

By: Representatives Moody, Perry

To: Judiciary A

HOUSE BILL NO. 852
(As Passed the House)

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 93-11-155, 93-11-157, 93-11-159 AND 93-11-163, MISSISSIPPI CODE OF
14 1972, TO AUTHORIZE THE CHILD SUPPORT UNIT TO SUSPEND THE
15 NONCUSTODIAL PARENT'S LICENSE WHEN HE OR SHE FAILS TO ANSWER A
16 SUBPOENA OR RESPOND TO A SUMMONS, TO DELETE THE REQUIREMENT THAT A
17 CONTEMPT CITATION BE OBTAINED BEFORE LICENSE SUSPENSION IS ORDERED
18 AND TO DELETE THE REQUIREMENT FOR INTERAGENCY AGREEMENTS FOR
19 LICENSE SUSPENSION ENFORCEMENT PURPOSES; TO AMEND SECTIONS
20 41-57-23, 93-9-9 AND 93-9-28, MISSISSIPPI CODE OF 1972, TO ALLOW
21 THE FATHER 60 DAYS TO RESCIND THE SWORN ACKNOWLEDGMENT OF
22 PATERNITY RECEIVED BY THE STATE BOARD OF HEALTH, AND TO DELETE THE
23 TWO-YEAR LIMITATION FOR FILING A VOLUNTARY ACKNOWLEDGMENT OF
24 PATERNITY; TO CODIFY SECTION 43-19-34, MISSISSIPPI CODE OF 1972,
25 TO AUTHORIZE THE CHILD SUPPORT UNIT TO SEND A MOTION AND NOTICE OF
26 INTENT TO MODIFY A CHILD SUPPORT ORDER, SUBJECT TO THE STIPULATION
27 OF ALL PARTIES AND SUBJECT TO REVIEW AND APPROVAL BY THE COURT; TO
28 AMEND SECTION 43-19-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
29 CUSTODIAL AND NONCUSTODIAL PARENTS TO SIGN AN AGREEMENT MODIFYING
30 THE CHILD SUPPORT ORDER THROUGH STIPULATION FOR ARREARS; TO CODIFY
31 SECTION 43-19-44, MISSISSIPPI CODE OF 1972, TO DIRECT THE
32 DEPARTMENT OF HUMAN SERVICES TO SAFEGUARD PERSONAL DATA IF THERE
33 IS REASONABLE EVIDENCE OF A RISK OF HARM, TO PROVIDE A DEFINITION
34 OF REASONABLE EVIDENCE OF A RISK OF HARM TO THE PARENT OR CHILD IN
35 SUPPORT CASES, TO REQUIRE THE DEPARTMENT TO NOTIFY THE FEDERAL
36 PARENT LOCATOR SERVICE IN SUCH CASES, TO PROVIDE FOR A PETITION TO
37 THE COURT FOR THE RELEASE OF INFORMATION IN CASES WHERE IT HAS
38 BEEN DETERMINED THAT THERE IS A REASONABLE RISK OF HARM AND TO
39 PROVIDE ALTERNATIVE ORDERS BY THE COURT IN SUCH CASES; TO AMEND
40 SECTION 93-11-65, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
41 NONCUSTODIAL AND CUSTODIAL PARENT IN PATERNITY OR CHILD SUPPORT

PROCEEDINGS TO REGISTER CERTAIN INFORMATION AND TO UPDATE THIS INFORMATION AS IT CHANGES AND TO PROVIDE THAT DUE PROCESS REQUIREMENTS FOR NOTICE AND SERVICE SHALL BE MET BY NOTICE TO THE MOST RECENT RESIDENTIAL OR EMPLOYER ADDRESS FILED; TO AMEND SECTION 93-11-71, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CHILD SUPPORT UNIT TO IMPOSE LIENS ON REAL AND CERTAIN PERSONAL PROPERTY WITHOUT OBTAINING A JUDGMENT IN CIRCUIT COURT FOR CHILD SUPPORT PAYMENTS WHICH REMAIN UNPAID FOR OVER 30 DAYS AND TO AFFORD FULL FAITH AND CREDIT TO ANY SUCH LIENS ARISING IN OTHER STATES; TO CODIFY SECTION 93-11-105, MISSISSIPPI CODE OF 1972, AND TO AMEND SECTION 93-11-103, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CHILD SUPPORT UNIT TO BE THE DESIGNATED STATE AGENCY TO RECEIVE INCOME WITHHOLDING PAYMENTS AND TO DELETE CERTAIN EXCEPTIONS TO INCOME WITHHOLDING IN CASES ENFORCED BY THE CHILD SUPPORT UNIT; TO CODIFY SECTION 43-19-59, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CHILD SUPPORT UNIT TO USE HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT IN RESPONSE TO A REQUEST FROM ANOTHER STATE FOR THE ENFORCEMENT OF CHILD SUPPORT ORDERS WITHOUT THE NECESSITY OF COURT ORDER; AND FOR RELATED PURPOSES.

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

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

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

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

(b) To secure and collect support by any method authorized under state law and establish paternity for any child or children receiving aid from the department, from a parent or any other person legally liable for such support who has either failed or refused to provide support, deserted, neglected or abandoned the child or children, including cooperating with other 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

state; however, this shall not impair private litigants' rights to proceed under any applicable interstate enforcement mechanisms;

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

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

(l) To maintain a Mississippi Department of Human Services Case Registry containing records with respect to:

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

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

(iii) The Administrative Office of Courts, as established by Section 9-21-1, Mississippi Code of 1972, in consultation with the Mississippi Department of Human Services, shall devise, promulgate and require the use of a Uniform Child

Support Order Tracking System.

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

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

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

(n) To have the authority to use high-volume automated administrative enforcement in interstate cases to the same extent as used for intrastate cases, in response to a request made by another state to enforce support orders.

(o) To provide any child support enforcement or other service as may be required by the United States of America, Department of Health and Human Services, Family Support

Administration, Office of Child Support Enforcement or their
successor pursuant to federal law or regulation.

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

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

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

(c) In any case in which the Department of Human
Services orders genetic testing, the department is required to
advance costs of such tests subject to recoupment from the alleged
father if paternity is established. If either party challenges

the original test results, the department shall order additional testing at the expense of the challenging party. Such challenge must be made within ten (10) days from the date of mailing of the results.

