

HOUSE BILL NO. 1394

1 AN ACT TO CREATE A FORM OF MARRIAGE TO BE KNOWN AS COVENANT
 2 MARRIAGE REQUIRING CERTAIN DECLARATIONS; TO ALLOW MARRIED COUPLES
 3 TO DESIGNATE THEIR MARRIAGE AS A COVENANT MARRIAGE; TO PROVIDE
 4 THAT A COVENANT MARRIAGE MAY BE DISSOLVED ONLY IN CERTAIN CASES;
 5 TO PROVIDE FOR SEPARATION FROM BED AND BOARD; TO REQUIRE THE
 6 ATTORNEY GENERAL TO PROMULGATE A COVENANT MARRIAGE PAMPHLET; TO
 7 AMEND SECTIONS 93-1-5, 93-1-13, 93-5-1 AND 93-5-23, MISSISSIPPI
 8 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) A covenant marriage is a marriage entered
 11 into by one male and one female who understand and agree that the
 12 marriage between them is a lifelong relationship. Parties to a
 13 covenant marriage have received counseling emphasizing the nature
 14 and purposes of marriage and the responsibilities thereto. Only
 15 when there has been a complete and total breach of the marital
 16 covenant commitment may the nonbreaching party seek a declaration
 17 that the marriage is no longer legally recognized.

18 (2) A man and woman may contract a covenant marriage by
 19 declaring their intent to do so on their application for a
 20 marriage license, and executing a declaration of intent to
 21 contract a covenant marriage, as provided in Section 2 of this
 22 act. The application for a marriage license and the declaration
 23 of intent shall be filed with the official who issues the marriage
 24 license.

25 **SECTION 2.** (1) A declaration of intent to contract a
 26 covenant marriage shall contain all of the following:

27 (a) A recitation by the parties to the following
 28 effect:

"A COVENANT MARRIAGE



30 We do solemnly declare that marriage is a covenant between a
31 man and a woman who agree to live together as husband and wife for
32 so long as they both may live. We have chosen each other
33 carefully and disclosed to one another everything which could
34 adversely affect the decision to enter into this marriage. We
35 have received premarital counseling on the nature, purposes and
36 responsibilities of marriage. We have read the Covenant Marriage
37 Act, and we understand that a Covenant Marriage is for life. If
38 we experience marital difficulties, we commit ourselves to take
39 all reasonable efforts to preserve our marriage, including marital
40 counseling.

41 With full knowledge of what this commitment means, we do
42 hereby declare that our marriage will be bound by Mississippi law
43 on Covenant Marriages and we promise to love, honor and care for
44 one another as husband and wife for the rest of our lives."

45 (b) (i) An affidavit by the parties that they have
46 received premarital counseling from a priest, minister, rabbi,
47 clerk of the Religious Society of Friends, any clergyman of any
48 religious sect, or a marriage counselor, which counseling shall
49 include a discussion of the seriousness of covenant marriage,
50 communication of the fact that a covenant marriage is a commitment
51 for life, a discussion of the obligation to seek marital
52 counseling in times of marital difficulties, and a discussion of
53 the exclusive grounds for legally terminating a covenant marriage
54 by divorce or by divorce after a judgment of separation from bed
55 and board.

56 (ii) A notarized attestation, signed by the
57 counselor and attached to or included in the parties' affidavit,
58 confirming that the parties were counseled as to the nature and
59 purpose of the marriage and the grounds for termination thereof
60 and an acknowledging that the counselor provided to the parties
61 the informational pamphlet developed and promulgated by the Office
62 of the Attorney General, which pamphlet entitled the Covenant



63 Marriage Act provides a full explanation of the terms and
64 conditions of a covenant marriage.

65 (c) (i) The signature of both parties witnessed by a
66 notary.

67 (ii) If one (1) or both of the parties are minors,
68 the written consent or authorization of those persons required to
69 consent to or authorize the marriage of minors.

