

By: Representatives Moody, Perry

To: Judiciary A

HOUSE BILL NO. 852

1 AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT; TO AMEND
2 SECTION 43-19-31, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CHILD
3 SUPPORT UNIT OF THE DEPARTMENT OF HUMAN SERVICES TO MAINTAIN
4 CERTAIN INFORMATION WITH RESPECT TO THE CHILD SUPPORT CASE
5 REGISTRY, TO TAKE CERTAIN ADMINISTRATIVE ACTIONS RELATING TO
6 GENETIC TESTING, MODIFICATION, INCOME WITHHOLDING, LIENS AND
7 SUBPOENAS WITHOUT THE NECESSITY OF COURT ORDER AND TO USE
8 HIGH-VOLUME AUTOMATED ENFORCEMENT IN INTERSTATE CASES IN RESPONSE
9 TO REQUESTS FROM OTHER STATES; TO AMEND SECTIONS 93-9-21 AND
10 93-9-23, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CHILD SUPPORT
11 UNIT TO ORDER GENETIC TESTING OF ALL PARTIES AND TO PREPARE
12 CERTAIN ORDERS IN PATERNITY ACTIONS; TO AMEND SECTIONS 93-11-153,
13 93-11-157 AND 93-11-159, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
14 THE CHILD SUPPORT UNIT TO SUSPEND THE NONCUSTODIAL PARENT'S
15 LICENSE WHEN HE OR SHE FAILS TO ANSWER A SUBPOENA OR RESPOND TO A
16 SUMMONS, TO DELETE THE REQUIREMENT THAT A CONTEMPT CITATION BE
17 OBTAINED BEFORE LICENSE SUSPENSION IS ORDERED AND TO DELETE THE
18 REQUIREMENT FOR INTERAGENCY AGREEMENTS FOR LICENSE SUSPENSION
19 ENFORCEMENT PURPOSES; TO AMEND SECTIONS 41-57-23, 93-9-9 AND
20 93-9-28, MISSISSIPPI CODE OF 1972, TO ALLOW THE FATHER 60 DAYS TO
21 RESCIND THE SWORN ACKNOWLEDGMENT OF PATERNITY RECEIVED BY THE
22 STATE BOARD OF HEALTH, AND TO DELETE THE TWO-YEAR LIMITATION FOR
23 FILING A VOLUNTARY ACKNOWLEDGMENT OF PATERNITY; TO CODIFY SECTION
24 43-19-34, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CHILD SUPPORT
25 UNIT TO SEND A MOTION AND NOTICE OF INTENT TO MODIFY A CHILD
26 SUPPORT ORDER, SUBJECT TO THE STIPULATION OF ALL PARTIES AND
27 SUBJECT TO REVIEW AND APPROVAL BY THE COURT; TO AMEND SECTION
28 43-19-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CUSTODIAL AND
29 NONCUSTODIAL PARENTS TO SIGN AN AGREEMENT MODIFYING THE CHILD
30 SUPPORT ORDER THROUGH STIPULATION FOR ARREARS; TO CODIFY SECTION
31 43-19-44, MISSISSIPPI CODE OF 1972, TO DIRECT THE DEPARTMENT OF
32 HUMAN SERVICES TO SAFEGUARD PERSONAL DATA IF THERE IS REASONABLE
33 EVIDENCE OF A RISK OF HARM, TO PROVIDE A DEFINITION OF REASONABLE
34 EVIDENCE OF A RISK OF HARM TO THE PARENT OR CHILD IN SUPPORT
35 CASES, TO REQUIRE THE DEPARTMENT TO NOTIFY THE FEDERAL PARENT
36 LOCATOR SERVICE IN SUCH CASES, TO PROVIDE FOR A PETITION TO THE
37 COURT FOR THE RELEASE OF INFORMATION IN CASES WHERE IT HAS BEEN
38 DETERMINED THAT THERE IS A REASONABLE RISK OF HARM AND TO PROVIDE
39 ALTERNATIVE ORDERS BY THE COURT IN SUCH CASES; TO AMEND SECTION
40 93-11-65, MISSISSIPPI CODE OF 1972, TO REQUIRE THE NONCUSTODIAL
41 AND CUSTODIAL PARENT IN PATERNITY OR CHILD SUPPORT PROCEEDINGS TO
42 REGISTER CERTAIN INFORMATION AND TO UPDATE THIS INFORMATION AS IT
43 CHANGES AND TO PROVIDE THAT DUE PROCESS REQUIREMENTS FOR NOTICE
44 AND SERVICE SHALL BE MET BY NOTICE TO THE MOST RECENT RESIDENTIAL
45 OR EMPLOYER ADDRESS FILED; TO AMEND SECTION 93-11-71, MISSISSIPPI
46 CODE OF 1972, TO AUTHORIZE THE CHILD SUPPORT UNIT TO IMPOSE LIENS
47 ON REAL AND CERTAIN PERSONAL PROPERTY WITHOUT OBTAINING A JUDGMENT
48 IN CIRCUIT COURT FOR CHILD SUPPORT PAYMENTS WHICH REMAIN UNPAID
49 FOR OVER 30 DAYS AND TO AFFORD FULL FAITH AND CREDIT TO ANY SUCH
50 LIENS ARISING IN OTHER STATES; TO CODIFY SECTION 93-11-105,
51 MISSISSIPPI CODE OF 1972, AND TO AMEND SECTION 93-11-103,
52 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CHILD SUPPORT UNIT TO

53 BE THE DESIGNATED STATE AGENCY TO RECEIVE INCOME WITHHOLDING
54 PAYMENTS AND TO DELETE CERTAIN EXCEPTIONS TO INCOME WITHHOLDING IN
55 CASES ENFORCED BY THE CHILD SUPPORT UNIT; TO CODIFY SECTION
56 43-19-59, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CHILD SUPPORT
57 UNIT TO USE HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT IN
58 RESPONSE TO A REQUEST FROM ANOTHER STATE FOR THE ENFORCEMENT OF
59 CHILD SUPPORT ORDERS WITHOUT THE NECESSITY OF COURT ORDER; AND FOR
60 RELATED PURPOSES.

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

62 SECTION 1. Section 43-19-31, Mississippi Code of 1972, is
63 amended as follows:

64 43-19-31. The Department of Human Services is hereby
65 authorized and empowered to establish a single and separate Child
66 Support Unit for the following purposes:

67 (a) To develop and implement a nonsupport and paternity
68 program and institute proceedings in the name of the Department of
69 Human Services or in the name of the recipient in any court of
70 competent jurisdiction in any county where the mother of the child
71 resides or is found, in the county where the father resides or is
72 found, or in the county where the child resides or is found;

73 (b) To secure and collect support by any method
74 authorized under state law and establish paternity for any child
75 or children receiving aid from the department, from a parent or
76 any other person legally liable for such support who has either
77 failed or refused to provide support, deserted, neglected or
78 abandoned the child or children, including cooperating with other
79 states in establishing paternity, locating absent parents and
80 securing compliance with court orders for support of Temporary
81 Assistance for Needy Families (TANF) children; the department may
82 petition the court for the inclusion of health insurance as part
83 of any child support order on behalf of any child receiving aid
84 from the department unless good cause for noncooperation, as
85 defined by the Social Security Act or the Mississippi Department
86 of Human Services, is established;

87 (c) To initiate support or paternity actions in behalf
88 of nonrelated Temporary Assistance for Needy Families (TANF)
89 families, and to secure and collect child support in such cases by

90 any method authorized under state law; the department may petition
91 the court for the inclusion of health insurance as part of any
92 child support order on behalf of such nonrelated Temporary
93 Assistance for Needy Families (TANF) families unless good cause
94 for noncooperation, as defined by the Social Security Act or the
95 Mississippi Department of Human Services, is established;

96 (d) The department shall seek to recover from the
97 individual who owes a support obligation to a nonrelated Temporary
98 Assistance for Needy Families (TANF) family on whose behalf the
99 department is providing services, upon judicial proceedings
100 conducted thereon after advance notice to such obligor, reasonable
101 attorney's fees and court costs, in excess of any administrative
102 fees collected and in excess of amounts of current support owed by
103 the obligor, which the department incurs in recovering and
104 collecting the support obligation, such costs as the department
105 recovers to be deposited in the General Fund of the State
106 Treasury;