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

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

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

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

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

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

After responses to the request for proposals have been duly received, the department shall select the lowest and best bid(s) on the basis of price, technology and other relevant factors and from such proposals, but not limited to the terms thereof, negotiate and enter into contract(s) with one or more of the laboratories submitting proposals. The department shall prepare a list of all laboratories with which it has contracted on these terms. The list and any updates thereto shall be distributed to all chancery clerks. To be eligible to appear on the list, a laboratory must meet the following requirements:

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

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

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

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

93-9-23. (1) Genetic testing shall be made by experts qualified as examiners of genetic tests who shall be appointed by the court pursuant to Section 93-9-21(5). The expert shall attach to the report of the test results an affidavit stating in substance: (a) that the affiant has been appointed by the court to administer the test and shall give his name, address, telephone

283 number, qualifications, education and experience; (b) how the
284 mother, child and alleged father were identified when the samples
285 were obtained; (c) who obtained the samples and how, when and
286 where obtained; (d) the chain of custody of the samples from the
287 time obtained until the tests were completed; (e) the results of
288 the test and the probability of paternity as calculated by an
289 expert based on the test results; (f) the amount of the fee for
290 performing the test; and (g) the procedures performed to obtain
291 the test results. In cases initiated or enforced by the
292 Department of Human Services pursuant to Title IV-D of the Social
293 Security Act the Department of Human Services shall be responsible
294 for paying the costs of any genetic testing when such testing is
295 required by law to establish paternity, subject to recoupment from
296 the defendant if paternity is established.

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

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

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

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

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

324 (a) "Licensing entity" or "entity" means any entity
325 specified in Title 73, Professions and Vocations, of the
326 Mississippi Code, and includes the Mississippi Department of
327 Public Safety with respect to driver's licenses, the Mississippi
328 State Tax Commission with respect to licenses for the sale of
329 alcoholic beverages and other licenses or registration authorizing
330 a person to engage in a business, the Mississippi Department of
331 Wildlife, Fisheries and Parks with respect to hunting and fishing
332 licenses, and any other state agency that issues a license
333 authorizing a person to engage in a business, occupation or
334 profession. For the purposes of this article, the Supreme Court
335 shall be considered to be the licensing entity for attorneys.

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

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

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

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

352 (f) "Department" means the Mississippi Department of
353 Human Services.

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

357 (h) "Delinquency" means any payments that are ordered
358 by any court to be paid by a noncustodial parent for the support
359 of a child that have remained unpaid for at least thirty (30) days
360 after payment is due. Delinquency shall also include payments
361 that are ordered by any court to be paid for maintenance of a
362 spouse.

363 SECTION 5. Section 93-11-155, Mississippi Code of 1972, is
364 amended as follows:

365 93-11-155. (1) In the manner and form prescribed by the
366 division, all licensing entities shall provide to the division, on
367 at least a quarterly basis, information on licensees for use in
368 the establishment, enforcement and collection of child support
369 obligations including, but not limited to: name, address, Social

370 Security number, sex, date of birth, employer's name and address,
371 type of license, effective date of the license, expiration date of
372 the license, and active or inactive license status. Whenever
373 technologically feasible, the department and licensing entities
374 shall seek to reach agreements to provide the information required
375 by this section by way of electronic data media, including, but
376 not limited to, on-line access and records on magnetic/optical
377 disk or tape. In lieu of providing the licensing information to
378 the division as outlined above and in the discretion of the
379 licensing entity, the division shall provide the identity of the
380 individual who is delinquent in support payments to the licensing
381 entity who will then match that information with their records and
382 provide the division with all necessary information for those
383 individuals licensed by that entity.

384 (2) Any licensed attorney representing the party to whom
385 support was ordered may submit to the division the name and record
386 of accounting showing an arrears of an individual who is out of
387 compliance with an order for support which is not being enforced
388 by the division under Title IV-D, and the division shall submit
389 the name of such individual to the licensing entities who will
390 match the name with their records in the same manner as provided
391 in subsection (1) to provide the attorney with necessary
392 information regarding licensees. The attorney applying for such
393 information shall pay a fee not to exceed Twenty-five Dollars
394 (\$25.00) for such service.

395 SECTION 6. Section 93-11-157, Mississippi Code of 1972, is
396 amended as follows:

397 93-11-157. (1) The division shall review the information
398 received under Section 93-11-155 and any other information

399 available to the division, and shall determine if a licensee is
400 out of compliance with an order for support. If a licensee is out
401 of compliance with the order for support, the division shall
402 notify the licensee by first class mail that ninety (90) days
403 after the licensee receives the notice of being out of compliance
404 with the order, the licensing entity will be notified to
405 immediately suspend the licensee's license unless the licensee
406 pays the arrearage owing, according to the accounting records of
407 the Mississippi Department of Human Services or enters into a
408 stipulated agreement and agreed judgment establishing a schedule
409 for the payment of the arrearage. The licensee shall be presumed
410 to have received the notice five (5) days after it is deposited in
411 the mail.

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

414 (a) Request a review with the division; however, the
415 issues the licensee may raise at the review are limited to whether
416 the licensee is the person required to pay under the order for
417 support and whether the licensee is out of compliance with the
418 order for support; or

419 (b) Request to participate in negotiations with the
420 division for the purpose of establishing a payment schedule for
421 the arrearage.

422 (3) The division director or the designees of the division
423 director may and, upon request of a licensee, shall negotiate with
424 a licensee to establish a payment schedule for the arrearage.
425 Payments made under the payment schedule shall be in addition to
426 the licensee's ongoing obligation under the latest entered
427 periodic order for support.

428 (4) Should the division and the licensee reach an agreement
429 on a payment schedule for the arrearage, the division director
430 shall submit to the court the stipulated agreement and agreed
431 judgment containing the payment schedule which, upon the court's
432 approval, is enforceable as any order of the court. If the court
433 does not approve the stipulated agreement and agreed judgment, the
434 court may require a hearing on a case-by-case basis for the
435 judicial review of the payment schedule agreement.

