

By: Senator(s) Parker, Massey

To: Judiciary, Division A

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. In the event a legally  
16 responsible parent has health insurance available to him or her  
17 through an employer or organization that may extend benefits to  
18 the 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. Provided, however, that if  
36 the court shall find that both parties are fit and proper persons  
37 to 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) Provided further, that where the proof shows that both  
61 parents have separate incomes or estates, the court may require  
62 that each parent contribute to the support and maintenance of the  
63 children in 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) The court may order that the duty of child support  
147 continues past the anticipated age of majority if the minor child  
148 has a disability that was present during the child's minority  
149 which prevents the child from living independent of a parent or  
150 guardian; the court may also make, modify or leave in place  
151 previous orders regarding custody, visitation, payment of medical  
152 expenses or any other matters regarding the health, maintenance,  
153 education and welfare of the child with a disability.

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

162 (10) Upon motion of a party requesting temporary child  
163 support pending a determination of parentage, temporary support  
164 shall be ordered if there is clear and convincing evidence of  
165 paternity on the basis of genetic tests or other evidence, unless  
166 the court makes written findings of fact on the record that the



167 award of temporary support would be unjust or inappropriate in a  
168 particular case.

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

171 **SECTION 2.** This act shall take effect and be in force from  
172 and after its passage.