107 (e) To initiate contempt of court proceedings or any
108 other remedial proceedings necessary to enforce (i) any order or
109 decree of court relating to child support, and (ii) any order or
110 decree of court relating to the maintenance and/or alimony of a
111 parent where support collection services on his or her child's
112 behalf are being provided by the department;

113 (f) To secure and collect by any method authorized
114 under state law any maintenance and/or alimony on behalf of a
115 parent whose child or children's support is being collected by the
116 department. The department shall collect only such maintenance
117 and/or alimony as is ordered or decreed by the court, and only in
118 the event that the minor child and parent to whom such maintenance
119 and/or alimony has been ordered are living in the same household;

120 (g) To obtain restitution of monies expended for public
121 assistance from a parent or any other person legally liable for
122 the support of any child or children receiving aid from the
123 department; said action for restitution shall arise from the

124 payment of public assistance for the dependent child or children
125 and shall be for the amount of the public assistance paid. Said
126 action for restitution shall not arise against the parent or other
127 person legally responsible who receives public assistance for the
128 benefit of any dependent child or children. When a court order of
129 support has been issued, the amount recoverable shall be limited
130 to the amount of the court order;

131 (h) Setting off against a debtor's income tax refund or
132 rebate any debt which is in the form of a liquidated sum due and
133 owing for the care, support or maintenance of a child;

134 (i) To have full responsibility in the aforementioned
135 cases for initiating actions under the Uniform Interstate Family
136 Support Act and for responding to the actions of other
137 jurisdictions under said law when Mississippi is the responding
138 state; however, this shall not impair private litigants' rights to
139 proceed under any applicable interstate enforcement mechanisms;

140 (j) To enter into contracts for the purpose of
141 performing any test which the department may from time to time
142 require;

143 (k) To maintain a Central Receipting and Disbursement
144 Unit to which all payments required by withholding orders and
145 orders for support in all actions to which the Department of Human
146 Services is a party shall be forwarded, and from which child
147 support payments ordered by the court in actions to which the
148 Department of Human Services is a party shall be disbursed to the
149 custodial parent or other such party as may be designated by the
150 court order. The Central Receipting and Disbursement Unit shall
151 be operated by the Department of Human Services or any financial
152 institution having operations and qualified to do business in
153 Mississippi, whose deposits are insured by the Federal Deposit
154 Insurance Corporation. The department shall conduct cost-benefit
155 analyses to determine and utilize the more cost efficient manner
156 of operating the unit;

157 (l) To maintain a Mississippi Department of Human

158 Services Case Registry containing records with respect to:

159 (i) Each case in which services are being provided
160 by the department under this section; and

161 (ii) Each support order established or modified in
162 Mississippi on or after October 1, 1998; and

163 (iii) The Administrative Office of Courts, as
164 established by Section 9-21-1, Mississippi Code of 1972, in
165 consultation with the Mississippi Department of Human Services,
166 shall devise, promulgate and require the use of a Uniform Child
167 Support Order Tracking System.

168 (A) Information collected from case filing
169 forms shall be furnished to the Mississippi Department of Human
170 Services, Division of Child Support Enforcement, in order that
171 compliance with court-ordered obligations of support may be
172 tracked with specificity throughout the duration of said
173 obligations and any subsequent proceedings.

174 (B) Such tracking system shall include: 1.
175 the names, residential and mailing address, telephone numbers,
176 Social Security numbers, driver's license numbers and dates of
177 birth of each child and parent named in or subject to the court
178 order; 2. the court cause number of the action; * * * 3. name,
179 address and telephone number of employer; 4. any restraining or
180 protective order indicating domestic violence; and 5. any other
181 information which may be used for the purpose of identifying any
182 person named in or subject to the order or for the purposes of
183 establishing, enforcing or modifying a child support order; and

184 (m) To have the authority to take administrative
185 actions relating to genetic testing, modification, income
186 withholding, liens and subpoenas without the necessity of
187 obtaining an order from any other judicial or administrative
188 tribunal.

189 (n) To have the authority to use high-volume automated
190 administrative enforcement in interstate cases to the same extent
191 as used for intrastate cases, in response to a request made by

192 another state to enforce support orders.

193 (o) To provide any child support enforcement or other
194 service as may be required by the United States of America,
195 Department of Health and Human Services, Family Support
196 Administration, Office of Child Support Enforcement or their
197 successor pursuant to federal law or regulation.

198 SECTION 2. Section 93-9-21, Mississippi Code of 1972, is
199 amended as follows:

200 93-9-21. (1) (a) In all cases brought pursuant to Title
201 IV-D of the Social Security Act, upon sworn documentation by the
202 mother, putative father, or the Department of Human Services
203 alleging paternity, the department may issue an administrative
204 order for paternity testing which requires the mother, putative
205 father and minor child to submit themselves for paternity testing.
206 The department shall then send the putative father the following
207 notices by certified mail: a Notice for Genetic Testing which
208 shall include the date, time and place for collection of the
209 putative father's genetic sample, and a Notice and Complaint to
210 Establish Paternity which shall specify the date and time certain
211 of the hearing.

212 (b) In the event that the putative father does not
213 submit to genetic testing, the court shall, without further
214 notice, on the date and time previously set through the notice for
215 hearing, review the documentation of the refusal to submit to
216 genetic testing and make a determination as to whether the
217 complaint to establish paternity should be granted. The refusal
218 to submit to such testing shall create a presumption of an
219 admission to paternity by the putative father.

220 (c) In any case in which the Department of Human
221 Services orders genetic testing, the department is required to
222 advance costs of such tests subject to recoupment from the alleged
223 father if paternity is established. If either party challenges
224 the original test results, the department shall order additional
225 testing at the expense of the challenging party. Such challenge

226 must be made within ten (10) days from the date of mailing of the
227 results.

228 (2) The court, on its own motion or on motion of the
229 plaintiff or the defendant, shall order the mother, the alleged
230 father and the child or children to submit to genetic tests and
231 any other tests which reasonably prove or disprove the probability
232 of paternity.

233 If any party refuses to submit to such tests, the court may
234 resolve the question of paternity against such party or enforce
235 its order if the rights of others and the interest of justice so
236 require.

237 (3) Any party calling a witness or witnesses for the purpose
238 of testifying that they had sexual intercourse with the mother at
239 any possible time of conception shall provide all other parties
240 with the name and address of the witness twenty (20) days before
241 the trial. If a witness is produced at the hearing for the
242 purpose stated in this subsection but the party calling the
243 witness failed to provide the twenty-day notice, the court may
244 adjourn the proceeding for the purpose of taking a genetic test of
245 the witness prior to hearing the testimony of the witness if the
246 court finds that the party calling the witness acted in good
247 faith.

248 (4) The court shall ensure that all parties are aware of
249 their right to request genetic tests under this section.

250 (5) (a) Genetic tests shall be performed by a laboratory
251 selected from the approved list as prepared and maintained by the
252 Department of Human Services.

253 (b) The Department of Human Services * * * shall
254 publicly issue a request for proposals, and such requests for
255 proposals when issued shall contain terms and conditions relating
256 to price, technology and such other matters as are determined by
257 the department to be appropriate for inclusion or required by law.

258 After responses to the request for proposals have been duly
259 received, the department shall select the lowest and best bid(s)

260 on the basis of price, technology and other relevant factors and
261 from such proposals, but not limited to the terms thereof,
262 negotiate and enter into contract(s) with one or more of the
263 laboratories submitting proposals. The department shall prepare a
264 list of all laboratories with which it has contracted on these
265 terms. The list and any updates thereto shall be distributed to
266 all chancery clerks. To be eligible to appear on the list, a
267 laboratory must meet the following requirements:

268 (i) The laboratory is qualified to do business
269 within the State of Mississippi;

270 (ii) The laboratory can provide test results in
271 less than fourteen (14) days; and

272 (iii) The laboratory must have participated in the
273 competitive procurement process.

274 SECTION 3. Section 93-9-23, Mississippi Code of 1972, is
275 amended as follows:

276 93-9-23. (1) Genetic testing shall be made by experts
277 qualified as examiners of genetic tests who shall be appointed by
278 the court pursuant to Section 93-9-21(5). The expert shall attach
279 to the report of the test results an affidavit stating in
280 substance: (a) that the affiant has been appointed by the court
281 to administer the test and shall give his name, address, telephone
282 number, qualifications, education and experience; (b) how the
283 mother, child and alleged father were identified when the samples
284 were obtained; (c) who obtained the samples and how, when and
285 where obtained; (d) the chain of custody of the samples from the
286 time obtained until the tests were completed; (e) the results of
287 the test and the probability of paternity as calculated by an
288 expert based on the test results; (f) the amount of the fee for
289 performing the test; and (g) the procedures performed to obtain
290 the test results. In cases initiated or enforced by the
291 Department of Human Services pursuant to Title IV-D of the Social
292 Security Act the Department of Human Services shall be responsible
293 for paying the costs of any genetic testing when such testing is

294 required by law to establish paternity, subject to recoupment from
295 the defendant if paternity is established.

