

By: Representative Moody

To: Judiciary A

HOUSE BILL NO. 854

1 AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT; TO AMEND  
2 SECTION 43-19-101, MISSISSIPPI CODE OF 1972, TO INCREASE THE  
3 PERCENTAGE OF INCOME GUIDELINES FOR AWARDING OR MODIFYING CHILD  
4 SUPPORT ORDERS AND TO REVISE THE THRESHOLD AMOUNTS FOR APPLICATION  
5 OF SUCH GUIDELINES; TO AMEND SECTION 43-19-46, MISSISSIPPI CODE OF  
6 1972, TO INCLUDE INFORMATION ABOUT THE EMPLOYEE'S WAGES AND  
7 AVAILABILITY OF DEPENDENT HEALTH CARE COVERAGE ON THE NEW HIRE  
8 REPORTING FORM; TO AMEND SECTION 93-11-101, MISSISSIPPI CODE OF  
9 1972, TO REVISE THE DEFINITION OF "DELINQUENCY" WITH RESPECT TO  
10 CHILD SUPPORT OBLIGATIONS; TO AMEND SECTION 93-9-11, MISSISSIPPI  
11 CODE OF 1972, TO DELETE THE ONE-YEAR LIMITATION TO ALLOW RECOVERY  
12 FROM THE NONCUSTODIAL PARENT FOR CHILD SUPPORT AND MAINTENANCE  
13 FROM THE BIRTH OF THE CHILD; TO AMEND SECTIONS 93-11-65 AND  
14 93-5-23, MISSISSIPPI CODE OF 1972, TO PROVIDE CRITERIA FOR  
15 AUTOMATIC EMANCIPATION OF A MINOR WITHOUT THE NECESSITY OF COURT  
16 ACTION IN CHILD SUPPORT CASES, AND TO PROVIDE THAT IN CASES WHERE  
17 A CHILD EMANCIPATES AND THERE IS A DELINQUENCY IN CHILD SUPPORT  
18 PAYMENTS, THE WAGE WITHHOLDING ORDER REMAINS IN FORCE UNTIL THE  
19 DELINQUENCY IS PAID IN FULL; TO AMEND SECTION 75-17-7, MISSISSIPPI  
20 CODE OF 1972, TO AUTHORIZE THE RECOVERY OF INTEREST ON ALL CHILD  
21 SUPPORT ORDERS BY OPERATION OF LAW AT A RATE OF 8%; TO CODIFY  
22 SECTION 75-76-282, MISSISSIPPI CODE OF 1972, TO ESTABLISH A  
23 PROCEDURE WHEREBY THE PAYOR SHALL WITHHOLD AND PAY TO THE CHILD  
24 SUPPORT UNIT CERTAIN GAMING PROCEEDS OF NONCUSTODIAL PARENTS WHO  
25 OWE DELINQUENT CHILD SUPPORT, TO GRANT THE PAYEE THE OPPORTUNITY  
26 TO CONTEST THE CLAIM ON SUCH PROCEEDS, AND TO PROVIDE FOR A FINE  
27 FOR FAILURE TO COMPLY WITH SUCH WITHHOLDING REQUIREMENT; TO AMEND  
28 SECTION 93-11-103, MISSISSIPPI CODE OF 1972, TO INCREASE THE  
29 PERCENTAGE OF WAGE WITHHOLDING WHICH MAY BE APPLIED BY THE COURT  
30 TOWARD AN ARREARAGE OWED BY A NONCUSTODIAL PARENT; AND FOR RELATED  
31 PURPOSES.

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

33 SECTION 1. Section 43-19-101, Mississippi Code of 1972, is  
34 amended as follows:

35 43-19-101. (1) The following child support award guidelines  
36 shall be a rebuttable presumption in all judicial or  
37 administrative proceedings regarding the awarding or modifying of  
38 child support awards in this state:

39 Number Of Children	Percentage Of Adjusted Gross Income
40 Due Support	That Should Be Awarded For Support
41 1	<u>19%</u>

42	2	<u>25%</u>
43	3	<u>27%</u>
44	4	<u>29%</u>
45	5 or more	<u>31%</u>

46 (2) The guidelines provided for in subsection (1) of this  
47 section apply unless the judicial or administrative body awarding  
48 or modifying the child support award makes a written finding or  
49 specific finding on the record that the application of the  
50 guidelines would be unjust or inappropriate in a particular case  
51 as determined under the criteria specified in Section 43-19-103.