70 (2) The declaration shall contain two (2) separate
71 documents, the recitation and the affidavit, the latter of which
72 shall include the attestation either included therein or attached
73 thereto. The recitation shall be prepared in duplicate originals,
74 one (1) of which shall be retained by the parties and the other,
75 together with the affidavit and attestation, shall be filed as
76 provided in Section 1 of this act.

77 **SECTION 3.** (1) On or after July 1, 2002, married couples
78 may execute a declaration of intent to designate their marriage as
79 a covenant marriage to be governed by the laws relative thereto.

80 (2) (a) This declaration of intent in the form and
81 containing the contents required by subsection (3) of this section
82 must be presented to the officer who issued the couple's marriage
83 license and with whom the couple's marriage certificate is filed.
84 If the couple was married outside of this state, a copy of the
85 foreign marriage certificate, with the declaration of intent
86 attached thereto, shall be filed with the officer who issues
87 marriage licenses in the county in which the couple is domiciled.
88 The officer shall make a notation on the marriage certificate of
89 the declaration of intent of a covenant marriage and attach a copy
90 of the declaration to the certificate.

91 (b) On or before the fifteenth day of each calendar
92 month, the officer shall forward to the state registrar of vital
93 records each declaration of intent of a covenant marriage filed
94 with him during the preceding calendar month pursuant to this
95 section.



96 (3) (a) A declaration of intent to designate a marriage as
97 a covenant marriage shall contain all of the following:

98 (i) A recitation by the parties to the following
99 effect:

100 **"A COVENANT MARRIAGE**

101 We do solemnly declare the marriage is a covenant between a
102 man and a woman who agree to live together as husband and wife for
103 so long as they both may live. We understand the nature, purpose
104 and responsibilities of marriage. We have read the Covenant
105 Marriage Act, and we understand that a Covenant Marriage is for
106 life. If we experience marital difficulties, we commit ourselves
107 to take all reasonable efforts to preserve our marriage, including
108 marital counseling.

109 With full knowledge of what this commitment means, we do
110 hereby declare that our marriage will be bound by Mississippi law
111 on Covenant Marriage, and we renew our promise to love, honor and
112 care for one another as husband and wife for the rest of our
113 lives."

114 (ii) 1. An affidavit by the parties that they
115 have discussed their intent to designate their marriage as a
116 covenant marriage with a priest, minister, rabbi, clerk of the
117 Religious Society of Friends, any clergyman of any religious sect
118 or a marriage counselor, which included a discussion of the
119 obligation to seek marital counseling in times of marital
120 difficulties and the exclusive grounds for legally terminating a
121 covenant marriage by divorce or by divorce after a judgment of
122 separation from bed and board.

123 2. A notarized attestation, signed by the
124 counselor and attached to the parties' affidavit, acknowledging
125 that the counselor provided to the parties the information
126 pamphlet developed and promulgated by the Office of the Attorney
127 General, which pamphlet entitled the Covenant Marriage Act



128 provides a full explanation of the terms and conditions of a
129 covenant marriage.

130 3. The signature of both parties witnessed by
131 a notary.

132 (b) The declaration shall contain two (2) separate
133 documents, the recitation and the affidavit, the latter of which
134 shall include the attestation either included therein or attached
135 thereto. The recitation shall be prepared in duplicate originals,
136 one (1) of which shall be retained by the parties and the other,
137 together with the affidavit and attestation, shall be filed as
138 provided in subsection (2) of this section.

139 **SECTION 4.** (1) Notwithstanding any other law to the
140 contrary and subsequent to the parties obtaining counseling, a
141 spouse to a covenant marriage may obtain a judgment of divorce
142 only upon proof of any of the following:

143 (a) The other spouse has committed adultery.

144 (b) The other spouse has committed a felony and has
145 been sentenced to death, life imprisonment or life imprisonment
146 without eligibility for parole.

147 (c) The other spouse has abandoned the matrimonial
148 domicile for a period of one (1) year and constantly refuses to
149 return.

