

By: Senator(s) Bean

To: Judiciary; Public
Health and Welfare

SENATE BILL NO. 2313

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

42 INFORMATION AND TO UPDATE THIS INFORMATION AS IT CHANGES AND TO
43 PROVIDE THAT DUE PROCESS REQUIREMENTS FOR NOTICE AND SERVICE SHALL
44 BE MET BY NOTICE TO THE MOST RECENT RESIDENTIAL OR EMPLOYER
45 ADDRESS FILED; TO AMEND SECTION 93-11-71, MISSISSIPPI CODE OF
46 1972, TO AUTHORIZE THE CHILD SUPPORT UNIT TO IMPOSE LIENS ON REAL
47 AND CERTAIN PERSONAL PROPERTY WITHOUT OBTAINING A JUDGMENT IN
48 CIRCUIT COURT FOR CHILD SUPPORT PAYMENTS WHICH REMAIN UNPAID FOR
49 OVER 30 DAYS AND TO AFFORD FULL FAITH AND CREDIT TO ANY SUCH LIENS
50 ARISING IN OTHER STATES; TO CODIFY SECTION 93-11-105, MISSISSIPPI
51 CODE OF 1972, AND TO AMEND SECTION 93-11-103, MISSISSIPPI CODE OF
52 1972, TO AUTHORIZE THE CHILD SUPPORT UNIT TO BE THE DESIGNATED
53 STATE AGENCY TO RECEIVE INCOME WITHHOLDING PAYMENTS AND TO DELETE
54 CERTAIN EXCEPTIONS TO INCOME WITHHOLDING IN CASES ENFORCED BY THE
55 CHILD SUPPORT UNIT; TO CODIFY SECTION 43-19-59, MISSISSIPPI CODE
56 OF 1972, TO AUTHORIZE THE CHILD SUPPORT UNIT TO USE HIGH-VOLUME
57 AUTOMATED ADMINISTRATIVE ENFORCEMENT IN RESPONSE TO A REQUEST FROM
58 ANOTHER STATE FOR THE ENFORCEMENT OF CHILD SUPPORT ORDERS WITHOUT
59 THE NECESSITY OF COURT ORDER; AND FOR RELATED PURPOSES.

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

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

63 43-19-31. The Department of Human Services is hereby
64 authorized and empowered to establish a single and separate Child
65 Support Unit for the following purposes:

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

72 (b) To secure and collect support by any method
73 authorized under state law and establish paternity for any child
74 or children receiving aid from the department, from a parent or
75 any other person legally liable for such support who has either
76 failed or refused to provide support, deserted, neglected or
77 abandoned the child or children, including cooperating with other
78 states in establishing paternity, locating absent parents and

79 securing compliance with court orders for support of Temporary

80 Assistance for Needy Families (TANF) children; the department may
81 petition the court for the inclusion of health insurance as part
82 of any child support order on behalf of any child receiving aid
83 from the department unless good cause for noncooperation, as
84 defined by the Social Security Act or the Mississippi Department
85 of Human Services, is established;

86 (c) To initiate support or paternity actions in behalf
87 of nonrelated Temporary Assistance for Needy Families (TANF)
88 families, and to secure and collect child support in such cases by
89 any method authorized under state law; the department may petition
90 the court for the inclusion of health insurance as part of any
91 child support order on behalf of such nonrelated Temporary
92 Assistance for Needy Families (TANF) families unless good cause
93 for noncooperation, as defined by the Social Security Act or the
94 Mississippi Department of Human Services, is established;

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

106 (e) To initiate contempt of court proceedings or any
107 other remedial proceedings necessary to enforce (i) any order or
108 decree of court relating to child support, and (ii) any order or

109 decree of court relating to the maintenance and/or alimony of a
110 parent where support collection services on his or her child's
111 behalf are being provided by the department;

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

119 (g) To obtain restitution of monies expended for public
120 assistance from a parent or any other person legally liable for
121 the support of any child or children receiving aid from the
122 department; said action for restitution shall arise from the
123 payment of public assistance for the dependent child or children
124 and shall be for the amount of the public assistance paid. Said
125 action for restitution shall not arise against the parent or other
126 person legally responsible who receives public assistance for the
127 benefit of any dependent child or children. When a court order of
128 support has been issued, the amount recoverable shall be limited
129 to the amount of the court order;

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

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

138 proceed under any applicable interstate enforcement mechanisms;

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

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

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

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

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

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

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

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

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

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

192 (o) To provide any child support enforcement or other
193 service as may be required by the United States of America,
194 Department of Health and Human Services, Family Support
195 Administration, Office of Child Support Enforcement or their

196 successor pursuant to federal law or regulation.

