 years or a fine of not more than Five Thousand Dollars
216 (\$5,000.00), or both;

217 3. If twenty (20) or more grams but less than
218 forty (40) grams, by imprisonment for not less than three (3)
219 years nor more than ten (10) years or a fine of not more than
220 Fifteen Thousand Dollars (\$15,000.00), or both;

221 4. If forty (40) or more grams but less than
222 two hundred (200) grams, by imprisonment for not less than five
223 (5) years nor more than twenty (20) years or a fine of not more
224 than Twenty Thousand Dollars (\$20,000.00), or both.

225 (3) For controlled substances classified in Schedules
226 III and IV, as set out in Sections 41-29-117 and 41-29-119:

227 (A) If less than two (2) grams or ten (10) dosage
228 units, by imprisonment for not more than five (5) years or a fine
229 of not more than Five Thousand Dollars (\$5,000.00), or both;

230 (B) If two (2) or more grams or ten (10) or more
231 dosage units, but less than ten (10) grams or twenty (20) dosage
232 units, by imprisonment for not more than eight (8) years or a fine
233 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

234 (C) If ten (10) or more grams or twenty (20) or
235 more dosage units, but less than thirty (30) grams or forty (40)
236 dosage units, by imprisonment for not more than fifteen (15) years
237 or a fine of not more than One Hundred Thousand Dollars
238 (\$100,000.00), or both;



239 (D) If thirty (30) or more grams or forty (40) or
240 more dosage units, but less than five hundred (500) grams or two
241 thousand five hundred (2,500) dosage units, by imprisonment for
242 not more than twenty (20) years or a fine of not more than Two
243 Hundred Fifty Thousand Dollars (\$250,000.00), or both.

244 (4) For controlled substances classified in Schedule V,
245 as set out in Section 41-29-121:

246 (A) If less than two (2) grams or ten (10) dosage
247 units, by imprisonment for not more than one (1) year or a fine of
248 not more than Five Thousand Dollars (\$5,000.00), or both;

249 (B) If two (2) or more grams or ten (10) or more
250 dosage units, but less than ten (10) grams or twenty (20) dosage
251 units, by imprisonment for not more than five (5) years or a fine
252 of not more than Ten Thousand Dollars (\$10,000.00), or both;

253 (C) If ten (10) or more grams or twenty (20) or
254 more dosage units, but less than thirty (30) grams or forty (40)
255 dosage units, by imprisonment for not more than ten (10) years or
256 a fine of not more than Twenty Thousand Dollars (\$20,000.00), or
257 both;

258 (D) For thirty (30) or more grams or forty (40) or
259 more dosage units, but less than five hundred (500) grams or two
260 thousand five hundred (2,500) dosage units, by imprisonment for
261 not more than fifteen (15) years or a fine of not more than Fifty
262 Thousand Dollars (\$50,000.00), or both.



263 (c) **Simple possession.** Except as otherwise provided under
264 subsection (i) of this section for actions that are lawful under
265 the Mississippi Medical Cannabis Act and in compliance with rules
266 and regulations adopted thereunder, it is unlawful for any person
267 knowingly or intentionally to possess any controlled substance
268 unless the substance was obtained directly from, or pursuant to, a
269 valid prescription or order of a practitioner while acting in the
270 course of his professional practice, or except as otherwise
271 authorized by this article. The penalties for any violation of
272 this subsection (c) with respect to a controlled substance
273 classified in Schedules I, II, III, IV or V, as set out in Section
274 41-29-113, 41-29-115, 41-29-117, 41-29-119 or 41-29-121, including
275 marijuana or synthetic cannabinoids, shall be based on dosage unit
276 as defined herein or the weight of the controlled substance as set
277 forth herein as appropriate:

278 "Dosage unit (d.u.)" means a tablet or capsule, or in the
279 case of a liquid solution, one (1) milliliter. In the case of
280 lysergic acid diethylamide (LSD) the term, "dosage unit" means a
281 stamp, square, dot, microdot, tablet or capsule of a controlled
282 substance.