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

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

444 (7) If at the end of the ninety (90) days the licensee has
445 an arrearage according to the accounting records of the
446 Mississippi Department of Human Services and the licensee has not
447 entered into a stipulated agreement and agreed judgment
448 establishing a payment schedule for the arrearage, the division
449 shall immediately notify all applicable licensing entities in
450 writing to suspend the licensee's license, and the licensing
451 entities shall immediately suspend the license and shall within
452 three (3) business days notify the licensee and the licensee's
453 employer, where known, of the license suspension and the date of
454 such suspension by certified mail return receipt requested. A
455 licensing entity shall immediately reinstate the suspended license
456 upon the division's notification of the licensing entities in

457 writing that the licensee no longer has an arrearage or that the
458 licensee has entered into a stipulated agreement and agreed
459 judgment.

460 (8) Within thirty (30) days after a licensing entity
461 suspends the licensee's license at the direction of the division
462 under subsection (7) of this section, the licensee may appeal the
463 license suspension to the chancery court of the county in which
464 the licensee resides or to the Chancery Court of the First
465 Judicial District of Hinds County, Mississippi, upon giving bond
466 with sufficient sureties in the amount of Two Hundred Dollars
467 (\$200.00), approved by the clerk of the chancery court and
468 conditioned to pay any costs that may be adjudged against the
469 licensee. Notice of appeal shall be filed in the office of the
470 clerk of the chancery court. If there is an appeal, the appeal
471 may, in the discretion of and on motion to the chancery court, act
472 as a supersedeas of the license suspension. The department shall
473 be the appellee in the appeal, and the licensing entity shall not
474 be a party in the appeal. The chancery court shall dispose of the
475 appeal and enter its decision within thirty (30) days of the
476 filing of the appeal. The hearing on the appeal may, in the
477 discretion of the chancellor, be tried in vacation. The decision
478 of the chancery court may be appealed to the Supreme Court in the
479 manner provided by the rules of the Supreme Court. In the
480 discretion of and on motion to the chancery court, no person shall
481 be allowed to practice any business, occupation or profession or
482 take any other action under the authority of any license the
483 suspension of which has been affirmed by the chancery court while
484 an appeal to the Supreme Court from the decision of the chancery
485 court is pending.

486 (9) If a licensee who has entered a stipulated agreement and
487 agreed judgment for the payment of an arrearage under this section
488 subsequently is out of compliance with an order for support, the
489 division shall immediately notify the licensing entity to suspend
490 the licensee's license, and the licensing entity shall immediately
491 suspend the license without a hearing and shall within three (3)
492 business days notify the licensee in writing of the license
493 suspension. In the case of a license suspension under the
494 provisions of this subsection, the procedures provided for under
495 subsections (1) and (2) of this section are not required;
496 however, the appeal provisions of subsection (8) of this section
497 still apply. After suspension of the license, if the licensee
498 subsequently enters into a stipulated agreement and agreed
499 judgment or the licensee otherwise informs the division of
500 compliance with the order for support, the division shall within
501 seven (7) days notify in writing the licensing entity that the
502 licensee is in compliance. Upon receipt of that notice from the
503 division, a licensing entity shall immediately reinstate the
504 license of the licensee and shall within three (3) business days
505 notify the licensee of the reinstatement.

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

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

515 (12) The requirement of a licensing entity to suspend a
516 license under this section does not affect the power of the
517 licensing entity to deny, suspend, revoke or terminate a license
518 for any other reason.

519 (13) The procedure for suspension of a license for being out
520 of compliance with an order for support, and the procedure for the
521 reissuance or reinstatement of a license suspended for that
522 purpose, shall be governed by this section and not by the general
523 licensing and disciplinary provisions applicable to a licensing
524 entity. Actions taken by a licensing entity in suspending a
525 license when required by this section are not actions from which
526 an appeal may be taken under the general licensing and
527 disciplinary provisions applicable to the licensing entity. Any
528 appeal of a license suspension that is required by this section
529 shall be taken in accordance with the appeal procedure specified
530 in subsection (8) of this section rather than any procedure
531 specified in the general licensing and disciplinary provisions
532 applicable to the licensing entity. If there is any conflict
533 between any provision of this section and any provision of the
534 general licensing and disciplinary provisions applicable to a
535 licensing entity, the provisions of this section shall control.

536 (14) No license shall be suspended under this section until
537 ninety (90) days after July 1, 1996. This ninety-day period shall
538 be a one-time amnesty period in which any person who may be
539 subject to license suspension under this article may comply with
540 an order of support in order to avoid the suspension of any
541 license.

542 (15) Any individual who fails to comply with a subpoena or
543 warrant relating to paternity or child support proceedings after

544 receiving appropriate notice may be subject to a suspension or the
545 withholding of an issuance of a license under this section.

546 SECTION 7. Section 93-11-159, Mississippi Code of 1972, is
547 amended as follows:

548 93-11-159. * * * The licensing entities subject to Sections
549 93-11-151 through 93-11-161 may establish an additional
550 administrative fee not to exceed Twenty-five Dollars (\$25.00) to
551 be paid by licensees who are out of compliance with an order of
552 support and who are subject to the provisions of Sections
553 93-11-151 through 93-11-161 for the purpose of recovering costs of
554 the licensing entities associated with the implementation of
555 Sections 93-11-151 through 93-11-161.

556 SECTION 8. Section 93-11-163, Mississippi Code of 1972, is
557 amended as follows:

558 93-11-163. In addition to the procedures in Section
559 93-11-157, the court may, upon a finding that a defendant is in
560 delinquency for being out of compliance with an order for support,
561 order the licensing entity as defined in Section 93-11-153(a) to
562 suspend the license of the defendant. In its discretion, the
563 court may stay such an order for a reasonable time to allow the
564 defendant to purge himself of the delinquency. If a license is
565 suspended under this section, the court may also order the
566 licensing entity to reinstate the license when it is satisfied
567 that the defendant has purged himself of the delinquency.

568 Licensing entities shall treat a suspension under this section the
569 same as a suspension under Section 93-11-157. Defendants whose
570 license is suspended under this section shall be subject to any
571 administrative fees established for reinstatement under Section
572 93-11-159.