296 (2) The expert or laboratory shall send all parties a copy
297 of the report by first class mail. The expert or laboratory shall
298 file the original report with the clerk of the court along with
299 proof of mailing to the parties. A party may challenge the
300 testing procedure within thirty (30) days of the date of mailing
301 of the results. If either party challenges the original test
302 results, the court shall order additional testing at the expense
303 of the challenging party.

304 (3) If the court, in its discretion, finds cause to order
305 additional testing, then it may do so using the same or another
306 laboratory or expert. If there is no timely challenge to the
307 original test results or if the court finds no cause to order
308 additional testing, then the certified report shall be admitted as
309 evidence in the proceeding as prima facie proof of its contents.

310 (4) Upon request or motion of any party to the proceeding,
311 the court may require persons making any analysis to appear as a
312 witness and be subject to cross-examination, provided that the
313 request or motion is made at least ten (10) days prior to a
314 hearing. The court may require the party making the request or
315 motion to pay the costs and/or fees for the expert witness'
316 appearance.

317 SECTION 4. Section 93-11-153, Mississippi Code of 1972, is
318 amended as follows:

319 93-11-153. As used in Sections 93-11-151 through 93-11-163,
320 the following words and terms shall have the meanings ascribed
321 herein:

322 (a) "Licensing entity" or "entity" means any entity
323 specified in Title 73, Professions and Vocations, of the
324 Mississippi Code, and includes the Mississippi Department of
325 Public Safety with respect to driver's licenses, the Mississippi
326 State Tax Commission with respect to licenses for the sale of
327 alcoholic beverages and other licenses or registration authorizing

328 a person to engage in a business, the Mississippi Department of
329 Wildlife, Fisheries and Parks with respect to hunting and fishing
330 licenses, and any other state agency that issues a license
331 authorizing a person to engage in a business, occupation or
332 profession. For the purposes of this article, the Supreme Court
333 shall be considered to be the licensing entity for attorneys.

334 (b) "License" means a license, certificate, permit,
335 credential, registration, or any other authorization issued by a
336 licensing entity that allows a person to engage in a business,
337 occupation or profession, to operate a motor vehicle, to sell
338 alcoholic beverages, or to hunt and fish.

339 (c) "Licensee" means any person holding a license
340 issued by a licensing entity.

341 (d) "Order for support" means any judgment or order
342 that provides for periodic payments of funds for the support of a
343 child, whether it is temporary or final, and includes, but is not
344 limited to, an order for reimbursement for public assistance or an
345 order for making periodic payments on a support arrearage.

346 (e) "Out of compliance with an order for support" means
347 that the obligor * * * is more than two (2) months in arrears or
348 delinquent in making payments in full for current support, or in
349 making periodic payments on a support arrearage.

350 (f) "Department" means the Mississippi Department of
351 Human Services.

352 (g) "Division" means the division within the department
353 that is charged with the state administration of Title IV-D of the
354 Social Security Act.

355 SECTION 5. Section 93-11-157, Mississippi Code of 1972, is
356 amended as follows:

357 93-11-157. (1) The division shall review the information
358 received under Section 93-11-155 and any other information
359 available to the division, and shall determine if a licensee is
360 out of compliance with an order for support. If a licensee is out
361 of compliance with the order for support, the division shall

362 notify the licensee by first class mail that ninety (90) days
363 after the licensee receives the notice of being out of compliance
364 with the order, the licensing entity will be notified to
365 immediately suspend the licensee's license unless the licensee
366 pays the arrearage owing, according to the accounting records of
367 the Mississippi Department of Human Services or enters into a
368 stipulated agreement and agreed judgment establishing a schedule
369 for the payment of the arrearage. The licensee shall be presumed
370 to have received the notice five (5) days after it is deposited in
371 the mail.

372 (2) Upon receiving the notice provided for in subsection (1)
373 of this section the licensee may:

374 (a) Request a review with the division; however, the
375 issues the licensee may raise at the review are limited to whether
376 the licensee is the person required to pay under the order for
377 support and whether the licensee is out of compliance with the
378 order for support; or

379 (b) Request to participate in negotiations with the
380 division for the purpose of establishing a payment schedule for
381 the arrearage.

382 (3) The division director or the designees of the division
383 director may and, upon request of a licensee, shall negotiate with
384 a licensee to establish a payment schedule for the arrearage.
385 Payments made under the payment schedule shall be in addition to
386 the licensee's ongoing obligation under the latest entered
387 periodic order for support.

388 (4) Should the division and the licensee reach an agreement
389 on a payment schedule for the arrearage, the division director
390 shall submit to the court the stipulated agreement and agreed
391 judgment containing the payment schedule which, upon the court's
392 approval, is enforceable as any order of the court. If the court
393 does not approve the stipulated agreement and agreed judgment, the
394 court may require a hearing on a case-by-case basis for the
395 judicial review of the payment schedule agreement.

396 (5) If the licensee and the division do not reach an
397 agreement on a payment schedule for the arrearage, the licensee
398 may move the court to establish a payment schedule. However, this
399 action does not stay the license suspension.

400 (6) The notice given to a licensee that the licensee's
401 license will be suspended in ninety (90) days must clearly state
402 the remedies and procedures that are available to a licensee under
403 this section.

404 (7) If at the end of the ninety (90) days the licensee has
405 an arrearage according to the accounting records of the
406 Mississippi Department of Human Services and the licensee has not
407 entered into a stipulated agreement and agreed judgment
408 establishing a payment schedule for the arrearage, the division
409 shall immediately notify all applicable licensing entities in
410 writing to suspend the licensee's license, and the licensing
411 entities shall immediately suspend the license and shall within
412 three (3) business days notify the licensee and the licensee's
413 employer, where known, of the license suspension and the date of
414 such suspension by certified mail return receipt requested. A
415 licensing entity shall immediately reinstate the suspended license
416 upon the division's notification of the licensing entities in
417 writing that the licensee no longer has an arrearage or that the
418 licensee has entered into a stipulated agreement and agreed
419 judgment.

420 (8) Within thirty (30) days after a licensing entity
421 suspends the licensee's license at the direction of the division
422 under subsection (7) of this section, the licensee may appeal the
423 license suspension to the chancery court of the county in which
424 the licensee resides or to the Chancery Court of the First
425 Judicial District of Hinds County, Mississippi, upon giving bond
426 with sufficient sureties in the amount of Two Hundred Dollars
427 (\$200.00), approved by the clerk of the chancery court and
428 conditioned to pay any costs that may be adjudged against the
429 licensee. Notice of appeal shall be filed in the office of the

430 clerk of the chancery court. If there is an appeal, the appeal
431 may, in the discretion of and on motion to the chancery court, act
432 as a supersedeas of the license suspension. The department shall
433 be the appellee in the appeal, and the licensing entity shall not
434 be a party in the appeal. The chancery court shall dispose of the
435 appeal and enter its decision within thirty (30) days of the
436 filing of the appeal. The hearing on the appeal may, in the
437 discretion of the chancellor, be tried in vacation. The decision
438 of the chancery court may be appealed to the Supreme Court in the
439 manner provided by the rules of the Supreme Court. In the
440 discretion of and on motion to the chancery court, no person shall
441 be allowed to practice any business, occupation or profession or
442 take any other action under the authority of any license the
443 suspension of which has been affirmed by the chancery court while
444 an appeal to the Supreme Court from the decision of the chancery
445 court is pending.

446 (9) If a licensee who has entered a stipulated agreement and
447 agreed judgment for the payment of an arrearage under this section
448 subsequently is out of compliance with an order for support, the
449 division shall immediately notify the licensing entity to suspend
450 the licensee's license, and the licensing entity shall immediately
451 suspend the license without a hearing and shall within three (3)
452 business days notify the licensee in writing of the license
453 suspension. In the case of a license suspension under the
454 provisions of this subsection, the procedures provided for under
455 subsections (1) and (2) of this section are not required;
456 however, the appeal provisions of subsection (8) of this section
457 still apply. After suspension of the license, if the licensee
458 subsequently enters into a stipulated agreement and agreed
459 judgment or the licensee otherwise informs the division of
460 compliance with the order for support, the division shall within
461 seven (7) days notify in writing the licensing entity that the
462 licensee is in compliance. Upon receipt of that notice from the
463 division, a licensing entity shall immediately reinstate the

464 license of the licensee and shall within three (3) business days
465 notify the licensee of the reinstatement.