283 For any controlled substance that does not fall within the
284 definition of the term "dosage unit," the penalties shall be based
285 upon the weight of the controlled substance.



286 The weight set forth refers to the entire weight of any
287 mixture or substance containing a detectable amount of the
288 controlled substance.

289 If a mixture or substance contains more than one (1)
290 controlled substance, the weight of the mixture or substance is
291 assigned to the controlled substance that results in the greater
292 punishment.

293 A person shall be charged and sentenced as follows for a
294 violation of this subsection with respect to:

295 (1) A controlled substance classified in Schedule I or
296 II, except marijuana and synthetic cannabinoids:

297 (A) If less than one-tenth (0.1) gram or two (2)
298 dosage units, the violation is a misdemeanor and punishable by
299 imprisonment for not more than one (1) year or a fine of not more
300 than One Thousand Dollars (\$1,000.00), or both.

301 (B) If one-tenth (0.1) gram or more or two (2) or
302 more dosage units, but less than two (2) grams or ten (10) dosage
303 units, by imprisonment for not more than three (3) years or a fine
304 of not more than Fifty Thousand Dollars (\$50,000.00), or both.

305 (C) If two (2) or more grams or ten (10) or more
306 dosage units, but less than ten (10) grams or twenty (20) dosage
307 units, by imprisonment for not more than eight (8) years or a fine
308 of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),
309 or both.



310 (D) If ten (10) or more grams or twenty (20) or
311 more dosage units, but less than thirty (30) grams or forty (40)
312 dosage units, by imprisonment for not less than three (3) years
313 nor more than twenty (20) years or a fine of not more than Five
314 Hundred Thousand Dollars (\$500,000.00), or both.

315 (2) (A) Marijuana and synthetic cannabinoids:

316 1. If thirty (30) grams or less of marijuana
317 or ten (10) grams or less of synthetic cannabinoids, by a fine of
318 not less than One Hundred Dollars (\$100.00) nor more than Two
319 Hundred Fifty Dollars (\$250.00). The provisions of this paragraph
320 (2) (A) may be enforceable by summons if the offender provides
321 proof of identity satisfactory to the arresting officer and gives
322 written promise to appear in court satisfactory to the arresting
323 officer, as directed by the summons. A second conviction under
324 this section within two (2) years is a misdemeanor punishable by a
325 fine of Two Hundred Fifty Dollars (\$250.00), not more than sixty
326 (60) days in the county jail, and mandatory participation in a
327 drug education program approved by the Division of Alcohol and
328 Drug Abuse of the State Department of Mental Health, unless the
329 court enters a written finding that a drug education program is
330 inappropriate. A third or subsequent conviction under this
331 paragraph (2) (A) within two (2) years is a misdemeanor punishable
332 by a fine of not less than Two Hundred Fifty Dollars (\$250.00) nor
333 more than One Thousand Dollars (\$1,000.00) and confinement for not
334 more than six (6) months in the county jail.



335 Upon a first or second conviction under this paragraph
336 (2) (A), the courts shall forward a report of the conviction to the
337 Mississippi Bureau of Narcotics which shall make and maintain a
338 private, nonpublic record for a period not to exceed two (2) years
339 from the date of conviction. The private, nonpublic record shall
340 be solely for the use of the courts in determining the penalties
341 which attach upon conviction under this paragraph (2) (A) and shall
342 not constitute a criminal record for the purpose of private or
343 administrative inquiry and the record of each conviction shall be
344 expunged at the end of the period of two (2) years following the
345 date of such conviction;

346 2. Additionally, a person who is the operator
347 of a motor vehicle, who possesses on his person or knowingly keeps
348 or allows to be kept in a motor vehicle within the area of the
349 vehicle normally occupied by the driver or passengers, more than
350 one (1) gram, but not more than thirty (30) grams of marijuana or
351 not more than ten (10) grams of synthetic cannabinoids is guilty
352 of a misdemeanor and, upon conviction, may be fined not more than
353 One Thousand Dollars (\$1,000.00) or confined for not more than
354 ninety (90) days in the county jail, or both. For the purposes of
355 this subsection, such area of the vehicle shall not include the
356 trunk of the motor vehicle or the areas not normally occupied by
357 the driver or passengers if the vehicle is not equipped with a
358 trunk. A utility or glove compartment shall be deemed to be
359 within the area occupied by the driver and passengers.