52 (3) The amount of "adjusted gross income" as that term is  
53 used in subsection (1) of this section shall be calculated as  
54 follows:

55 (a) Determine gross income from all potential sources  
56 that may reasonably be expected to be available to the absent  
57 parent including, but not limited to, the following: wages and  
58 salary income; income from self employment; income from  
59 commissions; income from investments, including dividends,  
60 interest income and income on any trust account or property;  
61 absent parent's portion of any joint income of both parents;  
62 workers' compensation, disability, unemployment, annuity and  
63 retirement benefits, including an individual retirement account  
64 (IRA); any other payments made by any person, private entity,  
65 federal or state government or any unit of local government;  
66 alimony; any income earned from an interest in or from inherited  
67 property; any other form of earned income; and gross income shall  
68 exclude any monetary benefits derived from a second household,  
69 such as income of the absent parent's current spouse;

70 (b) Subtract the following legally mandated deductions:

71 (i) Federal, state and local taxes. Contributions  
72 to the payment of taxes over and beyond the actual liability for  
73 the taxable year shall not be considered a mandatory deduction;

74 (ii) Social Security contributions;

75 (iii) Retirement and disability contributions

76 except any voluntary retirement and disability contributions;

77 (c) If the absent parent is subject to an existing  
78 court order for another child or children, subtract the amount of  
79 that court-ordered support;

80 (d) If the absent parent is also the biological parent  
81 of another child(ren) residing with him, then the court may  
82 subtract five percent (5%) from his gross income per child not to  
83 exceed twenty-five percent (25%) for five (5) or more children;

84 (e) Compute the total annual amount of adjusted gross  
85 income based on paragraphs (a) through (d), then divide this  
86 amount by twelve (12) to obtain the monthly amount of adjusted  
87 gross income.

88 Upon conclusion of the calculation of paragraphs (a) through  
89 (e), multiply the monthly amount of adjusted gross income by the  
90 appropriate percentage designated in subsection (1) to arrive at  
91 the amount of the monthly child support award.

92 (4) In cases in which the adjusted gross income as defined  
93 in this section is more than Seventy-five Thousand Dollars  
94 (\$75,000.00) or less than Ten Thousand Dollars (\$10,000.00), the  
95 court shall make a written finding in the record as to whether or  
96 not the application of the guidelines established in this section  
97 is reasonable.

98 \* \* \*

99 SECTION 2. Section 43-19-46, Mississippi Code of 1972, is  
100 amended as follows:

101 43-19-46. (1) Each employer, as defined in Section  
102 93-11-101, Mississippi Code of 1972, doing business in Mississippi  
103 shall report to the Directory of New Hires within the Mississippi  
104 Department of Human Services:

105 (a) The hiring of any person who resides or works in  
106 this state to whom the employer anticipates paying wages; and

107 (b) The hiring or return to work of any employee who  
108 was laid off, furloughed, separated, granted leave without pay or  
109 was terminated from employment.

110 (2) Employers shall report, by mailing or by other means  
111 authorized by the Department of Human Services, a copy of the  
112 employee's W-4 form or its equivalent which will result in timely  
113 reporting. Each employer shall submit reports within fifteen (15)  
114 days of the hiring, rehiring or return to work of the employee.  
115 The report shall contain:

116 (a) The employee's name, address, Social Security  
117 number and the date of birth;

118 (b) The employer's name, address, and federal and state  
119 withholding tax identification numbers; \* \* \*

120 (c) The date upon which the employee began or resumed  
121 employment, or is scheduled to begin or otherwise resume  
122 employment; and

123 (d) The employee's salary or wage information and  
124 whether or not the employee will have access to dependent health  
125 care coverage and the cost of that coverage if available.

126 (3) The department shall retain the information, which shall  
127 be forwarded to the federal registry of new hires.

