

By: Senator(s) Tindell

To: Judiciary, Division A

SENATE BILL NO. 2375

1 AN ACT TO AMEND SECTION 93-13-37, MISSISSIPPI CODE OF 1972,  
2 TO CREATE A CATEGORY OF SPECIAL GENERAL GUARDIAN TO OVERSEE THE  
3 PERSON AND AFFAIRS OF CERTAIN MINORS; TO AMEND SECTIONS 93-13-55,  
4 93-13-57, 93-13-67 AND 93-13-77, MISSISSIPPI CODE OF 1972, TO  
5 CONFORM AND TO PROVIDE FOR WAIVER OF ANNUAL ACCOUNTINGS AND FINAL  
6 ACCOUNTINGS AND CLOSURE OF GUARDIANSHIP FILES IN CERTAIN  
7 CIRCUMSTANCES; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 93-13-37, Mississippi Code of 1972, is  
10 amended as follows:

11 93-13-37. (1) If the minor ward \* \* \* has a father or  
12 mother, the court, or chancellor in vacation, shall determine  
13 whether the expense of maintaining and educating him shall be  
14 borne by his guardian or not.

15 (2) (a) If the minor ward has a father or mother but no  
16 parent able to take responsibility for the minor, and the minor's  
17 assets do not include any real property, cash-on-hand of no more  
18 than Two Hundred Fifty Dollars (\$250.00), and personal property  
19 worth no more than One Thousand Dollars (\$1,000.00), and the court  
20 finds that it would be in the best interests of the minor, a



21 special general guardian who is related to the minor by blood or  
22 marriage may be appointed for the minor. An attorney is not  
23 required for this proceeding in chancery court, and the court  
24 shall waive annual or final accounting by the special general  
25 guardian.

26 (b) A special general guardian must comply with all  
27 relevant provisions of this chapter immediately upon there coming  
28 into his hands any realty, personalty or monies in excess of the  
29 limitations of this subsection (2).

30 **SECTION 2.** Section 93-13-55, Mississippi Code of 1972, is  
31 amended as follows:

32 93-13-55. (1) (a) Whenever a guardian shall receive for  
33 his ward, by inheritance, bequest or gift, any stocks, bonds or  
34 other securities or investments, in which the guardian is not  
35 authorized by law to invest the \* \* \* monies of his ward, he shall  
36 apply to the court, or chancellor in vacation, for directions as  
37 to the disposition of \* \* \* the stocks, bonds or other securities  
38 or investments. The court shall determine whether the guardian  
39 shall retain \* \* \* the stocks, bonds or other securities or  
40 investments in the form in which they were received by the \* \* \*  
41 guardian, or sell the same and reinvest the proceeds \* \* \*. If  
42 the court or chancellor direct the guardian to retain \* \* \* the  
43 stocks, bonds or other securities or investments, responsibility  
44 shall not attach thereafter to the guardian \* \* \* as to the  
45 sufficiency of \* \* \* the investment.



46           (b) Whenever a special general guardian appointed under  
47 Section 93-13-37 shall receive for his ward, by inheritance,  
48 bequest, gift or other acquisition, any property in which the  
49 guardian is not authorized by law to invest the monies of his  
50 ward, he shall apply to the court, or chancellor in vacation, for  
51 directions as to the disposition of the property. If the court or  
52 chancellor directs the guardian to retain the property,  
53 responsibility shall not attach thereafter to the guardian, but  
54 the court, or chancellor in vacation, may impose a duty of  
55 accounting if it is found to be in the best interest of the ward  
56 and may enforce court rules governing guardianships as the court,  
57 in its discretion, deems appropriate.

58           (2) Nothing in subsection (1) shall be construed to allow  
59 the investment of the money of the ward by the guardian in any  
60 manner other than is authorized by law.

61           **SECTION 3.** Section 93-13-57, Mississippi Code of 1972, is  
62 amended as follows:

63           93-13-57. (1) Whenever the guardian \* \* \* has money of his  
64 ward not needed for current expenditures, or directed to be  
65 invested for the ward, he shall apply to the court, or chancellor  
66 in vacation, for direction as to the disposition he shall make of  
67 it. The court or chancellor shall determine whether he shall lend  
68 it at interest, and upon what security, or how he shall dispose of  
69 it. If the court or chancellor designate the person to whom the  
70 loan shall be made, or the security on which it shall be made, and



