

By: Senator(s) Butler

To: Judiciary, Division A

SENATE BILL NO. 2314

1 AN ACT TO AMEND SECTION 93-5-23, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE CUSTODIAL PARENT OF A CHILD WILL BE RESPONSIBLE
3 FOR THE HEALTH CARE EXPENSES OF THE CHILD WHEN THE COURT ORDER
4 AWARDING CUSTODY AND ANY ORDER OF SUPPORT DO NOT SPECIFICALLY
5 ASSIGN THAT RESPONSIBILITY; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 93-5-23, Mississippi Code of 1972, is
8 amended as follows:

9 93-5-23. When a divorce shall be decreed from the bonds of
10 matrimony, the court may, in its discretion, having regard to the
11 circumstances of the parties and the nature of the case, as may
12 seem equitable and just, make all orders touching the care,
13 custody and maintenance of the children of the marriage, and also
14 touching the maintenance and alimony of the wife or the husband,
15 or any allowance to be made to her or him, and shall, if need be,
16 require bond, sureties or other guarantee for the payment of the
17 sum so allowed. Orders touching on the custody of the children of
18 the marriage shall be made in accordance with the provisions of
19 Section 93-5-24. The court may afterwards, on petition, change
20 the decree, and make from time to time such new decrees as the
21 case may require. However, where proof shows that both parents
22 have separate incomes or estates, the court may require that each
23 parent contribute to the support and maintenance of the children
24 of the marriage in proportion to the relative financial ability of
25 each. In the event a legally responsible parent has health
26 insurance available to him or her through an employer or
27 organization that may extend benefits to the dependents of such
28 parent, any order of support issued against such parent may

29 require him or her to exercise the option of additional coverage
30 in favor of such children as he or she is legally responsible to
31 support. In the event neither the order of support nor custody
32 order assign responsibility for payment of health care expenses
33 for the child or children, the custodial parent shall be
34 responsible for health care expenses for the child or children.

35 Whenever the court has ordered a party to make periodic
36 payments for the maintenance or support of a child, but no bond,
37 sureties or other guarantee has been required to secure such
38 payments, and whenever such payments as have become due remain
39 unpaid for a period of at least thirty (30) days, the court may,
40 upon petition of the person to whom such payments are owing, or
41 such person's legal representative, enter an order requiring that
42 bond, sureties or other security be given by the person obligated
43 to make such payments, the amount and sufficiency of which shall
44 be approved by the court. The obligor shall, as in other civil
45 actions, be served with process and shall be entitled to a hearing
46 in such case.

47 Whenever in any proceeding in the chancery court concerning
48 the custody of a child a party alleges that the child whose
49 custody is at issue has been the victim of sexual or physical
50 abuse by the other party, the court may, on its own motion, grant
51 a continuance in the custody proceeding only until such allegation
52 has been investigated by the Department of Human Services. At the
53 time of ordering such continuance the court may direct the party,
54 and his attorney, making such allegation of child abuse to report
55 in writing and provide all evidence touching on the allegation of
56 abuse to the Department of Human Services. The Department of
57 Human Services shall investigate such allegation and take such
58 action as it deems appropriate and as provided in such cases under
59 the Youth Court Law (being Chapter 21 of Title 43, Mississippi
60 Code of 1972) or under the laws establishing family courts (being
61 Chapter 23 of Title 43, Mississippi Code of 1972).

62 If after investigation by the Department of Human Services or
63 final disposition by the youth court or family court allegations
64 of child abuse are found to be without foundation, the chancery
65 court shall order the alleging party to pay all court costs and
66 reasonable attorney's fees incurred by the defending party in
67 responding to such allegation.

68 The court may investigate, hear and make a determination in a
69 custody action when a charge of abuse and/or neglect arises in the
70 course of a custody action as provided in Section 43-21-151, and
71 in such cases the court shall appoint a guardian ad litem for the
72 child as provided under Section 43-21-121, who shall be an
73 attorney. Unless the chancery court's jurisdiction has been
74 terminated, all disposition orders in such cases for placement
75 with the Department of Human Services shall be reviewed by the
76 court or designated authority at least annually to determine if
77 continued placement with the department is in the best interest of
78 the child or public.

79 The duty of support of a child terminates upon the
80 emancipation of the child. The court may determine that
81 emancipation has occurred and no other support obligation exists
82 when the child:

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

84 (b) Marries, or

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

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

92 **SECTION 2.** This act shall take effect and be in force from
93 and after July 1, 2005.