128 (4) The Department of Human Services may operate the  
129 program, may enter into a mutual agreement with the Mississippi  
130 Employment Security Commission or the State Tax Commission, or  
131 both, for the operation of the Directory of New Hires Program, or  
132 the Department of Human Services may contract for such service, in  
133 which case the department shall maintain administrative control of  
134 the program.

135 (5) In cases in which an employer fails to report  
136 information, as required by this section, an administratively  
137 levied civil penalty in an amount not to exceed Five Hundred  
138 Dollars (\$500.00) shall apply if the failure is the result of a  
139 conspiracy between the employer and employee to not supply the  
140 required report or to supply a false or incomplete report. The  
141 penalty shall otherwise not exceed Twenty-five Dollars (\$25.00).  
142 Appeal shall be as provided in Section 43-19-58.

143 SECTION 3. Section 93-11-101, Mississippi Code of 1972, is

144 amended as follows:

145           93-11-101. As used in Sections 93-11-101 through 93-11-119,  
146 the following words shall have the meaning ascribed to them herein  
147 unless the context clearly requires otherwise:

148           (a) "Order for support" means any order of the  
149 chancery, circuit, county or family court, which provides for  
150 periodic payment of funds for the support of a child, whether  
151 temporary or final, and includes any such order which provides  
152 for:

153                   (i) Modification or resumption of, or payment of  
154 arrearage accrued under, a previously existing order; or

155                   (ii) Reimbursement of support.

156           "Order for support" shall also mean:

157                   (i) An order for support and maintenance of a  
158 spouse if a minor child is living with such spouse; or

159                   (ii) In actions to which the Department of Human  
160 Services is a party, an order for support and maintenance of a  
161 spouse if a minor child is living with such spouse and such  
162 maintenance is collected in conjunction with child support.

163           (b) "Court" means the court that enters an order for  
164 withholding pursuant to Section 93-11-103(1).

165           (c) "Clerk of the court" means the clerk of the court  
166 that enters an order for withholding pursuant to Section  
167 93-11-103(1).

168           (d) "Arrearage" means the total amount of unpaid  
169 support obligations.

170           (e) "Delinquency" means any payments that are ordered  
171 by any court to be paid by a noncustodial parent for the support  
172 of a child that have remained unpaid for at least thirty (30) days  
173 after payment is due. Delinquency shall also include payments that  
174 are ordered by any court to be paid for maintenance of a spouse in  
175 cases in which the department is collecting such support in  
176 conjunction with child support. \* \* \*

177           (f) "Department" means the Mississippi Department of

178 Human Services.

179 (g) "Employer" means a person who has control of the  
180 payment of wages to an individual.

181 (h) "Income" means any form of periodic payment to an  
182 individual, regardless of source, including, but not limited to:  
183 wages, salary, commission, compensation as an independent  
184 contractor, workers' compensation, disability, annuity and  
185 retirement benefits, and any other payments made by any person,  
186 private entity, federal or state government or any unit of local  
187 government, notwithstanding any other provisions of state or local  
188 law which limit or exempt income or the amount or percentage of  
189 income that can be withheld; provided, however, that income  
190 excludes:

191 (i) Any amounts required by law to be withheld,  
192 other than creditor claims, including, but not limited to,  
193 federal, state and local taxes, Social Security and other  
194 retirement and disability contributions;

195 (ii) Any amounts exempted by federal law;

196 (iii) Public assistance payments; and

197 (iv) Unemployment insurance benefits except as  
198 provided by law.

199 (i) "Obligor" means the individual who owes a duty to  
200 make payments under an order for support.

201 (j) "Obligee" means:

202 (i) An individual to whom a duty of support is or  
203 is alleged to be owed or in whose favor a support order has been  
204 issued or a judgment determining parentage has been rendered;

205 (ii) A state or political subdivision to which the  
206 rights under a duty of support or support order have been assigned  
207 or which independent claims based on financial assistance provided  
208 to an individual obligee; or

209 (iii) An individual seeking a judgment determining  
210 parentage of the individual's child.

211 (k) "Payor" means any payor of income to an obligor.

