

By: Senator(s) Bean

To: Judiciary; Public Health and Welfare

SENATE BILL NO. 2314

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

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

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

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

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

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

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

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

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

70 (b) Subtract the following legally mandated deductions:

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

74 (ii) Social Security contributions;

75 (iii) Retirement and disability contributions

76 except any voluntary retirement and disability contributions;

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

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

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

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

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

98 * * *

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

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

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

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

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

115 The report shall contain:

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

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

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

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

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

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

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

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

144 amended as follows:

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

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

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

155 (ii) Reimbursement of support.

156 "Order for support" shall also mean:

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

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

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

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

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

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

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

178 Human Services.

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

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

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

195 (ii) Any amounts exempted by federal law;

196 (iii) Public assistance payments; and

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

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

201 (j) "Obligee" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

294 (ii) Marries, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

394 (ii) Marries, or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

475 (7) For purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

573 (5) The order for withholding shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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