

Senate Amendments to House Bill No. 783

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

10 **SECTION 1.** Section 93-5-24, Mississippi Code of 1972, is
11 amended as follows:

12 93-5-24. (1) Custody shall be awarded as follows according
13 to the best interests of the child:

14 (a) Physical and legal custody to both parents jointly
15 pursuant to subsections (2) through (7).

16 (b) Physical custody to both parents jointly pursuant
17 to subsections (2) through (7) and legal custody to either parent.

18 (c) Legal custody to both parents jointly pursuant to
19 subsections (2) through (7) and physical custody to either parent.

20 (d) Physical and legal custody to either parent
21 pursuant to subsections (2) through (9).

22 (e) Upon a finding by the court that both of the
23 parents of the child have abandoned or deserted such child or that
24 both such parents are mentally, morally or otherwise unfit to rear
25 and train the child the court may award physical and legal custody
26 to:

27 (i) The person in whose home the child has been
28 living in a wholesome and stable environment; or

29 (ii) Physical and legal custody to any other
30 person deemed by the court to be suitable and able to provide
31 adequate and proper care and guidance for the child.

32 In making an order for custody to either parent or to both
33 parents jointly, the court, in its discretion, may require the
34 parents to submit to the court a plan for the implementation of
35 the custody order.

36 (2) Joint custody may be awarded where irreconcilable
37 differences or any other ground is the ground for divorce * * *.
38 Joint custody may be awarded whether irreconcilable differences or
39 any other ground is the ground for divorce.

40 (3) * * * Whether after a trial on the merits or a
41 presentation of an agreement between the parties, the court shall
42 make a finding, on the record, if the court awards the mother
43 paramount physical custody over the father. If the court awards
44 the mother paramount physical custody over the father, the court
45 shall order a parenting time schedule that favors both parents
46 equally subject to the best interests of the child.

47 (4) There shall be a presumption that joint custody is in
48 the best interest of a minor child where both parents have agreed
49 to an award of joint custody.

50 (5) (a) For the purposes of this section, "joint custody"
51 means joint physical and legal custody.

52 (b) For the purposes of this section, "physical
53 custody" means those periods of time in which a child resides with
54 or is under the care and supervision of one (1) of the parents.

55 (c) For the purposes of this section, "joint physical
56 custody" means that each of the parents shall have significant
57 periods of physical custody. Joint physical custody shall be
58 shared by the parents in such a way so as to assure a child * * *
59 equal, frequent, and continuing contact with both parents.

60 (d) For the purposes of this section, "legal custody"
61 means the decision-making rights, the responsibilities and the
62 authority relating to the health, education and welfare of a
63 child.

64 (e) For the purposes of this section, "joint legal
65 custody" means that the parents or parties share the
66 decision-making rights, the responsibilities and the authority
67 relating to the health, education and welfare of a child. An
68 award of joint legal custody obligates the parties to equally
69 share parenting time, to exchange information concerning the
70 health, education and welfare of the minor child, and to confer
71 with one another in the exercise of decision-making rights,
72 responsibilities and authority.

73 An award of joint physical and legal custody obligates the
74 parties to exchange information concerning the health, education
75 and welfare of the minor child, and unless allocated, apportioned
76 or decreed, the parents or parties shall confer with one another

77 in the exercise of decision-making rights, responsibilities and
78 authority.

79 (6) Any order for joint custody may be modified or
80 terminated upon the petition of both parents or upon the petition
81 of one (1) parent showing that a material change in circumstances
82 has occurred.

83 (7) There shall be no presumption that it is in the best
84 interest of a child that a mother be awarded either legal or
85 physical custody.

86 (8) Notwithstanding any other provision of law, access to
87 records and information pertaining to a minor child, including,
88 but not limited to, medical, dental and school records, shall not
89 be denied to a parent because the parent is not the child's
90 custodial parent.

91 (9) (a) (i) In every proceeding where the custody of a
92 child is in dispute, there shall be a rebuttable presumption that
93 it is detrimental to the child and not in the best interest of the
94 child to be placed in sole custody, joint legal custody or joint
95 physical custody of a parent who has a history of perpetrating
96 family violence. The court may find a history of perpetrating
97 family violence if the court finds, by a preponderance of the
98 evidence, one (1) incident of family violence that has resulted in
99 serious bodily injury to, or a pattern of family violence against,
100 the party making the allegation or a family household member of
101 either party. The court shall make written findings to document
102 how and why the presumption was or was not triggered.

