

By: Representative Guice

To: Judiciary A

HOUSE BILL NO. 709

1 AN ACT TO AMEND SECTION 93-11-65, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE PARENTS TO CONTRIBUTE CHILD SUPPORT IN PROPORTION TO
3 FINANCIAL ABILITY; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 93-11-65, Mississippi Code of 1972, is
6 amended as follows:

7 93-11-65. In addition to the right to proceed under Section
8 93-5-23, Mississippi Code of 1972, and in addition to the remedy
9 of habeas corpus in proper cases, and other existing remedies, the
10 chancery court of the proper county shall have jurisdiction to
11 entertain suits for the custody, care, support and maintenance of
12 minor children and to hear and determine all such matters, and
13 shall, if need be, require bond, sureties or other guarantee to
14 secure any order for periodic payments for the maintenance or
15 support of a child. In the event a legally responsible parent has
16 health insurance available to him or her through an employer or
17 organization that may extend benefits to the dependents of such
18 parent, any order of support issued against such parent may
19 require him or her to exercise the option of additional coverage
20 in favor of such children as he or she is legally responsible to
21 support. Proceedings may be brought by or against a resident or
22 nonresident of the State of Mississippi, whether or not having the
23 actual custody of minor children, for the purpose of judicially
24 determining the legal custody of a child. All actions herein
25 authorized may be brought in the county where the child is
26 actually residing, or in the county of the residence of the party

27 who has actual custody, or of the residence of the defendant.
28 Process shall be had upon the parties as provided by law for
29 process in person or by publication, if they be nonresidents of
30 the state or residents of another jurisdiction or are not found
31 therein after diligent search and inquiry or are unknown after
32 diligent search and inquiry; provided that the court or chancellor
33 in vacation may fix a date in termtime or in vacation to which
34 process may be returnable and shall have power to proceed in
35 termtime or vacation. Provided, however, that if the court shall
36 find that both parties are fit and proper persons to have custody
37 of the children, and that either party is able to adequately
38 provide for the care and maintenance of the children, and that it
39 would be to the best interest and welfare of the children, then
40 any such child who shall have reached his twelfth birthday shall
41 have the privilege of choosing the parent with whom he shall live.

42 Provided further, that where the proof shows that both
43 parents have separate incomes or estates, the court shall require
44 that each parent contribute to the support and maintenance of the
45 children in proportion to the relative financial ability of each.

46 Whenever the court has ordered a party to make periodic
47 payments for the maintenance or support of a child, but no bond,
48 sureties or other guarantee has been required to secure such
49 payments, and whenever such payments as have become due remain
50 unpaid for a period of at least thirty (30) days, the court may,
51 upon petition of the person to whom such payments are owing, or
52 such person's legal representative, enter an order requiring that
53 bond, sureties or other security be given by the person obligated
54 to make such payments, the amount and sufficiency of which shall
55 be approved by the court. The obligor shall, as in other civil
56 actions, be served with process and shall be entitled to a hearing
57 in such case.

58 When a charge of abuse or neglect of a child first arises in
59 the course of a custody or maintenance action pending in the
60 chancery court pursuant to this section, the chancery court may
61 proceed with the investigation, hearing and determination of such
62 abuse or neglect charge as a part of its hearing and determination
63 of the custody or maintenance issue as between the parents, as

64 provided in Section 43-21-151, notwithstanding the other
65 provisions of the Youth Court Law. The proceedings in chancery
66 court on the abuse or neglect charge shall be confidential in the
67 same manner as provided in youth court proceedings, and the
68 chancery court shall appoint a guardian ad litem in such cases, as
69 provided under Section 43-21-121 for youth court proceedings, who
70 shall be an attorney. Unless the chancery court's jurisdiction
71 has been terminated, all disposition orders in such cases for
72 placement with the Department of Human Services shall be reviewed
73 by the court or designated authority at least annually to
74 determine if continued placement with the department is in the
75 best interest of the child or the public.

76 The duty of support of a child terminates upon the
77 emancipation of the child. The court may determine that
78 emancipation has occurred and no other support obligation exists
79 when the child:

80 (a) Attains the age of twenty-one (21) years, or

81 (b) Marries, or

82 (c) Discontinues full-time enrollment in school and
83 obtains full-time employment prior to attaining the age of
84 twenty-one (21) years, or

85 (d) Voluntarily moves from the home of the custodial
86 parent or guardian and establishes independent living arrangements
87 and obtains full-time employment prior to attaining the age of
88 twenty-one (21) years.

89 SECTION 2. This act shall take effect and be in force from
90 and after July 1, 1999.