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To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2014

1 AN ACT TO AMEND SECTION 93-21-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE DEFINITIONS IN THE PROTECTION FROM DOMESTIC ABUSE ACT; TO
3 AMEND SECTION 93-21-15, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A
4 COURT, IN ISSUING A PROTECTION ORDER, TO INCLUDE THE PROTECTION OF
5 PETS IN THE ORDER; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 93-21-3, Mississippi Code of 1972, is
8 amended as follows:

9 93-21-3. As used in this chapter, unless the context
10 otherwise requires:

11 (a) "Abuse" means the occurrence of one or more of the
12 following acts between spouses, former spouses, persons living as
13 spouses or who formerly lived as spouses, persons having a child
14 or children in common, other individuals related by consanguinity
15 or affinity who reside together or who formerly resided together
16 or between individuals who have a current or former dating
17 relationship:



18 (i) Attempting to cause or intentionally,
19 knowingly or recklessly causing bodily injury or serious bodily
20 injury with or without a deadly weapon;

21 (ii) Placing, by physical menace or threat,
22 another in fear of imminent serious bodily injury;

23 (iii) Criminal sexual conduct committed against a
24 minor within the meaning of Section 97-5-23;

25 (iv) Stalking within the meaning of Section
26 97-3-107;

27 (v) Cyberstalking within the meaning of Section
28 97-45-15; or

29 (vi) Sexual offenses within the meaning of Section
30 97-3-65 or 97-3-95.

31 "Abuse" does not include any act of self-defense.

32 (b) "Adult" means any person eighteen (18) years of age
33 or older, or any person under eighteen (18) years of age who has
34 been emancipated by marriage.

35 (c) "Companion animal" means any animal that is kept
36 inside a residential dwelling and any dog or cat regardless of
37 where it is kept, but does not include livestock or any wild
38 animal; a companion animal is personal property.

39 (* * *d) "Court" means the chancery court, justice
40 court, municipal court or county court.

41 (* * *e) "Dating relationship" means a social
42 relationship of a romantic or intimate nature between two (2)



43 individuals; it does not include a casual relationship or ordinary
44 fraternization between two (2) individuals in a business or social
45 context. Whether a relationship is a "dating relationship" shall
46 be determined by examining the following factors:

- 47 (i) The length of the relationship;
- 48 (ii) The type of relationship; and
- 49 (iii) The frequency of interaction between the two
50 (2) individuals involved in the relationship.

51 (* * *f) "Mutual protection order" means a protection
52 order that includes provisions in favor of both the individual
53 seeking relief and the respondent.

54 **SECTION 2.** Section 93-21-15, Mississippi Code of 1972, is
55 amended as follows:

56 93-21-15. (1) (a) After a hearing is held as provided in
57 Section 93-21-11 for which notice and opportunity to be heard has
58 been granted to the respondent, and upon a finding that the
59 petitioner has proved the existence of abuse by a preponderance of
60 the evidence, the municipal and justice courts shall be empowered
61 to grant a temporary domestic abuse protection order to bring
62 about a cessation of abuse of the petitioner, any minor children,
63 or any person alleged to be incompetent. The relief the court may
64 provide includes, but is not limited to, the following:

- 65 (i) Directing the respondent to refrain from
66 abusing the petitioner, any minor children, or any person alleged
67 to be incompetent;



68 (ii) Prohibiting or limiting respondent's physical
69 proximity to the abused or other household members as designated
70 by the court, including residence and place of work;

71 (iii) Prohibiting or limiting contact by the
72 respondent with the abused or other household members designated
73 by the court, whether in person, by telephone or by other
74 electronic communication;

75 (iv) Granting possession to the petitioner of the
76 residence or household to the exclusion of the respondent by
77 evicting the respondent or restoring possession to the petitioner,
78 or both; or

79 (v) Prohibiting the transferring, encumbering,
80 harming or otherwise disposing of property mutually owned or
81 leased by the parties, except when in the ordinary course of
82 business.

83 (b) The duration of any temporary domestic abuse
84 protection order issued by a municipal or justice court shall not
85 exceed thirty (30) days. However, if the party to be protected
86 and the respondent do not have minor children in common, the
87 duration of the temporary domestic abuse protection order may
88 exceed thirty (30) days but shall not exceed one (1) year.

89 (c) Any person aggrieved by the decision of a municipal
90 or justice court judge to issue a temporary domestic abuse
91 protection order or to deny such an order shall be entitled to
92 request a de novo review by the chancery or county court. All



93 parties shall be advised of the procedure for seeking a de novo
94 hearing.