150 (d) The other spouse has physically or sexually abused
151 the spouse seeking the divorce or a child of one (1) of the
152 spouses.

153 (e) The spouses have been living separate and apart
154 continuously without reconciliation for a period of two (2) years.

155 (f) (i) The spouses have been living separate and
156 apart continuously without reconciliation for a period of one (1)
157 year from the date the judgment of separation from bed and board
158 was signed.

159 (ii) If there is a minor child or children of the
160 marriage, the spouses have been living separate and apart



161 continuously without reconciliation for a period of one (1) year
162 and six (6) months from the date the judgment of separation from
163 bed and board was signed; however, if abuse of a child of the
164 marriage or a child of one (1) of the spouses is the basis for
165 which the judgment of separation from bed and board was obtained,
166 then a judgment of divorce may be obtained if the spouses have
167 been living separate and apart continuously without reconciliation
168 for a period of one (1) year from the date the judgment of
169 separation from bed and board was signed.

170 (2) Notwithstanding any other law to the contrary and
171 subsequent to the parties obtaining counseling, a spouse to a
172 covenant marriage may obtain a judgment of separation from bed and
173 board only upon proof of any of the following:

174 (a) The other spouse has committed adultery.

175 (b) The other spouse has committed a felony and has
176 been sentenced to death, life imprisonment or life imprisonment
177 without eligibility for parole.

178 (c) The other spouse has abandoned the matrimonial
179 domicile for a period of one (1) year and constantly refuses to
180 return.

181 (d) The other spouse has physically or sexually abused
182 the spouse seeking the divorce or a child of one (1) of the
183 spouses.

184 (e) The spouses have been living separate and apart
185 continuously without reconciliation for a period of two (2) years.

186 (f) On account of habitual intemperance of the other
187 spouse, or excesses, cruel treatment, or outrages of the other
188 spouse, if such habitual intemperance, or such ill-treatment is of
189 such a nature as to render their living together insupportable.

190 **SECTION 5.** (1) Unless judicially separated, spouses in a
191 covenant marriage may not sue each other except for causes of
192 action pertaining to contracts; for restitution of separate
193 property; for separation from bed and board in covenant marriages,



194 for divorce, or for declaration of nullity of the marriage; and
195 for causes of action pertaining to spousal support or the support
196 or custody of a child while the spouses are living separate and
197 apart, although not judicially separated.

198 (2) (a) Any court which is competent to preside over
199 divorce proceedings, has jurisdiction of an action for separation
200 from bed and board in a covenant marriage, if:

201 (i) One (1) or both of the spouses are domiciled
202 in this state and the ground therefor was committed or occurred in
203 this state or while the matrimonial domicile was in this state.

204 (ii) The ground therefor occurred elsewhere while
205 either or both of the spouses were domiciled elsewhere, provided
206 the person obtaining the separation from bed and board was
207 domiciled in this state prior to the time the cause of action
208 accrued and is domiciled in this state at the time the action is
209 filed.

210 (b) An action for a separation from bed and board in a
211 covenant marriage shall be brought in a county where either party
212 is domiciled, or in the county of the last matrimonial domicile.

213 (c) The venue provided herein may not be waived, and a
214 judgment of separation rendered by a court of improper venue is an
215 absolute nullity.

216 (3) Judgments on the pleadings and summary judgments shall
217 not be granted in any action for separation from bed and board in
218 a covenant marriage.

219 (4) In a proceeding for a separation from bed and board in a
220 covenant marriage or thereafter, a court may award a spouse all
221 incidental relief afforded in a proceeding for divorce, including
222 but not limited to, spousal support, claims for contributions to
223 education, child custody, visitation rights, child support,
224 injunctive relief and possession and use of a family residence or
225 community movables or immovables.