103 (ii) This presumption may only be rebutted by a
104 preponderance of the evidence.

105 (iii) In determining whether the presumption set
106 forth in subsection (9) has been overcome, the court shall
107 consider all of the following factors:

108 1. Whether the perpetrator of family violence
109 has demonstrated that giving sole or joint physical or legal
110 custody of a child to the perpetrator is in the best interest of
111 the child because of the other parent's absence, mental illness,
112 substance abuse or such other circumstances which affect the best
113 interest of the child or children;

114 2. Whether the perpetrator has successfully
115 completed a batterer's treatment program;

116 3. Whether the perpetrator has successfully
117 completed a program of alcohol or drug abuse counseling if the
118 court determines that counseling is appropriate;

119 4. Whether the perpetrator has successfully
120 completed a parenting class if the court determines the class to
121 be appropriate;

122 5. If the perpetrator is on probation or
123 parole, whether he or she is restrained by a protective order
124 granted after a hearing, and whether he or she has complied with
125 its terms and conditions; and

126 6. Whether the perpetrator of domestic
127 violence has committed any further acts of domestic violence.

128 (iv) The court shall make written findings to
129 document how and why the presumption was or was not rebutted.

130 (b) (i) If custody is awarded to a suitable third
131 person, it shall not be until the natural grandparents of the
132 child have been excluded and such person shall not allow access to
133 a violent parent except as ordered by the court.

134 (ii) If the court finds that both parents have a
135 history of perpetrating family violence, but the court finds that
136 parental custody would be in the best interest of the child,
137 custody may be awarded solely to the parent less likely to
138 continue to perpetrate family violence. In such a case, the court
139 may mandate completion of a treatment program by the custodial
140 parent.

141 (c) If the court finds that the allegations of domestic
142 violence are completely unfounded, the chancery court shall order
143 the alleging party to pay all court costs and reasonable
144 attorney's fees incurred by the defending party in responding to
145 such allegations.

146 (d) (i) A court may award visitation by a parent who
147 committed domestic or family violence only if the court finds that
148 adequate provision for the safety of the child and the parent who
149 is a victim of domestic or family violence can be made.

150 (ii) In a visitation order, a court may take any
151 of the following actions:

152 1. Order an exchange of the child to occur in
153 a protected setting;

154 2. Order visitation supervised in a manner to
155 be determined by the court;

156 3. Order the perpetrator of domestic or
157 family violence to attend and complete to the satisfaction of the
158 court a program of intervention for perpetrators or other
159 designated counseling as a condition of visitation;

160 4. Order the perpetrator of domestic or
161 family violence to abstain from possession or consumption of
162 alcohol or controlled substances during the visitation and for
163 twenty-four (24) hours preceding the visitation;

164 5. Order the perpetrator of domestic or
165 family violence to pay a fee to defray the cost of supervised
166 visitation;

167 6. Prohibit overnight visitation;

168 7. Require a bond from the perpetrator of
169 domestic or family violence for the return and safety of the
170 child; or

171 8. Impose any other condition that is deemed
172 necessary to provide for the safety of the child, the victim of
173 family or domestic violence, or other family or household member.

174 (iii) Whether or not visitation is allowed, the
175 court may order the address of the child or the victim of family
176 or domestic violence to be kept confidential.

177 (e) The court may refer but shall not order an adult
178 who is a victim of family or domestic violence to attend
179 counseling relating to the victim's status or behavior as a

180 victim, individually or with the perpetrator of domestic or family
181 violence, as a condition of receiving custody of a child or as a
182 condition of visitation.

183 (f) If a court allows a family or household member to
184 supervise visitation, the court shall establish conditions to be
185 followed during visitation.

186 **SECTION 2.** This act shall take effect and be in force from
187 and after July 1, 2024, and shall stand repealed on June 30, 2024.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 93-5-24, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT JOINT CUSTODY MAY BE AWARDED WHETHER IRRECONCILABLE
3 DIFFERENCES OR ANY OTHER GROUND IS THE GROUND FOR DIVORCE; TO
4 REQUIRE THE COURT TO MAKE A FINDING, ON THE RECORD, IF THE COURT
5 AWARDS THE MOTHER PARAMOUNT PHYSICAL CUSTODY OVER THE FATHER AND
6 ORDER A PARENTING TIME SCHEDULE THAT FAVORS BOTH PARENTS EQUALLY
7 SUBJECT TO THE BEST INTERESTS OF THE CHILD; AND FOR RELATED
8 PURPOSES.

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Amanda White
Secretary of the Senate