

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MR. PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled **BILL**:

H.B. No. 852: Child support enforcement statutes; revise pursuant to federal law.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

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

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

74 (b) To secure and collect support by any method
75 authorized under state law and establish paternity for any child
76 or children receiving aid from the department, from a parent or
77 any other person legally liable for such support who has either
78 failed or refused to provide support, deserted, neglected or
79 abandoned the child or children, including cooperating with other
80 states in establishing paternity, locating absent parents and
81 securing compliance with court orders for support of Temporary
82 Assistance for Needy Families (TANF) children; the department may
83 petition the court for the inclusion of health insurance as part
84 of any child support order on behalf of any child receiving aid
85 from the department unless good cause for noncooperation, as

86 defined by the Social Security Act or the Mississippi Department
87 of Human Services, is established;

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

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

108 (e) To initiate contempt of court proceedings or any
109 other remedial proceedings necessary to enforce (i) any order or
110 decree of court relating to child support, and (ii) any order or
111 decree of court relating to the maintenance and/or alimony of a
112 parent where support collection services on his or her child's
113 behalf are being provided by the department;

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

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

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

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

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

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

156 analyses to determine and utilize the more cost efficient manner
157 of operating the unit;

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

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

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

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

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

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

185 (m) To take administrative actions relating to genetic
186 testing, modification of child support orders, income withholding,
187 liens and subpoenas without the necessity of obtaining an order
188 from any judicial or other administrative tribunal with respect to
189 cases initiated or enforced by the department pursuant to Title
190 IV-D of the Social Security Act.

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

195 (o) To provide any child support enforcement or other
196 service as may be required by the United States of America,
197 Department of Health and Human Services, Family Support
198 Administration, Office of Child Support Enforcement or their
199 successor pursuant to federal law or regulation.

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

202 93-9-21. (1) (a) In all cases brought pursuant to Title
203 IV-D of the Social Security Act, upon sworn documentation by the
204 mother, putative father, or the Department of Human Services
205 alleging paternity, the department may issue an administrative
206 order for paternity testing which requires the mother, putative
207 father and minor child to submit themselves for paternity testing.
208 The department shall send the putative father a copy of the
209 Administrative Order and a Notice for Genetic Testing which shall
210 include the date, time and place for collection of the putative
211 father's genetic sample. The Department shall also send the
212 putative father a Notice and Complaint to Establish Paternity
213 which shall specify the date and time certain of the court hearing
214 by certified mail, restricted delivery, return receipt requested.
215 Notice shall be deemed complete as of the date of delivery as
216 evidenced by the return receipt. The required notice may also be
217 delivered by personal service upon the putative father in
218 accordance with Rule 4 of the Mississippi Rules of Civil Procedure
219 insofar as service of an administrative order or notice is
220 concerned.

221 (b) If the putative father does not submit to genetic
222 testing, the court shall, without further notice, on the date and
223 time previously set through the notice for hearing, review the
224 documentation of the refusal to submit to genetic testing and make
225 a determination as to whether the complaint to establish paternity

226 should be granted. The refusal to submit to such testing shall
227 create a rebuttable presumption of an admission to paternity by
228 the putative father.

229 (c) In any case in which the Department of Human
230 Services orders genetic testing, the department is required to
231 advance costs of such tests subject to recoupment from the alleged
232 father if paternity is established. If either party challenges
233 the original test results, the department shall order additional
234 testing at the expense of the challenging party.

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

240 If any party refuses to submit to such tests, the court may
241 resolve the question of paternity against such party or enforce
242 its order for genetic testing as the rights of others and the
243 interest of justice * * * require.

244 (3) Any party calling a witness or witnesses for the purpose
245 of testifying that they had sexual intercourse with the mother at
246 any possible time of conception of the child whose paternity is in
247 question shall provide all other parties with the name and address
248 of the witness at least twenty (20) days before the trial. If a
249 witness is produced at the hearing for the purpose provided in
250 this subsection but the party calling the witness failed to
251 provide the twenty-day notice, the court may adjourn the
252 proceeding for the purpose of taking a genetic test of the witness
253 before hearing the testimony of the witness if the court finds
254 that the party calling the witness acted in good faith.

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

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

260 (b) The Department of Human Services * * * shall

261 publicly issue a request for proposals, and such requests for
262 proposals when issued shall contain terms and conditions relating
263 to price, technology and such other matters as are determined by
264 the department to be appropriate for inclusion or required by law.

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

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

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

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

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

283 93-9-23. (1) Genetic testing shall be made by experts
284 qualified as examiners of genetic tests who shall be appointed by
285 the court pursuant to Section 93-9-21(5). The expert shall attach
286 to the report of the test results an affidavit stating in
287 substance: (a) that the affiant has been appointed by the court
288 to administer the test and shall give his name, address, telephone
289 number, qualifications, education and experience; (b) how the
290 mother, child and alleged father were identified when the samples
291 were obtained; (c) who obtained the samples and how, when and
292 where obtained; (d) the chain of custody of the samples from the
293 time obtained until the tests were completed; (e) the results of
294 the test and the probability of paternity as calculated by an
295 expert based on the test results; (f) the amount of the fee for

296 performing the test; and (g) the procedures performed to obtain
297 the test results. In cases initiated or enforced by the
298 Department of Human Services pursuant to Title IV-D of the Social
299 Security Act, the Department of Human Services shall be
300 responsible for paying the costs of any genetic testing when such
301 testing is required by law to establish paternity, subject to
302 recoupment from the defendant if paternity is established.

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

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

318 (4) Upon request or motion of any party to the proceeding,
319 the court may require persons making any analysis to appear as a
320 witness and be subject to cross-examination, provided that the
321 request or motion is made at least ten (10) days before the
322 hearing. The court may require the party making the request or
323 motion to pay the costs and/or fees for the expert witness'
324 appearance.

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

327 93-11-153. As used in Sections 93-11-151 through 93-11-163,
328 the following words and terms shall have the meanings ascribed
329 herein:

330 (a) "Licensing entity" or "entity" means any entity

331 specified in Title 73, Professions and Vocations, of the
332 Mississippi Code, and includes the Mississippi Department of
333 Public Safety with respect to driver's licenses, the Mississippi
334 State Tax Commission with respect to licenses for the sale of
335 alcoholic beverages and other licenses or registration authorizing
336 a person to engage in a business, the Mississippi Department of
337 Wildlife, Fisheries and Parks with respect to hunting and fishing
338 licenses, and any other state agency that issues a license
339 authorizing a person to engage in a business, occupation or
340 profession. For the purposes of this article, the Supreme Court
341 shall be considered to be the licensing entity for attorneys.

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

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

349 (d) "Order for support" means any judgment or order
350 that provides for * * * payments of a sum certain for the support
351 of a child, whether it is temporary or final, and includes, but is
352 not limited to, an order for reimbursement for public assistance
353 or an order for making periodic payments on a support arrearage,
354 or a sum certain due for a support arrearage.

355 (e) "Out of compliance with an order for support" means
356 that the obligor * * * at least thirty (30) days in arrears or
357 delinquent in making payments in full for current support, or in
358 making periodic payments on a support arrearage.

359 (f) "Department" means the Mississippi Department of
360 Human Services.

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

364 (h) "Delinquency" means any payments of a sum certain
365 ordered by any court to be paid by a noncustodial parent for the

366 support of a child that have remained unpaid for at least thirty
367 (30) days after payment is due. Delinquency shall also include
368 payments of a sum certain ordered by any court to be paid for
369 maintenance of a spouse that have remained unpaid for at least
370 thirty (30) days.