SECTION 9. Section 41-57-23, Mississippi Code of 1972, is amended as follows:

41-57-23. (1) Any petition, bill of complaint or other proceeding filed in the chancery court to: (a) change the date of birth by two (2) or more days, (b) change the surname of a child, (c) change the surname of either or both parents, (d) change the birthplace of the child because of an error or omission of such information as originally recorded or (e) make any changes or additions to a birth certificate resulting from a legitimation, filiation or any changes not specifically authorized elsewhere by statute, shall be filed in the county of residence of the petitioner or filed in any chancery court district of the state if the petitioner be a nonresident petitioner. In all such proceedings, the State Board of Health shall be made a respondent therein, and a certified copy of the petition, bill of complaint or other proceeding shall be forwarded to the State Board of Health. Process may be served upon the State Registrar of Vital Records. The State Board of Health shall file an answer to all such proceedings within the time as provided by general law. The provisions of this section shall not apply to adoption proceedings. Upon receipt of a certified copy of a decree, which authorizes and directs the State Board of Health to alter the certificate, it shall comply with all of the provisions of such decree.

(2) If a child is born to a mother who was not married at the time of conception or birth, or at any time between conception and birth, and the natural father acknowledges paternity, the name of the father shall be added to the birth certificate if a notarized affidavit by both parents acknowledging paternity is

received on the form prescribed or as provided in Section 93-9-9.

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

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

(i) Sixty (60) days; or
(ii) The date of a judicial proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.

(b) After the sixty-day period referred to above, a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

SECTION 10. Section 93-9-9, Mississippi Code of 1972, is amended as follows:

93-9-9. (1) Paternity may be determined upon the petition of the mother, or father, the child or any public authority chargeable by law with the support of the child; provided that such an adjudication after the death of the defendant must be made

only upon clear and convincing evidence. If paternity has been lawfully determined, or has been acknowledged in writing according to the laws of this state, the liabilities of the noncustodial parent may be enforced in the same or other proceedings by the custodial parent, the child, or any public authority which has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, necessary support and maintenance, and medical or funeral expenses for the custodial parent or the child.

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

(2) If the alleged father in an action to determine paternity to which the Department of Human Services is a party

660 fails to appear for a scheduled hearing after having been served
661 with process or subsequent notice consistent with the Rules of
662 Civil Procedure, his paternity of the child(ren) shall be
663 established by the court if an affidavit sworn to by the mother
664 averring the alleged father's paternity of the child has
665 accompanied the complaint to determine paternity. Said affidavit
666 shall constitute sufficient grounds for the court's finding of the
667 alleged father's paternity without the necessity of the presence
668 or testimony of the mother at the said hearing. The court shall,
669 upon motion by the Department of Human Services, enter a judgment
670 of paternity. Any person who shall willfully and knowingly file a
671 false affidavit shall be subject to a fine of not more than One
672 Thousand Dollars (\$1,000.00).

673 (3) Upon application of both parents to the State Board of
674 Health and receipt by the State Board of Health of a sworn
675 acknowledgement of paternity executed by both parents subsequent
676 to the birth of a child born out of wedlock, the birth certificate
677 of the child shall be amended to show such paternity if paternity
678 is not shown on the birth certificate. Upon request of the
679 parents for the legitimization of a child under this section, the
680 surname of the child shall be changed on the certificate to that
681 of the father.

682 (4) (a) A signed voluntary acknowledgment of paternity is
683 subject to the right of any signatory to rescind the
684 acknowledgment within the earlier of:

685 (i) Sixty (60) days; or

686 (ii) The date of a judicial proceeding relating to
687 the child (including a proceeding to establish a support order) in
688 which the signatory is a party.

689 (b) After the sixty-day period referred to above, a
690 signed voluntary acknowledgment of paternity may be challenged in
691 court only on the basis of fraud, duress, or material mistake of
692 fact, with the burden of proof upon the challenger, and under
693 which the legal responsibilities (including child support
694 obligations) of any signatory arising from the acknowledgment may
695 not be suspended during the challenge, except for good cause
696 shown.

697 SECTION 11. Section 93-9-28, Mississippi Code of 1972, is
698 amended as follows:

699 93-9-28. (1) The Mississippi Department of Health in
700 cooperation with the Mississippi Department of Human Services
701 shall develop a form and procedure which may be used to secure a
702 voluntary acknowledgement of paternity from the mother and father
703 of any child born out of wedlock in Mississippi. The form shall
704 clearly state on its face that the execution of the
705 acknowledgement of paternity shall result in the same legal effect
706 as if the father and mother had been married at the time of the
707 birth of the child. When such form has been completed according
708 to the established procedure and the signatures of both the mother
709 and father have been notarized, then such voluntary
710 acknowledgement shall constitute a full determination of the legal
711 parentage of the child. The completed voluntary acknowledgement
712 of paternity shall be filed * * * with the Bureau of Vital
713 Statistics of the Mississippi Department of Health. The name of
714 the father shall be entered on the certificate of birth upon
715 receipt of the completed voluntary acknowledgement.

716 (2) (a) A signed voluntary acknowledgment of paternity is
717 subject to the right of any signatory to rescind the

acknowledgment within the earlier of:

(i) Sixty (60) days; or

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

(b) After the sixty-day period referred to above, a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

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

(4) Upon the birth of a child out of wedlock, the hospital, birthing center, midwife or other birth attendant shall provide an opportunity for the child's mother and natural father to complete an acknowledgement of paternity by giving the mother and natural father the appropriate forms and information developed through the

procedures established in paragraph (3). The hospital, birthing center, midwife or other birth attendant shall be responsible for providing printed information, and audio visual material if available, related to the acknowledgement of paternity, and shall be required to provide notary services needed for the completion of acknowledgements of paternity. The information described above shall be provided to the mother and natural father, if present and identifiable, within twenty-four (24) hours of birth or before the mother is released. Such information, including forms, brochures, pamphlets, video tapes and other media, shall be provided at no cost to the hospital, birthing center or midwife by the Mississippi State Department of Health, the Department of Human Services or other appropriate agency.