360 (B) Marijuana:

361 1. If more than thirty (30) grams but less
362 than two hundred fifty (250) grams, by a fine of not more than One
363 Thousand Dollars (\$1,000.00), or confinement in the county jail
364 for not more than one (1) year, or both; or by a fine of not more
365 than Three Thousand Dollars (\$3,000.00), or imprisonment in the
366 custody of the Department of Corrections for not more than three
367 (3) years, or both;

368 2. If two hundred fifty (250) or more grams
369 but less than five hundred (500) grams, by imprisonment for not
370 less than two (2) years nor more than eight (8) years or by a fine
371 of not more than Fifty Thousand Dollars (\$50,000.00), or both;

372 3. If five hundred (500) or more grams but
373 less than one (1) kilogram, by imprisonment for not less than four
374 (4) years nor more than sixteen (16) years or a fine of not more
375 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

376 4. If one (1) kilogram or more but less than
377 five (5) kilograms, by imprisonment for not less than six (6)
378 years nor more than twenty-four (24) years or a fine of not more
379 than Five Hundred Thousand Dollars (\$500,000.00), or both;

380 5. If five (5) kilograms or more, by
381 imprisonment for not less than ten (10) years nor more than thirty
382 (30) years or a fine of not more than One Million Dollars
383 (\$1,000,000.00), or both.

384 (C) Synthetic cannabinoids:



385 1. If more than ten (10) grams but less than
386 twenty (20) grams, by a fine of not more than One Thousand Dollars
387 (\$1,000.00), or confinement in the county jail for not more than
388 one (1) year, or both; or by a fine of not more than Three
389 Thousand Dollars (\$3,000.00), or imprisonment in the custody of
390 the Department of Corrections for not more than three (3) years,
391 or both;

392 2. If twenty (20) or more grams but less than
393 forty (40) grams, by imprisonment for not less than two (2) years
394 nor more than eight (8) years or by a fine of not more than Fifty
395 Thousand Dollars (\$50,000.00), or both;

396 3. If forty (40) or more grams but less than
397 two hundred (200) grams, by imprisonment for not less than four
398 (4) years nor more than sixteen (16) years or a fine of not more
399 than Two Hundred Fifty Thousand Dollars (\$250,000.00), or both;

400 4. If two hundred (200) or more grams, by
401 imprisonment for not less than six (6) years nor more than
402 twenty-four (24) years or a fine of not more than Five Hundred
403 Thousand Dollars (\$500,000.00), or both.

404 (3) A controlled substance classified in Schedule III,
405 IV or V as set out in Sections 41-29-117 through 41-29-121, upon
406 conviction, may be punished as follows:

407 (A) If less than fifty (50) grams or less than one
408 hundred (100) dosage units, the offense is a misdemeanor and



409 punishable by not more than one (1) year or a fine of not more
410 than One Thousand Dollars (\$1,000.00), or both.

411 (B) If fifty (50) or more grams or one hundred
412 (100) or more dosage units, but less than one hundred fifty (150)
413 grams or five hundred (500) dosage units, by imprisonment for not
414 less than one (1) year nor more than four (4) years or a fine of
415 not more than Ten Thousand Dollars (\$10,000.00), or both.

416 (C) If one hundred fifty (150) or more grams or
417 five hundred (500) or more dosage units, but less than three
418 hundred (300) grams or one thousand (1,000) dosage units, by
419 imprisonment for not less than two (2) years nor more than eight
420 (8) years or a fine of not more than Fifty Thousand Dollars
421 (\$50,000.00), or both.