466 (10) Nothing in this section prohibits a licensee from
467 filing a motion for the modification of an order for support or
468 for any other applicable relief. However, no such action shall
469 stay the license suspension procedure, except as may be allowed
470 under subsection (8) of this section.

471 (11) If a license is suspended under the provisions of this
472 section, the licensing entity is not required to refund any fees
473 paid by a licensee in connection with obtaining or renewing a
474 license.

475 (12) The requirement of a licensing entity to suspend a
476 license under this section does not affect the power of the
477 licensing entity to deny, suspend, revoke or terminate a license
478 for any other reason.

479 (13) The procedure for suspension of a license for being out
480 of compliance with an order for support, and the procedure for the
481 reissuance or reinstatement of a license suspended for that
482 purpose, shall be governed by this section and not by the general
483 licensing and disciplinary provisions applicable to a licensing
484 entity. Actions taken by a licensing entity in suspending a
485 license when required by this section are not actions from which
486 an appeal may be taken under the general licensing and
487 disciplinary provisions applicable to the licensing entity. Any
488 appeal of a license suspension that is required by this section
489 shall be taken in accordance with the appeal procedure specified
490 in subsection (8) of this section rather than any procedure
491 specified in the general licensing and disciplinary provisions
492 applicable to the licensing entity. If there is any conflict
493 between any provision of this section and any provision of the
494 general licensing and disciplinary provisions applicable to a
495 licensing entity, the provisions of this section shall control.

496 (14) No license shall be suspended under this section until
497 ninety (90) days after July 1, 1996. This ninety-day period shall

498 be a one-time amnesty period in which any person who may be
499 subject to license suspension under this article may comply with
500 an order of support in order to avoid the suspension of any
501 license.

502 (15) Any individual who fails to comply with a subpoena or
503 warrant relating to paternity or child support proceedings after
504 receiving appropriate notice may be subject to a suspension or the
505 withholding of an issuance of a license under this section.

506 SECTION 6. Section 93-11-159, Mississippi Code of 1972, is
507 amended as follows:

508 93-11-159. * * * The licensing entities subject to Sections
509 93-11-151 through 93-11-161 may establish an additional
510 administrative fee not to exceed Twenty-five Dollars (\$25.00) to
511 be paid by licensees who are out of compliance with an order of
512 support and who are subject to the provisions of Sections
513 93-11-151 through 93-11-161 for the purpose of recovering costs of
514 the licensing entities associated with the implementation of
515 Sections 93-11-151 through 93-11-161.

516 SECTION 7. Section 41-57-23, Mississippi Code of 1972, is
517 amended as follows:

518 41-57-23. (1) Any petition, bill of complaint or other
519 proceeding filed in the chancery court to: (a) change the date of
520 birth by two (2) or more days, (b) change the surname of a child,
521 (c) change the surname of either or both parents, (d) change the
522 birthplace of the child because of an error or omission of such
523 information as originally recorded or (e) make any changes or
524 additions to a birth certificate resulting from a legitimation,
525 filiation or any changes not specifically authorized elsewhere by
526 statute, shall be filed in the county of residence of the
527 petitioner or filed in any chancery court district of the state if
528 the petitioner be a nonresident petitioner. In all such
529 proceedings, the State Board of Health shall be made a respondent
530 therein, and a certified copy of the petition, bill of complaint
531 or other proceeding shall be forwarded to the State Board of

532 Health. Process may be served upon the State Registrar of Vital
533 Records. The State Board of Health shall file an answer to all
534 such proceedings within the time as provided by general law. The
535 provisions of this section shall not apply to adoption
536 proceedings. Upon receipt of a certified copy of a decree, which
537 authorizes and directs the State Board of Health to alter the
538 certificate, it shall comply with all of the provisions of such
539 decree.

540 (2) If a child is born to a mother who was not married at
541 the time of conception or birth, or at any time between conception
542 and birth, and the natural father acknowledges paternity, the name
543 of the father shall be added to the birth certificate if a
544 notarized affidavit by both parents acknowledging paternity is
545 received on the form prescribed or as provided in Section 93-9-9.

546 The surname of the child shall be that of the father except that
547 an affidavit filed at birth by both listed mother and father may
548 alter this rule. In the event the mother was married at the time
549 of conception or birth, or at any time between conception and
550 birth, or if a father is already listed on the birth certificate,
551 action must be taken under Section 41-57-23(1) to add or change
552 the name of the father.

553 (3) (a) A signed voluntary acknowledgment of paternity is
554 subject to the right of any signatory to rescind the
555 acknowledgment within the earlier of:

556 (i) Sixty (60) days; or

557 (ii) The date of a judicial proceeding relating to
558 the child (including a proceeding to establish a support order) in
559 which the signatory is a party.

560 (b) After the sixty-day period referred to above, a
561 signed voluntary acknowledgment of paternity may be challenged in
562 court only on the basis of fraud, duress, or material mistake of
563 fact, with the burden of proof upon the challenger, and under
564 which the legal responsibilities (including child support
565 obligations) of any signatory arising from the acknowledgment may

566 not be suspended during the challenge, except for good cause
567 shown.

568 SECTION 8. Section 93-9-9, Mississippi Code of 1972, is
569 amended as follows:

570 93-9-9. (1) Paternity may be determined upon the petition
571 of the mother, or father, the child or any public authority
572 chargeable by law with the support of the child; provided that
573 such an adjudication after the death of the defendant must be made
574 only upon clear and convincing evidence. If paternity has been
575 lawfully determined, or has been acknowledged in writing according
576 to the laws of this state, the liabilities of the noncustodial
577 parent may be enforced in the same or other proceedings by the
578 custodial parent, the child, or any public authority which has
579 furnished or may furnish the reasonable expenses of pregnancy,
580 confinement, education, necessary support and maintenance, and
581 medical or funeral expenses for the custodial parent or the child.

582 The trier of fact shall receive without the need for third-party
583 foundation testimony certified, attested or sworn documentation as
584 evidence of (a) childbirth records; (b) cost of filing fees; (c)
585 court costs; (d) services of process fees; (e) mailing cost; (f)
586 genetic tests and testing fees; (g) the department's attorney's
587 fees; (h) in cases where the state or any of its entities or
588 divisions have provided medical services to the child or the
589 child's mother, all costs of prenatal care, birthing, postnatal
590 care and any other medical expenses incurred by the child or by
591 the mother as a consequence of the mother's pregnancy or delivery;
592 and (i) funeral expenses. However, proceedings hereunder shall
593 not be instituted by the Department of Human Services after the
594 child has reached the age of eighteen (18) years but proceedings
595 may be instituted by a private attorney at any time until such
596 child attains the age of twenty-one (21) years unless the child
597 has been emancipated as provided in Section 93-5-23 and Section
598 93-11-65. In the event of court determined paternity, the surname
599 of the child shall be that of the father, unless the judgment

600 specifies otherwise.

601 (2) If the alleged father in an action to determine
602 paternity to which the Department of Human Services is a party
603 fails to appear for a scheduled hearing after having been served
604 with process or subsequent notice consistent with the Rules of
605 Civil Procedure, his paternity of the child(ren) shall be
606 established by the court if an affidavit sworn to by the mother
607 averring the alleged father's paternity of the child has
608 accompanied the complaint to determine paternity. Said affidavit
609 shall constitute sufficient grounds for the court's finding of the
610 alleged father's paternity without the necessity of the presence
611 or testimony of the mother at the said hearing. The court shall,
612 upon motion by the Department of Human Services, enter a judgment
613 of paternity. Any person who shall willfully and knowingly file a
614 false affidavit shall be subject to a fine of not more than One
615 Thousand Dollars (\$1,000.00).

616 (3) Upon application of both parents to the State Board of
617 Health and receipt by the State Board of Health of a sworn
618 acknowledgement of paternity executed by both parents subsequent
619 to the birth of a child born out of wedlock, the birth certificate
620 of the child shall be amended to show such paternity if paternity
621 is not shown on the birth certificate. Upon request of the
622 parents for the legitimization of a child under this section, the
623 surname of the child shall be changed on the certificate to that
624 of the father.