SECTION 12. The following provision shall be codified as Section 43-19-34, Mississippi Code of 1972:

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

(2) With respect to a child support order in cases initiated or enforced by the Department of Human Services pursuant to Title IV-D of the Social Security Act, wherein the department has

776 determined that a modification is appropriate, the department
777 shall send a motion and notice of intent to modify the order,
778 together with the proposed modification of the order under this
779 section by first class mail to the last known mailing address of
780 the defendant. Such notice shall specify the date and time
781 certain of the hearing. The defendant may accept the proposed
782 modification by signing and returning it to the department prior
783 to the date of hearing for presentation to the court for approval.

784 In the event that the defendant does not sign and return the
785 proposed modification, the court shall on the date and time
786 previously set for hearing review the proposal and make a
787 determination as to whether it should be approved in whole or in
788 part.

789 SECTION 13. Section 43-19-33, Mississippi Code of 1972, is
790 amended as follows:

791 43-19-33. (1) In lieu of legal proceedings instituted to
792 obtain support for a dependent child from the responsible parent,
793 a written stipulated agreement to support said child by periodic
794 payments executed by the responsible parent when acknowledged
795 before a clerk of the court having jurisdiction over such matters
796 or a notary public and filed with and approved by the judge of
797 said court shall have the same force and effect, retroactively and
798 prospectively, in accordance with the terms of said agreement as
799 an order of support entered by the court, and shall be enforceable
800 and subject to modification in the same manner as is provided by
801 law for orders of the court in such cases.

802 (2) In lieu of legal proceedings instituted to establish
803 paternity, a written admission of paternity containing a
804 stipulated agreement of support executed by the putative father of

the dependent child, when accompanied by a written affirmation of paternity executed and sworn to by the mother of the dependent child, when acknowledged by the putative father before a clerk of the court having jurisdiction over such matters or a notary public and filed with and approved by the judge of said court, shall have the same force and effect, retroactively and prospectively, in accordance with the terms of said agreement, as an order of filiation and support entered by the court, and shall be enforceable and subject to modification in the same manner as is provided by law for orders of the court in such cases.

(3) At any time after filing with the court having continuing jurisdiction of such matters of an acknowledgment of paternity wherein a provision of support has not been entered into, upon notice by the department to the defendant by first class mail at his last known mailing address and without the requirement of a summons being issued, the defendant shall be required to appear in court at any time and place named therein, to show cause, if any he can, why the court should not enter an order for the support of the child by periodic payments, which order may include provisions for reimbursement for medical expenses incident to the pregnancy and the birth of the child, accrued maintenance and reasonable expenses of the action under this subsection on the acknowledgment of paternity previously filed with said court. Provided, that in the case of a child who, upon reaching the age of twenty-one (21) years, is mentally or physically incapable of self-support, the putative father shall not be relieved of the duty of support unless said child is a long-term patient in a facility owned or operated by the State of Mississippi. The prior judgment as to paternity shall be res

judicata as to that issue and shall not be reconsidered by the court.

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

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

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

SECTION 14. The following provision shall be codified as Section 43-19-44, Mississippi Code of 1972:

43-19-44. For purposes of this section, an "authorized person" shall mean:

(a) Any agent or attorney of any state having in effect

863 a plan approved under federal law, who has the duty or authority
864 under such plan to seek to recover any amounts owed as child and
865 spousal support (including, when authorized under the state plan,
866 any official of a political subdivision);

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

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

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

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

882 (f) Any court having jurisdiction to make or enforce
883 such a child custody or visitation determination, or any agent of
884 such court; and

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

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

891 A state agency, court, department of another state, obligor,

892 obligee and such other persons or entities as the department may
893 specify may provide the department with reasonable evidence of a
894 risk of harm in such manner as the department may require. The
895 department shall not be required to safeguard personal data in
896 intrastate cases for longer than one (1) year unless the
897 department is provided with reasonable evidence of a continued
898 risk of harm in such manner as the department may require. The
899 department shall notify individuals whose personal data is
900 safeguarded under this section that in order for the safeguards to
901 remain in effect, such individuals must provide the department
902 annually with reasonable evidence of a continued risk of harm.
903 For the purposes of this section "reasonable evidence of a risk of
904 harm" shall mean reasonable evidence that the release of
905 information may result in physical harm to the parent or child,
906 that the release of information may result in emotional harm to
907 the parent or child which would significantly reduce the parent's
908 capacity to care for the child, or would significantly reduce the
909 parent or child's ability to function adequately, or that a
910 protective order or restraining order has been issued on behalf of
911 the parent or child.

912 If the department is provided with reasonable evidence of a
913 risk of harm, the department, its employees and its contractors
914 shall not disclose any personal data that could otherwise be
915 disclosed about the location of a parent or child, including
916 residential address, telephone number and name, address and
917 telephone number of employer, and shall not disclose the Social
918 Security number of a parent or child; provided, however, that such
919 personal data may be shared by and between employees of the
920 department and its contractors; provided further, that the

921 department may disclose such personal data to the Federal Parent
922 Locator Service, to the court, or agent of a court that is
923 authorized to receive information from the Federal Parent Locator
924 Service established pursuant to Title IV-D of the Social Security
925 Act.

926 Provided further, that the department may disclose the Social
927 Security number of a child receiving IV-D services for the
928 purposes directly connected to obtaining health care coverage for
929 such child to an employer or provider of health care coverage.

930 If the department is provided with reasonable evidence of a
931 risk of harm pursuant to this section, the department shall notify
932 the Federal Parent Locator Service established pursuant to Title
933 IV-D of the Social Security Act that a risk of harm exists. Upon
934 order of the court in an intrastate matter the department shall
935 release personal data, which may include location information and
936 Social Security numbers, to such court or agent, as required by
937 said Title IV-D of the Social Security Act; provided, however,
938 that if the department has been provided with reasonable evidence
939 of a risk of harm the department shall notify the court or agent
940 that the department has received such information, before making
941 any disclosure of such personal data, the court is required to
942 determine whether such disclosure to any other person could be
943 harmful to the parent or child. A person or agency seeking
944 disclosure of personal data which the department is prohibited
945 from disclosing because of a risk of harm, but which could
946 otherwise be disclosed may file a petition with the chancery court
947 to request disclosure of such personal data.

948 Upon an order by the court in interstate cases to override
949 nondisclosure procedures in cases dealing with domestic violence,

the court shall order the department to release this information within thirty (30) days of the order. Whereupon, the department shall transmit said court order to the Federal Office of Child Support Enforcement (OCSE), Federal Parent Locator Service (FPLS).

