

By: Representatives Wells-Smith, Chism,  
Jennings, Montgomery (74th), Moore (60th),  
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To: Judiciary A

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1482

1 AN ACT TO AMEND SECTION 93-11-65, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT A CHILD AGED 14 YEARS OR OLDER MAY DECLARE A  
3 PREFERENCE OF THE PARENT WITH WHOM THE CHILD WILL LIVE; AND FOR  
4 RELATED PURPOSES.

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

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

8 93-11-65. (1) (a) In addition to the right to proceed  
9 under Section 93-5-23, Mississippi Code of 1972, and in addition  
10 to the remedy of habeas corpus in proper cases, and other existing  
11 remedies, the chancery court of the proper county shall have  
12 jurisdiction to entertain suits for the custody, care, support and  
13 maintenance of minor children and to hear and determine all such  
14 matters, and shall, if need be, require bond, sureties or other  
15 guarantee to secure any order for periodic payments for the  
16 maintenance or support of a child. In the event a legally  
17 responsible parent has health insurance available to him or her  
18 through an employer or organization that may extend benefits to  
19 the dependents of such parent, any order of support issued against  
20 such parent may require him or her to exercise the option of  
21 additional coverage in favor of such children as he or she is  
22 legally responsible to support. Proceedings may be brought by or  
23 against a resident or nonresident of the State of Mississippi,  
24 whether or not having the actual custody of minor children, for  
25 the purpose of judicially determining the legal custody of a  
26 child. All actions herein authorized may be brought in the county  
27 where the child is actually residing, or in the county of the  
28 residence of the party who has actual custody, or of the residence



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

44 (b) An order of child support shall specify the sum to  
45 be paid weekly or otherwise. In addition to providing for support  
46 and education, the order shall also provide for the support of the  
47 child prior to the making of the order for child support, and such  
48 other expenses as the court may deem proper.

49 (c) The court may require the payment to be made to the  
50 custodial parent, or to some person or corporation to be  
51 designated by the court as trustee, but if the child or custodial  
52 parent is receiving public assistance, the Department of Human  
53 Services shall be made the trustee.

54 (d) The noncustodial parent's liabilities for past  
55 education and necessary support and maintenance and other expenses  
56 are limited to a period of one (1) year next preceding the  
57 commencement of an action.

58 (2) Provided further, that where the proof shows that both  
59 parents have separate incomes or estates, the court may require  
60 that each parent contribute to the support and maintenance of the  
61 children in proportion to the relative financial ability of each.



62           (3) Whenever the court has ordered a party to make periodic  
63 payments for the maintenance or support of a child, but no bond,  
64 sureties or other guarantee has been required to secure such  
65 payments, and whenever such payments as have become due remain  
66 unpaid for a period of at least thirty (30) days, the court may,  
67 upon petition of the person to whom such payments are owing, or  
68 such person's legal representative, enter an order requiring that  
69 bond, sureties or other security be given by the person obligated  
70 to make such payments, the amount and sufficiency of which shall  
71 be approved by the court. The obligor shall, as in other civil  
72 actions, be served with process and shall be entitled to a hearing  
73 in such case.

74           (4) When a charge of abuse or neglect of a child first  
75 arises in the course of a custody or maintenance action pending in  
76 the chancery court pursuant to this section, the chancery court  
77 may proceed with the investigation, hearing and determination of  
78 such abuse or neglect charge as a part of its hearing and  
79 determination of the custody or maintenance issue as between the  
80 parents, as provided in Section 43-21-151, notwithstanding the  
81 other provisions of the Youth Court Law. The proceedings in  
82 chancery court on the abuse or neglect charge shall be  
83 confidential in the same manner as provided in youth court  
84 proceedings, and the chancery court shall appoint a guardian ad  
85 litem in such cases, as provided under Section 43-21-121 for youth  
86 court proceedings, who shall be an attorney. Unless the chancery  
87 court's jurisdiction has been terminated, all disposition orders  
88 in such cases for placement with the Department of Human Services  
89 shall be reviewed by the court or designated authority at least  
90 annually to determine if continued placement with the department  
91 is in the best interest of the child or the public.

92           (5) Each party to a paternity or child support proceeding  
93 shall notify the other within five (5) days after any change of  
94 address. In addition, the noncustodial and custodial parent shall



95 file and update, with the court and with the state case registry,  
96 information on that party's location and identity, including  
97 social security number, residential and mailing addresses,  
98 telephone numbers, photograph, driver's license number, and name,  
99 address and telephone number of the party's employer. This  
100 information shall be required upon entry of an order or within  
101 five (5) days of a change of address.

102 (6) In any case subsequently enforced by the Department of  
103 Human Services pursuant to Title IV-D of the Social Security Act,  
104 the court shall have continuing jurisdiction.

105 (7) In any subsequent child support enforcement action  
106 between the parties, upon sufficient showing that diligent effort  
107 has been made to ascertain the location of a party, due process  
108 requirements for notice and service of process shall be deemed to  
109 be met with respect to the party upon delivery of written notice  
110 to the most recent residential or employer address filed with the  
111 state case registry.

112 (8) The duty of support of a child terminates upon the  
113 emancipation of the child. The court may determine that  
114 emancipation has occurred and no other support obligation exists  
115 when the child:

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

117 (b) Marries, or

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

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

125 (9) Upon motion of a party requesting temporary child  
126 support pending a determination of parentage, temporary support  
127 shall be ordered if there is clear and convincing evidence of



128 paternity on the basis of genetic tests or other evidence, unless  
129 the court makes written findings of fact on the record that the  
130 award of temporary support would be unjust or inappropriate in a  
131 particular case.

132         **SECTION 2.** This act shall take effect and be in force from  
133 and after July 1, 2002.

