

By: Representative Snowden

To: Military Affairs;
Judiciary A

HOUSE BILL NO. 839

1 AN ACT TO AMEND SECTION 93-16-3, MISSISSIPPI CODE OF 1972, TO
2 ALLOW A GRANDPARENT TO PETITION FOR VISITATION RIGHTS WITH HIS OR
3 HER GRANDCHILD WHEN THE CHILD'S PARENT IS ON ACTIVE MILITARY
4 SERVICE IN THE UNITED STATES ARMED FORCES IN AN ACTIVE DUTY
5 STATUS; TO REARRANGE, WITHOUT CHANGING THE SUBSTANCE OF AND IN
6 ORDER TO CLARIFY, THE PROVISION DESCRIBING THE OTHER INSTANCES IN
7 WHICH A GRANDPARENT MAY SEEK VISITATION RIGHTS WITH A GRANDCHILD;
8 AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 93-16-3, Mississippi Code of 1972, is
11 amended as follows:

12 93-16-3. (1) The grandparent of a minor child may seek
13 visitation rights with the child in the following instances:

14 (a) Whenever a court of this state has entered a decree
15 or order awarding custody of a minor child to one (1) of the
16 parents of the child * * *, either parent of the child's parents
17 who was not awarded custody * * * may petition the court in which
18 the decree or order was rendered * * * and seek visitation rights
19 with the child.

20 (b) Whenever a court of this state has entered a decree
21 or order terminating the parental rights of one (1) of the parents
22 of a minor child, either parent of the child's parent whose
23 parental rights have been terminated may petition the court in
24 which the decree or order was rendered and seek visitation rights
25 with the child.

26 (c) Whenever one (1) of the parents of a minor child
27 dies, either parent of the child's parent who has died may
28 petition the chancery court in the county in which the child
29 resides and seek visitation rights with the child.

30 (d) Whenever one (1) of the parents of a minor child is
31 on active federal service as a member of the Armed Forces of the
32 United States in an active duty status and that parent is not
33 residing with the child, either parent of the child's parent who
34 is on such active federal service may petition the chancery court
35 in the county in which the child resides and seek visitation
36 rights with the child.

37 (2) Any grandparent who is not authorized to petition for
38 visitation rights pursuant to subsection (1) of this section may
39 petition the chancery court and seek visitation rights with his or
40 her grandchild, and the court may grant visitation rights to the
41 grandparent, provided the court finds:

42 (a) That the grandparent of the child had established a
43 viable relationship with the child and the parent or custodian of
44 the child unreasonably denied the grandparent visitation rights
45 with the child; and

46 (b) That visitation rights of the grandparent with the
47 child would be in the best interests of the child.

48 (3) For purposes of subsection (2) of this section, the term
49 "viable relationship" means a relationship in which the
50 grandparents or either of them have voluntarily and in good faith
51 supported the child financially in whole or in part for a period
52 of not less than six (6) months before filing any petition for
53 visitation rights with the child or the grandparents have had
54 frequent visitation including occasional overnight visitation with
55 said child for a period of not less than one (1) year.

56 (4) Any petition for visitation rights under subsection (2)
57 of this section shall be filed in the county where an order of
58 custody as to such child has previously been entered. If no such
59 custody order has been entered, then the grandparents' petition
60 shall be filed in the county where the child resides or may be
61 found. The court shall on motion of the parent or parents direct
62 the grandparents to pay reasonable attorney's fees to the parent

63 or parents in advance and prior to any hearing, except in cases in
64 which the court finds that no financial hardship will be imposed
65 upon the parents. The court may also direct the grandparents to
66 pay reasonable attorney's fees to the parent or parents of the
67 child and court costs regardless of the outcome of the petition.

68 **SECTION 2.** This act shall take effect and be in force from
69 and after July 1, 2006.