

By: Representative Moody

To: Judiciary A

HOUSE BILL NO. 854
(As Passed the House)

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 AMEND
22 SECTION 93-11-103, MISSISSIPPI CODE OF 1972, TO INCREASE THE
23 PERCENTAGE OF WAGE WITHHOLDING WHICH MAY BE APPLIED BY THE COURT
24 TOWARD AN ARREARAGE OWED BY A NONCUSTODIAL PARENT; TO PROVIDE FOR
25 THE REMOVAL FROM OFFICE FOR ELECTED PUBLIC OFFICIALS WHO DO NOT
26 PAY CHILD SUPPORT; AND FOR RELATED PURPOSES.

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

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

30 43-19-101. (1) The following child support award guidelines
31 shall be a rebuttable presumption in all judicial or
32 administrative proceedings regarding the awarding or modifying of
33 child support awards in this state:

34	Number Of Children	Percentage Of Adjusted Gross Income
35	Due Support	That Should Be Awarded For Support
36	1	<u>19%</u>
37	2	<u>25%</u>
38	3	<u>27%</u>
39	4	<u>29%</u>
40	5 or more	<u>31%</u>

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

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

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

65 (b) Subtract the following legally mandated deductions:

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

69 (ii) Social Security contributions;

70 (iii) Retirement and disability contributions
71 except any voluntary retirement and disability contributions;

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

75 (d) If the absent parent is also the legally determined
76 biological parent of another child(ren) residing with him, then
77 the court may subtract five percent (5%) from his gross income per
78 child not to exceed twenty-five percent (25%) for five (5) or more
79 children;

80 (e) Compute the total annual amount of adjusted gross
81 income based on paragraphs (a) through (d), then divide this
82 amount by twelve (12) to obtain the monthly amount of adjusted
83 gross income.

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

88 (4) In cases in which the adjusted gross income as defined
89 in this section is more than Seventy-five Thousand Dollars
90 (\$75,000.00) or less than Five Thousand Dollars (\$5,000.00), the
91 court shall make a written finding in the record as to whether or
92 not the application of the guidelines established in this section
93 is reasonable.

94 * * *

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

97 43-19-46. (1) Each employer, as defined in Section
98 93-11-101, Mississippi Code of 1972, doing business in Mississippi
99 shall report to the Directory of New Hires within the Mississippi
100 Department of Human Services:

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

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

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

111 The report shall contain:

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

114 (b) The employer's name, address, and federal and state
115 withholding tax identification numbers; * * *

116 (c) The date upon which the employee began or resumed
117 employment, or is scheduled to begin or otherwise resume
118 employment; and

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

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

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

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

139 SECTION 3. Section 93-11-101, Mississippi Code of 1972, is
140 amended as follows:

141 93-11-101. As used in Sections 93-11-101 through 93-11-119,
142 the following words shall have the meaning ascribed to them herein
143 unless the context clearly requires otherwise:

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

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

151 (ii) Reimbursement of support.

152 "Order for support" shall also mean:

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

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

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

161 (c) "Clerk of the court" means the clerk of the court
162 that enters an order for withholding pursuant to Section
163 93-11-103(1).

164 (d) "Arrearage" means the total amount of unpaid
165 support obligations.

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

173 (f) "Department" means the Mississippi Department of
174 Human Services.

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

177 (h) "Income" means any form of periodic payment to an
178 individual, regardless of source, including, but not limited to:
179 wages, salary, commission, compensation as an independent
180 contractor, workers' compensation, disability, annuity and
181 retirement benefits, and any other payments made by any person,

182 private entity, federal or state government or any unit of local
183 government, notwithstanding any other provisions of state or local
184 law which limit or exempt income or the amount or percentage of
185 income that can be withheld; provided, however, that income
186 excludes:

187 (i) Any amounts required by law to be withheld,
188 other than creditor claims, including, but not limited to,
189 federal, state and local taxes, Social Security and other
190 retirement and disability contributions;

191 (ii) Any amounts exempted by federal law;

192 (iii) Public assistance payments; and

193 (iv) Unemployment insurance benefits except as
194 provided by law.

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

197 (j) "Obligee" means:

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

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

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

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

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

210 93-9-11. The father's liabilities for a child(ren) born out

211 of wedlock for past education and necessary support and
212 maintenance and other expenses may be calculated from the date of
213 the child(ren)'s birth.

