



Mississippi Laws Regarding Abuse, Endangerment, and Neglect

By Faiza Chappell and Leslye E. Orloff October 12, 2018

Child Abuse	<p>Physical Abuse – Miss. Code Ann. § 43-21-105</p> <ul style="list-style-type: none"> • Causing or allowing non-accidental physical injury or maltreatment (not including reasonable physical discipline such as spanking)
	<p>Sexual Abuse/ Exploitation – Miss. Code Ann. § 43-21-105</p> <ul style="list-style-type: none"> • Causing or allowing sexual abuse, sexual exploitation, or sexual maltreatment • Sexual abuse: obscene or pornographic photographing, filming or depiction children for commercial purposes, rape, molestation, incest, prostitution or other such forms of sexual exploitation under circumstances indicating the child's health/ welfare is harmed or threatened
	<p>Emotional Abuse – Miss. Code Ann. § 43-21-105</p> <ul style="list-style-type: none"> • Causing or allowing emotional abuse, mental injury, or maltreatment
	<p>Domestic Violence as Child Abuse – Miss. Code Ann. §97-3-7</p> <ul style="list-style-type: none"> • (3)(a) When the offense is committed against a current or former spouse of the defendant or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, a person who has a current or former dating relationship with the defendant , or a person with whom the defendant has had a biological or legally adopted child, a person is guilty of simple domestic violence who: <ul style="list-style-type: none"> (i) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; (ii) Negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or (iii) Attempts by physical menace to put another in fear of imminent serious bodily harm.
Abandonment	<p>UCCJEA - Miss. Code Ann. § 93-27-102</p> <ul style="list-style-type: none"> • “abandoned” means left without provision for reasonable and necessary care or supervision; <p>TPR - Miss. Code Ann. § 93-15-103</p>



	<ul style="list-style-type: none"> • any conduct by the parent, whether consisting of a single incident or actions over an extended period of time, that evinces a settled purpose to relinquish all parental claims and responsibilities to the child. • For a child who is under three (3) years of age on the date that the petition for termination of parental rights was filed, that the parent has deliberately made no contact with the child for six (6) months; • (ii) For a child who is three (3) years of age or older on the date that the petition for termination of parental rights was filed, that the parent has deliberately made no contact with the child for at least one (1) year; or • (iii) If the child is under six (6) years of age, that the parent has exposed the child in any highway, street, field, outhouse, or elsewhere with the intent to wholly abandon the child.
<p>Child Neglect</p>	<p>Public Welfare-Youth Court - Miss. Code Ann. § 43-21-105 “neglected child” means a child:</p> <ul style="list-style-type: none"> • A child whose parent, guardian or custodian or any person responsible for his care or support, neglects or refuses, when able so to do, to provide for him proper and necessary care or support, or education as required by law, or medical, surgical, or other care necessary for his well-being; however, a parent who withholds medical treatment from any child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall not, for that reason alone, be considered to be neglectful under any provision of this chapter; or • Who is otherwise without proper care, custody, supervision or support; or • Who, for any reason, lacks the special care made necessary for him by reason of his mental condition, whether the mental condition is having mental illness or having an intellectual disability; or • Who, for any reason, lacks the care necessary for his health, morals or well-being.
<p>Parent-Child Relationship Covered by the Domestic Violence State Statute</p>	<p>Text Defining Relationships Covered By State Domestic Violence Statutes</p> <p>Domestic Relations- Protection from Domestic Abuse- Miss. Code Ann. § 93-21-3 (a) “Abuse” means the occurrence of one or more of the following acts between spouses, former spouses, persons living as spouses or who formerly lived as spouses, persons having a child or children in common, other individuals related by consanguinity or affinity who reside together</p>