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

199 93-9-21. (1) (a) In all cases brought pursuant to Title
200 IV-D of the Social Security Act, upon sworn documentation by the
201 mother, putative father, or the Department of Human Services
202 alleging paternity, the department may issue an administrative
203 order for paternity testing which requires the mother, putative
204 father and minor child to submit themselves for paternity testing.
205 The department shall then send the putative father the following
206 notices by certified mail: a Notice for Genetic Testing which
207 shall include the date, time and place for collection of the
208 putative father's genetic sample, and a Notice and Complaint to
209 Establish Paternity which shall specify the date and time certain
210 of the hearing.

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

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

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

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

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

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

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

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

252 (b) The Department of Human Services * * * shall
253 publicly issue a request for proposals, and such requests for

254 proposals when issued shall contain terms and conditions relating
255 to price, technology and such other matters as are determined by
256 the department to be appropriate for inclusion or required by law.

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

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

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

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

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

275 93-9-23. (1) Genetic testing shall be made by experts
276 qualified as examiners of genetic tests who shall be appointed by
277 the court pursuant to Section 93-9-21(5). The expert shall attach
278 to the report of the test results an affidavit stating in
279 substance: (a) that the affiant has been appointed by the court
280 to administer the test and shall give his name, address, telephone
281 number, qualifications, education and experience; (b) how the
282 mother, child and alleged father were identified when the samples

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

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

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

309 (4) Upon request or motion of any party to the proceeding,
310 the court may require persons making any analysis to appear as a
311 witness and be subject to cross-examination, provided that the

312 request or motion is made at least ten (10) days prior to a
313 hearing. The court may require the party making the request or
314 motion to pay the costs and/or fees for the expert witness'
315 appearance.

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

318 93-11-153. As used in Sections 93-11-151 through 93-11-163,
319 the following words and terms shall have the meanings ascribed
320 herein:

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

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

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

340 (d) "Order for support" means any judgment or order

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

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

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

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

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

356 93-11-157. (1) The division shall review the information
357 received under Section 93-11-155 and any other information
358 available to the division, and shall determine if a licensee is
359 out of compliance with an order for support. If a licensee is out
360 of compliance with the order for support, the division shall
361 notify the licensee by first class mail that ninety (90) days
362 after the licensee receives the notice of being out of compliance
363 with the order, the licensing entity will be notified to
364 immediately suspend the licensee's license unless the licensee
365 pays the arrearage owing, according to the accounting records of
366 the Mississippi Department of Human Services or enters into a
367 stipulated agreement and agreed judgment establishing a schedule
368 for the payment of the arrearage. The licensee shall be presumed
369 to have received the notice five (5) days after it is deposited in

370 the mail.

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

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

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

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

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

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

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

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

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

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

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

457 subsequently enters into a stipulated agreement and agreed
458 judgment or the licensee otherwise informs the division of
459 compliance with the order for support, the division shall within
460 seven (7) days notify in writing the licensing entity that the
461 licensee is in compliance. Upon receipt of that notice from the
462 division, a licensing entity shall immediately reinstate the
463 license of the licensee and shall within three (3) business days
464 notify the licensee of the reinstatement.

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

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

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

478 (13) The procedure for suspension of a license for being out
479 of compliance with an order for support, and the procedure for the
480 reissuance or reinstatement of a license suspended for that
481 purpose, shall be governed by this section and not by the general
482 licensing and disciplinary provisions applicable to a licensing
483 entity. Actions taken by a licensing entity in suspending a
484 license when required by this section are not actions from which
485 an appeal may be taken under the general licensing and

486 disciplinary provisions applicable to the licensing entity. Any
487 appeal of a license suspension that is required by this section
488 shall be taken in accordance with the appeal procedure specified
489 in subsection (8) of this section rather than any procedure
490 specified in the general licensing and disciplinary provisions
491 applicable to the licensing entity. If there is any conflict
492 between any provision of this section and any provision of the
493 general licensing and disciplinary provisions applicable to a
494 licensing entity, the provisions of this section shall control.