71 the loan to be so made, responsibility shall not attach thereafter  
72 to the guardian; but if the court or chancellor shall entrust him  
73 with discretion in the matter, he shall be bound for the exercise  
74 of sound judgment. The court or chancellor in its or his  
75 discretion may direct an investment in the bonds of the state or  
76 of any county, or municipality thereof, or of a levee board, or of  
77 the United States, or in shares of a building and loan association  
78 or a savings and loan association or in collateral trust notes  
79 registered and authenticated by trust departments of any approved  
80 state or national bank or in a common trust established by a bank  
81 or trust company, pursuant to the Uniform Common Trust Fund Law of  
82 Mississippi. Any guardian who fails to report to the court the  
83 fact that he has money of his ward not needed or allowed to be  
84 used for current expenditures, and to ask the order of the court  
85 as to the disposition of such money, may be chargeable with  
86 interest on the same at the rate of eight per centum (8%) per  
87 annum during the time of failure.

88 (2) Whenever a special general guardian appointed pursuant  
89 to Section 93-13-37 has money or other property of his ward not in  
90 excess of the amounts or values listed, he shall apply to the  
91 court, or chancellor in vacation, for direction as to the  
92 disposition he shall make of it.

93 **SECTION 4.** Section 93-13-67, Mississippi Code of 1972, is  
94 amended as follows:



95           93-13-67. (1) Except as herein provided, and as provided in  
96 Section 93-13-7 or 93-13-37, every guardian shall, at least once  
97 in each year, and oftener if required, exhibit his account,  
98 showing the receipts of money on account of his ward, and showing  
99 the annual product of the estate under his management, and the  
100 sale or other disposition thereof, and showing also each item of  
101 his expenditure in the maintenance and education of his ward and  
102 in the preservation and management of his estate, supported by  
103 legal vouchers. In the event that the account shall be presented  
104 by a bank or trust company which is subject to the supervision of  
105 the department of bank supervision of the State of Mississippi or  
106 of the comptroller of the currency of the United States and such  
107 account, or the petition for the approval of same, shall contain a  
108 statement under oath by an officer of said bank or trust company  
109 showing that the vouchers covering the disbursements in the  
110 account presented are on file with the bank or trust  
111 company, \* \* \* the bank or trust company shall not be required to  
112 file vouchers. \* \* \* The bank or trust company shall  
113 produce \* \* \* the vouchers for inspection of any interested party  
114 or his or her attorney at any time during legal banking hours at  
115 the office of \* \* \* the bank or trust company; \* \* \* the court on  
116 its own motion or on the motion of any interested party may  
117 require that \* \* \* the vouchers be produced and inspected at any  
118 hearing of any objections to \* \* \* the annual account. \* \* \* The  
119 accounts shall be examined, approved, and allowed by the court in



120 the same way that the accounts of executors and administrators are  
121 examined, approved, and allowed. Compliance with the duties  
122 required, in this section, of guardian shall be enforced by the  
123 same means and in the same manner as is provided in respect to the  
124 accounts of executors and administrators.

125           \* \* \* (a) However, when the funds and personal property  
126 of the ward do not exceed the sum or value of Three Thousand  
127 Dollars (\$3,000.00) and there is no prospect of further receipt to  
128 come into the hands of the guardian other than interest thereon,  
129 or in guardianships in which the only funds on hand or to be  
130 received by the guardian are funds paid or to be paid by the  
131 Department of \* \* \* Human Services for the benefit of the ward,  
132 the chancery court or chancellor in vacation, may, for good cause  
133 shown, in his discretion and upon being satisfied it is to the  
134 best interest and welfare of the ward, authorize the guardian to  
135 dispense with further such annual accounts, except such as may be  
136 a final account. Furthermore, the chancery court or chancellor in  
137 vacation may \* \* \* dispense with \* \* \* annual accounts \* \* \* if  
138 the ward's assets consist solely of funds on deposit at any  
139 banking corporation, building and loan association or savings and  
140 loan association in this state; have been so deposited under order  
141 of the court to remain until otherwise ordered; are fully insured;  
142 and a certified copy of the order to deposit, properly receipted,  
143 furnished the depository. \* \* \* If the court, or chancellor in  
144 vacation, \* \* \* authorizes the discontinuance of \* \* \* annual



145 accounts, the guardian may, without further order of the court,  
146 from time to time pay the court costs and bond premiums owing  
147 by \* \* \* the estate or him as \* \* \* guardian, and, as well, he may  
148 likewise pay \* \* \* emergency obligations as he may have been  
149 empowered and allowed to do by necessity except for this section;  
150 but, he shall not pay from guardianship funds \* \* \* any other sums  
151 without further order of such court or chancellor without having  
152 first obtained order of the court or chancellor to do so. \* \* \*  
153 If emergency expenditure \* \* \* is needed for the immediate and  
154 necessary welfare of the ward, \* \* \* it shall at once be reported  
155 to the court, or chancellor in vacation, for approval.  
156 Furthermore, the court on its own motion or on the motion of any  
157 interested party may require the resumption and continuance of  
158 annual accounts \* \* \*.