226 **SECTION 6.** (1) (a) Separation from bed and board in a
227 covenant marriage does not dissolve the bond of matrimony, since
228 the separated husband and wife are not at liberty to marry again;
229 but it puts an end to their conjugal cohabitation and to the
230 common concerns which existed between them.

231 (b) Spouses who are judicially separated from bed and
232 board in a covenant marriage shall retain that status until either
233 reconciliation or divorce.

234 (2) (a) The judgment of separation from bed and board
235 carries with it the separation of goods and effects and is
236 retroactive to the date on which the original petition was filed
237 in the action in which the judgment is rendered, but such
238 retroactive effect shall be without prejudice (i) to the liability
239 of the community for the attorney's fees and costs incurred by the
240 spouses in the action in which the judgment is rendered, or (ii)
241 to rights validly acquired in the interim between commencement of
242 the action and recordation of the judgment.

243 (b) Upon reconciliation of the spouses, the community
244 shall be reestablished between the spouses, as of the date of
245 filing of the original petition in the action in which the
246 judgment was rendered, unless the spouses execute prior to the
247 reconciliation a matrimonial agreement that the community shall
248 not be reestablished upon reconciliation. This matrimonial
249 agreement shall not require court approval.

250 (c) Reestablishment of the community under the
251 provisions of this section shall be effective toward third persons
252 only upon filing notice of the reestablishment for registry. The
253 reestablishment of the community shall not prejudice the rights of
254 third persons validly acquired prior to filing notice of the
255 reestablishment nor shall it affect a prior community property
256 partition between the spouses.

257 **SECTION 7.** The Office of Attorney General, Department of
258 Justice shall, prior to July 1, 2002, promulgate an informational



259 pamphlet, entitled "Covenant Marriage Act," which shall outline in
260 sufficient detail the consequences of entering into a covenant
261 marriage. The informational pamphlet shall be made available to
262 any counselor who provides marriage counseling as provided for by
263 this act.

264 **SECTION 8.** Section 93-1-5, Mississippi Code of 1972, is
265 amended as follows:

266 93-1-5. It shall be unlawful for the circuit court clerk to
267 issue a marriage license until the following conditions precedent
268 have been complied with:

269 (a) Parties desiring a marriage license shall make
270 application therefor in writing to the clerk of the circuit court
271 of any county in the State of Mississippi; provided, however, that
272 if the female applicant shall be under the age of twenty-one (21)
273 years and shall be a resident of the State of Mississippi, said
274 application shall be made to the circuit court clerk of the county
275 of residence of such female applicant. Said application shall be
276 forthwith filed with the circuit court clerk and shall include the
277 names, ages and addresses of the parties applying; the names and
278 addresses of the parents of the parties applying, and if no
279 parents, then names and addresses of the guardian or next of kin;
280 the signatures of witnesses; and any other data which may be
281 required by law or the Mississippi State Board of Health. The
282 application shall be sworn to by both applicants.

283 (b) The application shall remain on file, open to the
284 public, in the office of the circuit court clerk for a period of
285 three (3) days before the clerk is authorized to issue the
286 marriage license. Provided, however, that if satisfactory proof
287 is furnished to the judge of any circuit, chancery or county court
288 that sufficient reasons exist, then the judge of any such court in
289 the judicial district where either of such parties resides if they
290 be over the age of twenty-one (21) years, or where the female
291 resides if she be under the age of twenty-one (21), may waive the



292 three-day waiting period and by written instrument authorize the
293 clerk of the court to issue the marriage license to the parties if
294 they are otherwise qualified by law. Authorization shall be a
295 part of the confidential files of the clerk of the court, subject
296 to inspection only by written permission of the judge. If either
297 of the applying parties appears from the evidence to be under
298 twenty-one (21) years of age, the circuit court clerk, immediately
299 upon filing the application, shall cause notice of the filing of
300 said application to be sent by prepaid certified mail to the
301 father, mother, guardian or next of kin of both applying parties
302 at the address named in said application.