495 (14) No license shall be suspended under this section until
496 ninety (90) days after July 1, 1996. This ninety-day period shall
497 be a one-time amnesty period in which any person who may be
498 subject to license suspension under this article may comply with
499 an order of support in order to avoid the suspension of any
500 license.

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

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

507 93-11-159. * * * The licensing entities subject to Sections
508 93-11-151 through 93-11-161 may establish an additional
509 administrative fee not to exceed Twenty-five Dollars (\$25.00) to
510 be paid by licensees who are out of compliance with an order of
511 support and who are subject to the provisions of Sections
512 93-11-151 through 93-11-161 for the purpose of recovering costs of
513 the licensing entities associated with the implementation of
514 Sections 93-11-151 through 93-11-161.

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

517 41-57-23. (1) Any petition, bill of complaint or other
518 proceeding filed in the chancery court to: (a) change the date of
519 birth by two (2) or more days, (b) change the surname of a child,
520 (c) change the surname of either or both parents, (d) change the
521 birthplace of the child because of an error or omission of such
522 information as originally recorded or (e) make any changes or
523 additions to a birth certificate resulting from a legitimation,
524 filiation or any changes not specifically authorized elsewhere by
525 statute, shall be filed in the county of residence of the
526 petitioner or filed in any chancery court district of the state if
527 the petitioner be a nonresident petitioner. In all such
528 proceedings, the State Board of Health shall be made a respondent
529 therein, and a certified copy of the petition, bill of complaint
530 or other proceeding shall be forwarded to the State Board of
531 Health. Process may be served upon the State Registrar of Vital
532 Records. The State Board of Health shall file an answer to all
533 such proceedings within the time as provided by general law. The
534 provisions of this section shall not apply to adoption
535 proceedings. Upon receipt of a certified copy of a decree, which
536 authorizes and directs the State Board of Health to alter the
537 certificate, it shall comply with all of the provisions of such
538 decree.

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

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

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

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

555 (i) Sixty (60) days; or

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

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

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

569 93-9-9. (1) Paternity may be determined upon the petition
570 of the mother, or father, the child or any public authority
571 chargeable by law with the support of the child; provided that
572 such an adjudication after the death of the defendant must be made

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

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

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

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

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

624 (4) (a) A signed voluntary acknowledgment of paternity is
625 subject to the right of any signatory to rescind the
626 acknowledgment within the earlier of:
627 (i) Sixty (60) days; or
628 (ii) The date of a judicial proceeding relating to
629 the child (including a proceeding to establish a support order) in
630 which the signatory is a party.

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

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

641 93-9-28. (1) The Mississippi Department of Health in
642 cooperation with the Mississippi Department of Human Services
643 shall develop a form and procedure which may be used to secure a
644 voluntary acknowledgement of paternity from the mother and father
645 of any child born out of wedlock in Mississippi. The form shall
646 clearly state on its face that the execution of the
647 acknowledgement of paternity shall result in the same legal effect
648 as if the father and mother had been married at the time of the
649 birth of the child. When such form has been completed according
650 to the established procedure and the signatures of both the mother
651 and father have been notarized, then such voluntary
652 acknowledgement shall constitute a full determination of the legal
653 parentage of the child. The completed voluntary acknowledgement
654 of paternity shall be filed * * * with the Bureau of Vital
655 Statistics of the Mississippi Department of Health. The name of
656 the father shall be entered on the certificate of birth upon
657 receipt of the completed voluntary acknowledgement.

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

660 acknowledgment within the earlier of:

661 (i) Sixty (60) days; or

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

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

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

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

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

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

704 43-19-34. (1) In lieu of legal proceedings instituted to
705 obtain a modification for an order for support, a written
706 stipulated agreement for modification executed by the responsible
707 parent when acknowledged before a clerk of the court having
708 jurisdiction over such matters or a notary public and filed with
709 and approved by the judge of said court shall have the same force
710 and effect, retroactively and prospectively, in accordance with
711 the terms of said agreement as an order for modification of
712 support entered by the court, and shall be enforceable and subject
713 to subsequent modification in the same manner as is provided by
714 law for orders of the court in such cases.