625 (4) (a) A signed voluntary acknowledgment of paternity is
626 subject to the right of any signatory to rescind the
627 acknowledgment within the earlier of:

628 (i) Sixty (60) days; or

629 (ii) The date of a judicial proceeding relating to
630 the child (including a proceeding to establish a support order) in
631 which the signatory is a party.

632 (b) After the sixty-day period referred to above, a
633 signed voluntary acknowledgment of paternity may be challenged in

634 court only on the basis of fraud, duress, or material mistake of
635 fact, with the burden of proof upon the challenger, and under
636 which the legal responsibilities (including child support
637 obligations) of any signatory arising from the acknowledgment may
638 not be suspended during the challenge, except for good cause
639 shown.

640 SECTION 9. Section 93-9-28, Mississippi Code of 1972, is
641 amended as follows:

642 93-9-28. (1) The Mississippi Department of Health in
643 cooperation with the Mississippi Department of Human Services
644 shall develop a form and procedure which may be used to secure a
645 voluntary acknowledgement of paternity from the mother and father
646 of any child born out of wedlock in Mississippi. The form shall
647 clearly state on its face that the execution of the
648 acknowledgement of paternity shall result in the same legal effect
649 as if the father and mother had been married at the time of the
650 birth of the child. When such form has been completed according
651 to the established procedure and the signatures of both the mother
652 and father have been notarized, then such voluntary
653 acknowledgement shall constitute a full determination of the legal
654 parentage of the child. The completed voluntary acknowledgement
655 of paternity shall be filed * * * with the Bureau of Vital
656 Statistics of the Mississippi Department of Health. The name of
657 the father shall be entered on the certificate of birth upon
658 receipt of the completed voluntary acknowledgement.

659 (2) (a) A signed voluntary acknowledgment of paternity is
660 subject to the right of any signatory to rescind the
661 acknowledgment within the earlier of:

662 (i) Sixty (60) days; or

663 (ii) The date of a judicial proceeding relating to
664 the child (including a proceeding to establish a support order) in
665 which the signatory is a party.

666 (b) After the sixty-day period referred to above, a
667 signed voluntary acknowledgment of paternity may be challenged in

668 court only on the basis of fraud, duress, or material mistake of
669 fact, with the burden of proof upon the challenger, and under
670 which the legal responsibilities (including child support
671 obligations) of any signatory arising from the acknowledgment may
672 not be suspended during the challenge, except for good cause
673 shown.

674 (3) The Mississippi Department of Health and the Mississippi
675 Department of Human Services shall cooperate to establish
676 procedures to facilitate the voluntary acknowledgement of
677 paternity by both father and mother at the time of the birth of
678 any child born out of wedlock. Such procedures shall establish
679 responsibilities for each of the departments and for hospitals,
680 birthing centers, midwives, and/or other birth attendants to seek
681 and report voluntary acknowledgements of paternity. In
682 establishing such procedures, the departments shall provide for
683 obtaining the Social Security account numbers of both the father
684 and mother on voluntary acknowledgements.

685 (4) Upon the birth of a child out of wedlock, the hospital,
686 birthing center, midwife or other birth attendant shall provide an
687 opportunity for the child's mother and natural father to complete
688 an acknowledgement of paternity by giving the mother and natural
689 father the appropriate forms and information developed through the
690 procedures established in paragraph (3). The hospital, birthing
691 center, midwife or other birth attendant shall be responsible for
692 providing printed information, and audio visual material if
693 available, related to the acknowledgement of paternity, and shall
694 be required to provide notary services needed for the completion
695 of acknowledgements of paternity. The information described above
696 shall be provided to the mother and natural father, if present and
697 identifiable, within twenty-four (24) hours of birth or before the
698 mother is released. Such information, including forms, brochures,
699 pamphlets, video tapes and other media, shall be provided at no
700 cost to the hospital, birthing center or midwife by the
701 Mississippi State Department of Health, the Department of Human

702 Services or other appropriate agency.

703 SECTION 10. The following provision shall be codified as
704 Section 43-19-34, Mississippi Code of 1972:

705 43-19-34. (1) In lieu of legal proceedings instituted to
706 obtain a modification for an order for support, a written
707 stipulated agreement for modification executed by the responsible
708 parent when acknowledged before a clerk of the court having
709 jurisdiction over such matters or a notary public and filed with
710 and approved by the judge of said court shall have the same force
711 and effect, retroactively and prospectively, in accordance with
712 the terms of said agreement as an order for modification of
713 support entered by the court, and shall be enforceable and subject
714 to subsequent modification in the same manner as is provided by
715 law for orders of the court in such cases.

716 (2) With respect to a child support order in cases initiated
717 or enforced by the Department of Human Services pursuant to Title
718 IV-D of the Social Security Act, wherein the department has
719 determined that a modification is appropriate, the department
720 shall send a motion and notice of intent to modify the order,
721 together with the proposed modification of the order under this
722 section by first class mail to the last known mailing address of
723 the defendant. Such notice shall specify the date and time
724 certain of the hearing. The defendant may accept the proposed
725 modification by signing and returning it to the department prior
726 to the date of hearing for presentation to the court for approval.

727 In the event that the defendant does not sign and return the
728 proposed modification, the court shall on the date and time
729 previously set for hearing review the proposal and make a
730 determination as to whether it should be approved in whole or in
731 part.

732 SECTION 11. Section 43-19-33, Mississippi Code of 1972, is
733 amended as follows:

734 43-19-33. (1) In lieu of legal proceedings instituted to
735 obtain support for a dependent child from the responsible parent,

736 a written stipulated agreement to support said child by periodic
737 payments executed by the responsible parent when acknowledged
738 before a clerk of the court having jurisdiction over such matters
739 or a notary public and filed with and approved by the judge of
740 said court shall have the same force and effect, retroactively and
741 prospectively, in accordance with the terms of said agreement as
742 an order of support entered by the court, and shall be enforceable
743 and subject to modification in the same manner as is provided by
744 law for orders of the court in such cases.

745 (2) In lieu of legal proceedings instituted to establish
746 paternity, a written admission of paternity containing a
747 stipulated agreement of support executed by the putative father of
748 the dependent child, when accompanied by a written affirmation of
749 paternity executed and sworn to by the mother of the dependent
750 child, when acknowledged by the putative father before a clerk of
751 the court having jurisdiction over such matters or a notary public
752 and filed with and approved by the judge of said court, shall have
753 the same force and effect, retroactively and prospectively, in
754 accordance with the terms of said agreement, as an order of
755 filiation and support entered by the court, and shall be
756 enforceable and subject to modification in the same manner as is
757 provided by law for orders of the court in such cases.

758 (3) At any time after filing with the court having
759 continuing jurisdiction of such matters of an acknowledgment of
760 paternity wherein a provision of support has not been entered
761 into, upon notice by the department to the defendant by first
762 class mail at his last known mailing address and without the
763 requirement of a summons being issued, the defendant shall be
764 required to appear in court at any time and place named therein,
765 to show cause, if any he can, why the court should not enter an
766 order for the support of the child by periodic payments, which
767 order may include provisions for reimbursement for medical
768 expenses incident to the pregnancy and the birth of the child,
769 accrued maintenance and reasonable expenses of the action under

770 this subsection on the acknowledgment of paternity previously
771 filed with said court. Provided, that in the case of a child who,
772 upon reaching the age of twenty-one (21) years, is mentally or
773 physically incapable of self-support, the putative father shall
774 not be relieved of the duty of support unless said child is a
775 long-term patient in a facility owned or operated by the State of
776 Mississippi. The prior judgment as to paternity shall be res
777 judicata as to that issue and shall not be reconsidered by the
778 court.

779 (4) Such agreements of support, acknowledgments and
780 affirmations of paternity and support shall be sworn to and shall
781 be binding on the person executing the same whether he be an adult
782 or a minor and may include provisions for the reimbursement of
783 medical expenses incident to the pregnancy and birth of the child,
784 accrued maintenance and reasonable expenses of any action
785 previously filed before the court.

786 (5) In lieu of legal proceedings instituted to enforce an
787 order for support, a written stipulated agreement for the
788 provision of periodic payments towards an arrearage executed by
789 the defendant when acknowledged before a clerk of the court having
790 jurisdiction over such matters or a notary public and filed with
791 and approved by the judge of said court shall have the same force
792 and effect, retroactively and prospectively, in accordance with
793 the terms of said agreement as a judgment for overdue support
794 entered by the court, and shall be enforceable and subject to
795 modification in the same manner as is provided by law for orders
796 of the court in such cases.

