

**Adopted  
AMENDMENT NO 2 PROPOSED TO**

**House Bill No. 783**

**BY: Senator(s) Wiggins**

**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 3.** This act shall take effect and be in force from  
187 and after July 1, 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.