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

718 determined that a modification is appropriate, the department
719 shall send a motion and notice of intent to modify the order,
720 together with the proposed modification of the order under this
721 section by first class mail to the last known mailing address of
722 the defendant. Such notice shall specify the date and time
723 certain of the hearing. The defendant may accept the proposed
724 modification by signing and returning it to the department prior
725 to the date of hearing for presentation to the court for approval.

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

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

733 43-19-33. (1) In lieu of legal proceedings instituted to
734 obtain support for a dependent child from the responsible parent,
735 a written stipulated agreement to support said child by periodic
736 payments executed by the responsible parent when acknowledged
737 before a clerk of the court having jurisdiction over such matters
738 or a notary public and filed with and approved by the judge of
739 said court shall have the same force and effect, retroactively and
740 prospectively, in accordance with the terms of said agreement as
741 an order of support entered by the court, and shall be enforceable
742 and subject to modification in the same manner as is provided by
743 law for orders of the court in such cases.

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

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

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

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

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

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

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

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

802 43-19-44. For purposes of this section, an "authorized
803 person" shall mean:

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

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

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

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

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

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

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

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

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

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

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

854 If the department is provided with reasonable evidence of a
855 risk of harm, the department, its employees and its contractors
856 shall not disclose any personal data that could otherwise be
857 disclosed about the location of a parent or child, including
858 residential address, telephone number and name, address and
859 telephone number of employer, and shall not disclose the Social
860 Security number of a parent or child; provided, however, that such
861 personal data may be shared by and between employees of the
862 department and its contractors; provided further, that the

863 department may disclose such personal data to the Federal Parent
864 Locator Service, to the court, or agent of a court that is
865 authorized to receive information from the Federal Parent Locator
866 Service established pursuant to Title IV-D of the Social Security
867 Act.

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

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

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

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

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

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

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

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

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

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

950 used and may prohibit a person to whom the data is disclosed from
951 making further disclosures to any other person. The court shall
952 notify the department of any order entered pursuant to this
953 section. Any person or agency who violates an order issued
954 pursuant to this section may be held in contempt of court and
955 subject to the penalties provided herein.

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

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

964 93-11-65. (1) In addition to the right to proceed under
965 Section 93-5-23, Mississippi Code of 1972, and in addition to the
966 remedy of habeas corpus in proper cases, and other existing
967 remedies, the chancery court of the proper county shall have
968 jurisdiction to entertain suits for the custody, care, support and
969 maintenance of minor children and to hear and determine all such
970 matters, and shall, if need be, require bond, sureties or other
971 guarantee to secure any order for periodic payments for the
972 maintenance or support of a child. In the event a legally
973 responsible parent has health insurance available to him or her
974 through an employer or organization that may extend benefits to
975 the dependents of such parent, any order of support issued against
976 such parent may require him or her to exercise the option of
977 additional coverage in favor of such children as he or she is
978 legally responsible to support. Proceedings may be brought by or

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

1000 (2) Provided further, that where the proof shows that both
1001 parents have separate incomes or estates, the court may require
1002 that each parent contribute to the support and maintenance of the
1003 children in proportion to the relative financial ability of each.

1004 (3) Whenever the court has ordered a party to make periodic
1005 payments for the maintenance or support of a child, but no bond,
1006 sureties or other guarantee has been required to secure such
1007 payments, and whenever such payments as have become due remain

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

1016 (4) When a charge of abuse or neglect of a child first
1017 arises in the course of a custody or maintenance action pending in
1018 the chancery court pursuant to this section, the chancery court
1019 may proceed with the investigation, hearing and determination of
1020 such abuse or neglect charge as a part of its hearing and
1021 determination of the custody or maintenance issue as between the
1022 parents, as provided in Section 43-21-151, notwithstanding the
1023 other provisions of the Youth Court Law. The proceedings in
1024 chancery court on the abuse or neglect charge shall be
1025 confidential in the same manner as provided in youth court
1026 proceedings, and the chancery court shall appoint a guardian ad
1027 litem in such cases, as provided under Section 43-21-121 for youth
1028 court proceedings, who shall be an attorney. Unless the chancery
1029 court's jurisdiction has been terminated, all disposition orders
1030 in such cases for placement with the Department of Human Services
1031 shall be reviewed by the court or designated authority at least
1032 annually to determine if continued placement with the department
1033 is in the best interest of the child or the public.

