

By: Senator(s) Parker, Wiggins, Boyd,
Branning

To: Judiciary, Division A

SENATE BILL NO. 2131

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 * * * 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 * * * 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 * * *
36 finds that both parties are fit and proper persons to have custody
37 of the children, and that either party is able to adequately
38 provide for the care and maintenance of the children, the
39 chancellor may consider the preference of a child of twelve (12)
40 years of age or older as to the parent with whom the child would
41 prefer to live in determining what would be in the best interest
42 and welfare of the child. The chancellor shall place on the
43 record the reason or reasons for which the award of custody was



44 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) * * * Where the proof shows that both parents have
61 separate incomes or estates, the court may require that each
62 parent contribute to the support and maintenance of the children
63 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 * * * the
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
80 of * * * the 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 (9) (a) Notwithstanding the presumption of emancipation
147 under subsection (8) of this section, support for an adult child
148 who is incapable of self-support by reason of a physical or mental
149 disability, if the disability existed during the adult child's
150 minority, shall be presumed to continue past the child's
151 anticipated age of majority;

152 (b) Under this subsection, the court may:

153 (i) Order that the duty to support a child
154 continues past the anticipated age of majority if the minor child
155 has a disability which was present during the child's minority
156 that prevents the child from living independently unless the child
157 is a long-term patient in a facility owned or operated by the
158 State of Mississippi;

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

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



166 (c) The presumption of continued support created by
167 this subsection (9) shall be rebuttable by the introduction of
168 evidence that the adult child is capable of self-support.

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

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

184 (* * *12) Custody and visitation upon military temporary
185 duty, deployment or mobilization shall be governed by Section
186 93-5-34.

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

