

By: Peranich

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1236

1 AN ACT TO AMEND SECTION 93-16-3, MISSISSIPPI CODE OF 1972, TO
2 DISALLOW COURT-ORDERED VISITATION BY GRANDPARENTS WHEN BOTH
3 PARENTS OF THE CHILD OBJECT; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 93-16-3, Mississippi Code of 1972, is
6 amended as follows:

7 93-16-3. (1) Except as otherwise provided in subsection
8 (5), whenever (a) a court of this state enters a decree or order
9 awarding custody of a minor child to one (1) of the parents of the
10 child or terminating the parental rights of one (1) of the parents
11 of a minor child, or (b) one (1) of the parents of a minor child
12 dies, then either parent of the child's parents who was not
13 awarded custody or whose parental rights have been terminated or
14 who has died may petition the court in which the decree or order
15 was rendered or, in the case of the death of a parent, petition
16 the chancery court in the county in which the child resides, and
17 seek visitation rights with such child.

18 (2) Except as otherwise provided in subsection (5), any
19 grandparent who is not authorized to petition for visitation
20 rights pursuant to subsection (1) of this section may petition the
21 chancery court and seek visitation rights with his or her
22 grandchild, and the court may grant visitation rights to the
23 grandparent, provided the court finds:

24 (a) That the grandparent of the child had established a
25 viable relationship with the child and the parent or custodian of
26 the child unreasonably denied the grandparent visitation rights

27 with the child; and

28 (b) That visitation rights of the grandparent with the
29 child would be in the best interests of the child.

30 (3) For purposes of subsection (2) of this section, the term
31 "viable relationship" means a relationship in which the
32 grandparents or either of them have voluntarily and in good faith
33 supported the child financially in whole or in part for a period
34 of not less than six (6) months before filing any petition for
35 visitation rights with the child or the grandparents have had
36 frequent visitation including occasional overnight visitation with
37 said child for a period of not less than one (1) year.

38 (4) Any petition for visitation rights under subsection (2)
39 of this section shall be filed in the county where an order of
40 custody as to such child has previously been entered. If no such
41 custody order has been entered, then the grandparents' petition
42 shall be filed in the county where the child resides or may be
43 found. The court shall on motion of the parent or parents direct
44 the grandparents to pay reasonable attorney's fees to the parent
45 or parents in advance and prior to any hearing, except in cases in
46 which the court finds that no financial hardship will be imposed
47 upon the parents. The court may also direct the grandparents to
48 pay reasonable attorney's fees to the parent or parents of the
49 child and court costs regardless of the outcome of the petition.

50 (5) No court may order or grant visitation rights to a
51 grandparent when both parents of the child or children object to
52 visitation by the grandparent(s).

53 SECTION 2. This act shall take effect and be in force from
54 and after its passage.