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

373 93-11-155. (1) In the manner and form prescribed by the
374 division, all licensing entities shall provide to the division, on
375 at least a quarterly basis, information on licensees for use in
376 the establishment, enforcement and collection of child support
377 obligations including, but not limited to: name, address, Social
378 Security number, sex, date of birth, employer's name and address,
379 type of license, effective date of the license, expiration date of
380 the license, and active or inactive license status. Whenever
381 technologically feasible, the department and licensing entities
382 shall seek to reach agreements to provide the information required
383 by this section by way of electronic data media, including, but
384 not limited to, on-line access and records on magnetic/optical
385 disk or tape. In lieu of providing the licensing information to
386 the division as outlined above and in the discretion of the
387 licensing entity, the division shall provide the identity of the
388 individual who is delinquent in support payments to the licensing
389 entity who will then match that information with their records and
390 provide the division with all necessary information for those
391 individuals licensed by that entity.

392 (2) Any licensed attorney representing the party to whom
393 support is due may submit to the division the name and record of
394 accounting showing an arrearage of an individual who is out of
395 compliance with an order for support which is not being enforced
396 by the division under Title IV-D, and the division shall submit
397 the name of such individual to the licensing entities who will
398 match the name with their records in the same manner as provided
399 in subsection (1) to provide the attorney with necessary
400 information regarding licensees. The attorney applying for such

401 information shall pay a fee not to exceed Twenty-five Dollars
402 (\$25.00) for such service.

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

405 93-11-157. (1) The division shall review the information
406 received under Section 93-11-155 and any other information
407 available to the division, and shall determine if a licensee is
408 out of compliance with an order for support. If a licensee is out
409 of compliance with the order for support, the division shall
410 notify the licensee by first class mail that ninety (90) days
411 after the licensee receives the notice of being out of compliance
412 with the order, the licensing entity will be notified to
413 immediately suspend the licensee's license unless the licensee
414 pays the arrearage owing, according to the accounting records of
415 the Mississippi Department of Human Services or the attorney
416 representing the party to whom support is due, as the case may be,
417 or enters into a stipulated agreement and agreed judgment
418 establishing a schedule for the payment of the arrearage. The
419 licensee shall be presumed to have received the notice five (5)
420 days after it is deposited in the mail.

421 (2) Upon receiving the notice provided * * * in subsection
422 (1) of this section the licensee may:

423 (a) Request a review with the division; however, the
424 issues the licensee may raise at the review are limited to whether
425 the licensee is the person required to pay under the order for
426 support and whether the licensee is out of compliance with the
427 order for support; or

428 (b) Request to participate in negotiations with the
429 division for the purpose of establishing a payment schedule for
430 the arrearage.

431 (3) The division director or the designees of the division
432 director may and, upon request of a licensee, shall negotiate with
433 a licensee to establish a payment schedule for the arrearage.
434 Payments made under the payment schedule shall be in addition to
435 the licensee's ongoing obligation under the latest entered

436 periodic order for support.

437 (4) Should the division and the licensee reach an agreement
438 on a payment schedule for the arrearage, the division director
439 shall submit to the court the stipulated agreement and agreed
440 judgment containing the payment schedule which, upon the court's
441 approval, is enforceable as any order of the court. If the court
442 does not approve the stipulated agreement and agreed judgment, the
443 court may require a hearing on a case-by-case basis for the
444 judicial review of the payment schedule agreement.

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

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

453 (7) If at the end of the ninety (90) days the licensee has
454 an arrearage according to the accounting records of the
455 Mississippi Department of Human Services or the attorney
456 representing the party to whom support is due, as the case may be,
457 and the licensee has not entered into a stipulated agreement and
458 agreed judgment establishing a payment schedule for the arrearage,
459 the division shall immediately notify all applicable licensing
460 entities in writing to suspend the licensee's license, and the
461 licensing entities shall immediately suspend the license and shall
462 within three (3) business days notify the licensee and the
463 licensee's employer, where known, of the license suspension and
464 the date of such suspension by certified mail return receipt
465 requested. Within forty-eight (48) hours of receipt of a request
466 in writing delivered personally, by mail or by electronic means,
467 the department shall furnish to the licensee, licensee's attorney
468 or other authorized representative a copy of the department's
469 accounting records of the licensee's payment history. A licensing
470 entity shall immediately reinstate the suspended license upon the

471 division's notification of the licensing entities in writing that
472 the licensee no longer has an arrearage or that the licensee has
473 entered into a stipulated agreement and agreed judgment.

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

500 (9) If a licensee who has entered a stipulated agreement and
501 agreed judgment for the payment of an arrearage under this section
502 subsequently is out of compliance with an order for support, the
503 division shall immediately notify the licensing entity to suspend
504 the licensee's license, and the licensing entity shall immediately
505 suspend the license without a hearing and shall within three (3)

506 business days notify the licensee in writing of the license
507 suspension. In the case of a license suspension under the
508 provisions of this subsection, the procedures provided for under
509 subsections (1) and (2) of this section are not required;
510 however, the appeal provisions of subsection (8) of this section
511 still apply. After suspension of the license, if the licensee
512 subsequently enters into a stipulated agreement and agreed
513 judgment or the licensee otherwise informs the division of
514 compliance with the order for support, the division shall within
515 seven (7) days notify in writing the licensing entity that the
516 licensee is in compliance. Upon receipt of that notice from the
517 division, a licensing entity shall immediately reinstate the
518 license of the licensee and shall within three (3) business days
519 notify the licensee of the reinstatement.

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

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

529 (12) The requirement of a licensing entity to suspend a
530 license under this section does not affect the power of the
531 licensing entity to deny, suspend, revoke or terminate a license
532 for any other reason.

533 (13) The procedure for suspension of a license for being out
534 of compliance with an order for support, and the procedure for the
535 reissuance or reinstatement of a license suspended for that
536 purpose, shall be governed by this section and not by the general
537 licensing and disciplinary provisions applicable to a licensing
538 entity. Actions taken by a licensing entity in suspending a
539 license when required by this section are not actions from which
540 an appeal may be taken under the general licensing and

541 disciplinary provisions applicable to the licensing entity. Any
542 appeal of a license suspension that is required by this section
543 shall be taken in accordance with the appeal procedure specified
544 in subsection (8) of this section rather than any procedure
545 specified in the general licensing and disciplinary provisions
546 applicable to the licensing entity. If there is any conflict
547 between any provision of this section and any provision of the
548 general licensing and disciplinary provisions applicable to a
549 licensing entity, the provisions of this section shall control.

550 (14) No license shall be suspended under this section until
551 ninety (90) days after July 1, 1996. This ninety-day period shall
552 be a one-time amnesty period in which any person who may be
553 subject to license suspension under this article may comply with
554 an order of support in order to avoid the suspension of any
555 license.

556 (15) Any individual who fails to comply with a subpoena or
557 warrant relating to paternity or child support proceedings after
558 receiving appropriate notice may be subject to suspension or
559 withholding of issuance of a license under this section.

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

562 93-11-159. * * * The licensing entities subject to Sections
563 93-11-151 through 93-11-161 may establish an additional
564 administrative fee not to exceed Twenty-five Dollars (\$25.00) to
565 be paid by licensees who are out of compliance with an order of
566 support and who are subject to the provisions of Sections
567 93-11-151 through 93-11-161 for the purpose of recovering costs of
568 the licensing entities associated with the implementation of
569 Sections 93-11-151 through 93-11-161.