1034 (5) The noncustodial parent and custodial parent in a
1035 paternity or child support proceeding shall be required to file
1036 and update, with the court and with the state case registry,

1037 information on location and identity of the party, including
1038 Social Security number, residential and mailing addresses,
1039 telephone numbers, photograph, driver's license number, and name,
1040 address and telephone number of the party's employer. This
1041 information shall be required upon entry of an order.

1042 (6) In such cases subsequently enforced by the Department of
1043 Human Services pursuant to Title IV-D of the Social Security Act,
1044 the court shall have continuing jurisdiction. State due process
1045 requirements for notice and service of process shall be met with
1046 respect to the party upon written notice sent by first class mail
1047 at least thirty (30) days prior to the hearing to the most recent
1048 residential or employer address filed with the court and the state
1049 case registry.

1050 (7) The duty of support of a child terminates upon the
1051 emancipation of the child. The court may determine that
1052 emancipation has occurred and no other support obligation exists
1053 when the child:

1054 (a) Attains the age of twenty-one (21) years, or

1055 (b) Marries, or

1056 (c) Discontinues full-time enrollment in school and
1057 obtains full-time employment prior to attaining the age of
1058 twenty-one (21) years, or

1059 (d) Voluntarily moves from the home of the custodial
1060 parent or guardian and establishes independent living arrangements
1061 and obtains full-time employment prior to attaining the age of
1062 twenty-one (21) years.

1063 SECTION 14. Section 93-11-71, Mississippi Code of 1972, is
1064 amended as follows:

1065 93-11-71. (1) Whenever a court orders any person to make

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

1071 (a) Said judgment which arises by operation of law
1072 shall have the same effect and be fully enforceable as any other
1073 judgment entered in this state. A judicial or administrative
1074 action to enforce said judgment may be commenced at any time; and

1075 (b) Such judgments arising in other states by operation
1076 of law shall be entitled to be given full faith and credit.

1077 (2) Any judgment arising under the provisions of this
1078 section shall operate as a lien upon all the property of the
1079 judgment debtor, both real and personal. The judgment for
1080 periodic payments for the maintenance and support of a child,
1081 along with sworn documentation of the delinquent child support,
1082 shall be entered on the judgment roll. Liens arising under the
1083 provisions of this section may be executed upon and enforced in
1084 the same manner and to the same extent as any other judgment.

1085 (3) Notwithstanding the provisions in paragraph (2), any
1086 judgment obtained under the provisions of this section shall
1087 subject the following assets to interception or seizure without
1088 regard to the entry of such judgment on the judgment roll of the
1089 situs district or jurisdiction:

1090 (a) Periodic or lump-sum payments from a federal, state
1091 or local agency, including unemployment compensation, workers'
1092 compensation and other benefits;

1093 (b) Winnings from lotteries and gaming winnings which
1094 are received in periodic payments made over a period in excess of

1095 thirty (30) days;

1096 (c) Assets held in financial institutions;

1097 (d) Settlements and awards resulting from civil
1098 actions; and

1099 (e) Public and private retirement funds, only to the
1100 extent that the obligor is qualified to receive and receives a
1101 lump sum or periodic distribution from the funds.

1102 (4) In any case in which a child receives assistance from
1103 block grants for Temporary Assistance for Needy Families (TANF),
1104 and the obligor owes past-due child support, the obligor, if not
1105 incapacitated, may be required by the court to participate in any
1106 work programs offered by any state agency.

1107 SECTION 15. The following provision shall be codified as
1108 Section 93-11-105, Mississippi Code of 1972:

1109 93-11-105. (1) Notwithstanding the provisions of Section
1110 93-11-103, the Department of Human Services shall be authorized to
1111 implement administrative orders for withholding without the
1112 necessity of obtaining an order through judicial proceedings. The
1113 administrative order for withholding shall be implemented pursuant
1114 to a previously rendered order for support and shall be on a form
1115 prescribed by the Department of Human Services. Unless
1116 inconsistent with the provisions of this section, the order for
1117 withholding shall be subject to the same requirements as provided
1118 in Sections 93-11-101 through 93-11-118.