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

216 93-11-65. (1) In addition to the right to proceed under
217 Section 93-5-23, Mississippi Code of 1972, and in addition to the
218 remedy of habeas corpus in proper cases, and other existing
219 remedies, the chancery court of the proper county shall have
220 jurisdiction to entertain suits for the custody, care, support and
221 maintenance of minor children and to hear and determine all such
222 matters, and shall, if need be, require bond, sureties or other
223 guarantee to secure any order for periodic payments for the
224 maintenance or support of a child. In the event a legally
225 responsible parent has health insurance available to him or her
226 through an employer or organization that may extend benefits to
227 the dependents of such parent, any order of support issued against
228 such parent may require him or her to exercise the option of
229 additional coverage in favor of such children as he or she is
230 legally responsible to support. Proceedings may be brought by or
231 against a resident or nonresident of the State of Mississippi,
232 whether or not having the actual custody of minor children, for
233 the purpose of judicially determining the legal custody of a
234 child. All actions herein authorized may be brought in the county
235 where the child is actually residing, or in the county of the
236 residence of the party who has actual custody, or of the residence
237 of the defendant. Process shall be had upon the parties as
238 provided by law for process in person or by publication, if they
239 be nonresidents of the state or residents of another jurisdiction

240 or are not found therein after diligent search and inquiry or are
241 unknown after diligent search and inquiry; provided that the court
242 or chancellor in vacation may fix a date in termtime or in
243 vacation to which process may be returnable and shall have power
244 to proceed in termtime or vacation. Provided, however, that if
245 the court shall find that both parties are fit and proper persons
246 to have custody of the children, and that either party is able to
247 adequately provide for the care and maintenance of the children,
248 and that it would be to the best interest and welfare of the
249 children, then any such child who shall have reached his twelfth
250 birthday shall have the privilege of choosing the parent with whom
251 he shall live.

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

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

268 (4) When a charge of abuse or neglect of a child first

269 arises in the course of a custody or maintenance action pending in
270 the chancery court pursuant to this section, the chancery court
271 may proceed with the investigation, hearing and determination of
272 such abuse or neglect charge as a part of its hearing and
273 determination of the custody or maintenance issue as between the
274 parents, as provided in Section 43-21-151, notwithstanding the
275 other provisions of the Youth Court Law. The proceedings in
276 chancery court on the abuse or neglect charge shall be
277 confidential in the same manner as provided in youth court
278 proceedings, and the chancery court shall appoint a guardian ad
279 litem in such cases, as provided under Section 43-21-121 for youth
280 court proceedings, who shall be an attorney. Unless the chancery
281 court's jurisdiction has been terminated, all disposition orders
282 in such cases for placement with the Department of Human Services
283 shall be reviewed by the court or designated authority at least
284 annually to determine if continued placement with the department
285 is in the best interest of the child or the public.

286 (5) (a) The duty of support of a child terminates upon the
287 emancipation of the child. * * * Emancipation shall be effective
288 upon the occurrence of one (1) of the following:

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

290 (ii) Marries, or

291 (iii) Enlists in the military and enters active
292 duty with the United States Armed Forces or full-time employment
293 with the National Guard or Reserve.

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

296 (b) However, the court may determine that emancipation
297 has occurred and no prospective support obligation exists when the

298 child:

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

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

306 Such a determination shall not be made retroactive prior to
307 the date of the hearing.

308 (6) In child support orders being enforced by the Department
309 of Human Services where the current child support obligation has
310 terminated and there exists an arrearage for unpaid child support,
311 then an amount equal to the previous child support obligation
312 shall continue to be paid by the obligor or withheld by the
313 obligor's employer. Those payments shall be applied to the child
314 support arrearage until paid in full without further order of the
315 court.