95 (2) (a) After a hearing is held as provided in Section
96 93-21-11 for which notice and opportunity to be heard has been
97 granted to the respondent, and upon a finding that the petitioner
98 has proved the existence of abuse by a preponderance of the
99 evidence, the chancery or county court shall be empowered to grant
100 a final domestic abuse protection order or approve any consent
101 agreement to bring about a cessation of abuse of the petitioner,
102 any minor children, or any person alleged to be incompetent. In
103 granting a final domestic abuse protection order, the chancery or
104 county court may provide for relief that includes, but is not
105 limited to, the following:

106 (i) Directing the respondent to refrain from
107 abusing the petitioner, any minor children, * * * any person
108 alleged to be incompetent or any companion animal;

109 (ii) Granting possession to the petitioner of the
110 residence or household or personal property to the exclusion of
111 the respondent by evicting the respondent or restoring possession
112 to the petitioner, or both;

113 (iii) When the respondent has a duty to support
114 the petitioner, any minor children, or any person alleged to be
115 incompetent living in the residence or household and the
116 respondent is the sole owner or lessee, granting possession to the
117 petitioner of the residence or household to the exclusion of the



118 respondent by evicting the respondent or restoring possession to
119 the petitioner, or both, or by consent agreement allowing the
120 respondent to provide suitable, alternate housing;

121 (iv) Awarding temporary custody of or establishing
122 temporary visitation rights with regard to any minor children or
123 any person alleged to be incompetent, or both;

124 (v) If the respondent is legally obligated to
125 support the petitioner, any minor children, or any person alleged
126 to be incompetent, ordering the respondent to pay temporary
127 support for the petitioner, any minor children, or any person
128 alleged to be incompetent;

129 (vi) Ordering the respondent to pay to the abused
130 person monetary compensation for losses suffered as a direct
131 result of the abuse, including, but not limited to, medical
132 expenses resulting from such abuse, loss of earnings or support,
133 out-of-pocket losses for injuries sustained, moving expenses, a
134 reasonable attorney's fee, or any combination of the above;

135 (vii) Prohibiting the transferring, encumbering,
136 or otherwise disposing of property mutually owned or leased by the
137 parties, except when in the ordinary course of business;

138 (viii) Prohibiting or limiting respondent's
139 physical proximity to the abused or other household members
140 designated by the court, including residence, school and place of
141 work;



142 (ix) Prohibiting or limiting contact by the
143 respondent with the abused or other household members designated
144 by the court whether in person, by telephone or by electronic
145 communication; and

146 (x) Ordering counseling or professional medical
147 treatment for the respondent, including counseling or treatment
148 designed to bring about the cessation of domestic abuse.

149 (b) Except as provided below, a final domestic abuse
150 protection order issued by a chancery or county court under the
151 provisions of this chapter shall be effective for such time period
152 as the court deems appropriate. The expiration date of the order
153 shall be clearly stated in the order.

154 (c) Temporary provisions addressing temporary custody,
155 visitation or support of minor children contained in a final
156 domestic abuse protection order issued by a chancery or county
157 court shall be effective for one hundred eighty (180) days. A
158 party seeking relief beyond that period must initiate appropriate
159 proceedings in the chancery court of appropriate jurisdiction. If
160 at the end of the one-hundred-eighty-day period, neither party has
161 initiated such proceedings, the custody, visitation or support of
162 minor children will revert to the chancery court order addressing
163 such terms that was in effect at the time the domestic abuse
164 protection order was granted. The chancery court in which
165 custody, visitation or support proceedings have been initiated may



166 provide for any temporary provisions addressing custody,
167 visitation or support as the court deems appropriate.

168 (3) Every domestic abuse protection order issued pursuant to
169 this section shall set forth the reasons for its issuance, shall
170 contain specific findings of fact regarding the existence of
171 abuse, shall be specific in its terms and shall describe in
172 reasonable detail the act or acts to be prohibited. No mutual
173 protection order shall be issued unless that order is supported by
174 an independent petition by each party requesting relief pursuant
175 to this chapter, and the order contains specific findings of fact
176 regarding the existence of abuse by each party as principal
177 aggressor, and a finding that neither party acted in self-defense.

178 (4) The Attorney General, in cooperation with the
179 Mississippi Supreme Court and the Mississippi Judicial College,
180 shall develop standardized forms for temporary and final domestic
181 abuse protection orders. The use of standardized forms in
182 protection order proceedings pursuant to this chapter shall be
183 fully implemented by all courts no later than July 1, 2015.

184 However, in any criminal prosecution or contempt proceeding for a
185 violation of a domestic abuse protection order, it shall not be a
186 defense that the order was not issued on the standardized form.

187 (5) Upon issuance of any protection order by the court, the
188 order shall be entered in the Mississippi Protection Order
189 Registry by the clerk of the court pursuant to Section 93-21-25,



190 and a copy shall be provided to the sheriff's department in the
191 county of the court of issuance.

192 (6) Upon subsequent petition by either party and following a
193 hearing of which both parties have received notice and an
194 opportunity to be heard, the court may modify, amend, or dissolve
195 a domestic abuse protection order previously issued by that court.

196 **SECTION 3.** This act shall take effect and be in force from
197 and after July 1, 2019.