797 (6) All agreements entered into under the provisions as set
798 forth hereinabove shall be filed by the clerk of the court having
799 jurisdiction over such matters in the county in which they are
800 entered and filing fees shall be taxed to the responsible parent.

801 SECTION 12. The following provision shall be codified as
802 Section 43-19-44, Mississippi Code of 1972:

803 43-19-44. For purposes of this section, an "authorized

804 person" shall mean:

805 (a) Any agent or attorney of any state having in effect
806 a plan approved under federal law, who has the duty or authority
807 under such plan to seek to recover any amounts owed as child and
808 spousal support (including, when authorized under the state plan,
809 any official of a political subdivision);

810 (b) The court which has authority to issue an order or
811 to serve as the initiating court in an action to seek an order
812 against a noncustodial parent of the support and maintenance of a
813 child, or any agent of such court;

814 (c) The resident parent, legal guardian, attorney or
815 agent of a child (other than a child receiving federal assistance
816 as determined by federal regulation) without regard to the
817 existence of a court order against a noncustodial parent who has a
818 duty to support and maintain any such child;

819 (d) A state agency that is administering a program
820 operated under a state plan approved under federal law;

821 (e) Any agent or attorney of any state having an
822 agreement under this section, who has the duty or authority under
823 the law of such state to enforce a child custody or visitation
824 determination;

825 (f) Any court having jurisdiction to make or enforce
826 such a child custody or visitation determination, or any agent of
827 such court; and

828 (g) Any agent or attorney of the United States, or of a
829 state having an agreement under this section, who has the duty or
830 authority to investigate, enforce or bring a prosecution with
831 respect to the unlawful taking or restraint of a child.

832 The department shall safeguard personal data if the
833 department is provided with reasonable evidence of a risk of harm.

834 A state agency, court, department of another state, obligor,
835 obligee and such other persons or entities as the department may
836 specify may provide the department with reasonable evidence of a
837 risk of harm in such manner as the department may require. The

838 department shall not be required to safeguard personal data in
839 intrastate cases for longer than one (1) year unless the
840 department is provided with reasonable evidence of a continued
841 risk of harm in such manner as the department may require. The
842 department shall notify individuals whose personal data is
843 safeguarded under this section that in order for the safeguards to
844 remain in effect, such individuals must provide the department
845 annually with reasonable evidence of a continued risk of harm.
846 For the purposes of this section "reasonable evidence of a risk of
847 harm" shall mean reasonable evidence that the release of
848 information may result in physical harm to the parent or child,
849 that the release of information may result in emotional harm to
850 the parent or child which would significantly reduce the parent's
851 capacity to care for the child, or would significantly reduce the
852 parent or child's ability to function adequately, or that a
853 protective order or restraining order has been issued on behalf of
854 the parent or child.

855 If the department is provided with reasonable evidence of a
856 risk of harm, the department, its employees and its contractors
857 shall not disclose any personal data that could otherwise be
858 disclosed about the location of a parent or child, including
859 residential address, telephone number and name, address and
860 telephone number of employer, and shall not disclose the Social
861 Security number of a parent or child; provided, however, that such
862 personal data may be shared by and between employees of the
863 department and its contractors; provided further, that the
864 department may disclose such personal data to the Federal Parent
865 Locator Service, to the court, or agent of a court that is
866 authorized to receive information from the Federal Parent Locator
867 Service established pursuant to Title IV-D of the Social Security
868 Act.

869 Provided further, that the department may disclose the Social
870 Security number of a child receiving IV-D services for the
871 purposes directly connected to obtaining health care coverage for

872 such child to an employer or provider of health care coverage.

873 If the department is provided with reasonable evidence of a
874 risk of harm pursuant to this section, the department shall notify
875 the Federal Parent Locator Service established pursuant to Title
876 IV-D of the Social Security Act that a risk of harm exists. Upon
877 order of the court in an intrastate matter the department shall
878 release personal data, which may include location information and
879 Social Security numbers, to such court or agent, as required by
880 said Title IV-D of the Social Security Act; provided, however,
881 that if the department has been provided with reasonable evidence
882 of a risk of harm the department shall notify the court or agent
883 that the department has received such information, before making
884 any disclosure of such personal data, the court is required to
885 determine whether such disclosure to any other person could be
886 harmful to the parent or child. A person or agency seeking
887 disclosure of personal data which the department is prohibited
888 from disclosing because of a risk of harm, but which could
889 otherwise be disclosed may file a petition with the chancery court
890 to request disclosure of such personal data.

891 Upon an order by the court in interstate cases to override
892 nondisclosure procedures in cases dealing with domestic violence,
893 the court shall order the department to release this information
894 within thirty (30) days of the order. Whereupon, the department
895 shall transmit said court order to the Federal Office of Child
896 Support Enforcement (OCSE), Federal Parent Locator Service (FPLS).

897 Whereby OCSE will notify the department of its decision to remove
898 the nondisclosure code. Upon notification from OCSE, the
899 department shall release said information unto the court.

900 Any unauthorized disclosure or unauthorized willful
901 inspection made in a good faith effort to comply with this section
902 shall not be considered a violation of this section.

903 A person or agency, including the department, seeking
904 personal data which the department is prohibited from disclosing
905 because of a risk of harm, but which could otherwise be disclosed

906 or which the Federal Parent Locator Service established pursuant
907 to Title IV-D of the Social Security Act is prohibited from
908 disclosing because the Secretary of the Federal Department of
909 Health and Human Services has been notified that there is a
910 reasonable evidence of domestic violence or child abuse, may file
911 a petition with the court where the person resides to request
912 disclosure of such personal data. The petition shall specify the
913 purpose for which such personal data is required. When a petition
914 is filed, or when the court receives notice from the department
915 that the department has been notified of a risk of harm, the court
916 shall determine whether disclosure of personal data could be
917 harmful to the parent or child before releasing such data to any
918 other person or agency. In making such determination, the court
919 shall notify the parent that the court has received a request to
920 release personal data and shall provide a specific date by which
921 the parent must object to release of the information and provide
922 the basis for objection. The parent may provide such information
923 in writing and shall not be required to appear in person to
924 contest the release of information. The court shall also notify
925 the department of any petition filed pursuant to this section and
926 the department shall release to the court any information which it
927 has been provided regarding the risk of harm, however, that the
928 department shall not be made a party to the action. Further, the
929 attorney for the Department of Human Services, in any proceeding
930 herein, shall not be deemed to be appearing in a representative
931 capacity for any party. The court may also request information
932 directly from the Federal Parent Locator Service from the
933 department of another state, and from any other source.

934 In determining whether disclosure of personal data could be
935 harmful to the parent or child, the court shall consider any
936 relevant information provided by the parent or child, any
937 information provided by the department or by the department of
938 another state, any evidence provided by the person seeking the
939 personal data. Documentary evidence transmitted to the court by

940 facsimile, telecopier or other means that do not provide an
941 original writing may not be excluded from evidence on an objection
942 based on the means of transmission. The court may permit a party
943 or witness to be deposed or to testify by telephone, audiovisual
944 means, or other electronic means.

945 The court may enter an order (1) impounding the personal data
946 and prohibiting any disclosure by the court or its agents, (2)
947 permitting disclosure by the court or its agents to a specific
948 person or persons, (3) removing any restrictions on disclosure by
949 the court and its agents. An order permitting disclosure of
950 personal data may specify the purposes for which the data may be
951 used and may prohibit a person to whom the data is disclosed from
952 making further disclosures to any other person. The court shall
953 notify the department of any order entered pursuant to this
954 section. Any person or agency who violates an order issued
955 pursuant to this section may be held in contempt of court and
956 subject to the penalties provided herein.

957 The court may disclose location information about a parent
958 for the limited purpose of notifying the parent of a proceeding
959 under this section or of any other proceeding in court, provided
960 that such information shall not be disclosed to another party
961 unless the court issues an order pursuant to this section
962 permitting such disclosure.