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

572 93-11-163. In addition to the procedures in Section
573 93-11-157, the court may, upon a finding that a defendant is
574 delinquent for being out of compliance with an order for support,
575 order the licensing entity as defined in Section 93-11-153(a) to

576 suspend the license of the defendant. In its discretion, the
577 court may stay such an order for a reasonable time to allow the
578 defendant to purge himself of the delinquency. If a license is
579 suspended under this section, the court may also order the
580 licensing entity to reinstate the license when it is satisfied
581 that the defendant has purged himself of the delinquency.
582 Licensing entities shall treat a suspension under this section the
583 same as a suspension under Section 93-11-157. Defendants whose
584 license is suspended under this section shall be subject to any
585 administrative fees established for reinstatement under Section
586 93-11-159.

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

589 41-57-23. (1) Any petition, bill of complaint or other
590 proceeding filed in the chancery court to: (a) change the date of
591 birth by two (2) or more days, (b) change the surname of a child,
592 (c) change the surname of either or both parents, (d) change the
593 birthplace of the child because of an error or omission of such
594 information as originally recorded or (e) make any changes or
595 additions to a birth certificate resulting from a legitimation,
596 filiation or any changes not specifically authorized elsewhere by
597 statute, shall be filed in the county of residence of the
598 petitioner or filed in any chancery court district of the state if
599 the petitioner be a nonresident petitioner. In all such
600 proceedings, the State Board of Health shall be made a respondent
601 therein, and a certified copy of the petition, bill of complaint
602 or other proceeding shall be forwarded to the State Board of
603 Health. Process may be served upon the State Registrar of Vital
604 Records. The State Board of Health shall file an answer to all
605 such proceedings within the time as provided by general law. The
606 provisions of this section shall not apply to adoption
607 proceedings. Upon receipt of a certified copy of a decree, which
608 authorizes and directs the State Board of Health to alter the
609 certificate, it shall comply with all of the provisions of such
610 decree.

611 (2) If a child is born to a mother who was not married at
612 the time of conception or birth, or at any time between conception
613 and birth, and the natural father acknowledges paternity, the name
614 of the father shall be added to the birth certificate if a
615 notarized affidavit by both parents acknowledging paternity is
616 received on the form prescribed or as provided in Section 93-9-9.
617 The surname of the child shall be that of the father except that
618 an affidavit filed at birth by both listed mother and father may
619 alter this rule. In the event the mother was married at the time
620 of conception or birth, or at any time between conception and
621 birth, or if a father is already listed on the birth certificate,
622 action must be taken under Section 41-57-23(1) to add or change
623 the name of the father.

624 (3) (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 expiration of the sixty-day period
632 specified in subsection (3)(a)(i) of this section, a signed
633 voluntary acknowledgment of paternity may be challenged in court
634 only on the basis of fraud, duress, or material mistake of fact,
635 with the burden of proof upon the challenger; the legal
636 responsibilities, including child support obligations, of any
637 signatory arising from the acknowledgment may not be suspended
638 during the pendency of the challenge, except for good cause shown.

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

641 93-9-9. (1) Paternity may be determined upon the petition
642 of the mother, or father, the child or any public authority
643 chargeable by law with the support of the child; provided that
644 such an adjudication after the death of the defendant must be made
645 only upon clear and convincing evidence. If paternity has been

646 lawfully determined, or has been acknowledged in writing according
647 to the laws of this state, the liabilities of the noncustodial
648 parent may be enforced in the same or other proceedings by the
649 custodial parent, the child, or any public authority which has
650 furnished or may furnish the reasonable expenses of pregnancy,
651 confinement, education, necessary support and maintenance, and
652 medical or funeral expenses for the custodial parent or the child.
653 The trier of fact shall receive without the need for third-party
654 foundation testimony certified, attested or sworn documentation as
655 evidence of (a) childbirth records; (b) cost of filing fees; (c)
656 court costs; (d) services of process fees; (e) mailing cost; (f)
657 genetic tests and testing fees; (g) the department's attorney's
658 fees; (h) in cases where the state or any of its entities or
659 divisions have provided medical services to the child or the
660 child's mother, all costs of prenatal care, birthing, postnatal
661 care and any other medical expenses incurred by the child or by
662 the mother as a consequence of the mother's pregnancy or delivery;
663 and (i) funeral expenses. However, proceedings hereunder shall
664 not be instituted by the Department of Human Services after the
665 child has reached the age of eighteen (18) years but proceedings
666 may be instituted by a private attorney at any time until such
667 child attains the age of twenty-one (21) years unless the child
668 has been emancipated as provided in Section 93-5-23 and Section
669 93-11-65. In the event of court determined paternity, the surname
670 of the child shall be that of the father, unless the judgment
671 specifies otherwise.

672 (2) If the alleged father in an action to determine
673 paternity to which the Department of Human Services is a party
674 fails to appear for a scheduled hearing after having been served
675 with process or subsequent notice consistent with the Rules of
676 Civil Procedure, his paternity of the child(ren) shall be
677 established by the court if an affidavit sworn to by the mother
678 averring the alleged father's paternity of the child has
679 accompanied the complaint to determine paternity. Said affidavit
680 shall constitute sufficient grounds for the court's finding of the

681 alleged father's paternity without the necessity of the presence
682 or testimony of the mother at the said hearing. The court shall,
683 upon motion by the Department of Human Services, enter a judgment
684 of paternity. Any person who shall willfully and knowingly file a
685 false affidavit shall be subject to a fine of not more than One
686 Thousand Dollars (\$1,000.00).

687 (3) Upon application of both parents to the State Board of
688 Health and receipt by the State Board of Health of a sworn
689 acknowledgement of paternity executed by both parents subsequent
690 to the birth of a child born out of wedlock, the birth certificate
691 of the child shall be amended to show such paternity if paternity
692 is not shown on the birth certificate. Upon request of the
693 parents for the legitimization of a child under this section, the
694 surname of the child shall be changed on the certificate to that
695 of the father.

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

699 (i) Sixty (60) days; or

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

703 (b) After the expiration of the sixty-day period
704 specified in subsection (4)(a)(i) of this section, a signed
705 voluntary acknowledgment of paternity may be challenged in court
706 only on the basis of fraud, duress, or material mistake of fact,
707 with the burden of proof upon the challenger; the legal
708 responsibilities, including child support obligations, of any
709 signatory arising from the acknowledgment may not be suspended
710 during the pendency of the challenge, except for good cause shown.

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

713 93-9-28. (1) The Mississippi Department of Health in
714 cooperation with the Mississippi Department of Human Services
715 shall develop a form and procedure which may be used to secure a

716 voluntary acknowledgement of paternity from the mother and father
717 of any child born out of wedlock in Mississippi. The form shall
718 clearly state on its face that the execution of the
719 acknowledgement of paternity shall result in the same legal effect
720 as if the father and mother had been married at the time of the
721 birth of the child. When such form has been completed according
722 to the established procedure and the signatures of both the mother
723 and father have been notarized, then such voluntary
724 acknowledgement shall constitute a full determination of the legal
725 parentage of the child. The completed voluntary acknowledgement
726 of paternity shall be filed * * * with the Bureau of Vital
727 Statistics of the Mississippi Department of Health. The name of
728 the father shall be entered on the certificate of birth upon
729 receipt of the completed voluntary acknowledgement.

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

733 (i) Sixty (60) days; or

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

737 (b) After the expiration of the sixty-day period
738 specified in subsection (2)(a)(i) of this section, a signed
739 voluntary acknowledgment of paternity may be challenged in court
740 only on the basis of fraud, duress, or material mistake of fact,
741 with the burden of proof upon the challenger; the legal
742 responsibilities, including child support obligations, of any
743 signatory arising from the acknowledgment may not be suspended
744 during the pendency of the challenge, except for good cause shown.