212 SECTION 4. Section 93-9-11, Mississippi Code of 1972, is  
213 amended as follows:

214 93-9-11. The father's liabilities for a child(ren) born out  
215 of wedlock for past education and necessary support and  
216 maintenance and other expenses may be calculated from the date of  
217 the child(ren)'s birth.

218 SECTION 5. Section 93-11-65, Mississippi Code of 1972, is  
219 amended as follows:

220 93-11-65. (1) In addition to the right to proceed under  
221 Section 93-5-23, Mississippi Code of 1972, and in addition to the  
222 remedy of habeas corpus in proper cases, and other existing  
223 remedies, the chancery court of the proper county shall have  
224 jurisdiction to entertain suits for the custody, care, support and  
225 maintenance of minor children and to hear and determine all such  
226 matters, and shall, if need be, require bond, sureties or other  
227 guarantee to secure any order for periodic payments for the  
228 maintenance or support of a child. In the event a legally  
229 responsible parent has health insurance available to him or her  
230 through an employer or organization that may extend benefits to  
231 the dependents of such parent, any order of support issued against  
232 such parent may require him or her to exercise the option of  
233 additional coverage in favor of such children as he or she is  
234 legally responsible to support. Proceedings may be brought by or  
235 against a resident or nonresident of the State of Mississippi,  
236 whether or not having the actual custody of minor children, for  
237 the purpose of judicially determining the legal custody of a  
238 child. All actions herein authorized may be brought in the county  
239 where the child is actually residing, or in the county of the  
240 residence of the party who has actual custody, or of the residence  
241 of the defendant. Process shall be had upon the parties as  
242 provided by law for process in person or by publication, if they  
243 be nonresidents of the state or residents of another jurisdiction  
244 or are not found therein after diligent search and inquiry or are  
245 unknown after diligent search and inquiry; provided that the court

246 or chancellor in vacation may fix a date in termtime or in  
247 vacation to which process may be returnable and shall have power  
248 to proceed in termtime or vacation. Provided, however, that if  
249 the court shall find that both parties are fit and proper persons  
250 to have custody of the children, and that either party is able to  
251 adequately provide for the care and maintenance of the children,  
252 and that it would be to the best interest and welfare of the  
253 children, then any such child who shall have reached his twelfth  
254 birthday shall have the privilege of choosing the parent with whom  
255 he shall live.

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

260 (3) Whenever the court has ordered a party to make periodic  
261 payments for the maintenance or support of a child, but no bond,  
262 sureties or other guarantee has been required to secure such  
263 payments, and whenever such payments as have become due remain  
264 unpaid for a period of at least thirty (30) days, the court may,  
265 upon petition of the person to whom such payments are owing, or  
266 such person's legal representative, enter an order requiring that  
267 bond, sureties or other security be given by the person obligated  
268 to make such payments, the amount and sufficiency of which shall  
269 be approved by the court. The obligor shall, as in other civil  
270 actions, be served with process and shall be entitled to a hearing  
271 in such case.

272 (4) When a charge of abuse or neglect of a child first  
273 arises in the course of a custody or maintenance action pending in  
274 the chancery court pursuant to this section, the chancery court  
275 may proceed with the investigation, hearing and determination of  
276 such abuse or neglect charge as a part of its hearing and  
277 determination of the custody or maintenance issue as between the  
278 parents, as provided in Section 43-21-151, notwithstanding the  
279 other provisions of the Youth Court Law. The proceedings in



280 chancery court on the abuse or neglect charge shall be  
281 confidential in the same manner as provided in youth court  
282 proceedings, and the chancery court shall appoint a guardian ad  
283 litem in such cases, as provided under Section 43-21-121 for youth  
284 court proceedings, who shall be an attorney. Unless the chancery  
285 court's jurisdiction has been terminated, all disposition orders  
286 in such cases for placement with the Department of Human Services  
287 shall be reviewed by the court or designated authority at least  
288 annually to determine if continued placement with the department  
289 is in the best interest of the child or the public.

