

By: Senator(s) Dearing

To: Judiciary

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2540

1 AN ACT TO AMEND SECTION 93-11-65, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE RIGHT OF A CHILD TO CHOOSE WITH WHICH PARENT TO LIVE  
3 UPON REACHING THE AGE OF 12; AND FOR RELATED PURPOSES.

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

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

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



28 of the defendant. Process shall be had upon the parties as  
29 provided by law for process in person or by publication, if they  
30 be nonresidents of the state or residents of another jurisdiction  
31 or are not found therein after diligent search and inquiry or are  
32 unknown after diligent search and inquiry; provided that the court  
33 or chancellor in vacation may fix a date in termtime or in  
34 vacation to which process may be returnable and shall have power  
35 to proceed in termtime or vacation. \* \* \*

36 (b) An order of child support shall specify the sum to  
37 be paid weekly or otherwise. In addition to providing for support  
38 and education, the order shall also provide for the support of the  
39 child prior to the making of the order for child support, and such  
40 other expenses as the court may deem proper.

41 (c) The court may require the payment to be made to the  
42 custodial parent, or to some person or corporation to be  
43 designated by the court as trustee, but if the child or custodial  
44 parent is receiving public assistance, the Department of Human  
45 Services shall be made the trustee.

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

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

54 (3) Whenever the court has ordered a party to make periodic  
55 payments for the maintenance or support of a child, but no bond,  
56 sureties or other guarantee has been required to secure such  
57 payments, and whenever such payments as have become due remain  
58 unpaid for a period of at least thirty (30) days, the court may,  
59 upon petition of the person to whom such payments are owing, or  
60 such person's legal representative, enter an order requiring that



61 bond, sureties or other security be given by the person obligated  
62 to make such payments, the amount and sufficiency of which shall  
63 be approved by the court. The obligor shall, as in other civil  
64 actions, be served with process and shall be entitled to a hearing  
65 in such case.

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

84 (5) Each party to a paternity or child support proceeding  
85 shall notify the other within five (5) days after any change of  
86 address. In addition, the noncustodial and custodial parent shall  
87 file and update, with the court and with the state case registry,  
88 information on that party's location and identity, including  
89 social security number, residential and mailing addresses,  
90 telephone numbers, photograph, driver's license number, and name,  
91 address and telephone number of the party's employer. This  
92 information shall be required upon entry of an order or within  
93 five (5) days of a change of address.



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

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

104 (8) The duty of support of a child terminates upon the  
105 emancipation of the child. The court may determine that  
106 emancipation has occurred and no other support obligation exists  
107 when the child:

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

109 (b) Marries, or

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

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

117 (9) Upon motion of a party requesting temporary child  
118 support pending a determination of parentage, temporary support  
119 shall be ordered if there is clear and convincing evidence of  
120 paternity on the basis of genetic tests or other evidence, unless  
121 the court makes written findings of fact on the record that the  
122 award of temporary support would be unjust or inappropriate in a  
123 particular case.

124 **SECTION 2.** This act shall take effect and be in force from  
125 and after July 1, 2003.