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

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

A person or agency, including the department, seeking personal data which the department is prohibited from disclosing because of a risk of harm, but which could otherwise be disclosed or which the Federal Parent Locator Service established pursuant to Title IV-D of the Social Security Act is prohibited from disclosing because the Secretary of the Federal Department of Health and Human Services has been notified that there is a reasonable evidence of domestic violence or child abuse, may file a petition with the court where the person resides to request disclosure of such personal data. The petition shall specify the purpose for which such personal data is required. When a petition is filed, or when the court receives notice from the department that the department has been notified of a risk of harm, the court shall determine whether disclosure of personal data could be harmful to the parent or child before releasing such data to any other person or agency. In making such determination, the court shall notify the parent that the court has received a request to release personal data and shall provide a specific date by which the parent must object to release of the information and provide

the basis for objection. The parent may provide such information in writing and shall not be required to appear in person to contest the release of information. The court shall also notify the department of any petition filed pursuant to this section and the department shall release to the court any information which it has been provided regarding the risk of harm, however, that the department shall not be made a party to the action. Further, the attorney for the Department of Human Services, in any proceeding herein, shall not be deemed to be appearing in a representative capacity for any party. The court may also request information directly from the Federal Parent Locator Service from the department of another state, and from any other source.

In determining whether disclosure of personal data could be harmful to the parent or child, the court shall consider any relevant information provided by the parent or child, any information provided by the department or by the department of another state, any evidence provided by the person seeking the personal data. Documentary evidence transmitted to the court by facsimile, telecopier or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission. The court may permit a party or witness to be deposed or to testify by telephone, audiovisual means, or other electronic means.

The court may enter an order (1) impounding the personal data and prohibiting any disclosure by the court or its agents, (2) permitting disclosure by the court or its agents to a specific person or persons, (3) removing any restrictions on disclosure by the court and its agents. An order permitting disclosure of personal data may specify the purposes for which the data may be

1008 used and may prohibit a person to whom the data is disclosed from
1009 making further disclosures to any other person. The court shall
1010 notify the department of any order entered pursuant to this
1011 section. Any person or agency who violates an order issued
1012 pursuant to this section may be held in contempt of court and
1013 subject to the penalties provided herein.

1014 The court may disclose location information about a parent
1015 for the limited purpose of notifying the parent of a proceeding
1016 under this section or of any other proceeding in court, provided
1017 that such information shall not be disclosed to another party
1018 unless the court issues an order pursuant to this section
1019 permitting such disclosure.

1020 SECTION 15. Section 93-11-65, Mississippi Code of 1972, is
1021 amended as follows:

1022 93-11-65. (1) In addition to the right to proceed under
1023 Section 93-5-23, Mississippi Code of 1972, and in addition to the
1024 remedy of habeas corpus in proper cases, and other existing
1025 remedies, the chancery court of the proper county shall have
1026 jurisdiction to entertain suits for the custody, care, support and
1027 maintenance of minor children and to hear and determine all such
1028 matters, and shall, if need be, require bond, sureties or other
1029 guarantee to secure any order for periodic payments for the
1030 maintenance or support of a child. In the event a legally
1031 responsible parent has health insurance available to him or her
1032 through an employer or organization that may extend benefits to
1033 the dependents of such parent, any order of support issued against
1034 such parent may require him or her to exercise the option of
1035 additional coverage in favor of such children as he or she is
1036 legally responsible to support. Proceedings may be brought by or

1037 against a resident or nonresident of the State of Mississippi,
1038 whether or not having the actual custody of minor children, for
1039 the purpose of judicially determining the legal custody of a
1040 child. All actions herein authorized may be brought in the county
1041 where the child is actually residing, or in the county of the
1042 residence of the party who has actual custody, or of the residence
1043 of the defendant. Process shall be had upon the parties as
1044 provided by law for process in person or by publication, if they
1045 be nonresidents of the state or residents of another jurisdiction
1046 or are not found therein after diligent search and inquiry or are
1047 unknown after diligent search and inquiry; provided that the court
1048 or chancellor in vacation may fix a date in termtime or in
1049 vacation to which process may be returnable and shall have power
1050 to proceed in termtime or vacation. Provided, however, that if
1051 the court shall find that both parties are fit and proper persons
1052 to have custody of the children, and that either party is able to
1053 adequately provide for the care and maintenance of the children,
1054 and that it would be to the best interest and welfare of the
1055 children, then any such child who shall have reached his twelfth
1056 birthday shall have the privilege of choosing the parent with whom
1057 he shall live.

1058 (2) Provided further, that where the proof shows that both
1059 parents have separate incomes or estates, the court may require
1060 that each parent contribute to the support and maintenance of the
1061 children in proportion to the relative financial ability of each.

1062 (3) Whenever the court has ordered a party to make periodic
1063 payments for the maintenance or support of a child, but no bond,
1064 sureties or other guarantee has been required to secure such
1065 payments, and whenever such payments as have become due remain

1066 unpaid for a period of at least thirty (30) days, the court may,
1067 upon petition of the person to whom such payments are owing, or
1068 such person's legal representative, enter an order requiring that
1069 bond, sureties or other security be given by the person obligated
1070 to make such payments, the amount and sufficiency of which shall
1071 be approved by the court. The obligor shall, as in other civil
1072 actions, be served with process and shall be entitled to a hearing
1073 in such case.

1074 (4) When a charge of abuse or neglect of a child first
1075 arises in the course of a custody or maintenance action pending in
1076 the chancery court pursuant to this section, the chancery court
1077 may proceed with the investigation, hearing and determination of
1078 such abuse or neglect charge as a part of its hearing and
1079 determination of the custody or maintenance issue as between the
1080 parents, as provided in Section 43-21-151, notwithstanding the
1081 other provisions of the Youth Court Law. The proceedings in
1082 chancery court on the abuse or neglect charge shall be
1083 confidential in the same manner as provided in youth court
1084 proceedings, and the chancery court shall appoint a guardian ad
1085 litem in such cases, as provided under Section 43-21-121 for youth
1086 court proceedings, who shall be an attorney. Unless the chancery
1087 court's jurisdiction has been terminated, all disposition orders
1088 in such cases for placement with the Department of Human Services
1089 shall be reviewed by the court or designated authority at least
1090 annually to determine if continued placement with the department
1091 is in the best interest of the child or the public.