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

318 93-5-23. (1) When a divorce shall be decreed from the bonds
319 of matrimony, the court may, in its discretion, having regard to
320 the circumstances of the parties and the nature of the case, as
321 may seem equitable and just, make all orders touching the care,
322 custody and maintenance of the children of the marriage, and also
323 touching the maintenance and alimony of the wife or the husband,
324 or any allowance to be made to her or him, and shall, if need be,
325 require bond, sureties or other guarantee for the payment of the
326 sum so allowed. Orders touching on the custody of the children of

327 the marriage may be made in accordance with the provisions of
328 Section 93-5-24. The court may afterwards, on petition, change
329 the decree, and make from time to time such new decrees as the
330 case may require. However, where proof shows that both parents
331 have separate incomes or estates, the court may require that each
332 parent contribute to the support and maintenance of the children
333 of the marriage in proportion to the relative financial ability of
334 each. In the event a legally responsible parent has health
335 insurance available to him or her through an employer or
336 organization that may extend benefits to the dependents of such
337 parent, any order of support issued against such parent may
338 require him or her to exercise the option of additional coverage
339 in favor of such children as he or she is legally responsible to
340 support.

341 (2) Whenever the court has ordered a party to make periodic
342 payments for the maintenance or support of a child, but no bond,
343 sureties or other guarantee has been required to secure such
344 payments, and whenever such payments as have become due remain
345 unpaid for a period of at least thirty (30) days, the court may,
346 upon petition of the person to whom such payments are owing, or
347 such person's legal representative, enter an order requiring that
348 bond, sureties or other security be given by the person obligated
349 to make such payments, the amount and sufficiency of which shall
350 be approved by the court. The obligor shall, as in other civil
351 actions, be served with process and shall be entitled to a hearing
352 in such case.

353 (3) Whenever in any proceeding in the chancery court
354 concerning the custody of a child a party alleges that the child
355 whose custody is at issue has been the victim of sexual or

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

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

375 (5) The court may investigate, hear and make a determination
376 in a custody action when a charge of abuse and/or neglect arises
377 in the course of a custody action as provided in Section
378 43-21-151, and in such cases the court shall appoint a guardian ad
379 litem for the child as provided under Section 43-21-121, who shall
380 be an attorney. Unless the chancery court's jurisdiction has been
381 terminated, all disposition orders in such cases for placement
382 with the Department of Human Services shall be reviewed by the
383 court or designated authority at least annually to determine if
384 continued placement with the department is in the best interest of

385 the child or public.

386 (6) (a) The duty of support of a child terminates upon the
387 emancipation of the child. Emancipation shall be effective upon
388 the occurrence of one (1) of the following:

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

390 (ii) Marries, or

391 (iii) Enlists in the military and enters active

392 duty with the United States Armed Forces or full-time employment

393 with the National Guard or United States Armed Forces Reserve, or

394

395 (iv) Is convicted as an adult of a felony and

396 sentenced to an adult correctional facility.

397 (b) However, the court may determine that emancipation

398 has occurred and no prospective support obligation exists when the

399 child:

400 (i) Discontinues full-time enrollment in school

401 and obtains full-time employment prior to attaining the age of

402 twenty-one (21) years, or

403 (ii) Voluntarily moves from the home of the

404 custodial parent or guardian and establishes independent living

405 arrangements and obtains full-time employment prior to attaining

406 the age of twenty-one (21) years.

407 Such a determination shall not be made retroactive prior to

408 the date of the hearing.

409 SECTION 7. Section 75-17-7, Mississippi Code of 1972, is

410 amended as follows:

411 75-17-7. All judgments or decrees founded on any sale or

412 contract shall bear interest at the same rate as the contract

413 evidencing the debt on which the judgment or decree was rendered.

414 All child support orders, by operation of law, shall bear
415 interest at a rate of eight percent (8%) per annum. All other
416 judgments or decrees shall bear interest at a per annum rate set
417 by the judge hearing the complaint from a date determined by such
418 judge to be fair but in no event prior to the filing of the
419 complaint.

420 SECTION 8. Section 93-11-103, Mississippi Code of 1972, is
421 amended as follows:

422 93-11-103. (1) **Child support orders enforced by Department**
423 **of Human Services.** Upon entry of any order for support by a court
424 of this state where the custodial parent is a recipient of
425 services under Title IV-D of the federal Social Security Act,
426 issued on or after October 1, 1996, the court entering such order
427 shall enter a separate order for withholding which shall take
428 effect immediately without any requirement that the obligor be
429 delinquent in payment. All such orders for support issued prior
430 to October 1, 1996, shall, by operation of law, be amended to
431 conform with the provisions contained herein. All such orders for
432 support issued shall:

433 (a) Contain a provision for monthly income withholding
434 procedures to take effect in the event the obligor becomes
435 delinquent in paying the order for support without further
436 amendment to the order or further action by the court; and

