

By: Representative Dixon

To: Judiciary B

HOUSE BILL NO. 1241

1 AN ACT TO AMEND SECTION 93-11-65, MISSISSIPPI CODE OF 1972,
2 TO ALLOW CREDIT TOWARD CHILD SUPPORT OBLIGATIONS UPON PRESENTATION
3 OF RECEIPTS TO THE DEPARTMENT OF HUMAN SERVICES AND THE COURT; AND
4 FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 93-11-65, Mississippi Code of 1972, is
7 amended as follows:

8 93-11-65. (1) (a) In addition to the right to proceed
9 under Section 93-5-23, Mississippi Code of 1972, and in addition
10 to the remedy of habeas corpus in proper cases, and other existing
11 remedies, the chancery court of the proper county shall have
12 jurisdiction to entertain suits for the custody, care, support and
13 maintenance of minor children and to hear and determine all such
14 matters, and shall, if need be, require bond, sureties or other
15 guarantee to secure any order for periodic payments for the
16 maintenance or support of a child. In the event a legally
17 responsible parent has health insurance available to him or her
18 through an employer or organization that may extend benefits to
19 the dependents of such parent, any order of support issued against



20 such parent may require him or her to exercise the option of
21 additional coverage in favor of such children as he or she is
22 legally responsible to support. Proceedings may be brought by or
23 against a resident or nonresident of the State of Mississippi,
24 whether or not having the actual custody of minor children, for
25 the purpose of judicially determining the legal custody of a
26 child. All actions herein authorized may be brought in the county
27 where the child is actually residing, or in the county of the
28 residence of the party who has actual custody, or of the residence
29 of the defendant. Process shall be had upon the parties as
30 provided by law for process in person or by publication, if they
31 be nonresidents of the state or residents of another jurisdiction
32 or are not found therein after diligent search and inquiry or are
33 unknown after diligent search and inquiry; provided that the court
34 or chancellor in vacation may fix a date in termtime or in
35 vacation to which process may be returnable and shall have power
36 to proceed in termtime or vacation. Provided, however, that if
37 the court shall find that both parties are fit and proper persons
38 to have custody of the children, and that either party is able to
39 adequately provide for the care and maintenance of the children,
40 the chancellor may consider the preference of a child of twelve
41 (12) years of age or older as to the parent with whom the child
42 would prefer to live in determining what would be in the best
43 interest and welfare of the child. The chancellor shall place on
44 the record the reason or reasons for which the award of custody



45 was made and explain in detail why the wishes of any child were or
46 were not honored.

47 (b) An order of child support shall specify the sum to
48 be paid weekly or otherwise. In addition to providing for support
49 and education, the order shall also provide for the support of the
50 child prior to the making of the order for child support, and such
51 other expenses as the court may deem proper.

52 (c) The court may require the payment to be made to the
53 custodial parent, or to some person or corporation to be
54 designated by the court as trustee, but if the child or custodial
55 parent is receiving public assistance, the Department of Human
56 Services shall be made the trustee.

57 (d) The noncustodial parent's liabilities for past
58 education and necessary support and maintenance and other expenses
59 are limited to a period of one (1) year next preceding the
60 commencement of an action.

61 (e) The court shall provide credit for any receipts
62 provided to the court and to the Department of Human Services that
63 prove that the parent responsible for support and maintenance has
64 expended funds in support of the child. Such receipts must prove
65 that such funds were spent to benefit the child and were spent in
66 conformance to the order for support.

67 (2) Provided further, that where the proof shows that both
68 parents have separate incomes or estates, the court may require



69 that each parent contribute to the support and maintenance of the
70 children in proportion to the relative financial ability of each.

71 (3) Whenever the court has ordered a party to make periodic
72 payments for the maintenance or support of a child, but no bond,
73 sureties or other guarantee has been required to secure such
74 payments, and whenever such payments as have become due remain
75 unpaid for a period of at least thirty (30) days, the court may,
76 upon petition of the person to whom such payments are owing, or
77 such person's legal representative, enter an order requiring that
78 bond, sureties or other security be given by the person obligated
79 to make such payments, the amount and sufficiency of which shall
80 be approved by the court. The obligor shall, as in other civil
81 actions, be served with process and shall be entitled to a hearing
82 in such case.