290 (5) (a) The duty of support of a child terminates upon the  
291 emancipation of the child. \* \* \* Emancipation shall be effective  
292 upon the occurrence of one (1) of the following:

293 (i) Attains the age of twenty-one (21) years, or

294 (ii) Marries, or

295 (iii) Enlists in the military and enters active  
296 duty with the U.S. Armed Forces or full-time employment with the  
297 National Guard or Reserve.

298 (iv) Is convicted as an adult of a felony and  
299 sentenced to an adult correctional facility.

300 (b) However, the court may determine that emancipation  
301 has occurred and no prospective support obligation exists when the  
302 child:

303 (i) Discontinues full-time enrollment in school  
304 and obtains full-time employment prior to attaining the age of  
305 twenty-one (21) years, or

306 (ii) Voluntarily moves from the home of the  
307 custodial parent or guardian and establishes independent living  
308 arrangements and obtains full-time employment prior to attaining  
309 the age of twenty-one (21) years.

310 Such a determination shall not be made retroactive prior to  
311 the date of the hearing.

312 (6) In child support orders being enforced by the Department  
313 of Human Services where the current child support obligation has

314 terminated and there exists an arrearage for unpaid child support,  
315 then an amount equal to the previous child support obligation  
316 shall continue to be paid by the obligor or withheld by the  
317 obligor's employer. Those payments shall be applied to the child  
318 support arrearage until paid in full without further order of the  
319 court.

320 SECTION 6. Section 93-5-23, Mississippi Code of 1972, is  
321 amended as follows:

322 93-5-23. (1) When a divorce shall be decreed from the bonds  
323 of matrimony, the court may, in its discretion, having regard to  
324 the circumstances of the parties and the nature of the case, as  
325 may seem equitable and just, make all orders touching the care,  
326 custody and maintenance of the children of the marriage, and also  
327 touching the maintenance and alimony of the wife or the husband,  
328 or any allowance to be made to her or him, and shall, if need be,  
329 require bond, sureties or other guarantee for the payment of the  
330 sum so allowed. Orders touching on the custody of the children of  
331 the marriage may be made in accordance with the provisions of  
332 Section 93-5-24. The court may afterwards, on petition, change  
333 the decree, and make from time to time such new decrees as the  
334 case may require. However, where proof shows that both parents  
335 have separate incomes or estates, the court may require that each  
336 parent contribute to the support and maintenance of the children  
337 of the marriage in proportion to the relative financial ability of  
338 each. In the event a legally responsible parent has health  
339 insurance available to him or her through an employer or  
340 organization that may extend benefits to the dependents of such  
341 parent, any order of support issued against such parent may  
342 require him or her to exercise the option of additional coverage  
343 in favor of such children as he or she is legally responsible to  
344 support.

345 (2) Whenever the court has ordered a party to make periodic  
346 payments for the maintenance or support of a child, but no bond,  
347 sureties or other guarantee has been required to secure such

348 payments, and whenever such payments as have become due remain  
349 unpaid for a period of at least thirty (30) days, the court may,  
350 upon petition of the person to whom such payments are owing, or  
351 such person's legal representative, enter an order requiring that  
352 bond, sureties or other security be given by the person obligated  
353 to make such payments, the amount and sufficiency of which shall  
354 be approved by the court. The obligor shall, as in other civil  
355 actions, be served with process and shall be entitled to a hearing  
356 in such case.

357 (3) Whenever in any proceeding in the chancery court  
358 concerning the custody of a child a party alleges that the child  
359 whose custody is at issue has been the victim of sexual or  
360 physical abuse by the other party, the court may, on its own  
361 motion, grant a continuance in the custody proceeding only until  
362 such allegation has been investigated by the Department of Human  
363 Services. At the time of ordering such continuance the court may  
364 direct the party, and his attorney, making such allegation of  
365 child abuse to report in writing and provide all evidence touching  
366 on the allegation of abuse to the Department of Human Services.  
367 The Department of Human Services shall investigate such allegation  
368 and take such action as it deems appropriate and as provided in  
369 such cases under the Youth Court Law (being Chapter 21 of Title  
370 43, Mississippi Code of 1972) or under the laws establishing  
371 family courts (being Chapter 23 of Title 43, Mississippi Code of  
372 1972).