422 (D) If three hundred (300) or more grams or one
423 thousand (1,000) or more dosage units, but less than five hundred
424 (500) grams or two thousand five hundred (2,500) dosage units, by
425 imprisonment for not less than four (4) years nor more than
426 sixteen (16) years or a fine of not more than Two Hundred Fifty
427 Thousand Dollars (\$250,000.00), or both.

428 (d) **Paraphernalia.** (1) Except as otherwise provided under
429 subsection (i) of this section for actions that are lawful under
430 the Mississippi Medical Cannabis Act and in compliance with rules
431 and regulations adopted thereunder, it is unlawful for a person
432 who is not authorized by the State Board of Medical Licensure,
433 State Board of Pharmacy, or other lawful authority to use, or to



434 possess with intent to use, paraphernalia to plant, propagate,
435 cultivate, grow, harvest, manufacture, compound, convert, produce,
436 process, prepare, test, analyze, pack, repack, store, contain,
437 conceal, inject, ingest, inhale or otherwise introduce into the
438 human body a controlled substance in violation of the Uniform
439 Controlled Substances Law. Any person who violates this
440 subsection (d) (1) is guilty of a misdemeanor and, upon conviction,
441 may be confined in the county jail for not more than six (6)
442 months, or fined not more than Five Hundred Dollars (\$500.00), or
443 both; however, no person shall be charged with a violation of this
444 subsection when such person is also charged with the possession of
445 thirty (30) grams or less of marijuana under subsection (c) (2) (A)
446 of this section.

447 (2) It is unlawful for any person to deliver, sell,
448 possess with intent to deliver or sell, or manufacture with intent
449 to deliver or sell, paraphernalia, knowing, or under circumstances
450 where one reasonably should know, that it will be used to plant,
451 propagate, cultivate, grow, harvest, manufacture, compound,
452 convert, produce, process, prepare, test, analyze, pack, repack,
453 store, contain, conceal, inject, ingest, inhale, or otherwise
454 introduce into the human body a controlled substance in violation
455 of the Uniform Controlled Substances Law. Except as provided in
456 subsection (d) (3), a person who violates this subsection (d) (2) is
457 guilty of a misdemeanor and, upon conviction, may be confined in



458 the county jail for not more than six (6) months, or fined not
459 more than Five Hundred Dollars (\$500.00), or both.

460 (3) Any person eighteen (18) years of age or over who
461 violates subsection (d)(2) of this section by delivering or
462 selling paraphernalia to a person under eighteen (18) years of age
463 who is at least three (3) years his junior is guilty of a
464 misdemeanor and, upon conviction, may be confined in the county
465 jail for not more than one (1) year, or fined not more than One
466 Thousand Dollars (\$1,000.00), or both.

467 (4) It is unlawful for any person to place in any
468 newspaper, magazine, handbill, or other publication any
469 advertisement, knowing, or under circumstances where one
470 reasonably should know, that the purpose of the advertisement, in
471 whole or in part, is to promote the sale of objects designed or
472 intended for use as paraphernalia. Any person who violates this
473 subsection is guilty of a misdemeanor and, upon conviction, may be
474 confined in the county jail for not more than six (6) months, or
475 fined not more than Five Hundred Dollars (\$500.00), or both.

476 (e) It shall be unlawful for any physician practicing
477 medicine in this state to prescribe, dispense or administer any
478 amphetamine or amphetamine-like anorectics and/or central nervous
479 system stimulants classified in Schedule II, pursuant to Section
480 41-29-115, for the exclusive treatment of obesity, weight control
481 or weight loss. Any person who violates this subsection, upon
482 conviction, is guilty of a misdemeanor and may be confined for a



483 period not to exceed six (6) months, or fined not more than One
484 Thousand Dollars (\$1,000.00), or both.