745 (3) The Mississippi Department of Health and the Mississippi
746 Department of Human Services shall cooperate to establish
747 procedures to facilitate the voluntary acknowledgement of
748 paternity by both father and mother at the time of the birth of
749 any child born out of wedlock. Such procedures shall establish
750 responsibilities for each of the departments and for hospitals,

751 birthing centers, midwives, and/or other birth attendants to seek
752 and report voluntary acknowledgements of paternity. In
753 establishing such procedures, the departments shall provide for
754 obtaining the Social Security account numbers of both the father
755 and mother on voluntary acknowledgements.

756 (4) Upon the birth of a child out of wedlock, the hospital,
757 birthing center, midwife or other birth attendant shall provide an
758 opportunity for the child's mother and natural father to complete
759 an acknowledgement of paternity by giving the mother and natural
760 father the appropriate forms and information developed through the
761 procedures established in paragraph (3). The hospital, birthing
762 center, midwife or other birth attendant shall be responsible for
763 providing printed information, and audio visual material if
764 available, related to the acknowledgement of paternity, and shall
765 be required to provide notary services needed for the completion
766 of acknowledgements of paternity. The information described above
767 shall be provided to the mother and natural father, if present and
768 identifiable, within twenty-four (24) hours of birth or before the
769 mother is released. Such information, including forms, brochures,
770 pamphlets, video tapes and other media, shall be provided at no
771 cost to the hospital, birthing center or midwife by the
772 Mississippi State Department of Health, the Department of Human
773 Services or other appropriate agency.

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

776 43-19-34. (1) In lieu of legal proceedings instituted to
777 obtain a modification for an order for support, a written
778 stipulated agreement for modification executed by the responsible
779 parent when acknowledged before a clerk of the court having
780 jurisdiction over such matters or a notary public and filed with
781 and approved by the judge of said court shall have the same force
782 and effect, retroactively and prospectively, in accordance with
783 the terms of said agreement as an order for modification of
784 support entered by the court, and shall be enforceable and subject
785 to subsequent modification in the same manner as is provided by

786 law for orders of the court in such cases.

787 (2) With respect to a child support order in cases initiated
788 or enforced by the Department of Human Services pursuant to Title
789 IV-D of the Social Security Act, wherein the department has
790 determined that a modification is appropriate, the department
791 shall send a motion and notice of intent to modify the order,
792 together with the proposed modification of the order under this
793 section to the last known mailing address of the defendant. Such
794 notice shall specify the date and time certain of the hearing and
795 shall be sent by certified mail, restricted delivery, return
796 receipt requested; notice shall be deemed complete as of the date
797 of delivery as evidenced by the return receipt. The required
798 notice may also be delivered by personal service in accordance
799 with Rule 4 of the Mississippi Rules of Civil Procedure insofar as
800 it may be applied to service of an administrative order or notice.
801 The defendant may accept the proposed modification by signing and
802 returning it to the department prior to the date of hearing for
803 presentation to the court for approval. In the event that the
804 defendant does not sign and return the proposed modification, the
805 court shall on the date and time previously set for hearing review
806 the proposal and make a determination as to whether it should be
807 approved in whole or in part.

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

810 43-19-33. (1) In lieu of legal proceedings instituted to
811 obtain support for a dependent child from the responsible parent,
812 a written stipulated agreement to support said child by periodic
813 payments executed by the responsible parent when acknowledged
814 before a clerk of the court having jurisdiction over such matters
815 or a notary public and filed with and approved by the judge of
816 said court shall have the same force and effect, retroactively and
817 prospectively, in accordance with the terms of said agreement as
818 an order of support entered by the court, and shall be enforceable
819 and subject to modification in the same manner as is provided by
820 law for orders of the court in such cases.

821 (2) In lieu of legal proceedings instituted to establish
822 paternity, a written admission of paternity containing a
823 stipulated agreement of support executed by the putative father of
824 the dependent child, when accompanied by a written affirmation of
825 paternity executed and sworn to by the mother of the dependent
826 child, when acknowledged by the putative father before a clerk of
827 the court having jurisdiction over such matters or a notary public
828 and filed with and approved by the judge of said court, shall have
829 the same force and effect, retroactively and prospectively, in
830 accordance with the terms of said agreement, as an order of
831 filiation and support entered by the court, and shall be
832 enforceable and subject to modification in the same manner as is
833 provided by law for orders of the court in such cases.

834 (3) At any time after filing with the court having
835 continuing jurisdiction of such matters of an acknowledgment of
836 paternity in which a provision of support has not been
837 entered * * *, upon notice the defendant shall be required to
838 appear in court at any time and place named therein, to show
839 cause, if any he can, why the court should not enter an order for
840 the support of the child by periodic payments. The order may
841 include provisions for reimbursement for medical expenses incident
842 to the pregnancy and the birth of the child, accrued maintenance
843 and reasonable expenses of the action under this subsection on the
844 acknowledgment of paternity previously filed with said court.
845 Notice by the department to the defendant shall be given by
846 certified mail, restricted delivery, return receipt requested at
847 his last known mailing address and without the requirement of a
848 summons being issued, and shall be deemed complete as of the date
849 of delivery as evidenced by the return receipt. The required
850 notice may also be delivered by personal service in accordance
851 with Rule 4 of the Mississippi Rules of Civil Procedure insofar as
852 service of an administrative order or notice is concerned.
853 Provided, that in the case of a child who, upon reaching the age
854 of twenty-one (21) years, is mentally or physically incapable of
855 self-support, the putative father shall not be relieved of the

856 duty of support unless said child is a long-term patient in a
857 facility owned or operated by the State of Mississippi. The prior
858 judgment as to paternity shall be res judicata as to that issue
859 and shall not be reconsidered by the court.

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

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

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

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

884 43-19-44. For purposes of this section, an "authorized
885 person" shall mean:

886 (a) Any agent or attorney of any state having in effect
887 a plan approved under federal law, who has the duty or authority
888 under such plan to seek to recover any amounts owed as child and
889 spousal support (including, when authorized under the state plan,
890 any official of a political subdivision);

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

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

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

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

906 (f) Any court having jurisdiction to make or enforce
907 such a child custody or visitation determination, or any agent of
908 such court; and

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

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

915 A state agency, court, department of another state, obligor,
916 obligee and such other persons or entities as the department may
917 specify may provide the department with reasonable evidence of a
918 risk of harm in such manner as the department may require. The
919 department shall not be required to safeguard personal data in
920 intrastate cases for longer than one (1) year unless the
921 department is provided with reasonable evidence of a continued
922 risk of harm in such manner as the department may require. The
923 department shall notify individuals whose personal data is
924 safeguarded under this section that in order for the safeguards to
925 remain in effect, such individuals must provide the department

926 annually with reasonable evidence of a continued risk of harm.
927 For the purposes of this section "reasonable evidence of a risk of
928 harm" shall mean reasonable evidence that the release of
929 information may result in physical harm to the parent or child,
930 that the release of information may result in emotional harm to
931 the parent or child which would significantly reduce the parent's
932 capacity to care for the child, or would significantly reduce the
933 parent or child's ability to function adequately, or that a
934 protective order or restraining order has been issued on behalf of
935 the parent or child.

