

# TITLE 11

## Criminal Offenses

### CHAPTER 11-9

#### Children

#### SECTION 11-9-5

**§ 11-9-5 Cruelty to or neglect of child.** – (a) Every person having the custody or control of any child under the age of eighteen (18) years who abandons that child, or who treats that child with gross or habitual cruelty, or who wrongfully causes or permits that child to be an habitual sufferer for want of food, clothing, proper care, or oversight, or who uses or permits the use of that child for any wanton, cruel, or improper purpose, or who compels, causes, or permits that child to do any wanton or wrongful act, or who causes or permits the home of that child to be the resort of lewd, drunken, wanton, or dissolute persons, or who by reason of neglect, cruelty, drunkenness, or depravity, renders the home of that child a place in which it is unfit for that child to live, or who neglects or refuses to pay reasonable charges for the support of that child, whenever the child is placed by that person in the custody of, or is assigned by any court to, any individual, association, or corporation, is guilty of a felony. For each offense that person shall be imprisoned for not less than one year nor more than three (3) years, be fined not more than one thousand dollars (\$1,000), or both. That child may be proceeded against as a neglected child under the provisions of chapter 1 of title 14.

(b) In addition to any penalty provided in this section, any person convicted or placed on probation for this offense may be required as part of that sentence or probation to receive psychosociological counseling in child growth, care, and development. For the purposes of this section, and in accordance with § 40-11-15, a parent or guardian legitimately practicing his or her religious beliefs who does not provide specified medical treatment for a child for that reason alone, shall not be considered an abusive or negligent parent or guardian. The provisions of this section do not exempt the department from the provisions of § 40-11-5, and do not prohibit the department from filing a petition, pursuant to the provisions of § 40-11-15, for medical services for a child, where that child's health requires it.

## **SECTION 11-9-5.1**

**§ 11-9-5.1 Investigation upon report of cruelty or neglect.** – In order to protect a child from cruelty or neglect, if any person has reasonable cause to believe that any child is being neglected or cruelly treated as defined in § 14-1-3 and reports the incident to the department of children, youth, and families, the department must cause an immediate investigation.

## **SECTION 11-9-5.2**

**§ 11-9-5.2 Immunity from liability.** – Any person participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. The same immunity shall apply with respect to participation in any judicial proceeding resulting from a report.

## **SECTION 11-9-5.3**

**§ 11-9-5.3 Child abuse.** – *(a) Title.* This section shall be known as "Brendan's Law".

*(b) Definitions.* As used in this section:

(1) "Serious bodily injury" means physical injury that:

(i) Creates a substantial risk of death;

(ii) Causes protracted loss or impairment of the function of any bodily parts, member or organ, including any fractures of any bones; or

(iii) Causes serious disfigurement; or

(iv) Evidences subdural hematoma, intercranial hemorrhage, and/or retinal hemorrhages as signs of "shaken baby syndrome" and/or "abusive head trauma."

(2) "Other physical injury" means any injury, other than a serious bodily injury, which arises other than from the imposition of nonexcessive corporal punishment.

(c) *Elements and degrees of offenses.* Whenever a person having care of a child, as defined by § 40-11-2(2), whether assumed voluntarily or because of a legal obligation, including any instance where a child has been placed by his or her parents, caretaker, or licensed or governmental child placement agency for care or treatment, knowingly or intentionally:

(1) Inflicts upon a child serious bodily injury, that person is guilty of first degree child abuse.

(2) Inflicts upon a child any other serious physical injury, that person is guilty of second degree child abuse.

(d) *Penalties.* (1) Any person who commits first degree child abuse shall be imprisoned for not more than twenty (20) years, nor less than ten (10) years and fined not more than ten thousand dollars (\$10,000). Any person who is convicted of second degree child abuse shall be imprisoned for not more than ten (10) years, nor less than five (5) years and fined not more than five thousand dollars (\$5,000).

(2) Any person who commits first degree child abuse on a child of five (5) years of age or under, on the first ten (10) years of sentence shall not be afforded the benefit of suspension or deferment of sentence nor of probation for penalties provided in this section. The court shall order the defendant to serve a minimum of eight and one-half (8 1/2) years or more of the sentence before becoming eligible for parole.

(3) Any person who has been previously convicted of first or second degree child abuse under this section and then commits first degree child abuse shall be imprisoned for not more than forty (40) years nor less than twenty (20) years, fined not more than twenty thousand (\$20,000) dollars, and is subject to subdivision (d) (2) of this section if applicable. Any person who has been previously convicted of first or second degree child abuse under this section and then commits second degree child abuse shall be imprisoned for not more than twenty (20) years nor less than ten (10) years and fined not more than ten thousand (\$10,000) dollars.