

By: Representatives Cockerham, Anthony

To: Judiciary A

HOUSE BILL NO. 888

1 AN ACT TO AMEND SECTION 93-11-65, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE CHILD SUPPORT FOR A CHILD WHO HAS A DISABILITY AND IS  
3 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 \* \* \* through an employer or  
17 organization that may extend benefits to the dependents of \* \* \*  
18 the parent, any order of support issued against \* \* \* the parent



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



43 reasons for which the award of custody was made and explain in  
44 detail why the wishes of any child were or were not honored.

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

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

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

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

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



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

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



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

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

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

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



117           (8) (a) Except as otherwise provided in subsection (11) of  
118 this section, 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 (9) A determination of emancipation does not terminate any  
147 obligation of the noncustodial parent to satisfy arrearage  
148 existing as of the date of emancipation; the total amount of  
149 periodic support due prior to the emancipation plus any periodic  
150 amounts ordered paid toward the arrearage shall continue to be  
151 owed until satisfaction of the arrearage in full, in addition to  
152 the right of the person for whom the obligation is owed to execute  
153 for collection as may be provided by law.

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

161 (11) (a) Support for an adult child who is incapable of  
162 self-support by reason of a physical or mental disability, if the  
163 disability existed during the adult child's minority shall be  
164 presumed to continue past the child's anticipated age of majority;



165           (b) Under the authority provided in this subsection,  
166 the court may:

167           (i) Order that the duty to support a child  
168 continues past the anticipated age of majority if the minor child  
169 has a disability which was present during the child's minority  
170 that prevents the child from living independently unless the child  
171 is a long-term patient in a facility owned or operated by the  
172 State of Mississippi;

173           (ii) Order, modify or leave in place previous  
174 orders regarding custody, visitation, payment of medical expenses  
175 or any other matters regarding the health, maintenance, education  
176 and welfare of the child with a disability; and

177           (iii) Consider the adult child's receipt of and  
178 eligibility for public benefits and community services and  
179 resources in determining the award of support;

180           (c) The presumption of continued support created by  
181 this subsection (11) shall be rebuttable by the introduction of  
182 evidence that the adult child is capable of self-support.

183           ( \* \* \*12) Custody and visitation upon military temporary  
184 duty, deployment or mobilization shall be governed by Section  
185 93-5-34.

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