936 If the department is provided with reasonable evidence of a
937 risk of harm, the department, its employees and its contractors
938 shall not disclose any personal data that could otherwise be
939 disclosed about the location of a parent or child, including
940 residential address, telephone number and name, address and
941 telephone number of employer, and shall not disclose the Social
942 Security number of a parent or child; provided, however, that such
943 personal data may be shared by and between employees of the
944 department and its contractors; provided further, that the
945 department may disclose such personal data to the Federal Parent
946 Locator Service, to the court, or agent of a court that is
947 authorized to receive information from the Federal Parent Locator
948 Service established pursuant to Title IV-D of the Social Security
949 Act.

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

954 If the department is provided with reasonable evidence of a
955 risk of harm pursuant to this section, the department shall notify
956 the Federal Parent Locator Service established pursuant to Title
957 IV-D of the Social Security Act that a risk of harm exists. Upon
958 order of the court in an intrastate matter the department shall
959 release personal data, which may include location information and
960 Social Security numbers, to such court or agent, as required by

961 said Title IV-D of the Social Security Act; provided, however,
962 that if the department has been provided with reasonable evidence
963 of a risk of harm, the department shall notify the court or agent
964 that the department has received such information; before making
965 any disclosure of such personal data, the court is required to
966 determine whether such disclosure to any other person could be
967 harmful to the parent or child. A person or agency seeking
968 disclosure of personal data which the department is prohibited
969 from disclosing because of a risk of harm, but which could
970 otherwise be disclosed, may file a petition with the chancery
971 court to request disclosure of such personal data.

972 Upon an order by the court in interstate cases to override
973 nondisclosure procedures in cases dealing with domestic violence,
974 the court shall order the department to release this information
975 within thirty (30) days of the order. Whereupon, the department
976 shall transmit said court order to the Federal Office of Child
977 Support Enforcement (OCSE), Federal Parent Locator Service (FPLS),
978 whereby OCSE will notify the department of its decision to remove
979 the nondisclosure code. Upon notification from OCSE, the
980 department shall release said information unto the court.

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

984 A person or agency, including the department, seeking
985 personal data which the department is prohibited from disclosing
986 because of a risk of harm, but which could otherwise be disclosed
987 or which the Federal Parent Locator Service established pursuant
988 to Title IV-D of the Social Security Act is prohibited from
989 disclosing because the Secretary of the Federal Department of
990 Health and Human Services has been notified that there is a
991 reasonable evidence of domestic violence or child abuse, may file
992 a petition with the court where the person resides to request
993 disclosure of such personal data. The petition shall specify the
994 purpose for which such personal data is required. When a petition
995 is filed, or when the court receives notice from the department

996 that the department has been notified of a risk of harm, the court
997 shall determine whether disclosure of personal data could be
998 harmful to the parent or child before releasing such data to any
999 other person or agency. In making such determination, the court
1000 shall notify the parent that the court has received a request to
1001 release personal data and shall provide a specific date by which
1002 the parent must object to release of the information and provide
1003 the basis for objection. The parent may provide such information
1004 in writing and shall not be required to appear in person to
1005 contest the release of information. The court shall also notify
1006 the department of any petition filed pursuant to this section and
1007 the department shall release to the court any information which it
1008 has been provided regarding the risk of harm; however, the
1009 department shall not be made a party to the action. Further, the
1010 attorney for the Department of Human Services, in any proceeding
1011 herein, shall not be deemed to be appearing in a representative
1012 capacity for any party. The court may also request information
1013 directly from the Federal Parent Locator Service from the
1014 department of another state, and from any other source.

1015 In determining whether disclosure of personal data could be
1016 harmful to the parent or child, the court shall consider any
1017 relevant information provided by the parent or child, any
1018 information provided by the department or by the department of
1019 another state, and any evidence provided by the person seeking the
1020 personal data. Documentary evidence transmitted to the court by
1021 facsimile, telecopier or other means that do not provide an
1022 original writing may not be excluded from evidence on an objection
1023 based on the means of transmission. The court may permit a party
1024 or witness to be deposed or to testify by telephone, audiovisual
1025 means, or other electronic means.

1026 The court may enter an order (1) impounding the personal data
1027 and prohibiting any disclosure by the court or its agents, (2)
1028 permitting disclosure by the court or its agents to a specific
1029 person or persons, or (3) removing any restrictions on disclosure
1030 by the court and its agents. An order permitting disclosure of

1031 personal data may specify the purposes for which the data may be
1032 used and may prohibit a person to whom the data is disclosed from
1033 making further disclosures to any other person. The court shall
1034 notify the department of any order entered pursuant to this
1035 section. Any person or agency who violates an order issued
1036 pursuant to this section may be held in contempt of court and
1037 subject to the penalties provided herein.

1038 The court may disclose location information about a parent
1039 for the limited purpose of notifying the parent of a proceeding
1040 under this section or of any other proceeding in court, provided
1041 that such information shall not be disclosed to another party
1042 unless the court issues an order pursuant to this section
1043 permitting such disclosure.

1044 SECTION 15. Section 93-11-65, Mississippi Code of 1972, is
1045 amended as follows:

1046 93-11-65. (1) (a) In addition to the right to proceed
1047 under Section 93-5-23, Mississippi Code of 1972, and in addition
1048 to the remedy of habeas corpus in proper cases, and other existing
1049 remedies, the chancery court of the proper county shall have
1050 jurisdiction to entertain suits for the custody, care, support and
1051 maintenance of minor children and to hear and determine all such
1052 matters, and shall, if need be, require bond, sureties or other
1053 guarantee to secure any order for periodic payments for the
1054 maintenance or support of a child. In the event a legally
1055 responsible parent has health insurance available to him or her
1056 through an employer or organization that may extend benefits to
1057 the dependents of such parent, any order of support issued against
1058 such parent may require him or her to exercise the option of
1059 additional coverage in favor of such children as he or she is
1060 legally responsible to support. Proceedings may be brought by or
1061 against a resident or nonresident of the State of Mississippi,
1062 whether or not having the actual custody of minor children, for
1063 the purpose of judicially determining the legal custody of a
1064 child. All actions herein authorized may be brought in the county
1065 where the child is actually residing, or in the county of the

1066 residence of the party who has actual custody, or of the residence
1067 of the defendant. Process shall be had upon the parties as
1068 provided by law for process in person or by publication, if they
1069 be nonresidents of the state or residents of another jurisdiction
1070 or are not found therein after diligent search and inquiry or are
1071 unknown after diligent search and inquiry; provided that the court
1072 or chancellor in vacation may fix a date in termtime or in
1073 vacation to which process may be returnable and shall have power
1074 to proceed in termtime or vacation. Provided, however, that if
1075 the court shall find that both parties are fit and proper persons
1076 to have custody of the children, and that either party is able to
1077 adequately provide for the care and maintenance of the children,
1078 and that it would be to the best interest and welfare of the
1079 children, then any such child who shall have reached his twelfth
1080 birthday shall have the privilege of choosing the parent with whom
1081 he shall live.

1082 (b) An order of child support shall specify the sum to
1083 be paid weekly or otherwise. In addition to providing for support
1084 and education, the order shall also provide for the support of the
1085 child prior to the making of the order for child support, and such
1086 other expenses as the court may deem proper.

1087 (c) The court may require the payment to be made to the
1088 custodial parent, or to some person or corporation to be
1089 designated by the court as trustee, but if the child or custodial
1090 parent is receiving public assistance, the Department of Human
1091 Services shall be made the trustee.

1092 (d) The noncustodial parent's liabilities for past
1093 education and necessary support and maintenance and other expenses
1094 are limited to a period of one (1) year next preceding the
1095 commencement of an action.