373 (4) If after investigation by the Department of Human  
374 Services or final disposition by the youth court or family court  
375 allegations of child abuse are found to be without foundation, the  
376 chancery court shall order the alleging party to pay all court  
377 costs and reasonable attorney's fees incurred by the defending  
378 party in responding to such allegation.

379 (5) The court may investigate, hear and make a determination  
380 in a custody action when a charge of abuse and/or neglect arises  
381 in the course of a custody action as provided in Section

382 43-21-151, and in such cases the court shall appoint a guardian ad  
383 litem for the child as provided under Section 43-21-121, who shall  
384 be an attorney. Unless the chancery court's jurisdiction has been  
385 terminated, all disposition orders in such cases for placement  
386 with the Department of Human Services shall be reviewed by the  
387 court or designated authority at least annually to determine if  
388 continued placement with the department is in the best interest of  
389 the child or public.

390 (6) (a) The duty of support of a child terminates upon the  
391 emancipation of the child. Emancipation shall be effective upon  
392 the occurrence of one (1) of the following:

393 (i) Attains the age of twenty-one (21) years, or

394 (ii) Marries, or

395 (iii) Enlists in the military and enters active  
396 duty with the U.S. Armed Forces or full-time employment with the  
397 National Guard or U.S. Armed Forces Reserve, or

398 (iv) Is convicted as an adult of a felony and  
399 sentenced to an adult correctional facility.

400 (b) However, the court may determine that emancipation  
401 has occurred and no prospective support obligation exists when the  
402 child:

403 (i) Discontinues full-time enrollment in school  
404 and obtains full-time employment prior to attaining the age of  
405 twenty-one (21) years, or

406 (ii) Voluntarily moves from the home of the  
407 custodial parent or guardian and establishes independent living  
408 arrangements and obtains full-time employment prior to attaining  
409 the age of twenty-one (21) years.

410 Such a determination shall not be made retroactive prior to  
411 the date of the hearing.

412 SECTION 7. Section 75-17-7, Mississippi Code of 1972, is  
413 amended as follows:

414 75-17-7. All judgments or decrees founded on any sale or  
415 contract shall bear interest at the same rate as the contract

416 evidencing the debt on which the judgment or decree was rendered.  
417 All child support orders, by operation of law, shall bear  
418 interest at a rate of eight percent (8%) per annum. All other  
419 judgments or decrees shall bear interest at a per annum rate set  
420 by the judge hearing the complaint from a date determined by such  
421 judge to be fair but in no event prior to the filing of the  
422 complaint.

423 SECTION 8. The following provision shall be codified as  
424 Section 75-76-282, Mississippi Code of 1972:

425 75-76-282. (1) Gaming proceeds shall be subject to  
426 encumbrance for delinquent child support payments assessed by a  
427 court of competent jurisdiction or otherwise provided in Titles 43  
428 and 93, Mississippi Code of 1972.

429 (2) Proceeds in amounts equal to or above amounts subject to  
430 taxation under applicable state or federal gaming laws shall be  
431 reported by the payor to the Mississippi Department of Human  
432 Services, Division of Child Support Enforcement pursuant to the  
433 provisions set forth herein.

434 (3) Initial inquiry shall be made by any entity or licensee  
435 engaging in business regulated by or similar to business regulated  
436 by the provisions of the Gaming Control Act. Such inquiry shall  
437 determine the existence and amount of any child support  
438 delinquency and may be made via telephone to a telephone number  
439 provided and maintained by the department, and shall be accessible  
440 twenty-four (24) hours, seven (7) days a week, or such other  
441 electronic media as may be agreed upon by the department and the  
442 payor.

443 (4) Initial inquiries pursuant to this section shall be made  
444 within twenty-four (24) hours.

445 (5) If it is determined that the payee has a child support  
446 delinquency, proceeds up to the full amount of the delinquency  
447 shall be withheld and disbursed to the department. Proceeds  
448 beyond the amount of the delinquency shall be delivered to the  
449 payee.

