

By: Representatives Denton, Harness

To: Judiciary B

HOUSE BILL NO. 800

1 AN ACT TO AMEND SECTIONS 93-21-15 AND 93-21-15.1, MISSISSIPPI  
2 CODE OF 1972, TO AUTHORIZE CHANCERY COURT TO ISSUE TEMPORARY  
3 DOMESTIC ABUSE PROTECTION ORDERS; TO AMEND SECTION 93-21-7,  
4 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; AND  
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 93-21-15, Mississippi Code of 1972, is  
8 amended as follows:

9 93-21-15. (1) (a) After a hearing is held as provided in  
10 Section 93-21-11 for which notice and opportunity to be heard has  
11 been granted to the respondent, and upon a finding that the  
12 petitioner has proved the existence of abuse by a preponderance of  
13 the evidence, the chancery, municipal, county and justice courts  
14 shall be empowered to grant a temporary domestic abuse protection  
15 order to bring about a cessation of abuse of the petitioner, any  
16 minor children, or any person alleged to be incompetent. The  
17 relief the court may provide includes, but is not limited to, the  
18 following:



19 (i) Directing the respondent to refrain from  
20 abusing the petitioner, any minor children, or any person alleged  
21 to be incompetent;

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

25 (iii) Prohibiting or limiting contact by the  
26 respondent with the abused or other household members designated  
27 by the court, whether in person, by telephone or by other  
28 electronic communication;

29 (iv) Granting possession to the petitioner of the  
30 residence or household to the exclusion of the respondent by  
31 evicting the respondent or restoring possession to the petitioner,  
32 or both; or

33 (v) Prohibiting the transferring, encumbering or  
34 otherwise disposing of property mutually owned or leased by the  
35 parties, except when in the ordinary course of business.

36 (b) The duration of any temporary domestic abuse  
37 protection order issued \* \* \* shall not exceed thirty (30) days.  
38 However, if the party to be protected and the respondent do not  
39 have minor children in common, the duration of the temporary  
40 domestic abuse protection order may exceed thirty (30) days but  
41 shall not exceed one (1) year.



42 (c) Procedures for an appeal of the issuance of a  
43 temporary domestic abuse protection order are set forth in Section  
44 93-21-15.1.

45 (2) (a) After a hearing is held as provided in Section  
46 93-21-11 for which notice and opportunity to be heard has been  
47 granted to the respondent, and upon a finding that the petitioner  
48 has proved the existence of abuse by a preponderance of the  
49 evidence, the chancery or county court shall be empowered to grant  
50 a final domestic abuse protection order or approve any consent  
51 agreement to bring about a cessation of abuse of the petitioner,  
52 any minor children, or any person alleged to be incompetent. In  
53 granting a final domestic abuse protection order, the chancery or  
54 county court may provide for relief that includes, but is not  
55 limited to, the following:

56 (i) Directing the respondent to refrain from  
57 abusing the petitioner, any minor children, or any person alleged  
58 to be incompetent;

59 (ii) Granting possession to the petitioner of the  
60 residence or household to the exclusion of the respondent by  
61 evicting the respondent or restoring possession to the petitioner,  
62 or both;

63 (iii) When the respondent has a duty to support  
64 the petitioner, any minor children, or any person alleged to be  
65 incompetent living in the residence or household and the  
66 respondent is the sole owner or lessee, granting possession to the



67 petitioner of the residence or household to the exclusion of the  
68 respondent by evicting the respondent or restoring possession to  
69 the petitioner, or both, or by consent agreement allowing the  
70 respondent to provide suitable, alternate housing;

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

74 (v) If the respondent is legally obligated to  
75 support the petitioner, any minor children, or any person alleged  
76 to be incompetent, ordering the respondent to pay temporary  
77 support for the petitioner, any minor children, or any person  
78 alleged to be incompetent;

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

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

88 (viii) Prohibiting or limiting respondent's  
89 physical proximity to the abused or other household members  
90 designated by the court, including residence, school and place of  
91 work;



92                   (ix) Prohibiting or limiting contact by the  
93 respondent with the abused or other household members designated  
94 by the court whether in person, by telephone or by electronic  
95 communication; and

96                   (x) Ordering counseling or professional medical  
97 treatment for the respondent, including counseling or treatment  
98 designed to bring about the cessation of domestic abuse.

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

104                   (c) Temporary provisions addressing temporary custody,  
105 visitation or support of minor children contained in a final  
106 domestic abuse protection order issued by a chancery or county  
107 court shall be effective for one hundred eighty (180) days. A  
108 party seeking relief beyond that period must initiate appropriate  
109 proceedings in the chancery court of appropriate jurisdiction. If  
110 at the end of the one-hundred-eighty-day period, neither party has  
111 initiated such proceedings, the custody, visitation or support of  
112 minor children will revert to the chancery court order addressing  
113 such terms that was in effect at the time the domestic abuse  
114 protection order was granted. The chancery court in which  
115 custody, visitation or support proceedings have been initiated may



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

118 (3) Every domestic abuse protection order issued pursuant to  
119 this section shall set forth the reasons for its issuance, shall  
120 contain specific findings of fact regarding the existence of  
121 abuse, shall be specific in its terms and shall describe in  
122 reasonable detail the act or acts to be prohibited. No mutual  
123 protection order shall be issued unless that order is supported by  
124 an independent petition by each party requesting relief pursuant  
125 to this chapter, and the order contains specific findings of fact  
126 regarding the existence of abuse by each party as principal  
127 aggressor, and a finding that neither party acted in self-defense.