1096 (2) Provided further, that where the proof shows that both
1097 parents have separate incomes or estates, the court may require
1098 that each parent contribute to the support and maintenance of the
1099 children in proportion to the relative financial ability of each.

1100 (3) Whenever the court has ordered a party to make periodic

1101 payments for the maintenance or support of a child, but no bond,
1102 sureties or other guarantee has been required to secure such
1103 payments, and whenever such payments as have become due remain
1104 unpaid for a period of at least thirty (30) days, the court may,
1105 upon petition of the person to whom such payments are owing, or
1106 such person's legal representative, enter an order requiring that
1107 bond, sureties or other security be given by the person obligated
1108 to make such payments, the amount and sufficiency of which shall
1109 be approved by the court. The obligor shall, as in other civil
1110 actions, be served with process and shall be entitled to a hearing
1111 in such case.

1112 (4) When a charge of abuse or neglect of a child first
1113 arises in the course of a custody or maintenance action pending in
1114 the chancery court pursuant to this section, the chancery court
1115 may proceed with the investigation, hearing and determination of
1116 such abuse or neglect charge as a part of its hearing and
1117 determination of the custody or maintenance issue as between the
1118 parents, as provided in Section 43-21-151, notwithstanding the
1119 other provisions of the Youth Court Law. The proceedings in
1120 chancery court on the abuse or neglect charge shall be
1121 confidential in the same manner as provided in youth court
1122 proceedings, and the chancery court shall appoint a guardian ad
1123 litem in such cases, as provided under Section 43-21-121 for youth
1124 court proceedings, who shall be an attorney. Unless the chancery
1125 court's jurisdiction has been terminated, all disposition orders
1126 in such cases for placement with the Department of Human Services
1127 shall be reviewed by the court or designated authority at least
1128 annually to determine if continued placement with the department
1129 is in the best interest of the child or the public.

1130 (5) Each party to a paternity or child support proceeding
1131 shall notify the other within five (5) days after any change of
1132 address. In addition, the noncustodial and custodial parent shall
1133 file and update, with the court and with the state case registry,
1134 information on that party's location and identity, including
1135 Social Security number, residential and mailing addresses,

1136 telephone numbers, photograph, driver's license number, and name,
1137 address and telephone number of the party's employer. This
1138 information shall be required upon entry of an order or within
1139 five (5) days of a change of address.

1140 (6) In any case subsequently enforced by the Department of
1141 Human Services pursuant to Title IV-D of the Social Security Act,
1142 the court shall have continuing jurisdiction.

1143 (7) In any subsequent child support enforcement action
1144 between the parties, upon sufficient showing that diligent effort
1145 has been made to ascertain the location of a party, due process
1146 requirements for notice and service of process shall be deemed to
1147 be met with respect to the party upon delivery of written notice
1148 to the most recent residential or employer address filed with the
1149 state case registry.

1150 (8) The duty of support of a child terminates upon the
1151 emancipation of the child. The court may determine that
1152 emancipation has occurred and no other support obligation exists
1153 when the child:

1154 (a) Attains the age of twenty-one (21) years, or

1155 (b) Marries, or

1156 (c) Discontinues full-time enrollment in school and
1157 obtains full-time employment prior to attaining the age of
1158 twenty-one (21) years, or

1159 (d) Voluntarily moves from the home of the custodial
1160 parent or guardian and establishes independent living arrangements
1161 and obtains full-time employment prior to attaining the age of
1162 twenty-one (21) years.

1163 SECTION 16. Section 93-11-71, Mississippi Code of 1972, is
1164 amended as follows:

1165 93-11-71. (1) Whenever a court orders any person to make
1166 periodic payments of a sum certain for the maintenance or support
1167 of a child, and whenever such payments as have become due remain
1168 unpaid for a period of at least thirty (30) days, a judgment by
1169 operation of law shall arise against the obligor in an
1170 amount * * * equal to all * * * payments which are then due and

1171 owing.

1172 (a) A judgment arising under this section shall have
1173 the same effect and be fully enforceable as any other judgment
1174 entered in this state. A judicial or administrative action to
1175 enforce said judgment may be commenced at any time; and

1176 (b) Such judgments arising in other states by operation
1177 of law shall be given full faith and credit in this state.

1178 (2) Any judgment arising under the provisions of this
1179 section shall operate as a lien upon all the property of the
1180 judgment debtor, both real and personal, which lien shall be
1181 perfected as to third parties without actual notice thereof only
1182 upon enrollment on the judgment roll. The department or attorney
1183 representing the party to whom support is owed shall furnish an
1184 abstract of the judgment for periodic payments for the maintenance
1185 and support of a child, along with sworn documentation of the
1186 delinquent child support, to the circuit clerk of the county where
1187 the judgment is rendered, and it shall be the duty of the circuit
1188 clerk to enroll the judgment on the judgment roll. Liens arising
1189 under the provisions of this section may be executed upon and
1190 enforced in the same manner and to the same extent as any other
1191 judgment.

1192 (3) Notwithstanding the provisions in paragraph (2), any
1193 judgment arising under the provisions of this section shall
1194 subject the following assets to interception or seizure without
1195 regard to the entry of the judgment on the judgment roll of the
1196 situs district or jurisdiction:

1197 (a) Periodic or lump-sum payments from a federal, state
1198 or local agency, including unemployment compensation, workers'
1199 compensation and other benefits;

1200 (b) Winnings from lotteries and gaming winnings which
1201 are received in periodic payments made over a period in excess of
1202 thirty (30) days;

1203 (c) Assets held in financial institutions;

1204 (d) Settlements and awards resulting from civil
1205 actions; and

1206 (e) Public and private retirement funds, only to the
1207 extent that the obligor is qualified to receive and receives a
1208 lump sum or periodic distribution from the funds.

1209 (4) In any case in which a child receives assistance from
1210 block grants for Temporary Assistance for Needy Families (TANF),
1211 and the obligor owes past-due child support, the obligor, if not
1212 incapacitated, may be required by the court to participate in any
1213 work programs offered by any state agency.

1214 SECTION 17. The following provision shall be codified as
1215 Section 93-11-105, Mississippi Code of 1972:

1216 93-11-105. (1) Notwithstanding the provisions of Section
1217 93-11-103, the Department of Human Services shall be authorized to
1218 implement administrative orders for withholding without the
1219 necessity of obtaining an order through judicial proceedings. The
1220 administrative order for withholding shall be implemented pursuant
1221 to a previously rendered order for support and shall be on a form
1222 prescribed by the Department of Human Services. Unless
1223 inconsistent with the provisions of this section, the order for
1224 withholding shall be subject to the same requirements as provided
1225 in Sections 93-11-101 through 93-11-118.

1226 (2) The administrative order shall be filed with the clerk
1227 by the department and a copy shall be transmitted to the obligor
1228 by certified mail, restricted delivery, return receipt requested;
1229 notice shall be deemed complete as of the date of delivery as
1230 evidenced by the return receipt. The required notice may also be
1231 delivered by personal service in accordance with Rule 4 of the
1232 Mississippi Rules of Civil Procedure insofar as it may be applied
1233 to service of an administrative order or notice.

1234 (3) The order for withholding shall:

1235 (a) Direct any payor to withhold an amount equal to the
1236 order for the current support obligation;

1237 (b) Direct any payor to withhold an additional amount
1238 equal to twenty percent (20%) of the current support obligation,
1239 unless a different amount has been previously ordered by the
1240 court, until payment in full of any delinquency; and

1241 (c) Direct the payor not to withhold in excess of the
1242 amounts allowed under Section 303(b) of the Consumer Credit
1243 Protection Act, being 15 USCS 1673, as amended.