159         (b) At the time of any \* \* \* annual account, the court,  
160 or a judge thereof in vacation, in its discretion, may allow to  
161 the guardian a minimum commission of One Hundred Dollars (\$100.00)  
162 per annum for its services, anything in the statutes of this state  
163 to the contrary notwithstanding.

164         (2) If the ward was a minor and the guardianship terminates  
165 by any means upon the ward obtaining majority, if a final  
166 accounting is not made and the ward does not petition the court to  
167 compel a final accounting on or before July 1, 2014, or the  
168 twenty-second birthday of the ward, whichever comes last, the



169 court may close its file on the guardianship unless it appears to  
170 the court that the court should seek accounting on its own motion.

171 **SECTION 5.** Section 93-13-77, Mississippi Code of 1972, is  
172 amended as follows:

173 93-13-77. When the guardianship shall cease in any manner,  
174 except as provided in Section 93-13-37 or 93-13-67, the guardian  
175 shall make a final settlement of his guardianship \* \* \* by making  
176 out and presenting to the court, under oath, his final account,  
177 which shall contain a distinct statement of all the balances of  
178 his annual accounts, either as debits or credits, and also all  
179 other charges, expenditures, and amounts received, and not  
180 contained in any previous annual account. \* \* \* The final account  
181 shall remain on file for the inspection of the ward, and summons  
182 for him shall be issued, which shall notify him to appear on a day  
183 not less than one month after service thereof or completion of its  
184 publication, and show cause why the final account of the guardian  
185 should not be allowed and approved. In the event that the account  
186 shall be presented by a bank or trust company which is subject to  
187 the supervision of the \* \* \* Mississippi Department of Banking and  
188 Consumer Finance or of the comptroller of the currency of the  
189 United States and \* \* \* the account, or the petition for the  
190 approval of \* \* \* the account, shall contain a statement under  
191 oath by an officer of \* \* \* the bank or trust company showing that  
192 the vouchers covering the disbursements in the account presented  
193 are on file with the \* \* \* bank or trust company, \* \* \* the bank



194 or trust company shall not be required to file vouchers. \* \* \*  
195 The bank or trust company shall produce \* \* \* the vouchers for  
196 inspection of any interested party or his or her attorney at any  
197 time during legal banking hours at the office of \* \* \* the bank or  
198 trust company, and \* \* \* the court on its own motion, or on the  
199 motion of any interested party, may require that \* \* \* the  
200 vouchers be produced and inspected at the time of hearing of any  
201 objections that may be filed to any final account. \* \* \* The  
202 court shall examine the final account, and hear the evidence for  
203 and against it; and if the court \* \* \* is satisfied, after  
204 examination, that the account is just and true, shall make a final  
205 decree of approval, or may allow only so much of the account as is  
206 right; and in the decree it shall make an allowance to the  
207 guardian for his trouble, not exceeding ten per centum (10%) on  
208 the value of the estate; and shall also decree that the property  
209 of the ward shall be delivered to him, if not already delivered,  
210 and that the guardian be discharged. \* \* \* In like manner, and  
211 under like restrictions, it shall be made the duty of an executor  
212 or administrator of a deceased guardian to make final settlement  
213 of their testator's or intestate's guardianship accounts in the  
214 chancery court in which the same may be pending; but any ward  
215 arriving at the age of twenty-one (21) years may petition the  
216 chancery court in which the guardianship is pending to waive the  
217 final settlement required by this section and discharge the  
218 guardian and his sureties, which petition shall be verified by



219 oath, and the court shall grant the same unless there be reason to  
220 suspect that the petition was procured by the guardian through  
221 fraud or undue influence over the ward, in which case the court  
222 shall require proof of the good faith thereof.

223 If a final accounting is not made and the ward does not  
224 petition the court to compel a final accounting on or before July  
225 1, 2014, or the twenty-second birthday of the ward, whichever  
226 comes last, the court may close its file on the guardianship  
227 unless it appears to the court that the court should seek  
228 accounting on its own motion.

229 **SECTION 6.** This act shall take effect and be in force from  
230 and after July 1, 2013.