128 (4) The Attorney General, in cooperation with the  
129 Mississippi Supreme Court and the Mississippi Judicial College,  
130 shall develop standardized forms for temporary and final domestic  
131 abuse protection orders. The use of standardized forms in  
132 protection order proceedings pursuant to this chapter shall be  
133 fully implemented by all courts no later than July 1, 2015.  
134 However, in any criminal prosecution or contempt proceeding for a  
135 violation of a domestic abuse protection order, it shall not be a  
136 defense that the order was not issued on the standardized form.

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



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

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

146 (7) A domestic abuse protection order issued under this  
147 section is effective in this state, in all other states, and in  
148 United States territories and tribal lands. A court shall not  
149 limit the scope of a protection order to the boundaries of the  
150 State of Mississippi or to the boundaries of a municipality or  
151 county within the State of Mississippi.

152 (8) Procedures for an appeal of the issuance or denial of a  
153 final domestic abuse protection order are set forth in Section  
154 93-21-15.1.

155 **SECTION 2.** Section 93-21-15.1, Mississippi Code of 1972, is  
156 amended as follows:

157 93-21-15.1. (1) (a) **De novo appeal.** Any party aggrieved  
158 by the decision of a chancery, municipal, county or justice court  
159 judge to issue a temporary domestic abuse protection order has the  
160 right of a trial de novo on appeal in the chancery court having  
161 jurisdiction. The trial de novo shall be held within ten (10)  
162 days of the filing of a notice of appeal. All such appeals shall  
163 be priority cases and the judge must be immediately notified when  
164 an appeal is filed in order to provide for expedited proceedings.



165 \* \* \* All such appeals \* \* \* shall proceed as if a petition for  
166 an order of protection from domestic abuse had been filed in the  
167 chancery court. Following the trial de novo, if the petitioner  
168 has proved the existence of abuse by a preponderance of the  
169 evidence, the chancery court may grant a final domestic abuse  
170 protection order. In granting a final domestic abuse protection  
171 order, the chancery court may provide for relief that includes,  
172 but is not limited to, the relief set out in Section 93-21-15(2).

173 (b) **Notice of appeal from municipal or justice court.**

174 The party desiring to appeal a decision from municipal or justice  
175 court must file a written notice of appeal with the chancery court  
176 clerk within ten (10) days of the issuance of a domestic abuse  
177 protection order. In all de novo appeals, the notice of appeal  
178 and payment of costs must be simultaneously filed and paid with  
179 the chancery clerk. Costs for an appeal by trial de novo shall be  
180 calculated as specified in subsection (4) of this section. The  
181 written notice of appeal must specify the party or parties taking  
182 the appeal and must designate the judgment or order from which the  
183 appeal is taken. A copy of the notice of appeal must be provided  
184 to all parties or their attorneys of record and to the clerk of  
185 the court from which the appeal is taken. A certificate of  
186 service must accompany the written notice of appeal. Upon receipt  
187 by the municipal or justice court of the notice of appeal, the  
188 clerk of the lower court shall immediately provide the entire  
189 court file to the chancery clerk.





190           (2)   (a)   **Appeals on the record from county court**. Any party  
191 aggrieved by the decision of a county court to issue a temporary  
192 or final domestic abuse protection order or to deny such an order  
193 shall be entitled to an appeal on the record in the chancery court  
194 having jurisdiction. If the county court has issued a domestic  
195 abuse protection order as a temporary order instead of a final  
196 order as contemplated by Section 93-21-15(2), the chancery court  
197 shall permit the appeal on the record and shall treat the  
198 temporary order issued by the county court as a final order on the  
199 matter. The chancery court shall treat the appeal as a priority  
200 matter and render a decision as expeditiously as possible.

201                   (b)   **Notice of appeal and filing the record from the**  
202 **county court**. The party desiring to appeal a decision from county  
203 court must file a written notice of appeal with the chancery court  
204 clerk within ten (10) days of the issuance of a domestic abuse  
205 protection order. In all appeals, the notice of appeal and  
206 payment of costs, where costs are applicable, shall be  
207 simultaneously filed and paid with the chancery clerk. Costs  
208 shall be calculated as specified in subsection (4) of this  
209 section. The written notice of appeal must specify the party or  
210 parties taking the appeal and must designate the judgment or order  
211 from which the appeal is taken. A copy of the notice of appeal  
212 must be provided to all parties or their attorneys of record and  
213 to the clerk of the court from which the appeal is taken. A  
214 certificate of service must accompany the written notice of



215 appeal. In all appeals in which the appeal is solely on the  
216 record, the record from the county court must be filed with the  
217 chancery clerk within thirty (30) days of filing of the notice of  
218 appeal. However, in cases involving a transcript, the court  
219 reporter or county court may request an extension of time. The  
220 court, on its own motion or on application of any party, may  
221 compel the compilation and transmission of the record of  
222 proceedings. Failure to file the record with the court clerk or  
223 to request the assistance of the court in compelling the same  
224 within thirty (30) days of the filing of the written notice of  
225 appeal may be deemed an abandonment of the appeal and the court  
226 may dismiss the same with costs to the appealing party or parties,  
227 unless a party or parties is exempt from costs as specified in  
228 subsection (4) of this section.