	<p>or who formerly resided together or between individuals who have a current or former dating relationship...</p> <hr/> <p>Text of Statute Covering Acts That Constitute Child Abuse</p> <p>Domestic Relations- Protection from Domestic Abuse- Miss. Code Ann. § 93-21-3</p> <p>(a) “Abuse” means the occurrence of one or more of the following acts between spouses, former spouses, persons living as spouses or who formerly lived as spouses, persons having a child or children in common, other individuals related by consanguinity or affinity who reside together or who formerly resided together or between individuals who have a current or former dating relationship:</p> <p>(i) Attempting to cause or intentionally, knowingly or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon;</p> <p>(ii) Placing, by physical menace or threat, another in fear of imminent serious bodily injury;</p> <p>(iii) Criminal sexual conduct committed against a minor within the meaning of Section 97-5-23;</p> <p>(iv) Stalking within the meaning of Section 97-3-107;</p> <p>(v) Cyberstalking within the meaning of Section 97-45-15; or</p> <p>(vi) Sexual offenses within the meaning of Section 97-3-65 or 97-3-95.</p> <p>Crimes Against the Person- Simple and Aggravated Assault; Simple and Aggravated Domestic Violence- Miss. Code Ann. § 97-3-7</p> <p>(3)(a) When the offense is committed against a current or former spouse of the defendant or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child, a person is guilty of simple domestic violence who:</p> <p>(i) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another;</p> <p>(ii) Negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or</p> <p>(iii) Attempts by physical menace to put another in fear of imminent serious bodily harm.</p>
	<p>Domestic Violence Protection Order Statutes</p> <p>Domestic Relations- Protection from Domestic Abuse- Miss. Code Ann. § 93-21-7</p> <p>(1) Any person may seek a domestic abuse protection order for himself by filing a petition alleging abuse by the respondent. Any parent, adult household member, or next friend of the abused person may seek a</p>



	<p>domestic abuse protection order on behalf of any minor children or any person alleged to be incompetent by filing a petition with the court alleging abuse by the respondent. Cases seeking relief under this chapter shall be priority cases on the court's docket and the judge shall be immediately notified when a case is filed in order to provide for expedited proceedings.</p>
<p>Child Endangerment</p>	<p>Child neglect, delinquency or abuse - Miss. Code Ann. § 97-5-39 (4)(a) A parent, legal guardian or caretaker who endangers a child's person or health by knowingly causing or permitting the child to be present where any person is selling, manufacturing or possessing immediate precursors or chemical substances with intent to manufacture, sell or possess a controlled substance as prohibited under Section 41-29-139 or 41-29-313, is guilty of child endangerment and may be sentenced to imprisonment for not more than ten (10) years or to payment of a fine of not more than Ten Thousand Dollars (\$10,000.00), or both; (b) If the endangerment results in substantial harm to the child's physical, mental or emotional health, the person may be sentenced to imprisonment for not more than twenty (20) years or to payment of a fine of not more than Twenty Thousand Dollars (\$20,000.00), or both.</p>
<p>Best Interests of the Child</p>	<p>Factors determining “Best interests” of the child in a custody case - Miss. Code. Ann. § 93-5-24 (9)(a) (ii) (iii); § 93-5-24 (4)</p> <ul style="list-style-type: none"> • rebuttable presumption against awarding sole or joint custody to parent with history of domestic violence • rebuttable presumption that joint custody is in child's best interest <p>Courts consider the following additional factors - <i>Albright v. Albright</i>, 437 So.2d 1003, 1005 (Miss. 1983)</p> <ul style="list-style-type: none"> • age • health • sex • determination of the parent that has had the continuity of care prior to the separation • which potential custodian has the best parenting skills, and which has the willingness and capacity to provide primary child care • employment of parent and responsibilities of that employment • physical and mental health and age of parent • emotional ties of parent and child • moral fitness of parent • home, school and community record of the child • preference of the child (when age sufficient to express a preference)



	<ul style="list-style-type: none">• stability of the home environment and employment of each parent• other factors relevant to the parent-child relationship
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