1092 (5) The noncustodial parent and custodial parent in a
1093 paternity or child support proceeding shall notify the other
1094 thirty (30) days prior to changing address. In addition, the

1095 noncustodial and custodial parent shall be required to file and
1096 update, with the court and with the state case registry,
1097 information on location and identity of the party, including
1098 Social Security number, residential and mailing addresses,
1099 telephone numbers, photograph, driver's license number, and name,
1100 address and telephone number of the party's employer. This
1101 information shall be required upon entry of an order or within
1102 five (5) days of a change of address.

1103 (6) In such cases subsequently enforced by the Department of
1104 Human Services pursuant to Title IV-D of the Social Security Act,
1105 the court shall have continuing jurisdiction. State due process
1106 requirements for notice and service of process shall be met with
1107 respect to the party upon written notice sent by first class mail
1108 at least thirty (30) days prior to the hearing to the most recent
1109 residential or employer address filed with the court and the state
1110 case registry.

1111 (7) The duty of support of a child terminates upon the
1112 emancipation of the child. The court may determine that
1113 emancipation has occurred and no other support obligation exists
1114 when the child:

1115 (a) Attains the age of twenty-one (21) years, or

1116 (b) Marries, or

1117 (c) Discontinues full-time enrollment in school and
1118 obtains full-time employment prior to attaining the age of
1119 twenty-one (21) years, or

1120 (d) Voluntarily moves from the home of the custodial
1121 parent or guardian and establishes independent living arrangements
1122 and obtains full-time employment prior to attaining the age of
1123 twenty-one (21) years.

SECTION 16. Section 93-11-71, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

(a) Periodic or lump-sum payments from a federal, state or local agency, including unemployment compensation, workers'

1153 compensation and other benefits;

1154 (b) Winnings from lotteries and gaming winnings which
1155 are received in periodic payments made over a period in excess of
1156 thirty (30) days;

1157 (c) Assets held in financial institutions;

1158 (d) Settlements and awards resulting from civil
1159 actions; and

1160 (e) Public and private retirement funds, only to the
1161 extent that the obligor is qualified to receive and receives a
1162 lump sum or periodic distribution from the funds.

1163 (4) In any case in which a child receives assistance from
1164 block grants for Temporary Assistance for Needy Families (TANF),
1165 and the obligor owes past-due child support, the obligor, if not
1166 incapacitated, may be required by the court to participate in any
1167 work programs offered by any state agency.

1168 SECTION 17. The following provision shall be codified as
1169 Section 93-11-105, Mississippi Code of 1972:

1170 93-11-105. (1) Notwithstanding the provisions of Section
1171 93-11-103, the Department of Human Services shall be authorized to
1172 implement administrative orders for withholding without the
1173 necessity of obtaining an order through judicial proceedings. The
1174 administrative order for withholding shall be implemented pursuant
1175 to a previously rendered order for support and shall be on a form
1176 prescribed by the Department of Human Services. Unless
1177 inconsistent with the provisions of this section, the order for
1178 withholding shall be subject to the same requirements as provided
1179 in Sections 93-11-101 through 93-11-118.

1180 (2) The administrative order shall be filed with the clerk
1181 by the department and a copy shall be transmitted to the obligor

1182 by first class mail.

1183 (3) The order for withholding shall:

1184 (a) Direct any payor to withhold an amount equal to the
1185 order for support;

1186 (b) Direct any payor to withhold an additional amount
1187 equal to twenty percent (20%) of the current support obligation,
1188 unless a different amount has been previously ordered by the
1189 court, until payment in full of any delinquency; and

1190 (c) Direct the payor not to withhold in excess of the
1191 amounts allowed under Section 303(b) of the Consumer Credit
1192 Protection Act, being 15. USCS 1673, as amended.

1193 SECTION 18. Section 93-11-103, Mississippi Code of 1972, is
1194 amended as follows:

1195 93-11-103. (1) **Child support orders enforced by Department**
1196 **of Human Services.** Upon entry of any order for support by a court
1197 of this state where the custodial parent is a recipient of
1198 services under Title IV-D of the federal Social Security Act,
1199 issued on or after October 1, 1996, the court entering such order
1200 shall enter a separate order for withholding which shall take
1201 effect immediately without any requirement that the obligor be
1202 delinquent in payment. All such orders for support issued prior
1203 to October 1, 1996, shall, by operation of law, be amended to
1204 conform with the provisions contained herein. All such orders for
1205 support issued shall:

1206 (a) Contain a provision for monthly income withholding
1207 procedures to take effect in the event the obligor becomes
1208 delinquent in paying the order for support without further
1209 amendment to the order or further action by the court; and

1210 (b) Require that the payor withhold any additional

1211 amount for delinquency specified in any order if accompanied by an
1212 affidavit of accounting, a notarized record of overdue payments or
1213 an attested judgment for delinquency or contempt. Any person who
1214 willfully and knowingly files a false affidavit, record or
1215 judgment shall be subject to a fine of not more than One Thousand
1216 Dollars (\$1,000.00). The Department of Human Services shall be
1217 the designated agency to receive payments made by income
1218 withholding.

1219 * * *

1220 (2) **Child support orders not enforced by the Department of**
1221 **Human Services.** Upon entry of any order for support by a court of
1222 this state where the custodial parent is not a recipient of
1223 services under Title IV-D of the federal Social Security Act,
1224 issued or modified or found to be in arrears on or after January
1225 1, 1994, the court entering such order shall enter a separate
1226 order for withholding which shall take effect immediately. Such
1227 orders shall not be subject to immediate income withholding under
1228 this subsection (a) if one of the parties (i.e. noncustodial or
1229 custodial parent) demonstrates, and the court finds, that there is
1230 good cause not to require immediate income withholding, or (b) if
1231 both parties agree in writing to an alternative arrangement.