450           (6) The payee shall have available to him or her the  
451 opportunity to contest the accuracy of the payee's identity or the  
452 reported amount of the delinquency:

453           (a) The payee shall have the right to review of the  
454 department's claim of the proceeds. To request such review, the  
455 payee must contact the office of the department in the county in  
456 which the child support order is entered. Such contact must be  
457 made within five (5) business days from the date upon which the  
458 payee seeks payment of the proceeds from the payor.

459           (b) The department shall grant a review which shall  
460 occur within twenty-four (24) business hours if contact is made  
461 with the office by personal appearance, telephone or electronic  
462 medium. If contact is made by writing, such review shall occur  
463 within five (5) business days of receipt of such contact.

464           (c) The payee may contest the determination of the  
465 review by filing a petition with a court of competent  
466 jurisdiction.

467           (d) Throughout the review and determination processes,  
468 the proceeds shall be held by the department in an account of the  
469 department's choosing, and shall be delivered to the payee, should  
470 he or she prevail.

471           (e) Any administrative and legal fees incurred by the  
472 payor or the department throughout the procedures described herein  
473 or pursuant to such procedures shall be assessed to the payee in  
474 the event the proceeds are forwarded to the department.

475           (7) For purposes of this section:

476           (a) "Gaming proceeds" shall mean any monies paid in  
477 lump sum or otherwise to an individual from lotteries, games or  
478 gambling games as defined by Section 75-76-5(k), Mississippi Code  
479 of 1972, or games or gambling games as defined by Section  
480 97-33-51, Mississippi Code of 1972.

481           (b) "Child support delinquency" shall have the same  
482 meaning as that given it in Section 93-11-101, Mississippi Code of  
483 1972.

484 (c) "Payor" shall mean the individual, agency or  
485 entity, licensed or unlicensed, disbursing the gaming proceeds to  
486 the payee.

487 (d) "Payee" shall mean the gaming activity participant  
488 to whom the gaming proceeds are due.

489 (8) Failure by the payor or payee to comply with the  
490 provisions of this section shall subject the payor or payee to a  
491 fine of not less than One Thousand Dollars (\$1,000.00).

492 (9) Notwithstanding any provision of this or any other  
493 section of the Mississippi Code of 1972, the Department of Human  
494 Services shall not be prohibited from entering into a contractual  
495 or other similar arrangement with any individual, agency, entity  
496 or payor conducting such games or gambling games in Mississippi as  
497 are addressed herein.

498 SECTION 9. Section 93-11-103, Mississippi Code of 1972, is  
499 amended as follows:

500 93-11-103. (1) **Child support orders enforced by Department**  
501 **of Human Services.** Upon entry of any order for support by a court  
502 of this state where the custodial parent is a recipient of  
503 services under Title IV-D of the federal Social Security Act,  
504 issued on or after October 1, 1996, the court entering such order  
505 shall enter a separate order for withholding which shall take  
506 effect immediately without any requirement that the obligor be  
507 delinquent in payment. All such orders for support issued prior  
508 to October 1, 1996, shall, by operation of law, be amended to  
509 conform with the provisions contained herein. All such orders for  
510 support issued shall:

511 (a) Contain a provision for monthly income withholding  
512 procedures to take effect in the event the obligor becomes  
513 delinquent in paying the order for support without further  
514 amendment to the order or further action by the court; and

515 (b) Require that the payor withhold any additional  
516 amount for delinquency specified in any order if accompanied by an  
517 affidavit of accounting, a notarized record of overdue payments or

518 an attested judgment for delinquency or contempt. Any person who  
519 willfully and knowingly files a false affidavit, record or  
520 judgment shall be subject to a fine of not more than One Thousand  
521 Dollars (\$1,000.00).

522 Orders that are being enforced by the child support unit and  
523 which were issued or modified after November 1, 1990, shall not be  
524 subject to immediate income withholding under this subsection (a)  
525 if one of the parties (i.e. noncustodial or custodial parent)  
526 demonstrates, and the court finds, that there is good cause not to  
527 require immediate income withholding, or (b) if both parties agree  
528 in writing to an alternative arrangement.