229 (c) **Appeals from the chancery court.** Appeals from the  
230 chancery court for temporary restraining orders shall be governed  
231 by the Mississippi Rules of Appellate Procedure.

232 ( \* \* \*d) **Briefs on appeal on the record.** Briefs, if  
233 any, filed in an appeal on the record must conform to the practice  
234 in the Supreme Court as to form and time of filing and service,  
235 except that the parties should file only an original and one (1)  
236 copy of each brief. The consequences of failure to timely file a  
237 brief will be the same as in the Supreme Court.

238 (3) **Supersedeas.** The perfecting of an appeal, whether on  
239 the record or by trial de novo, does not act as a supersedeas.



240 Any domestic abuse protection order issued by a chancery,  
241 municipal, justice or county court shall remain in full force and  
242 effect for the duration of the appeal, unless the domestic abuse  
243 protection order otherwise expires due to the passage of time.

244 (4) **Cost bond.** In all appeals under this section, unless  
245 the court allows an appeal in forma pauperis or the appellant  
246 otherwise qualifies for exemption as specified in this subsection  
247 (4), the appellant shall pay all court costs incurred below and  
248 likely to be incurred on appeal as estimated by the chancery  
249 clerk. In all cases where the appellant is appealing the denial  
250 of an order of protection from domestic abuse by a county court,  
251 the appellant shall not be required to pay any costs associated  
252 with the appeal, including service of process fees, nor shall the  
253 appellant be required to appeal in forma pauperis. In such  
254 circumstances, the court may assess costs of the appeal to the  
255 appellant if the court finds that the allegations of abuse are  
256 without merit and the appellant is not a victim of abuse. Where  
257 the issuance of a mutual protection order is the basis of the  
258 appeal, the appellant may be entitled to reimbursement of  
259 appellate costs paid to the court as a matter of equity if the  
260 chancery court finds that the mutual order was issued by the lower  
261 court without regard to the requirements of Section 93-21-15(3).

262 (5) The appellate procedures set forth in this section for  
263 appeals from justice, municipal and county courts shall control if  
264 there is a conflict with another statute or rule.



265 (6) Any party aggrieved by the issuance or denial of a final  
266 order of protection by a chancery court shall be entitled to  
267 appeal the decision. The appeal shall be governed by the  
268 Mississippi Rules of Appellate Procedure and any other applicable  
269 rules or statutes.

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

272 93-21-7. (1) Any person may seek a domestic abuse  
273 protection order for himself by filing a petition alleging abuse  
274 by the respondent. Any parent, adult household member, or next  
275 friend of the abused person may seek a domestic abuse protection  
276 order on behalf of any minor children or any person alleged to be  
277 incompetent by filing a petition with the court alleging abuse by  
278 the respondent. Cases seeking relief under this chapter shall be  
279 priority cases on the court's docket and the judge shall be  
280 immediately notified when a case is filed in order to provide for  
281 expedited proceedings.

282 (2) A petition seeking a domestic abuse protection order may  
283 be filed in any of the following courts: municipal, justice,  
284 county or chancery, or a state military court as defined in  
285 Section 33-13-151. A chancery court shall not prohibit the filing  
286 of a petition which does not seek emergency relief on the basis  
287 that the petitioner did not first seek or obtain temporary  
288 relief \* \* \*. \* \* \* Nothing in this section shall:



289 (a) Be construed to require consideration of emergency  
290 relief by a chancery court; or

291 (b) Preclude a chancery court from entering an order of  
292 emergency relief.

293 (3) The petitioner in any action brought pursuant to this  
294 chapter shall not bear the costs associated with its filing or the  
295 costs associated with the issuance or service of any notice of a  
296 hearing to the respondent, issuance or service of an order of  
297 protection on the respondent, or issuance or service of a warrant  
298 or witness subpoena. If the court finds that the petitioner is  
299 entitled to an order protecting the petitioner from abuse, the  
300 court shall be authorized to assess all costs including attorney's  
301 fees of the proceedings to the respondent. The court may assess  
302 costs including attorney's fees to the petitioner only if the  
303 allegations of abuse are determined to be without merit and the  
304 court finds that the petitioner is not a victim of abuse as  
305 defined by Section 93-21-3.

306 **SECTION 4.** This act shall take effect and be in force from  
307 and after July 1, 2024.