303 (c) An affidavit showing the age of both applying
304 parties shall be made by either the father, mother, guardian or
305 next of kin of each of the contracting parties and filed with the
306 clerk of the circuit court along with the application; or in lieu
307 thereof, said both applying parties shall appear in person before
308 the circuit court clerk and make and subscribe an oath in person,
309 which said affidavit shall be attached to and noted on the
310 application for the marriage license. In addition to either of
311 the previous conditions stated, further proof of age shall be
312 presented to the circuit court clerk in the form of either a birth
313 certificate, baptismal record, armed service discharge, armed
314 service identification card, life insurance policy, insurance
315 certificate, school record, driver's license, or other official
316 document evidencing age. Said document substantiating age and
317 date of birth shall be examined by the circuit court clerk before
318 whom application is made, and the circuit court clerk shall retain
319 in his file with the application such document or a certified or
320 photostatic copy thereof.

321 (d) The clerk shall not issue a marriage license under
322 the provisions of this section unless the male applicant is at
323 least seventeen (17) years of age, and the female is at least
324 fifteen (15) years of age; provided, however, that if satisfactory



325 proof is furnished to the judge of any circuit, chancery or county
326 court that sufficient reasons exist and that said parties desire
327 to be married to each other and that the parents or other person
328 in loco parentis of the person or persons so under age consent
329 thereto, then the judge of any such court in the county where
330 either of such parties resides may waive the minimum age
331 requirement and by written instrument authorize the clerk of the
332 court to issue the marriage license to the parties if they are
333 otherwise qualified by law. Authorization shall be a part of the
334 confidential files of the clerk of the court, subject to
335 inspection only by written permission of the judge.

336 (e) A medical certificate dated within thirty (30)
337 days prior to the application shall be presented to the circuit
338 court clerk showing that the applicant is free from syphilis, as
339 nearly as can be determined by a blood test performed in a
340 laboratory approved by the State Board of Health. The medical
341 certificate may be obtained through the local health department by
342 the applicant or applicants, or it may be obtained through any
343 private laboratory approved by the State Board of Health. Said
344 medical certificate shall be examined by the circuit court clerk
345 and filed in a permanent file kept by the clerk for this purpose.

346 (f) In no event shall a license be issued by the
347 circuit court clerk when it appears to the circuit court clerk
348 that the applicants are, or either of them is, drunk, insane or an
349 imbecile.

350 (g) The circuit clerk is authorized to grant a license
351 for a covenant marriage as provided by Sections 1 through 7 of
352 this act and the clerk shall indicate on the license whether the
353 parties intend to enter into a covenant marriage.

354 Any circuit clerk shall be liable under his official bond
355 because of noncompliance with the provisions of this section.

356 Any circuit court clerk who issues a marriage license without
357 complying with the provisions of this section shall be guilty of a



358 misdemeanor, and upon conviction shall be punished by a fine of
359 not less than Fifty Dollars (\$50.00) and not more than Five
360 Hundred Dollars (\$500.00).

361 **SECTION 9.** Section 93-1-13, Mississippi Code of 1972, is
362 amended as follows:

363 93-1-13. A marriage shall not be contracted or solemnized
364 unless a license therefor shall first have been duly issued. If
365 applicable, the license shall designate that the parties entered
366 into a covenant marriage. No irregularity in the issuance of or
367 omission in the license shall invalidate any marriage, nor shall
368 this section be construed so as to invalidate any marriage that is
369 good at common law.

370 **SECTION 10.** Section 93-5-1, Mississippi Code of 1972, is
371 amended as follows:

372 93-5-1. Except as otherwise provided by Sections 1 through 7
373 of this act, divorces from the bonds of matrimony may be decreed
374 to the injured party for any one or more of the following twelve
375 causes, viz:

376 First. Natural impotency.

377 Second. Adultery, unless it should appear that it was
378 committed by collusion of the parties for the purpose of procuring
379 a divorce, or unless the parties cohabited after a knowledge by
380 complainant of the adultery.