83 (4) When a charge of abuse or neglect of a child first
84 arises in the course of a custody or maintenance action pending in
85 the chancery court pursuant to this section, the chancery court
86 may proceed with the investigation, hearing and determination of
87 such abuse or neglect charge as a part of its hearing and
88 determination of the custody or maintenance issue as between the
89 parents, as provided in Section 43-21-151, notwithstanding the
90 other provisions of the Youth Court Law. The proceedings in
91 chancery court on the abuse or neglect charge shall be
92 confidential in the same manner as provided in youth court
93 proceedings, and the chancery court shall appoint a guardian ad



litem in such cases, as provided under Section 43-21-121 for youth court proceedings, who shall be an attorney. In determining whether any portion of a guardian ad litem's fee shall be assessed against any party or parties as a cost of court for reimbursement to the county, the court shall consider each party's individual ability to pay. Unless the chancery court's jurisdiction has been terminated, all disposition orders in such cases for placement with the Department of Human Services shall be reviewed by the court or designated authority at least annually to determine if continued placement with the department is in the best interest of the child or the public.

(5) Each party to a paternity or child support proceeding shall notify the other within five (5) days after any change of address. In addition, the noncustodial and custodial parent shall file and update, with the court and with the state case registry, information on that party's location and identity, including social security number, residential and mailing addresses, telephone numbers, photograph, driver's license number, and name, address and telephone number of the party's employer. This information shall be required upon entry of an order or within five (5) days of a change of address.

(6) In any case subsequently enforced by the Department of Human Services pursuant to Title IV-D of the Social Security Act, the court shall have continuing jurisdiction.



118 (7) In any subsequent child support enforcement action
119 between the parties, upon sufficient showing that diligent effort
120 has been made to ascertain the location of a party, due process
121 requirements for notice and service of process shall be deemed to
122 be met with respect to the party upon delivery of written notice
123 to the most recent residential or employer address filed with the
124 state case registry.

125 (8) (a) The duty of support of a child terminates upon the
126 emancipation of the child. Unless otherwise provided for in the
127 underlying child support judgment, emancipation shall occur when
128 the child:

129 (i) Attains the age of twenty-one (21) years, or
130 (ii) Marries, or
131 (iii) Joins the military and serves on a full-time
132 basis, or
133 (iv) Is convicted of a felony and is sentenced to
134 incarceration of two (2) or more years for committing such
135 felony; * * *

136 (b) Unless otherwise provided for in the underlying
137 child support judgment, the court may determine that emancipation
138 has occurred and no other support obligation exists when the
139 child:

140 (i) Discontinues full-time enrollment in school
141 having attained the age of eighteen (18) years, unless the child
142 is disabled, or



(ii) Voluntarily moves from the home of the custodial parent or guardian, establishes independent living arrangements, obtains full-time employment and discontinues educational endeavors prior to attaining the age of twenty-one (21) years, or

(iii) Cohabits with another person without the approval of the parent obligated to pay support; * * *

(c) The duty of support of a child who is incarcerated but not emancipated shall be suspended for the period of the child's incarceration.

(9) A determination of emancipation does not terminate any obligation of the noncustodial parent to satisfy arrearage existing as of the date of emancipation; the total amount of periodic support due prior to the emancipation plus any periodic amounts ordered paid toward the arrearage shall continue to be owed until satisfaction of the arrearage in full, in addition to the right of the person for whom the obligation is owed to execute for collection as may be provided by law.

(10) Upon motion of a party requesting temporary child support pending a determination of parentage, temporary support shall be ordered if there is clear and convincing evidence of paternity on the basis of genetic tests or other evidence, unless the court makes written findings of fact on the record that the award of temporary support would be unjust or inappropriate in a particular case.



168 (11) Custody and visitation upon military temporary duty,
169 deployment or mobilization shall be governed by Section 93-5-34.

170 **SECTION 2.** This act shall take effect and be in force from
171 and after July 1, 2013.

