

By: Senator(s) Parker, Massey

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2148

1 AN ACT TO AMEND SECTION 93-11-65, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT CHILD SUPPORT FOR A CHILD WITH A DISABILITY MAY
3 CONTINUE PAST THE AGE OF MAJORITY; AND FOR RELATED PURPOSES.

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

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

7 93-11-65. (1) (a) In addition to the right to proceed
8 under Section 93-5-23, Mississippi Code of 1972, and in addition
9 to the remedy of habeas corpus in proper cases, and other existing
10 remedies, the chancery court of the proper county shall have
11 jurisdiction to entertain suits for the custody, care, support and
12 maintenance of minor children and to hear and determine all such
13 matters, and shall, if need be, require bond, sureties or other
14 guarantee to secure any order for periodic payments for the
15 maintenance or support of a child. * * * If a legally responsible
16 parent has health insurance available to him or her through an
17 employer or organization that may extend benefits to the
18 dependents of such parent, any order of support issued against



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



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

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

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

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

60 (2) * * * If the proof shows that both parents have separate
61 incomes or estates, the court may require that each parent
62 contribute to the support and maintenance of the children in
63 proportion to the relative financial ability of each.

64 (3) Whenever the court has ordered a party to make periodic
65 payments for the maintenance or support of a child, but no bond,
66 sureties or other guarantee has been required to secure such
67 payments, and whenever such payments as have become due remain
68 unpaid for a period of at least thirty (30) days, the court may,



69 upon petition of the person to whom such payments are owing, or
70 such person's legal representative, enter an order requiring that
71 bond, sureties or other security be given by the person obligated
72 to make such payments, the amount and sufficiency of which shall
73 be approved by the court. The obligor shall, as in other civil
74 actions, be served with process and shall be entitled to a hearing
75 in such case.

76 (4) When a charge of abuse or neglect of a child first
77 arises in the course of a custody or maintenance action pending in
78 the chancery court pursuant to this section, the chancery court
79 may proceed with the investigation, hearing and determination of
80 such abuse or neglect charge as a part of its hearing and
81 determination of the custody or maintenance issue as between the
82 parents, as provided in Section 43-21-151, notwithstanding the
83 other provisions of the Youth Court Law. The proceedings in
84 chancery court on the abuse or neglect charge shall be
85 confidential in the same manner as provided in youth court
86 proceedings, and the chancery court shall appoint a guardian ad
87 litem in such cases, as provided under Section 43-21-121 for youth
88 court proceedings, who shall be an attorney. In determining
89 whether any portion of a guardian ad litem's fee shall be assessed
90 against any party or parties as a cost of court for reimbursement
91 to the county, the court shall consider each party's individual
92 ability to pay. Unless the chancery court's jurisdiction has been
93 terminated, all disposition orders in such cases for placement



94 with the Department of Human Services shall be reviewed by the
95 court or designated authority at least annually to determine if
96 continued placement with the department is in the best interest of
97 the child or the public.

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

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

111 (7) In any subsequent child support enforcement action
112 between the parties, upon sufficient showing that diligent effort
113 has been made to ascertain the location of a party, due process
114 requirements for notice and service of process shall be deemed to
115 be met with respect to the party upon delivery of written notice
116 to the most recent residential or employer address filed with the
117 state case registry.



118 (8) (a) The duty of support of a child terminates upon the
119 emancipation of the child. Unless otherwise provided for in the
120 underlying child support judgment, emancipation shall occur when
121 the child:

122 (i) Attains the age of twenty-one (21) years, or

123 (ii) Marries, or

124 (iii) Joins the military and serves on a full-time
125 basis, or

126 (iv) Is convicted of a felony and is sentenced to
127 incarceration of two (2) or more years for committing such
128 felony; * * *

129 (b) Unless otherwise provided for in the underlying
130 child support judgment, the court may determine that emancipation
131 has occurred and no other support obligation exists when the
132 child:

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

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

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



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

146 (d) (i) The court may order, with written findings of
147 fact, that the duty of child support continues past the
148 anticipated age of majority if the minor child has a disability
149 that was present during the child's minority which prevents the
150 child from living independent of a parent or guardian and there is
151 no public program that would better serve the child's needs; the
152 court may also make, modify or leave in place previous orders
153 regarding custody, visitation, payment of medical expenses or any
154 other matters regarding the health, maintenance, education and
155 welfare of the child with a disability;

156 (ii) If public funds are subsequently provided,
157 this will constitute a change in circumstances so that the amount
158 of public funds will offset the parent's support; the court can
159 also find that any other changes in circumstances justify revision
160 of the order of support as for other cases.

161 (9) A determination of emancipation does not terminate any
162 obligation of the noncustodial parent to satisfy arrearage
163 existing as of the date of emancipation; the total amount of
164 periodic support due prior to the emancipation plus any periodic
165 amounts ordered paid toward the arrearage shall continue to be
166 owed until satisfaction of the arrearage in full, in addition to



167 the right of the person for whom the obligation is owed to execute
168 for collection as may be provided by law.

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

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

178 **SECTION 2.** This act shall take effect and be in force from
179 and after July 1, 2015, and shall stand repealed on June 30, 2015.