437 (b) Require that the payor withhold any additional
438 amount for delinquency specified in any order if accompanied by an
439 affidavit of accounting, a notarized record of overdue payments or
440 an attested judgment for delinquency or contempt. Any person who
441 willfully and knowingly files a false affidavit, record or
442 judgment shall be subject to a fine of not more than One Thousand

443 Dollars (\$1,000.00).

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

451 (2) **Child support orders not enforced by the Department of**
452 **Human Services.** Upon entry of any order for support by a court of
453 this state where the custodial parent is not a recipient of
454 services under Title IV-D of the federal Social Security Act,
455 issued or modified or found to be in arrears on or after January
456 1, 1994, the court entering such order shall enter a separate
457 order for withholding which shall take effect immediately. Such
458 orders shall not be subject to immediate income withholding under
459 this subsection (a) if one of the parties (i.e. noncustodial or
460 custodial parent) demonstrates, and the court finds, that there is
461 good cause not to require immediate income withholding, or (b) if
462 both parties agree in writing to an alternative arrangement.

463 (3) If a child support order is issued or modified in the
464 state but is not subject to immediate income withholding, it
465 automatically becomes so if the court finds that a support payment
466 is thirty (30) days past due. If the support order were issued or
467 modified in another state but is not subject to immediate income
468 withholding, it becomes subject to income withholding on the date
469 on which child support payments are at least one (1) month in
470 arrears, or if it is earlier, the earliest of (a) the date as of
471 which the noncustodial parent requests that withholding begin, (b)

472 the date as of which the custodial parent requests that
473 withholding begin, or (c) an earlier date chosen by the court.

474 (4) The clerk of the court shall submit copies of such
475 orders to the obligor's payor, any additional or subsequent payor,
476 and to the Mississippi Department of Human Services Case Registry.

477 The clerk of the court, the obligee's attorney, or the
478 department's attorney may serve such immediate order for
479 withholding by first class mail or personal delivery on the
480 obligor's payor, superintendent, manager, agent or subsequent
481 payor, as the case may be. In a case where the obligee's attorney
482 or the department's attorney serves such immediate order, the
483 attorney shall notify the clerk of the court in writing, which
484 notice shall be placed in the court file. There shall be no need
485 for further notice, hearing, order, process or procedure prior to
486 service of said order on the payor or any additional or subsequent
487 payor. The obligor may contest, if grounds exist, service of the
488 order of withholding on additional or subsequent payors, by filing
489 an action with the issuing court. Such filing shall not stay the
490 obligor's duty to support pending judicial determination of the
491 obligor's claim. Nothing herein shall be construed to restrict
492 the authority of the courts of this state from entering any order
493 it deems appropriate to protect the rights of any parties
494 involved.

495 (5) The order for withholding shall:

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

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

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

504 (6) In cases initiated or enforced by the Department of
505 Human Services pursuant to Title IV-D of the federal Social
506 Security Act, all such orders for withholding may permit the
507 Department of Human Services to withhold through said withholding
508 order additional amounts to recover costs incurred through its
509 efforts to secure the support order, including, but not limited
510 to, all filing fees, court costs, service of process fees, mailing
511 costs, birth certificate certification fee, genetic testing fees,
512 the department's attorney's fees; and, in cases where the state or
513 any of its entities or divisions have provided medical services to
514 the child or the child's mother, all medical costs of prenatal
515 care, birthing, postnatal care and any other medical expenses
516 incurred by the child or by the mother as a consequence of her
517 pregnancy or delivery.

518 (7) At the time the order for withholding is entered, the
519 clerk of the court shall provide copies of the order for
520 withholding and the order for support to the obligor, which shall
521 be accompanied by a statement of the rights, remedies and duties
522 of the obligor under Sections 93-11-101 through 93-11-119. The
523 clerk of the court shall make copies available to the obligee and
524 to the department or its local attorney.

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

527 (9) The failure of an order for withholding to state an
528 arrearage is not conclusive of the issue of whether an arrearage
529 is owing.

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

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

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

538 (b) The information along with the required affidavit
539 of accounting, notarized record of overdue payment or attested
540 judgment of delinquency or contempt has been sent to the employer;
541 and

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

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

553 SECTION 9. Any elected public official who fails to pay
554 court-ordered child support shall be removed from elected public
555 office.

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