

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

To: Judiciary A

HOUSE BILL NO. 1482
(As Passed the House)

1 AN ACT TO BRING FORWARD SECTION 93-11-65, MISSISSIPPI CODE OF
2 1972; AND FOR RELATED PURPOSES.

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

4 **SECTION 1.** Section 93-11-65, Mississippi Code of 1972, is
5 brought forward as follows:

6 93-11-65. (1) (a) In addition to the right to proceed
7 under Section 93-5-23, Mississippi Code of 1972, and in addition
8 to the remedy of habeas corpus in proper cases, and other existing
9 remedies, the chancery court of the proper county shall have
10 jurisdiction to entertain suits for the custody, care, support and
11 maintenance of minor children and to hear and determine all such
12 matters, and shall, if need be, require bond, sureties or other
13 guarantee to secure any order for periodic payments for the
14 maintenance or support of a child. In the event a legally
15 responsible parent has health insurance available to him or her
16 through an employer or organization that may extend benefits to
17 the dependents of such parent, any order of support issued against
18 such parent may require him or her to exercise the option of
19 additional coverage in favor of such children as he or she is
20 legally responsible to support. Proceedings may be brought by or
21 against a resident or nonresident of the State of Mississippi,
22 whether or not having the actual custody of minor children, for
23 the purpose of judicially determining the legal custody of a
24 child. All actions herein authorized may be brought in the county
25 where the child is actually residing, or in the county of the
26 residence of the party who has actual custody, or of the residence
27 of the defendant. Process shall be had upon the parties as



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

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

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

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

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



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

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

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



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

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

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

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

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

115 (b) Marries, or

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

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

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



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

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