529 (2) **Child support orders not enforced by the Department of**  
530 **Human Services.** Upon entry of any order for support by a court of  
531 this state where the custodial parent is not a recipient of  
532 services under Title IV-D of the federal Social Security Act,  
533 issued or modified or found to be in arrears on or after January  
534 1, 1994, the court entering such order shall enter a separate  
535 order for withholding which shall take effect immediately. Such  
536 orders shall not be subject to immediate income withholding under  
537 this subsection (a) if one of the parties (i.e. noncustodial or  
538 custodial parent) demonstrates, and the court finds, that there is  
539 good cause not to require immediate income withholding, or (b) if  
540 both parties agree in writing to an alternative arrangement.

541 (3) If a child support order is issued or modified in the  
542 state but is not subject to immediate income withholding, it  
543 automatically becomes so if the court finds that a support payment  
544 is thirty (30) days past due. If the support order were issued or  
545 modified in another state but is not subject to immediate income  
546 withholding, it becomes subject to income withholding on the date  
547 on which child support payments are at least one (1) month in  
548 arrears, or if it is earlier, the earliest of (a) the date as of  
549 which the noncustodial parent requests that withholding begin, (b)  
550 the date as of which the custodial parent requests that  
551 withholding begin, or (c) an earlier date chosen by the court.



552           (4) The clerk of the court shall submit copies of such  
553 orders to the obligor's payor, any additional or subsequent payor,  
554 and to the Mississippi Department of Human Services Case Registry.  
555 The clerk of the court, the obligee's attorney, or the  
556 department's attorney may serve such immediate order for  
557 withholding by first class mail or personal delivery on the  
558 obligor's payor, superintendent, manager, agent or subsequent  
559 payor, as the case may be. In a case where the obligee's attorney  
560 or the department's attorney serves such immediate order, the  
561 attorney shall notify the clerk of the court in writing, which  
562 notice shall be placed in the court file. There shall be no need  
563 for further notice, hearing, order, process or procedure prior to  
564 service of said order on the payor or any additional or subsequent  
565 payor. The obligor may contest, if grounds exist, service of the  
566 order of withholding on additional or subsequent payors, by filing  
567 an action with the issuing court. Such filing shall not stay the  
568 obligor's duty to support pending judicial determination of the  
569 obligor's claim. Nothing herein shall be construed to restrict  
570 the authority of the courts of this state from entering any order  
571 it deems appropriate to protect the rights of any parties  
572 involved.

573           (5) The order for withholding shall:

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

576                 (b) Direct any payor to withhold an additional amount,  
577 not less than twenty percent (20%) of the order for support, until  
578 payment in full of any delinquency; and

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

582           (6) In cases initiated or enforced by the Department of  
583 Human Services pursuant to Title IV-D of the federal Social  
584 Security Act, all such orders for withholding may permit the  
585 Department of Human Services to withhold through said withholding

586 order additional amounts to recover costs incurred through its  
587 efforts to secure the support order, including, but not limited  
588 to, all filing fees, court costs, service of process fees, mailing  
589 costs, birth certificate certification fee, genetic testing fees,  
590 the department's attorney's fees; and, in cases where the state or  
591 any of its entities or divisions have provided medical services to  
592 the child or the child's mother, all medical costs of prenatal  
593 care, birthing, postnatal care and any other medical expenses  
594 incurred by the child or by the mother as a consequence of her  
595 pregnancy or delivery.

596 (7) At the time the order for withholding is entered, the  
597 clerk of the court shall provide copies of the order for  
598 withholding and the order for support to the obligor, which shall  
599 be accompanied by a statement of the rights, remedies and duties  
600 of the obligor under Sections 93-11-101 through 93-11-119. The  
601 clerk of the court shall make copies available to the obligee and  
602 to the department or its local attorney.

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

605 (9) The failure of an order for withholding to state an  
606 arrearage is not conclusive of the issue of whether an arrearage  
607 is owing.

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

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

615 (a) The withholding on the delinquency has commenced;  
616 (b) The information along with the required affidavit  
617 of accounting, notarized record of overdue payment or attested  
618 judgment of delinquency or contempt has been sent to the employer;  
619 and

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

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

631           SECTION 10. This act shall take effect and be in force from  
632 and after July 1, 1999.