

By: Representative Denton

To: Judiciary B

HOUSE BILL NO. 492

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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



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

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

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



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

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

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

(2) A petition seeking a domestic abuse protection order may be filed in any of the following courts: municipal, justice, county or chancery, or a state military court as defined in Section 33-13-151. A chancery court shall not prohibit the filing of a petition which does not seek emergency relief on the basis that the petitioner did not first seek or obtain temporary 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, 2025.

