

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.

