

By: Senator(s) Williamson

To: Judiciary, Division A

SENATE BILL NO. 2330

1 AN ACT TO AMEND SECTION 93-5-2, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE GROUNDS FOR IRRECONCILABLE DIFFERENCES DIVORCES; AND  
3 FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 93-5-2, Mississippi Code of 1972, is  
6 amended as follows:

7 93-5-2. (1) Divorce from the bonds of matrimony may be  
8 granted on the ground of irreconcilable differences, \* \* \* upon  
9 the single application of either the husband and wife or a  
10 complaint where the defendant has been \* \* \* served with process  
11 or where the defendant has entered an appearance by written waiver  
12 of process.

13 (2) If the parties provide by written agreement for the  
14 custody and maintenance of any children of that marriage and for  
15 the settlement of any property rights between the parties and the  
16 court finds that such provisions are adequate and sufficient, the  
17 agreement may be incorporated in the judgment, and such judgment  
18 may be modified as other judgments for divorce.

19 (3) If the parties are unable to agree upon adequate and  
20 sufficient provisions for the custody and maintenance of any  
21 children of that marriage or any property rights between  
22 them, \* \* \* the court shall decide the issues upon which they  
23 cannot agree. \* \* \* The failure or refusal of either party to  
24 agree as to adequate and sufficient provisions for the custody and  
25 maintenance of any children of that marriage or any property  
26 rights between the parties, or any portion of such issues, \* \* \*  
27 shall not be used as evidence, or in any manner, against such

28 party. No divorce shall be granted pursuant to this subsection  
29 until all matters involving custody and maintenance of any child  
30 of that marriage and property rights between the parties raised by  
31 the pleadings have been either adjudicated by the court or agreed  
32 upon by the parties and found to be adequate and sufficient by the  
33 court and included in the judgment of divorce. Appeals from any  
34 orders and judgments rendered pursuant to this subsection may be  
35 had as in other cases in chancery court \* \* \*.

36 (4) Complaints for divorce on the ground of irreconcilable  
37 differences must have been on file for sixty (60) days before  
38 being heard. Except as otherwise provided in subsection (3) of  
39 this section, a joint complaint for divorce solely on the ground  
40 of irreconcilable differences of husband and wife, or a complaint  
41 where the defendant has been personally served with process or  
42 where the defendant has entered an appearance by written waiver of  
43 process, \* \* \* shall be taken as proved and a final judgment  
44 entered thereon, as in other cases and without proof or testimony  
45 in termtime or vacation, the provisions of Section 93-5-17 to the  
46 contrary notwithstanding.

47 (5) \* \* \* A divorce \* \* \* on the ground of irreconcilable  
48 differences may be granted upon the single application of either  
49 the husband or wife even though the other spouse enters a contest  
50 or denial, provided that the petitioning husband or wife states  
51 that the marriage is irretrievably broken and cannot be  
52 reconciled.

53 (6) Irreconcilable differences may be asserted as a sole  
54 ground for divorce or as an alternate ground for divorce with any  
55 other cause for divorce set out in Section 93-5-1.

56 **SECTION 2.** This act shall take effect and be in force from  
57 and after July 1, 2004.