1119 (2) The administrative order shall be filed with the clerk
1120 by the department and a copy shall be transmitted to the obligor
1121 by first class mail.

1122 (3) The order for withholding shall:

1123 (a) Direct any payor to withhold an amount equal to the

1124 order for support;

1125 (b) Direct any payor to withhold an additional amount
1126 equal to twenty percent (20%) of the current support obligation,
1127 unless a different amount has been previously ordered by the
1128 court, until payment in full of any delinquency; and

1129 (c) Direct the payor not to withhold in excess of the
1130 amounts allowed under Section 303(b) of the Consumer Credit
1131 Protection Act, being 15. U.S.C.A. 1673, as amended.

1132 SECTION 16. Section 93-11-103, Mississippi Code of 1972, is
1133 amended as follows:

1134 93-11-103. (1) **Child support orders enforced by Department**
1135 **of Human Services.** Upon entry of any order for support by a court
1136 of this state where the custodial parent is a recipient of
1137 services under Title IV-D of the federal Social Security Act,
1138 issued on or after October 1, 1996, the court entering such order
1139 shall enter a separate order for withholding which shall take
1140 effect immediately without any requirement that the obligor be
1141 delinquent in payment. All such orders for support issued prior
1142 to October 1, 1996, shall, by operation of law, be amended to
1143 conform with the provisions contained herein. All such orders for
1144 support issued shall:

1145 (a) Contain a provision for monthly income withholding
1146 procedures to take effect in the event the obligor becomes
1147 delinquent in paying the order for support without further
1148 amendment to the order or further action by the court; and

1149 (b) Require that the payor withhold any additional
1150 amount for delinquency specified in any order if accompanied by an
1151 affidavit of accounting, a notarized record of overdue payments or
1152 an attested judgment for delinquency or contempt. Any person who

1153 willfully and knowingly files a false affidavit, record or
1154 judgment shall be subject to a fine of not more than One Thousand
1155 Dollars (\$1,000.00).

1156 * * *

1157 (2) **Child support orders not enforced by the Department of**
1158 **Human Services.** Upon entry of any order for support by a court of
1159 this state where the custodial parent is not a recipient of
1160 services under Title IV-D of the federal Social Security Act,
1161 issued or modified or found to be in arrears on or after January
1162 1, 1994, the court entering such order shall enter a separate
1163 order for withholding which shall take effect immediately. Such
1164 orders shall not be subject to immediate income withholding under
1165 this subsection (a) if one of the parties (i.e. noncustodial or
1166 custodial parent) demonstrates, and the court finds, that there is
1167 good cause not to require immediate income withholding, or (b) if
1168 both parties agree in writing to an alternative arrangement.

1169 (3) If a child support order is issued or modified in the
1170 state but is not subject to immediate income withholding, it
1171 automatically becomes so if the court finds that a support payment
1172 is thirty (30) days past due. If the support order were issued or
1173 modified in another state but is not subject to immediate income
1174 withholding, it becomes subject to income withholding on the date
1175 on which child support payments are at least one (1) month in
1176 arrears, or if it is earlier, the earliest of (a) the date as of
1177 which the noncustodial parent requests that withholding begin, (b)
1178 the date as of which the custodial parent requests that
1179 withholding begin, or (c) an earlier date chosen by the court.

1180 (4) The clerk of the court shall submit copies of such
1181 orders to the obligor's payor, any additional or subsequent payor,

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

1201 (5) The order for withholding shall:

1202 (a) Direct any payor to withhold an amount equal to the
1203 order for support;

1204 (b) Direct any payor to withhold an additional amount,
1205 not less than ten percent (10%) of the order for support, until
1206 payment in full of any delinquency; and

1207 (c) Direct the payor not to withhold in excess of the
1208 amounts allowed under Section 303(b) of the Consumer Credit
1209 Protection Act, being 15 U.S.C.A. 1673, as amended.