485 (f) **Trafficking.** (1) Any person trafficking in controlled
486 substances shall be guilty of a felony and, upon conviction, shall
487 be imprisoned for a term of not less than ten (10) years nor more
488 than forty (40) years and shall be fined not less than Five
489 Thousand Dollars (\$5,000.00) nor more than One Million Dollars
490 (\$1,000,000.00). The ten-year mandatory sentence shall not be
491 reduced or suspended. The person shall not be eligible for
492 probation or parole, the provisions of Sections 41-29-149,
493 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

494 (2) "Trafficking in controlled substances" as used
495 herein means:

496 (A) A violation of subsection (a) of this section
497 involving thirty (30) or more grams or forty (40) or more dosage
498 units of a Schedule I or II controlled substance except marijuana
499 and synthetic cannabinoids;

500 (B) A violation of subsection (a) of this section
501 involving five hundred (500) or more grams or two thousand five
502 hundred (2,500) or more dosage units of a Schedule III, IV or V
503 controlled substance;

504 (C) A violation of subsection (c) of this section
505 involving thirty (30) or more grams or forty (40) or more dosage
506 units of a Schedule I or II controlled substance except marijuana
507 and synthetic cannabinoids;



508 (D) A violation of subsection (c) of this section
509 involving five hundred (500) or more grams or two thousand five
510 hundred (2,500) or more dosage units of a Schedule III, IV or V
511 controlled substance; or

512 (E) A violation of subsection (a) of this section
513 involving one (1) kilogram or more of marijuana or two hundred
514 (200) grams or more of synthetic cannabinoids.

515 (g) **Aggravated trafficking.** Any person trafficking in
516 Schedule I or II controlled substances, except marijuana and
517 synthetic cannabinoids, of two hundred (200) grams or more or
518 eighty (80) or more dosage units shall be guilty of aggravated
519 trafficking and, upon conviction, shall be sentenced to a term of
520 not less than twenty-five (25) years nor more than life in prison
521 and shall be fined not less than Five Thousand Dollars (\$5,000.00)
522 nor more than One Million Dollars (\$1,000,000.00). The
523 twenty-five-year sentence shall be a mandatory sentence and shall
524 not be reduced or suspended. The person shall not be eligible for
525 probation or parole, the provisions of Sections 41-29-149,
526 47-5-139, 47-7-3 and 47-7-33, to the contrary notwithstanding.

527 (h) **Sentence mitigation.** (1) Notwithstanding any provision
528 of this section, a person who has been convicted of an offense
529 under this section that requires the judge to impose a prison
530 sentence which cannot be suspended or reduced and is ineligible
531 for probation or parole may, at the discretion of the court,
532 receive a sentence of imprisonment that is no less than



533 twenty-five percent (25%) of the sentence prescribed by the
534 applicable statute. In considering whether to apply the departure
535 from the sentence prescribed, the court shall conclude that:

536 (A) The offender was not a leader of the criminal
537 enterprise;

538 (B) The offender did not use violence or a weapon
539 during the crime;

540 (C) The offense did not result in a death or
541 serious bodily injury of a person not a party to the criminal
542 enterprise; and

543 (D) The interests of justice are not served by the
544 imposition of the prescribed mandatory sentence.

545 The court may also consider whether information and
546 assistance were furnished to a law enforcement agency, or its
547 designee, which, in the opinion of the trial judge, objectively
548 should or would have aided in the arrest or prosecution of others
549 who violate this subsection. The accused shall have adequate
550 opportunity to develop and make a record of all information and
551 assistance so furnished.

552 (2) If the court reduces the prescribed sentence
553 pursuant to this subsection, it must specify on the record the
554 circumstances warranting the departure.

555 (i) This section does not apply to any of the actions that
556 are lawful under the Mississippi Medical Cannabis Act and in
557 compliance with rules and regulations adopted thereunder.



558 **SECTION 3.** This act shall take effect and be in force from
559 and after July 1, 2024.