963 SECTION 13. Section 93-11-65, Mississippi Code of 1972, is
964 amended as follows:

965 93-11-65. (1) In addition to the right to proceed under
966 Section 93-5-23, Mississippi Code of 1972, and in addition to the
967 remedy of habeas corpus in proper cases, and other existing
968 remedies, the chancery court of the proper county shall have
969 jurisdiction to entertain suits for the custody, care, support and
970 maintenance of minor children and to hear and determine all such
971 matters, and shall, if need be, require bond, sureties or other
972 guarantee to secure any order for periodic payments for the
973 maintenance or support of a child. In the event a legally

974 responsible parent has health insurance available to him or her
975 through an employer or organization that may extend benefits to
976 the dependents of such parent, any order of support issued against
977 such parent may require him or her to exercise the option of
978 additional coverage in favor of such children as he or she is
979 legally responsible to support. Proceedings may be brought by or
980 against a resident or nonresident of the State of Mississippi,
981 whether or not having the actual custody of minor children, for
982 the purpose of judicially determining the legal custody of a
983 child. All actions herein authorized may be brought in the county
984 where the child is actually residing, or in the county of the
985 residence of the party who has actual custody, or of the residence
986 of the defendant. Process shall be had upon the parties as
987 provided by law for process in person or by publication, if they
988 be nonresidents of the state or residents of another jurisdiction
989 or are not found therein after diligent search and inquiry or are
990 unknown after diligent search and inquiry; provided that the court
991 or chancellor in vacation may fix a date in termtime or in
992 vacation to which process may be returnable and shall have power
993 to proceed in termtime or vacation. Provided, however, that if
994 the court shall find that both parties are fit and proper persons
995 to have custody of the children, and that either party is able to
996 adequately provide for the care and maintenance of the children,
997 and that it would be to the best interest and welfare of the
998 children, then any such child who shall have reached his twelfth
999 birthday shall have the privilege of choosing the parent with whom
1000 he shall live.

1001 (2) Provided further, that where the proof shows that both
1002 parents have separate incomes or estates, the court may require
1003 that each parent contribute to the support and maintenance of the
1004 children in proportion to the relative financial ability of each.

1005 (3) Whenever the court has ordered a party to make periodic
1006 payments for the maintenance or support of a child, but no bond,
1007 sureties or other guarantee has been required to secure such

1008 payments, and whenever such payments as have become due remain
1009 unpaid for a period of at least thirty (30) days, the court may,
1010 upon petition of the person to whom such payments are owing, or
1011 such person's legal representative, enter an order requiring that
1012 bond, sureties or other security be given by the person obligated
1013 to make such payments, the amount and sufficiency of which shall
1014 be approved by the court. The obligor shall, as in other civil
1015 actions, be served with process and shall be entitled to a hearing
1016 in such case.

1017 (4) When a charge of abuse or neglect of a child first
1018 arises in the course of a custody or maintenance action pending in
1019 the chancery court pursuant to this section, the chancery court
1020 may proceed with the investigation, hearing and determination of
1021 such abuse or neglect charge as a part of its hearing and
1022 determination of the custody or maintenance issue as between the
1023 parents, as provided in Section 43-21-151, notwithstanding the
1024 other provisions of the Youth Court Law. The proceedings in
1025 chancery court on the abuse or neglect charge shall be
1026 confidential in the same manner as provided in youth court
1027 proceedings, and the chancery court shall appoint a guardian ad
1028 litem in such cases, as provided under Section 43-21-121 for youth
1029 court proceedings, who shall be an attorney. Unless the chancery
1030 court's jurisdiction has been terminated, all disposition orders
1031 in such cases for placement with the Department of Human Services
1032 shall be reviewed by the court or designated authority at least
1033 annually to determine if continued placement with the department
1034 is in the best interest of the child or the public.

1035 (5) The noncustodial parent and custodial parent in a
1036 paternity or child support proceeding shall be required to file
1037 and update, with the court and with the state case registry,
1038 information on location and identity of the party, including
1039 Social Security number, residential and mailing addresses,
1040 telephone numbers, photograph, driver's license number, and name,
1041 address and telephone number of the party's employer. This

1042 information shall be required upon entry of an order.

1043 (6) In such cases subsequently enforced by the Department of
1044 Human Services pursuant to Title IV-D of the Social Security Act,
1045 the court shall have continuing jurisdiction. State due process
1046 requirements for notice and service of process shall be met with
1047 respect to the party upon written notice sent by first class mail
1048 at least thirty (30) days prior to the hearing to the most recent
1049 residential or employer address filed with the court and the state
1050 case registry.

1051 (7) The duty of support of a child terminates upon the
1052 emancipation of the child. The court may determine that
1053 emancipation has occurred and no other support obligation exists
1054 when the child:

1055 (a) Attains the age of twenty-one (21) years, or

1056 (b) Marries, or

1057 (c) Discontinues full-time enrollment in school and
1058 obtains full-time employment prior to attaining the age of
1059 twenty-one (21) years, or

1060 (d) Voluntarily moves from the home of the custodial
1061 parent or guardian and establishes independent living arrangements
1062 and obtains full-time employment prior to attaining the age of
1063 twenty-one (21) years.

1064 SECTION 14. Section 93-11-71, Mississippi Code of 1972, is
1065 amended as follows:

1066 93-11-71. (1) Whenever a court orders any person to make
1067 periodic payments for the maintenance or support of a child, and
1068 whenever such payments as have become due remain unpaid for a
1069 period of at least thirty (30) days, a judgment by operation of
1070 law shall arise against the obligor in such amount as is equal to
1071 all such payments which are then due and owing.

1072 (a) Said judgment which arises by operation of law
1073 shall have the same effect and be fully enforceable as any other
1074 judgment entered in this state. A judicial or administrative
1075 action to enforce said judgment may be commenced at any time; and

1076 (b) Such judgments arising in other states by operation
1077 of law shall be entitled to be given full faith and credit.

1078 (2) Any judgment arising under the provisions of this
1079 section shall operate as a lien upon all the property of the
1080 judgment debtor, both real and personal. The judgment for
1081 periodic payments for the maintenance and support of a child,
1082 along with sworn documentation of the delinquent child support,
1083 shall be entered on the judgment roll. Liens arising under the
1084 provisions of this section may be executed upon and enforced in
1085 the same manner and to the same extent as any other judgment.

1086 (3) Notwithstanding the provisions in paragraph (2), any
1087 judgment obtained under the provisions of this section shall
1088 subject the following assets to interception or seizure without
1089 regard to the entry of such judgment on the judgment roll of the
1090 situs district or jurisdiction:

1091 (a) Periodic or lump-sum payments from a federal, state
1092 or local agency, including unemployment compensation, workers'
1093 compensation and other benefits;

1094 (b) Winnings from lotteries and gaming winnings which
1095 are received in periodic payments made over a period in excess of
1096 thirty (30) days;

1097 (c) Assets held in financial institutions;

1098 (d) Settlements and awards resulting from civil
1099 actions; and

1100 (e) Public and private retirement funds, only to the
1101 extent that the obligor is qualified to receive and receives a
1102 lump sum or periodic distribution from the funds.

1103 (4) In any case in which a child receives assistance from
1104 block grants for Temporary Assistance for Needy Families (TANF),
1105 and the obligor owes past-due child support, the obligor, if not
1106 incapacitated, may be required by the court to participate in any
1107 work programs offered by any state agency.

1108 SECTION 15. The following provision shall be codified as
1109 Section 93-11-105, Mississippi Code of 1972:

1110 93-11-105. (1) Notwithstanding the provisions of Section
1111 93-11-103, the Department of Human Services shall be authorized to
1112 implement administrative orders for withholding without the
1113 necessity of obtaining an order through judicial proceedings. The
1114 administrative order for withholding shall be implemented pursuant
1115 to a previously rendered order for support and shall be on a form
1116 prescribed by the Department of Human Services. Unless
1117 inconsistent with the provisions of this section, the order for
1118 withholding shall be subject to the same requirements as provided
1119 in Sections 93-11-101 through 93-11-118.

1120 (2) The administrative order shall be filed with the clerk
1121 by the department and a copy shall be transmitted to the obligor
1122 by first class mail.

1123 (3) The order for withholding shall:

1124 (a) Direct any payor to withhold an amount equal to the
1125 order for support;

1126 (b) Direct any payor to withhold an additional amount
1127 equal to twenty percent (20%) of the current support obligation,
1128 unless a different amount has been previously ordered by the
1129 court, until payment in full of any delinquency; and

1130 (c) Direct the payor not to withhold in excess of the
1131 amounts allowed under Section 303(b) of the Consumer Credit
1132 Protection Act, being 15. USCS 1673, as amended.