1210 (6) In cases initiated or enforced by the Department of

1211 Human Services pursuant to Title IV-D of the federal Social
1212 Security Act, all such orders for withholding may permit the
1213 Department of Human Services to withhold through said withholding
1214 order additional amounts to recover costs incurred through its
1215 efforts to secure the support order, including, but not limited
1216 to, all filing fees, court costs, service of process fees, mailing
1217 costs, birth certificate certification fee, genetic testing fees,
1218 the department's attorney's fees; and, in cases where the state or
1219 any of its entities or divisions have provided medical services to
1220 the child or the child's mother, all medical costs of prenatal
1221 care, birthing, postnatal care and any other medical expenses
1222 incurred by the child or by the mother as a consequence of her
1223 pregnancy or delivery.

1224 (7) At the time the order for withholding is entered, the
1225 clerk of the court shall provide copies of the order for
1226 withholding and the order for support to the obligor, which shall
1227 be accompanied by a statement of the rights, remedies and duties
1228 of the obligor under Sections 93-11-101 through 93-11-119. The
1229 clerk of the court shall make copies available to the obligee and
1230 to the department or its local attorney.

1231 (8) The order for withholding shall remain in effect for as
1232 long as the order for support upon which it is based.

1233 (9) The failure of an order for withholding to state an
1234 arrearage is not conclusive of the issue of whether an arrearage
1235 is owing.

1236 (10) Any order for withholding entered pursuant to this
1237 section shall not be considered a garnishment.

1238 (11) All existing orders for support shall become subject to
1239 additional withholding if arrearages occur, subject to court

1240 hearing and order. The Department of Human Services or the
1241 obligee or his agent or attorney must send to each delinquent
1242 obligor notice that:

1243 (a) The withholding on the delinquency has commenced;

1244 (b) The information along with the required affidavit
1245 of accounting, notarized record of overdue payment or attested
1246 judgment of delinquency or contempt has been sent to the employer;
1247 and

1248 (c) The obligor may file an action with the issuing
1249 court on the grounds of mistake of fact. Such filing must be made
1250 within thirty (30) days of receipt of the notice and shall not
1251 stay the obligor's duty to support pending judicial determination
1252 of the obligor's claim.

1253 (12) An employer who complies with an income withholding
1254 notice that is regular on its face and which is accompanied by the
1255 required accounting affidavit, notarized record of overdue
1256 payments or attested judgment of delinquency or contempt shall not
1257 be subject to civil liability to any individual or agency for
1258 conduct in compliance with the notice.

1259 (13) The Department of Human Services shall be the
1260 designated agency to receive payments made by income withholding.

1261 SECTION 17. The following provision shall be codified as
1262 Section 43-19-59, Mississippi Code of 1972:

1263 43-19-59. (1) The Department of Human Services, as the
1264 Title IV-D child support enforcement agency of this state, shall
1265 use high-volume automated administrative enforcement, to the same
1266 extent as used for intrastate cases, in response to a request made
1267 by another state to enforce support orders, and shall promptly
1268 report the results of such enforcement procedure to the requesting

1269 state.

1270 (2) In this part, "high-volume, automated administrative
1271 enforcement" means the use of automatic data processing to search
1272 various available state data bases, including, but not limited to,
1273 license records, employment service data, and state new hire
1274 registries, to determine whether information is available
1275 regarding a parent who owes a child support obligation.

1276 (3) The department may, by electronic or other means,
1277 transmit to another state or receive from another state a request
1278 for assistance in enforcing support orders through high-volume,
1279 automated administrative enforcement, which request:

1280 (a) Shall include such information as will enable the
1281 state to which the request is transmitted to compare the
1282 information about the cases to the information in the data bases
1283 of the state receiving the request; and

1284 (b) Shall constitute a certification by the requesting
1285 state:

1286 (i) Of the amount of support under an order the
1287 payment of which is in arrears; and

1288 (ii) That the requesting state has complied with
1289 all procedural due process requirements applicable to each case.

1290 (c) If the department provides assistance to another
1291 state with respect to a case, or if another state seeks assistance
1292 from the department pursuant to this section, neither state shall
1293 consider the case to be transferred to the caseload of such other
1294 state.

1295 SECTION 18. This act shall take effect and be in force from
1296 and after July 1, 1999.