1232 (3) If a child support order is issued or modified in the
1233 state but is not subject to immediate income withholding, it
1234 automatically becomes so if the court finds that a support payment
1235 is thirty (30) days past due. If the support order were issued or
1236 modified in another state but is not subject to immediate income
1237 withholding, it becomes subject to income withholding on the date
1238 on which child support payments are at least one (1) month in
1239 arrears, or if it is earlier, the earliest of (a) the date as of

1240 which the noncustodial parent requests that withholding begin, (b)
1241 the date as of which the custodial parent requests that
1242 withholding begin, or (c) an earlier date chosen by the court.

1243 (4) The clerk of the court shall submit copies of such
1244 orders to the obligor's payor, any additional or subsequent payor,
1245 and to the Mississippi Department of Human Services Case Registry.
1246 The clerk of the court, the obligee's attorney, or the
1247 department's attorney may serve such immediate order for
1248 withholding by first class mail or personal delivery on the
1249 obligor's payor, superintendent, manager, agent or subsequent
1250 payor, as the case may be. In a case where the obligee's attorney
1251 or the department's attorney serves such immediate order, the
1252 attorney shall notify the clerk of the court in writing, which
1253 notice shall be placed in the court file. There shall be no need
1254 for further notice, hearing, order, process or procedure prior to
1255 service of said order on the payor or any additional or subsequent
1256 payor. The obligor may contest, if grounds exist, service of the
1257 order of withholding on additional or subsequent payors, by filing
1258 an action with the issuing court. Such filing shall not stay the
1259 obligor's duty to support pending judicial determination of the
1260 obligor's claim. Nothing herein shall be construed to restrict
1261 the authority of the courts of this state from entering any order
1262 it deems appropriate to protect the rights of any parties
1263 involved.

1264 (5) The order for withholding shall:

1265 (a) Direct any payor to withhold an amount equal to the
1266 order for support;

1267 (b) Direct any payor to withhold an additional amount,
1268 not less than ten percent (10%) of the order for support, until

1269 payment in full of any delinquency; and

1270 (c) Direct the payor not to withhold in excess of the
1271 amounts allowed under Section 303(b) of the Consumer Credit
1272 Protection Act, being 15 USCS 1673, as amended.

1273 (6) In cases initiated or enforced by the Department of
1274 Human Services pursuant to Title IV-D of the federal Social
1275 Security Act, all such orders for withholding may permit the
1276 Department of Human Services to withhold through said withholding
1277 order additional amounts to recover costs incurred through its
1278 efforts to secure the support order, including, but not limited
1279 to, all filing fees, court costs, service of process fees, mailing
1280 costs, birth certificate certification fee, genetic testing fees,
1281 the department's attorney's fees; and, in cases where the state or
1282 any of its entities or divisions have provided medical services to
1283 the child or the child's mother, all medical costs of prenatal
1284 care, birthing, postnatal care and any other medical expenses
1285 incurred by the child or by the mother as a consequence of her
1286 pregnancy or delivery.

1287 (7) At the time the order for withholding is entered, the
1288 clerk of the court shall provide copies of the order for
1289 withholding and the order for support to the obligor, which shall
1290 be accompanied by a statement of the rights, remedies and duties
1291 of the obligor under Sections 93-11-101 through 93-11-119. The
1292 clerk of the court shall make copies available to the obligee and
1293 to the department or its local attorney.

1294 (8) The order for withholding shall remain in effect for as
1295 long as the order for support upon which it is based.

1296 (9) The failure of an order for withholding to state an
1297 arrearage is not conclusive of the issue of whether an arrearage

1298 is owing.

1299 (10) Any order for withholding entered pursuant to this
1300 section shall not be considered a garnishment.

1301 (11) All existing orders for support shall become subject to
1302 additional withholding if arrearages occur, subject to court
1303 hearing and order. The Department of Human Services or the
1304 obligee or his agent or attorney must send to each delinquent
1305 obligor notice that:

1306 (a) The withholding on the delinquency has commenced;

1307 (b) The information along with the required affidavit
1308 of accounting, notarized record of overdue payment or attested
1309 judgment of delinquency or contempt has been sent to the employer;
1310 and

1311 (c) The obligor may file an action with the issuing
1312 court on the grounds of mistake of fact. Such filing must be made
1313 within thirty (30) days of receipt of the notice and shall not
1314 stay the obligor's duty to support pending judicial determination
1315 of the obligor's claim.

1316 (12) An employer who complies with an income withholding
1317 notice that is regular on its face and which is accompanied by the
1318 required accounting affidavit, notarized record of overdue
1319 payments or attested judgment of delinquency or contempt shall not
1320 be subject to civil liability to any individual or agency for
1321 conduct in compliance with the notice.

1322 (13) The court shall designate the appropriate entity to
1323 receive the payments made by income withholding.

1324 SECTION 19. The following provision shall be codified as
1325 Section 43-19-59, Mississippi Code of 1972:

1326 43-19-59. (1) The Department of Human Services, as the

1327 Title IV-D child support enforcement agency of this state, shall
1328 use high-volume automated administrative enforcement, to the same
1329 extent as used for intrastate cases, in response to a request made
1330 by another state to enforce support orders, and shall promptly
1331 report the results of such enforcement procedure to the requesting
1332 state.

1333 (2) In this part, "high-volume, automated administrative
1334 enforcement" means the use of automatic data processing to search
1335 various available state data bases, including, but not limited to,
1336 license records, employment service data, and state new hire
1337 registries, to determine whether information is available
1338 regarding a parent who owes a child support obligation.

1339 (3) The department may, by electronic or other means,
1340 transmit to another state or receive from another state a request
1341 for assistance in enforcing support orders through high-volume,
1342 automated administrative enforcement, which request:

1343 (a) Shall include such information as will enable the
1344 state to which the request is transmitted to compare the
1345 information about the cases to the information in the data bases
1346 of the state receiving the request; and

1347 (b) Shall constitute a certification by the requesting
1348 state:

1349 (i) Of the amount of support under an order the
1350 payment of which is in arrears; and

1351 (ii) That the requesting state has complied with
1352 all procedural due process requirements applicable to each case.

1353 (c) If the department provides assistance to another
1354 state with respect to a case, or if another state seeks assistance
1355 from the department pursuant to this section, neither state shall

1356 consider the case to be transferred to the caseload of such other
1357 state.

1358 SECTION 20. This act shall take effect and be in force from
1359 and after July 1, 1999.