381 Third. Being sentenced to any penitentiary, and not pardoned
382 before being sent there.

383 Fourth. Wilful, continued and obstinate desertion for the
384 space of one (1) year.

385 Fifth. Habitual drunkenness.

386 Sixth. Habitual and excessive use of opium, morphine or
387 other like drug.

388 Seventh. Habitual cruel and inhuman treatment.

389 Eighth. Insanity or idiocy at the time of marriage, if the
390 party complaining did not know of such infirmity.



391 Ninth. Marriage to some other person at the time of the
392 pretended marriage between the parties.

393 Tenth. Pregnancy of the wife by another person at the time
394 of the marriage, if the husband did not know of such pregnancy.

395 Eleventh. Either party may have a divorce if they be related
396 to each other within the degrees of kindred between whom marriage
397 is prohibited by law.

398 Twelfth. Incurable insanity. But no divorce shall be
399 granted upon this ground unless the insane party shall have been
400 under regular treatment for insanity and causes thereof, confined
401 in an institution for the insane for a period of at least three
402 (3) years immediately preceding the commencement of the action.
403 Provided, however, that transfer of an insane party to his or her
404 home for treatment or a trial visit on prescription or
405 recommendation of a licensed physician, which treatment or trial
406 visit proves unsuccessful after a bona fide effort by the
407 complaining party to effect a cure, upon the reconfinement of the
408 insane party in an institution for the insane, shall be regular
409 treatment for insanity and causes thereof, and the period of time
410 so consumed in seeking to effect a cure, or while on a trial visit
411 home, shall be added to the period of actual confinement in an
412 institution for the insane in computing the required period of
413 three (3) years confinement immediately preceding the commencement
414 of the action. No divorce shall be granted because of insanity
415 until after a thorough examination of such insane person by two
416 (2) physicians who are recognized authorities on mental diseases.
417 One (1) such physician shall be either the superintendent of the
418 state hospital or the veterans hospital for the insane in which
419 the patient is confined, or a member of the medical staff of such
420 hospital who has had the patient in charge. Before incurable
421 insanity can be successfully proven as a ground for divorce, it
422 shall be necessary that both such physicians make affidavit that
423 such patient is a mentally disturbed person at the time of the



424 examination and both affidavits shall be made a part of the
425 permanent record of the divorce proceedings and shall create the
426 prima facie presumption of incurable insanity, such as would
427 justify a divorce based thereon. Service of process shall be made
428 on the superintendent of the hospital in which the defendant is a
429 patient. In event the patient is in a hospital outside the state,
430 process shall be served by publication, as in other cases of
431 service by publication, together with the sending of a copy by
432 registered mail to the superintendent of said hospital. In
433 addition thereto, process shall be served upon the next blood
434 relative and guardian, if any. In event there is no legal
435 guardian, the court shall appoint a guardian ad litem to represent
436 the interest of the insane person. Such relative or guardian and
437 superintendent of the institution shall be entitled to appear and
438 be heard upon any and all issues. The status of the parties as to
439 the support and maintenance of the insane person shall not be
440 altered in any way by the granting of the divorce.

441 However, in the discretion of the chancery court, and in such
442 cases as the court may deem it necessary and proper, before any
443 such decree is granted on the ground of incurable insanity, the
444 complainant, when ordered by the court, shall enter into bond, to
445 be approved by the court, in such an amount as the court may think
446 just and proper, conditioned for the care and keeping of such
447 insane person during the remainder of his or her natural life,
448 unless such insane person has a sufficient estate in his or her
449 own right for such purpose.