1133 SECTION 16. Section 93-11-103, Mississippi Code of 1972, is
1134 amended as follows:

1135 93-11-103. (1) **Child support orders enforced by Department**
1136 **of Human Services.** Upon entry of any order for support by a court
1137 of this state where the custodial parent is a recipient of
1138 services under Title IV-D of the federal Social Security Act,
1139 issued on or after October 1, 1996, the court entering such order
1140 shall enter a separate order for withholding which shall take
1141 effect immediately without any requirement that the obligor be
1142 delinquent in payment. All such orders for support issued prior
1143 to October 1, 1996, shall, by operation of law, be amended to

1144 conform with the provisions contained herein. All such orders for
1145 support issued shall:

1146 (a) Contain a provision for monthly income withholding
1147 procedures to take effect in the event the obligor becomes
1148 delinquent in paying the order for support without further
1149 amendment to the order or further action by the court; and

1150 (b) Require that the payor withhold any additional
1151 amount for delinquency specified in any order if accompanied by an
1152 affidavit of accounting, a notarized record of overdue payments or
1153 an attested judgment for delinquency or contempt. Any person who
1154 willfully and knowingly files a false affidavit, record or
1155 judgment shall be subject to a fine of not more than One Thousand
1156 Dollars (\$1,000.00).

1157 * * *

1158 (2) **Child support orders not enforced by the Department of**
1159 **Human Services.** Upon entry of any order for support by a court of
1160 this state where the custodial parent is not a recipient of
1161 services under Title IV-D of the federal Social Security Act,
1162 issued or modified or found to be in arrears on or after January
1163 1, 1994, the court entering such order shall enter a separate
1164 order for withholding which shall take effect immediately. Such
1165 orders shall not be subject to immediate income withholding under
1166 this subsection (a) if one of the parties (i.e. noncustodial or
1167 custodial parent) demonstrates, and the court finds, that there is
1168 good cause not to require immediate income withholding, or (b) if
1169 both parties agree in writing to an alternative arrangement.

1170 (3) If a child support order is issued or modified in the
1171 state but is not subject to immediate income withholding, it
1172 automatically becomes so if the court finds that a support payment
1173 is thirty (30) days past due. If the support order were issued or
1174 modified in another state but is not subject to immediate income
1175 withholding, it becomes subject to income withholding on the date
1176 on which child support payments are at least one (1) month in
1177 arrears, or if it is earlier, the earliest of (a) the date as of

1178 which the noncustodial parent requests that withholding begin, (b)
1179 the date as of which the custodial parent requests that
1180 withholding begin, or (c) an earlier date chosen by the court.

1181 (4) The clerk of the court shall submit copies of such
1182 orders to the obligor's payor, any additional or subsequent payor,
1183 and to the Mississippi Department of Human Services Case Registry.
1184 The clerk of the court, the obligee's attorney, or the
1185 department's attorney may serve such immediate order for
1186 withholding by first class mail or personal delivery on the
1187 obligor's payor, superintendent, manager, agent or subsequent
1188 payor, as the case may be. In a case where the obligee's attorney
1189 or the department's attorney serves such immediate order, the
1190 attorney shall notify the clerk of the court in writing, which
1191 notice shall be placed in the court file. There shall be no need
1192 for further notice, hearing, order, process or procedure prior to
1193 service of said order on the payor or any additional or subsequent
1194 payor. The obligor may contest, if grounds exist, service of the
1195 order of withholding on additional or subsequent payors, by filing
1196 an action with the issuing court. Such filing shall not stay the
1197 obligor's duty to support pending judicial determination of the
1198 obligor's claim. Nothing herein shall be construed to restrict
1199 the authority of the courts of this state from entering any order
1200 it deems appropriate to protect the rights of any parties
1201 involved.

1202 (5) The order for withholding shall:

1203 (a) Direct any payor to withhold an amount equal to the
1204 order for support;

1205 (b) Direct any payor to withhold an additional amount,
1206 not less than ten percent (10%) of the order for support, until
1207 payment in full of any delinquency; and

1208 (c) Direct the payor not to withhold in excess of the
1209 amounts allowed under Section 303(b) of the Consumer Credit
1210 Protection Act, being 15 USCS 1673, as amended.

1211 (6) In cases initiated or enforced by the Department of

1212 Human Services pursuant to Title IV-D of the federal Social
1213 Security Act, all such orders for withholding may permit the
1214 Department of Human Services to withhold through said withholding
1215 order additional amounts to recover costs incurred through its
1216 efforts to secure the support order, including, but not limited
1217 to, all filing fees, court costs, service of process fees, mailing
1218 costs, birth certificate certification fee, genetic testing fees,
1219 the department's attorney's fees; and, in cases where the state or
1220 any of its entities or divisions have provided medical services to
1221 the child or the child's mother, all medical costs of prenatal
1222 care, birthing, postnatal care and any other medical expenses
1223 incurred by the child or by the mother as a consequence of her
1224 pregnancy or delivery.

1225 (7) At the time the order for withholding is entered, the
1226 clerk of the court shall provide copies of the order for
1227 withholding and the order for support to the obligor, which shall
1228 be accompanied by a statement of the rights, remedies and duties
1229 of the obligor under Sections 93-11-101 through 93-11-119. The
1230 clerk of the court shall make copies available to the obligee and
1231 to the department or its local attorney.

1232 (8) The order for withholding shall remain in effect for as
1233 long as the order for support upon which it is based.

1234 (9) The failure of an order for withholding to state an
1235 arrearage is not conclusive of the issue of whether an arrearage
1236 is owing.

1237 (10) Any order for withholding entered pursuant to this
1238 section shall not be considered a garnishment.

1239 (11) All existing orders for support shall become subject to
1240 additional withholding if arrearages occur, subject to court
1241 hearing and order. The Department of Human Services or the
1242 obligee or his agent or attorney must send to each delinquent
1243 obligor notice that:

1244 (a) The withholding on the delinquency has commenced;

1245 (b) The information along with the required affidavit

1246 of accounting, notarized record of overdue payment or attested
1247 judgment of delinquency or contempt has been sent to the employer;
1248 and

1249 (c) The obligor may file an action with the issuing
1250 court on the grounds of mistake of fact. Such filing must be made
1251 within thirty (30) days of receipt of the notice and shall not
1252 stay the obligor's duty to support pending judicial determination
1253 of the obligor's claim.

1254 (12) An employer who complies with an income withholding
1255 notice that is regular on its face and which is accompanied by the
1256 required accounting affidavit, notarized record of overdue
1257 payments or attested judgment of delinquency or contempt shall not
1258 be subject to civil liability to any individual or agency for
1259 conduct in compliance with the notice.

1260 (13) The Department of Human Services shall be the
1261 designated agency to receive payments made by income withholding.

1262 SECTION 17. The following provision shall be codified as
1263 Section 43-19-59, Mississippi Code of 1972:

1264 43-19-59. (1) The Department of Human Services, as the
1265 Title IV-D child support enforcement agency of this state, shall
1266 use high-volume automated administrative enforcement, to the same
1267 extent as used for intrastate cases, in response to a request made
1268 by another state to enforce support orders, and shall promptly
1269 report the results of such enforcement procedure to the requesting
1270 state.

1271 (2) In this part, "high-volume, automated administrative
1272 enforcement" means the use of automatic data processing to search
1273 various available state data bases, including, but not limited to,
1274 license records, employment service data, and state new hire
1275 registries, to determine whether information is available
1276 regarding a parent who owes a child support obligation.

1277 (3) The department may, by electronic or other means,
1278 transmit to another state or receive from another state a request
1279 for assistance in enforcing support orders through high-volume,

1280 automated administrative enforcement, which request:

1281 (a) Shall include such information as will enable the
1282 state to which the request is transmitted to compare the
1283 information about the cases to the information in the data bases
1284 of the state receiving the request; and

1285 (b) Shall constitute a certification by the requesting
1286 state:

1287 (i) Of the amount of support under an order the
1288 payment of which is in arrears; and

1289 (ii) That the requesting state has complied with
1290 all procedural due process requirements applicable to each case.

1291 (c) If the department provides assistance to another
1292 state with respect to a case, or if another state seeks assistance
1293 from the department pursuant to this section, neither state shall
1294 consider the case to be transferred to the caseload of such other
1295 state.

1296 SECTION 18. This act shall take effect and be in force from
1297 and after July 1, 1999.