REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MR. PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1662: Joint custody matters; create rebuttable presumption in favor of.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.

2. That the House and Senate adopt the following amendment:

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

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

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

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

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

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

(d) Physical and legal custody to either parent pursuant to subsections (2) through (7).

(e) Upon a finding by the court that both of the parents of the child have abandoned or deserted such child or that

both such parents are mentally, morally or otherwise unfit to rear and train the child the court may award physical and legal custody to:

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

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

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

(2) *** * *** (a) (i) There shall be a rebuttable presumption that joint custody and equally shared parenting time is in the best interest of the child. If the court grants joint custody and equally shared parenting time, the court shall construct a parenting time schedule which maximizes the time each parent has with the child and ensures the best interest of the child is met.

(ii) The presumption created in subparagraph (i) of this paragraph shall be rebuttable by a preponderance of the evidence. A court that does not award joint custody with equally shared parenting time shall document the reasons for deviating from the presumption.

(b) The presumption that joint custody is in the best interest of the child may be rebutted:

(i) If the parties have reached an agreement on all issues related to custody of the child or children;

(ii) If the court finds by a preponderance of the evidence that the other parent's absence, mental illness, substance abuse or such other circumstances are against the best interest of the child or children;

(iii) If the rebuttable presumption described in subsection 7(a) of this section is established by the evidence;

(iv) If one (1) parent is a registered sex offender or in the custody of the Mississippi Department of Corrections; or

(v) Any other relevant factor that the court deems material.

(c) To calculate child support for joint custody with equally shared parenting time, unless the court determines a deviation from this paragraph is in the best interest of the child, the court shall:

(i) Calculate a child-support award under the guidelines of Section 43-19-101 for each parent as if each parent was the obligor;

(ii) Calculate the difference in the two (2) awards by subtracting the lesser award from the larger award; and

(iii) Order the difference in the two (2) awards to be paid by the parent who has the higher adjusted gross income to the parent with the lower adjusted gross income.

(d) Upon petition of both parents, the court may grant legal and/or physical custody to one (1) parent without documenting a reason for deviation.

(e) The rebuttable presumption of joint custody authorized by this subsection (2) shall only apply to initial temporary custody orders and initial final custody orders entered by this court after July 1, 2026. The presumption authorized by this subsection shall not be applied to modifications of any custody orders entered before or after July 1, 2026.

*** * ***

(*** * ***3) (a) For the purposes of this section, "joint custody" means joint physical and legal custody.

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

(c) For the purposes of this section, "joint physical custody" means that each of the parents shall have significant periods of physical custody *** * *** with parenting time to be awarded as set forth in subsection (2).

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

(e) For the purposes of this section, "joint legal custody" means that the parents or parties share the

decision-making rights, the responsibilities and the authority relating to the health, education and welfare of a child. An award of joint legal custody obligates the parties to exchange information concerning the health, education and welfare of the minor child, and to confer with one another in the exercise of decision-making rights, responsibilities and authority.

An award of joint physical and legal custody obligates the parties to exchange information concerning the health, education and welfare of the minor child, and unless allocated, apportioned or decreed, the parents or parties shall confer with one another in the exercise of decision-making rights, responsibilities and authority.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) If the court finds that both parents have a history of perpetrating family violence, but the court finds that parental custody would be in the best interest of the child, custody may be awarded solely to the parent less likely to continue to perpetrate family violence. In such a case, the court

may mandate completion of a treatment program by the custodial parent.

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

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

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

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

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

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

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

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

6. Prohibit overnight visitation;

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

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

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

(e) The court may refer but shall not order an adult who is a victim of family or domestic violence to attend counseling relating to the victim's status or behavior as a victim, individually or with the perpetrator of domestic or family violence, as a condition of receiving custody of a child or as a condition of visitation.

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

SECTION 2. This act shall take effect and be in force from and after July 1, 2026.

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

AN ACT TO AMEND SECTION 93-5-24, MISSISSIPPI CODE OF 1972, TO CREATE A REBUTTABLE PRESUMPTION IN FAVOR OF JOINT CUSTODY WITH EQUAL PARENTING TIME IN ALL CUSTODY MATTERS; TO PROVIDE THAT THE PRESUMPTION SHALL BE REBUTTABLE BY A PREPONDERANCE OF THE EVIDENCE; TO PROVIDE FOR THE CALCULATION OF CHILD SUPPORT WHERE THE COURT AWARDS JOINT CUSTODY WITH EQUALLY SHARED PARENTING TIME; TO REQUIRE A COURT TO DOCUMENT THE REASONS FROM DEVIATING FROM THE PRESUMPTION UNLESS BOTH PARENTS PETITION FOR A DEVIATION; TO CLARIFY THAT THIS SECTION SHALL APPLY TO ALL CUSTODY DETERMINATIONS; AND FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE	CONFEREES FOR THE SENATE
X (SIGNED) Hood	X (SIGNED) Wiggins
X (SIGNED) Aguirre	X (SIGNED) McCaughn
X (SIGNED) Yates	X (SIGNED) Fillingane