1244 SECTION 18. Section 93-11-103, Mississippi Code of 1972, is
1245 amended as follows:

1246 93-11-103. (1) **Child support orders enforced by Department**
1247 **of Human Services.** Upon entry of any order for support by a court
1248 of this state where the custodial parent is a recipient of
1249 services under Title IV-D of the federal Social Security Act,
1250 issued on or after October 1, 1996, the court entering such order
1251 shall enter a separate order for withholding which shall take
1252 effect immediately without any requirement that the obligor be
1253 delinquent in payment. All such orders for support issued prior
1254 to October 1, 1996, shall, by operation of law, be amended to
1255 conform with the provisions contained herein. All such orders for
1256 support issued shall:

1257 (a) Contain a provision for monthly income withholding
1258 procedures to take effect in the event the obligor becomes
1259 delinquent in paying the order for support without further
1260 amendment to the order or further action by the court; and

1261 (b) Require that the payor withhold any additional
1262 amount for delinquency specified in any order if accompanied by an
1263 affidavit of accounting, a notarized record of overdue payments or
1264 an attested judgment for delinquency or contempt. Any person who
1265 willfully and knowingly files a false affidavit, record or
1266 judgment shall be subject to a fine of not more than One Thousand
1267 Dollars (\$1,000.00). The Department of Human Services shall be
1268 the designated agency to receive payments made by income
1269 withholding in child support orders enforced by the department.

1270 * * *

1271 (2) **Child support orders not enforced by the Department of**
1272 **Human Services.** Upon entry of any order for support by a court of
1273 this state where the custodial parent is not a recipient of
1274 services under Title IV-D of the federal Social Security Act,
1275 issued or modified or found to be in arrears on or after January

1276 1, 1994, the court entering such order shall enter a separate
1277 order for withholding which shall take effect immediately. Such
1278 orders shall not be subject to immediate income withholding under
1279 this subsection (a) if one of the parties (i.e. noncustodial or
1280 custodial parent) demonstrates, and the court finds, that there is
1281 good cause not to require immediate income withholding, or (b) if
1282 both parties agree in writing to an alternative arrangement. The
1283 court may designate the person or entity to receive payments made
1284 by income withholding.

1285 (3) If a child support order is issued or modified in the
1286 state but is not subject to immediate income withholding, it
1287 automatically becomes so if the court finds that a support payment
1288 is thirty (30) days past due. If the support order was issued or
1289 modified in another state but is not subject to immediate income
1290 withholding, it becomes subject to immediate income withholding on
1291 the date on which child support payments are at least thirty (30)
1292 days in arrears, or * * * (a) the date as of which the
1293 noncustodial parent requests that withholding begin, (b) the date
1294 as of which the custodial parent requests that withholding begin,
1295 or (c) an earlier date chosen by the court whichever is earlier.

1296 (4) The clerk of the court shall submit copies of such
1297 orders to the obligor's payor, any additional or subsequent payor,
1298 and to the Mississippi Department of Human Services Case Registry.
1299 The clerk of the court, the obligee's attorney, or the
1300 department's attorney may serve such immediate order for
1301 withholding by first class mail or personal delivery on the
1302 obligor's payor, superintendent, manager, agent or subsequent
1303 payor, as the case may be. In a case where the obligee's attorney
1304 or the department's attorney serves such immediate order, the
1305 attorney shall notify the clerk of the court in writing, which
1306 notice shall be placed in the court file. There shall be no need
1307 for further notice, hearing, order, process or procedure before
1308 service of said order on the payor or any additional or subsequent
1309 payor. The obligor may contest, if grounds exist, service of the
1310 order of withholding on additional or subsequent payors, by filing

1311 an action with the issuing court. Such filing shall not stay the
1312 obligor's duty to support pending judicial determination of the
1313 obligor's claim. Nothing herein shall be construed to restrict
1314 the authority of the courts of this state from entering any order
1315 it deems appropriate to protect the rights of any parties
1316 involved.

1317 (5) The order for withholding shall:

1318 (a) Direct any payor to withhold an amount equal to the
1319 order for current support;

1320 (b) Direct any payor to withhold an additional amount,
1321 not less than ten percent (10%) of the order for support, until
1322 payment in full of any delinquency; and

1323 (c) Direct the payor not to withhold in excess of the
1324 amounts allowed under Section 303(b) of the Consumer Credit
1325 Protection Act, being 15 USCS 1673, as amended.

1326 (6) * * * All * * * orders for withholding may permit the
1327 Department of Human Services to withhold through said withholding
1328 order additional amounts to recover costs incurred through its
1329 efforts to secure the support order, including, but not limited
1330 to, all filing fees, court costs, service of process fees, mailing
1331 costs, birth certificate certification fee, genetic testing fees,
1332 the department's attorney's fees; and, in cases where the state or
1333 any of its entities or divisions have provided medical services to
1334 the child or the child's mother, all medical costs of prenatal
1335 care, birthing, postnatal care and any other medical expenses
1336 incurred by the child or by the mother as a consequence of her
1337 pregnancy or delivery.

1338 (7) At the time the order for withholding is entered, the
1339 clerk of the court shall provide copies of the order for
1340 withholding and the order for support to the obligor, which shall
1341 be accompanied by a statement of the rights, remedies and duties
1342 of the obligor under Sections 93-11-101 through 93-11-119. The
1343 clerk of the court shall make copies available to the obligee and
1344 to the department or its local attorney.

1345 (8) The order for withholding shall remain in effect for as

1346 long as the order for support upon which it is based.

1347 (9) The failure of an order for withholding to state an
1348 arrearage is not conclusive of the issue of whether an arrearage
1349 is owing.

1350 (10) Any order for withholding entered pursuant to this
1351 section shall not be considered a garnishment.

1352 (11) All existing orders for support shall become subject to
1353 additional withholding if arrearages occur, subject to court
1354 hearing and order. The Department of Human Services or the
1355 obligee or his agent or attorney must send to each delinquent
1356 obligor notice that:

1357 (a) The withholding on the delinquency has commenced;

1358 (b) The information along with the required affidavit
1359 of accounting, notarized record of overdue payment or attested
1360 judgment of delinquency or contempt has been sent to the employer;
1361 and

1362 (c) The obligor may file an action with the issuing
1363 court on the grounds of mistake of fact. Such filing must be made
1364 within thirty (30) days of receipt of the notice and shall not
1365 stay the obligor's duty to support pending judicial determination
1366 of the obligor's claim.

1367 (12) An employer who complies with an income withholding
1368 notice that is regular on its face and which is accompanied by the
1369 required accounting affidavit, notarized record of overdue
1370 payments or attested judgment of delinquency or contempt shall not
1371 be subject to civil liability to any individual or agency for
1372 conduct in compliance with the notice.

1373 SECTION 19. The following provision shall be codified as
1374 Section 43-19-59, Mississippi Code of 1972:

1375 43-19-59. (1) The Department of Human Services, as the
1376 Title IV-D child support enforcement agency of this state, shall
1377 use high-volume automated administrative enforcement, to the same
1378 extent as used for intrastate cases, in response to a request made
1379 by another state to enforce support orders, and shall promptly
1380 report the results of such enforcement procedure to the requesting

1381 state.

1382 (2) In this section, "high-volume, automated administrative
1383 enforcement" means the use of automatic data processing to search
1384 various available state data bases, including, but not limited to,
1385 license records, employment service data, and state new hire
1386 registries, to determine whether information is available
1387 regarding a parent who owes a child support obligation.

