

By: Senator(s) Nunnelee

To: Judiciary

SENATE BILL NO. 2060

1 AN ACT TO AMEND SECTION 93-5-24, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE COURT, IN AWARDING CUSTODY OF MINOR CHILDREN, TO
3 CONSIDER JOINT PHYSICAL AND LEGAL CUSTODY AS A PRIORITY AND TO
4 DIRECT THE COURT TO DISREGARD THE PARENT'S GENDER IN AWARDING
5 CUSTODY; TO REQUIRE PARENTS TO SUBMIT AN IMPLEMENTATION PLAN FOR
6 ORDERS OF JOINT CUSTODY; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 93-5-24, Mississippi Code of 1972, is
9 amended as follows:

10 93-5-24. (1) Custody may be awarded as follows according to
11 the best interests of the child in the following order of
12 priority:

13 (a) Physical and legal custody to both parents jointly
14 pursuant to subsections (2) through (7).

15 (b) If physical and legal joint custody is an
16 unacceptable alternative, the following options may be considered
17 and ordered by the court:

18 (i) Physical custody to both parents jointly
19 pursuant to subsections (2) through (7) and legal custody to
20 either parent.

21 (ii) Legal custody to both parents jointly
22 pursuant to subsections (2) through (7) and physical custody to
23 either parent.

24 (iii) Physical and legal custody to either parent.

25 (iv) Upon a finding by the court that both of the
26 parents of the child have abandoned or deserted such child or that
27 both such parents are mentally, morally or otherwise unfit to rear
28 and train the child the court may award physical and legal custody

29 to:

30 A. The person in whose home the child has
31 been living in a wholesome and stable environment; or

32 B. Physical and legal custody to any other
33 person deemed by the court to be suitable and able to provide
34 adequate and proper care and guidance for the child.

35 In making an order for custody to either parent or both
36 parents jointly, the court shall not prefer one parent over the
37 other for either physical or legal custody because of the parent's
38 gender. In making an order for custody to both parents jointly,
39 the court shall require the parents to submit to the court a plan
40 for implementation of the joint custody order.

41 In making an order for custody to either parent * * *, the
42 court, in its discretion, may require the parents to submit to the
43 court a plan for the implementation of the custody order.

44 (2) Joint custody may be awarded where irreconcilable
45 differences is the ground for divorce, in the discretion of the
46 court, upon application of both parents.

47 (3) In other cases, joint custody may be awarded, in the
48 discretion of the court, upon application of one or both parents.

49 (4) There shall be a presumption that joint custody is in
50 the best interests of a minor child where both parents have agreed
51 to an award of joint custody.

52 (5) (a) For the purposes of this section, "joint custody"
53 means joint physical and legal custody.

54 (b) For the purposes of this section, "physical
55 custody" means those periods of time in which a child resides with
56 or is under the care and supervision of one of the parents.

57 (c) For the purposes of this section, "joint physical
58 custody" means that each of the parents shall have significant
59 periods of physical custody. Joint physical custody shall be
60 shared by the parents in such a way so as to assure a child of
61 frequent and continuing contact with both parents.

62 (d) For the purposes of this section, "legal custody"
63 means the decision-making rights, the responsibilities and the
64 authority relating to the health, education and welfare of a
65 child.

66 (e) For the purposes of this section, "joint legal
67 custody" means that the parents or parties share the
68 decision-making rights, the responsibilities and the authority
69 relating to the health, education and welfare of a child. An
70 award of joint legal custody obligates the parties to exchange
71 information concerning the health, education and welfare of the
72 minor child, and to confer with one another in the exercise of
73 decision-making rights, responsibilities and authority.

74 An award of joint physical and legal custody obligates the
75 parties to exchange information concerning the health, education
76 and welfare of the minor child, and unless allocated, apportioned
77 or decreed, the parents or parties shall confer with one another
78 in the exercise of decision-making rights, responsibilities and
79 authority.

80 (6) Any order for joint custody may be modified or
81 terminated upon the petition of both parents or upon the petition
82 of one (1) parent showing that a material change in circumstances
83 has occurred.

84 (7) Notwithstanding any other provision of law, access to
85 records and information pertaining to a minor child, including,
86 but not limited to, medical, dental and school records, shall not
87 be denied to a parent because the parent is not the child's
88 custodial parent.

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