450 **SECTION 11.** Section 93-5-23, Mississippi Code of 1972, is
451 amended as follows:

452 93-5-23. When a divorce shall be decreed from the bonds of
453 matrimony, the court may, in its discretion, having regard to the
454 circumstances of the parties and the nature of the case, as may
455 seem equitable and just, make all orders touching the care,
456 custody and maintenance of the children of the marriage, and also



457 touching the maintenance and alimony of the wife or the husband,
458 or any allowance to be made to her or him, and shall, if need be,
459 require bond, sureties or other guarantee for the payment of the
460 sum so allowed. Orders touching on the custody of the children of
461 the marriage shall be made in accordance with the provisions of
462 Section 93-5-24. The court may afterwards, on petition, change
463 the decree, and make from time to time such new decrees as the
464 case may require. However, where proof shows that both parents
465 have separate incomes or estates, the court may require that each
466 parent contribute to the support and maintenance of the children
467 of the marriage in proportion to the relative financial ability of
468 each. In the event a legally responsible parent has health
469 insurance available to him or her through an employer or
470 organization that may extend benefits to the dependents of such
471 parent, any order of support issued against such parent may
472 require him or her to exercise the option of additional coverage
473 in favor of such children as he or she is legally responsible to
474 support.

475 Whenever the court has ordered a party to make periodic
476 payments for the maintenance or support of a child, but no bond,
477 sureties or other guarantee has been required to secure such
478 payments, and whenever such payments as have become due remain
479 unpaid for a period of at least thirty (30) days, the court may,
480 upon petition of the person to whom such payments are owing, or
481 such person's legal representative, enter an order requiring that
482 bond, sureties or other security be given by the person obligated
483 to make such payments, the amount and sufficiency of which shall
484 be approved by the court. The obligor shall, as in other civil
485 actions, be served with process and shall be entitled to a hearing
486 in such case.

487 Whenever in any proceeding in the chancery court concerning
488 the custody of a child a party alleges that the child whose
489 custody is at issue has been the victim of sexual or physical



490 abuse by the other party, the court may, on its own motion, grant
491 a continuance in the custody proceeding only until such allegation
492 has been investigated by the Department of Human Services. At the
493 time of ordering such continuance the court may direct the party,
494 and his attorney, making such allegation of child abuse to report
495 in writing and provide all evidence touching on the allegation of
496 abuse to the Department of Human Services. The Department of
497 Human Services shall investigate such allegation and take such
498 action as it deems appropriate and as provided in such cases under
499 the Youth Court Law (being Chapter 21 of Title 43, Mississippi
500 Code of 1972) or under the laws establishing family courts (being
501 Chapter 23 of Title 43, Mississippi Code of 1972).

502 If after investigation by the Department of Human Services or
503 final disposition by the youth court or family court allegations
504 of child abuse are found to be without foundation, the chancery
505 court shall order the alleging party to pay all court costs and
506 reasonable attorney's fees incurred by the defending party in
507 responding to such allegation.

508 The court may investigate, hear and make a determination in a
509 custody action when a charge of abuse and/or neglect arises in the
510 course of a custody action as provided in Section 43-21-151, and
511 in such cases the court shall appoint a guardian ad litem for the
512 child as provided under Section 43-21-121, who shall be an
513 attorney. Unless the chancery court's jurisdiction has been
514 terminated, all disposition orders in such cases for placement
515 with the Department of Human Services shall be reviewed by the
516 court or designated authority at least annually to determine if
517 continued placement with the department is in the best interest of
518 the child or public.

519 The duty of support of a child terminates upon the
520 emancipation of the child. The court may determine that
521 emancipation has occurred and no other support obligation exists
522 when the child:



523 (a) Attains the age of twenty-one (21) years, or
524 (b) Marries, or
525 (c) Discontinues full-time enrollment in school and
526 obtains full-time employment prior to attaining the age of
527 twenty-one (21) years, or
528 (d) Voluntarily moves from the home of the custodial
529 parent or guardian and establishes independent living arrangements
530 and obtains full-time employment prior to attaining the age of
531 twenty-one (21) years.

532 The court may enter an order for alimony consistent with the
533 provisions of Sections 1 through 7 of this act.

534 **SECTION 12.** This act shall take effect and be in force from
535 and after July 1, 2002.