1388 (3) The department may, by electronic or other means,
1389 transmit to another state or receive from another state a request
1390 for assistance in enforcing support orders through high-volume,
1391 automated administrative enforcement, which request:

1392 (a) Shall include such information as will enable the
1393 state to which the request is transmitted to compare the
1394 information about the cases to the information in the data bases
1395 of the state receiving the request; and

1396 (b) Shall constitute a certification by the requesting
1397 state:

1398 (i) Of the amount of support under an order the
1399 payment of which is in arrears; and

1400 (ii) That the requesting state has complied with
1401 all procedural due process requirements applicable to each case.

1402 (c) If the department provides assistance to another
1403 state with respect to a case, or if another state seeks assistance
1404 from the department pursuant to this section, neither state shall
1405 consider the case to be transferred to the caseload of such other
1406 state.

1407 SECTION 20. This act shall take effect and be in force from
1408 and after July 1, 1999.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT; TO AMEND
2 SECTION 43-19-31, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CHILD
3 SUPPORT UNIT OF THE DEPARTMENT OF HUMAN SERVICES TO MAINTAIN
4 CERTAIN INFORMATION WITH RESPECT TO THE CHILD SUPPORT CASE
5 REGISTRY, TO TAKE CERTAIN ADMINISTRATIVE ACTIONS RELATING TO
6 GENETIC TESTING, MODIFICATION, INCOME WITHHOLDING, LIENS AND
7 SUBPOENAS WITHOUT THE NECESSITY OF COURT ORDER AND TO USE
8 HIGH-VOLUME AUTOMATED ENFORCEMENT IN INTERSTATE CASES IN RESPONSE
9 TO REQUESTS FROM OTHER STATES; TO AMEND SECTIONS 93-9-21 AND
10 93-9-23, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CHILD SUPPORT

11 UNIT TO ORDER GENETIC TESTING OF ALL PARTIES AND TO PREPARE
12 CERTAIN ORDERS IN PATERNITY ACTIONS; TO AMEND SECTIONS 93-11-153,
13 93-11-155, 93-11-157, 93-11-159 AND 93-11-163, MISSISSIPPI CODE OF
14 1972, TO AUTHORIZE THE CHILD SUPPORT UNIT TO SUSPEND THE
15 NONCUSTODIAL PARENT'S LICENSE WHEN HE OR SHE FAILS TO ANSWER A
16 SUBPOENA OR RESPOND TO A SUMMONS, TO DELETE THE REQUIREMENT THAT A
17 CONTEMPT CITATION BE OBTAINED BEFORE LICENSE SUSPENSION IS ORDERED
18 AND TO DELETE THE REQUIREMENT FOR INTERAGENCY AGREEMENTS FOR
19 LICENSE SUSPENSION ENFORCEMENT PURPOSES; TO AMEND SECTIONS
20 41-57-23, 93-9-9 AND 93-9-28, MISSISSIPPI CODE OF 1972, TO ALLOW
21 THE FATHER 60 DAYS TO RESCIND THE SWORN ACKNOWLEDGMENT OF
22 PATERNITY RECEIVED BY THE STATE BOARD OF HEALTH, AND TO DELETE THE
23 TWO-YEAR LIMITATION FOR FILING A VOLUNTARY ACKNOWLEDGMENT OF
24 PATERNITY; TO CODIFY SECTION 43-19-34, MISSISSIPPI CODE OF 1972,
25 TO AUTHORIZE THE CHILD SUPPORT UNIT TO SEND A MOTION AND NOTICE OF
26 INTENT TO MODIFY A CHILD SUPPORT ORDER, SUBJECT TO THE STIPULATION
27 OF ALL PARTIES AND SUBJECT TO REVIEW AND APPROVAL BY THE COURT; TO
28 AMEND SECTION 43-19-33, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
29 CUSTODIAL AND NONCUSTODIAL PARENTS TO SIGN AN AGREEMENT MODIFYING
30 THE CHILD SUPPORT ORDER THROUGH STIPULATION FOR ARREARS; TO CODIFY
31 SECTION 43-19-44, MISSISSIPPI CODE OF 1972, TO DIRECT THE
32 DEPARTMENT OF HUMAN SERVICES TO SAFEGUARD PERSONAL DATA IF THERE
33 IS REASONABLE EVIDENCE OF A RISK OF HARM, TO PROVIDE A DEFINITION
34 OF REASONABLE EVIDENCE OF A RISK OF HARM TO THE PARENT OR CHILD IN
35 SUPPORT CASES, TO REQUIRE THE DEPARTMENT TO NOTIFY THE FEDERAL
36 PARENT LOCATOR SERVICE IN SUCH CASES, TO PROVIDE FOR A PETITION TO
37 THE COURT FOR THE RELEASE OF INFORMATION IN CASES WHERE IT HAS
38 BEEN DETERMINED THAT THERE IS A REASONABLE RISK OF HARM AND TO
39 PROVIDE ALTERNATIVE ORDERS BY THE COURT IN SUCH CASES; TO AMEND
40 SECTION 93-11-65, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
41 NONCUSTODIAL AND CUSTODIAL PARENT IN PATERNITY OR CHILD SUPPORT
42 PROCEEDINGS TO REGISTER CERTAIN INFORMATION AND TO UPDATE THIS
43 INFORMATION AS IT CHANGES AND TO PROVIDE THAT DUE PROCESS
44 REQUIREMENTS FOR NOTICE AND SERVICE SHALL BE MET BY NOTICE TO THE
45 MOST RECENT RESIDENTIAL OR EMPLOYER ADDRESS FILED AND TO CLARIFY
46 THAT CHILD SUPPORT MAY BE ORDERED RETROACTIVELY AND TO ENACT
47 LIMITATIONS; TO AMEND SECTION 93-11-71, MISSISSIPPI CODE OF 1972,
48 TO AUTHORIZE THE CHILD SUPPORT UNIT TO IMPOSE LIENS ON REAL AND
49 CERTAIN PERSONAL PROPERTY WITHOUT OBTAINING A JUDGMENT IN CIRCUIT
50 COURT FOR CHILD SUPPORT PAYMENTS WHICH REMAIN UNPAID FOR OVER 30
51 DAYS AND TO AFFORD FULL FAITH AND CREDIT TO ANY SUCH LIENS ARISING
52 IN OTHER STATES; TO CODIFY SECTION 93-11-105, MISSISSIPPI CODE OF
53 1972, AND TO AMEND SECTION 93-11-103, MISSISSIPPI CODE OF 1972, TO
54 AUTHORIZE THE CHILD SUPPORT UNIT TO BE THE DESIGNATED STATE AGENCY
55 TO RECEIVE INCOME WITHHOLDING PAYMENTS AND TO DELETE CERTAIN
56 EXCEPTIONS TO INCOME WITHHOLDING IN CASES ENFORCED BY THE CHILD
57 SUPPORT UNIT; TO CODIFY SECTION 43-19-59, MISSISSIPPI CODE OF
58 1972, TO AUTHORIZE THE CHILD SUPPORT UNIT TO USE HIGH-VOLUME
59 AUTOMATED ADMINISTRATIVE ENFORCEMENT IN RESPONSE TO A REQUEST FROM

60 ANOTHER STATE FOR THE ENFORCEMENT OF CHILD SUPPORT ORDERS WITHOUT
61 THE NECESSITY OF COURT ORDER; AND FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE:

CONFEREES FOR THE SENATE:

X
Ed Perry

X
Bennie L. Turner

X
James C. Simpson, Jr.

X
Jim Bean

X
John R. Reeves

X
Ron Farris