

By: Representative Guice

To: Judiciary A

## HOUSE BILL NO. 710

1 AN ACT TO AMEND SECTION 93-5-23, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE PARENTS TO CONTRIBUTE TO 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 93-5-23, Mississippi Code of 1972, is  
6 amended as follows:

7 93-5-23. When a divorce shall be decreed from the bonds of  
8 matrimony, the court may, in its discretion, having regard to the  
9 circumstances of the parties and the nature of the case, as may  
10 seem equitable and just, make all orders touching the care,  
11 custody and maintenance of the children of the marriage, and also  
12 touching the maintenance and alimony of the wife or the husband,  
13 or any allowance to be made to her or him, and shall, if need be,  
14 require bond, sureties or other guarantee for the payment of the  
15 sum so allowed. Orders touching on the custody of the children of  
16 the marriage may be made in accordance with the provisions of  
17 Section 93-5-24. The court may afterwards, on petition, change  
18 the decree, and make from time to time such new decrees as the  
19 case may require. However, where proof shows that both parents  
20 have separate incomes or estates, the court shall require that  
21 each parent contribute to the support and maintenance of the  
22 children of the marriage in proportion to the relative financial  
23 ability of each. In the event a legally responsible parent has  
24 health insurance available to him or her through an employer or  
25 organization that may extend benefits to the dependents of such  
26 parent, any order of support issued against such parent may

27 require him or her to exercise the option of additional coverage  
28 in favor of such children as he or she is legally responsible to  
29 support.

30 Whenever the court has ordered a party to make periodic  
31 payments for the maintenance or support of a child, but no bond,  
32 sureties or other guarantee has been required to secure such  
33 payments, and whenever such payments as have become due remain  
34 unpaid for a period of at least thirty (30) days, the court may,  
35 upon petition of the person to whom such payments are owing, or  
36 such person's legal representative, enter an order requiring that  
37 bond, sureties or other security be given by the person obligated  
38 to make such payments, the amount and sufficiency of which shall  
39 be approved by the court. The obligor shall, as in other civil  
40 actions, be served with process and shall be entitled to a hearing  
41 in such case.

42 Whenever in any proceeding in the chancery court concerning  
43 the custody of a child a party alleges that the child whose  
44 custody is at issue has been the victim of sexual or physical  
45 abuse by the other party, the court may, on its own motion, grant  
46 a continuance in the custody proceeding only until such allegation  
47 has been investigated by the Department of Human Services. At the  
48 time of ordering such continuance the court may direct the party,  
49 and his attorney, making such allegation of child abuse to report  
50 in writing and provide all evidence touching on the allegation of  
51 abuse to the Department of Human Services. The Department of  
52 Human Services shall investigate such allegation and take such  
53 action as it deems appropriate and as provided in such cases under  
54 the Youth Court Law (being Chapter 21 of Title 43, Mississippi  
55 Code of 1972) or under the laws establishing family courts (being  
56 Chapter 23 of Title 43, Mississippi Code of 1972).

57 If after investigation by the Department of Human Services or  
58 final disposition by the youth court or family court allegations  
59 of child abuse are found to be without foundation, the chancery  
60 court shall order the alleging party to pay all court costs and  
61 reasonable attorney's fees incurred by the defending party in  
62 responding to such allegation.

63 The court may investigate, hear and make a determination in a

64 custody action when a charge of abuse and/or neglect arises in the  
65 course of a custody action as provided in Section 43-21-151, and  
66 in such cases the court shall appoint a guardian ad litem for the  
67 child as provided under Section 43-21-121, who shall be an  
68 attorney. Unless the chancery court's jurisdiction has been  
69 terminated, all disposition orders in such cases for placement  
70 with the Department of Human Services shall be reviewed by the  
71 court or designated authority at least annually to determine if  
72 continued placement with the department is in the best interest of  
73 the child or public.

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

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

79 (b) Marries, or

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

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

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