

By: Senator(s) Dawkins

To: Judiciary, Division A

SENATE BILL NO. 2997

1 AN ACT TO AMEND SECTIONS 93-5-23, 9-1-17, 9-5-87, AND
2 99-37-19, MISSISSIPPI CODE OF 1972, TO FOSTER COLLECTION OF CHILD
3 SUPPORT PAYMENTS FROM DEADBEAT PARENTS THROUGH STRUCTURED WORK
4 RELEASE PROGRAMS AND TO ALLEVIATE OVERCROWDING IN COUNTY JAILS;
5 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.

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

44 At the discretion of the court, any person found in contempt
45 of court for failure to pay child support, and imprisoned
46 therefor, may be referred for placement in a Department of
47 Corrections-operated or, in counties where established, a
48 county-operated restitution center, provided the person meets the
49 qualification prescribed in Section 99-37-19.

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

62 the Youth Court Law (being Chapter 21 of Title 43, Mississippi
63 Code of 1972) or under the laws establishing family courts (being
64 Chapter 23 of Title 43, Mississippi Code of 1972).

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

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

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

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

87 (b) Marries, or

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

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

95 **SECTION 2.** Section 99-37-19, Mississippi Code of 1972, is
96 amended as follows:

97 99-37-19. The boards of supervisors of the several counties
98 and the governing authorities of municipalities are hereby
99 authorized to cooperate with the Department of Corrections in the
100 establishment of restitution centers. Such centers may house both
101 probationers referred by the circuit courts as well as inmates
102 transferred from other facilities of the Department of Corrections
103 as provided in Section 47-5-110; the centers may also house those
104 contemnors referred by the chancery court for failure to pay child
105 support separately from probationers and inmates. In order to
106 qualify for placement in a restitution center, an offender must:
107 (a) be convicted of a nonviolent offense that constitutes a
108 felony, (b) not be convicted of a sex crime and (c) not have drug,
109 alcohol, emotional or physical problems so serious that the
110 offender appears unlikely to meet obligations of the restitution
111 program. Such centers shall be operated by the Department of
112 Corrections. County or municipal property may be utilized with
113 the approval of the board of supervisors or municipal governing
114 authority for the construction, renovation and maintenance of
115 facilities owned by the state or a local political subdivision.
116 Such facility may be leased to the Department of Corrections for a
117 period of time for use as a restitution center.

118 It is the intent of this section that county and local
119 governments contribute only to the establishment, renovation and
120 maintenance of the physical plant of a restitution center and that
121 the Department of Corrections support the operation of, and have
122 sole jurisdiction over and responsibility for offenders and
123 contemnors in, such restitution program.

124 * * *

125 **SECTION 3.** Section 9-1-17, Mississippi Code of 1972, is
126 amended as follows:

127 9-1-17. The Supreme, circuit, chancery and county courts and
128 the Court of Appeals shall have power to fine and imprison any
129 person guilty of contempt of the court while sitting, but the fine
130 shall not exceed One Hundred Dollars (\$100.00) for each offense,
131 nor shall the imprisonment continue longer than thirty (30) days.
132 If any witness refuse to be sworn or to give evidence, or if any
133 officer or person refuse to obey or perform any rules, order, or
134 judgment of the court, such court shall have power to fine and
135 imprison such officer or person until he shall give evidence, or
136 until the rule, order, or judgment shall be complied with.

137 At the discretion of the court, any person found in contempt
138 of court for failure to pay child support payments, and imprisoned
139 therefor, may be referred for placement in a Department of
140 Corrections-operated or, in counties where established, a
141 county-operated restitution center, provided the person meets the
142 qualification prescribed in Section 99-37-19.

143 **SECTION 4.** Section 9-5-87, Mississippi Code of 1972, is
144 amended as follows:

145 9-5-87. The chancery court, or the chancellor in vacation,
146 or judge granting the writ, shall have power to punish any person
147 for breach of injunction, or any other order, decree, or process
148 of the court, by fine or imprisonment, or both, or the chancellor
149 or judge granting the writ may require bail for the appearance of
150 the party at the next term of the court to answer for the
151 contempt; but such person shall be first cited to appear and
152 answer. And any person so punished by order of the chancellor in
153 vacation, may on five days' notice to the opposite party, apply to
154 a judge of the Supreme Court, who, for good cause shown, may
155 supersede the punishment until the meeting of the said chancery
156 court.

157 At the discretion of the chancellor, any person found in
158 contempt of court for failure to pay child support, and imprisoned
159 therefor, may be referred for placement in a Department of

160 Corrections-operated or, in counties where established, a
161 county-operated restitution center, provided the person meets the
162 qualification prescribed in Section 99-37-19.

163 **SECTION 5.** This act shall take effect and be in force from
164 and after July 1, 2005.