

By: Senator(s) Canon

To: Judiciary

SENATE BILL NO. 2724

1 AN ACT TO AMEND SECTION 93-5-24, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT DETERMINATION OF THE BEST INTERESTS OF A CHILD IN
3 CUSTODY MATTERS IS TO BE MADE WITHOUT REGARD TO THE GENDER OF THE
4 PARENT OR PARENTS SEEKING CUSTODY; AND FOR RELATED PURPOSES.

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

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

8 93-5-24. (1) Custody may be awarded as follows according to
9 the best interests of the child:

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

12 (b) Physical custody to both parents jointly pursuant
13 to subsections (2) through (7) and legal custody to either parent.

14 (c) Legal custody to both parents jointly pursuant to
15 subsections (2) through (7) and physical custody to either parent.

16 (d) Physical and legal custody to either parent.

17 (e) Upon a finding by the court that both of the
18 parents of the child have abandoned or deserted such child or that
19 both such parents are mentally, morally or otherwise unfit to rear
20 and train the child the court may award physical and legal custody
21 to:

22 (i) The person in whose home the child has been
23 living in a wholesome and stable environment; or

24 (ii) Physical and legal custody to any other
25 person deemed by the court to be suitable and able to provide
26 adequate and proper care and guidance for the child.

27 In making an order for custody to either parent, the court is

28 to determine the best interests of a child without regard to the
29 gender of the parent or parents seeking custody.

30 In making an order for custody to either parent or to both
31 parents jointly, the court, in its discretion, may require the
32 parents to submit to the court a plan for the implementation of
33 the custody order.

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

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

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

42 (5) * * * For the purposes of this section:

43 (a) "Joint custody" means joint physical and legal
44 custody.

45 (b) * * * "Physical custody" means those periods of
46 time in which a child resides with or is under the care and
47 supervision of one (1) of the parents.

48 (c) * * * "Joint physical custody" means that each of
49 the parents shall have significant periods of physical custody.
50 Joint physical custody shall be shared by the parents in such a
51 way so as to assure a child of frequent and continuing contact
52 with both parents.

53 (d) * * * "Legal custody" means the decision-making
54 rights, the responsibilities and the authority relating to the
55 health, education and welfare of a child.

56 (e) * * * "Joint legal custody" means that the parents
57 or parties share the decision-making rights, the responsibilities
58 and the authority relating to the health, education and welfare of
59 a child. An award of joint legal custody obligates the parties to
60 exchange information concerning the health, education and welfare

61 of the minor child, and to confer with one another in the exercise
62 of decision-making rights, responsibilities and authority.

63 An award of joint physical and legal custody obligates the
64 parties to exchange information concerning the health, education
65 and welfare of the minor child, and unless allocated, apportioned
66 or decreed, the parents or parties shall confer with one another
67 in the exercise of decision-making rights, responsibilities and
68 authority.

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

73 (7) Notwithstanding any other provision of law, access to
74 records and information pertaining to a minor child, including,
75 but not limited to, medical, dental and school records, shall not
76 be denied to a parent because the parent is not the child's
77 custodial parent.

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