

*****Pending*****

AMENDMENT No. 1 PROPOSED TO

House Bill NO. 852

By Senator(s) Committee

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

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

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

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

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

83 of any child support order on behalf of any child receiving aid
84 from the department unless good cause for noncooperation, as
85 defined by the Social Security Act or the Mississippi Department
86 of Human Services, is established;

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

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

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

113 (f) To secure and collect by any method authorized
114 under state law any maintenance and/or alimony on behalf of a
115 parent whose child or children's support is being collected by the

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116 department. The department shall collect only such maintenance
117 and/or alimony as is ordered or decreed by the court, and only in
118 the event that the minor child and parent to whom such maintenance
119 and/or alimony has been ordered are living in the same household;

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

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

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

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

143 (k) To maintain a Central Receipting and Disbursement
144 Unit to which all payments required by withholding orders and
145 orders for support in all actions to which the Department of Human
146 Services is a party shall be forwarded, and from which child
147 support payments ordered by the court in actions to which the
148 Department of Human Services is a party shall be disbursed to the

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149 custodial parent or other such party as may be designated by the
150 court order. The Central Receipting and Disbursement Unit shall
151 be operated by the Department of Human Services or any financial
152 institution having operations and qualified to do business in
153 Mississippi, whose deposits are insured by the Federal Deposit
154 Insurance Corporation. The department shall conduct cost-benefit
155 analyses to determine and utilize the more cost efficient manner
156 of operating the unit;

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

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

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

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

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

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

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182 person named in or subject to the order or for the purposes of
183 establishing, enforcing or modifying a child support order; and

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

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

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

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

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

214 (b) In the event that the putative father does not

215 submit to genetic testing, the court shall, without further
216 notice, on the date and time previously set through the notice for
217 hearing, review the documentation of the refusal to submit to
218 genetic testing and make a determination as to whether the
219 complaint to establish paternity should be granted. The refusal
220 to submit to such testing shall create a presumption of an
221 admission to paternity by the putative father.

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

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

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

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

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

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

253 (b) The Department of Human Services * * * shall
254 publicly issue a request for proposals, and such requests for
255 proposals when issued shall contain terms and conditions relating
256 to price, technology and such other matters as are determined by
257 the department to be appropriate for inclusion or required by law.
258 After responses to the request for proposals have been duly
259 received, the department shall select the lowest and best bid(s)
260 on the basis of price, technology and other relevant factors and
261 from such proposals, but not limited to the terms thereof,
262 negotiate and enter into contract(s) with one or more of the
263 laboratories submitting proposals. The department shall prepare a
264 list of all laboratories with which it has contracted on these
265 terms. The list and any updates thereto shall be distributed to
266 all chancery clerks. To be eligible to appear on the list, a
267 laboratory must meet the following requirements:

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

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

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

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

276 93-9-23. (1) Genetic testing shall be made by experts
277 qualified as examiners of genetic tests who shall be appointed by
278 the court pursuant to Section 93-9-21(5). The expert shall attach
279 to the report of the test results an affidavit stating in
280 substance: (a) that the affiant has been appointed by the court

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

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

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

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

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

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

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

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

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

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

342 (d) "Order for support" means any judgment or order
343 that provides for periodic payments of a sum certain at a
344 prescribed time or times for the support of a child, whether it is
345 temporary or final, and includes, but is not limited to, an order
346 for reimbursement for public assistance or an order for making

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347 periodic payments on a support arrearage.

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

352 (f) "Department" means the Mississippi Department of
353 Human Services.

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

357 (h) "Delinquency" means any payments of a sum certain
358 ordered by any court to be paid at a prescribed time or times by a
359 noncustodial parent for the support of a child that have remained
360 unpaid for at least thirty (30) days after payment is due.
361 Delinquency shall also include payments of a sum certain ordered
362 by any court to be paid at a prescribed time or times for
363 maintenance of a spouse that have remained unpaid for at least
364 thirty (30) days.

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

367 93-11-155. (1) In the manner and form prescribed by the
368 division, all licensing entities shall provide to the division, on
369 at least a quarterly basis, information on licensees for use in
370 the establishment, enforcement and collection of child support
371 obligations including, but not limited to: name, address, Social
372 Security number, sex, date of birth, employer's name and address,
373 type of license, effective date of the license, expiration date of
374 the license, and active or inactive license status. Whenever
375 technologically feasible, the department and licensing entities
376 shall seek to reach agreements to provide the information required
377 by this section by way of electronic data media, including, but
378 not limited to, on-line access and records on magnetic/optical
379 disk or tape. In lieu of providing the licensing information to

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380 the division as outlined above and in the discretion of the
381 licensing entity, the division shall provide the identity of the
382 individual who is delinquent in support payments to the licensing
383 entity who will then match that information with their records and
384 provide the division with all necessary information for those
385 individuals licensed by that entity.

386 (2) Any licensed attorney representing the party to whom
387 support was ordered may submit to the division the name and record
388 of accounting showing an arrearage of an individual who is out of
389 compliance with an order for support which is not being enforced
390 by the division under Title IV-D, and the division shall submit
391 the name of such individual to the licensing entities who will
392 match the name with their records in the same manner as provided
393 in subsection (1) to provide the attorney with necessary
394 information regarding licensees. The attorney applying for such
395 information shall pay a fee not to exceed Twenty-five Dollars
396 (\$25.00) for such service.

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

399 93-11-157. (1) The division shall review the information
400 received under Section 93-11-155 and any other information
401 available to the division, and shall determine if a licensee is
402 out of compliance with an order for support. If a licensee is out
403 of compliance with the order for support, the division shall
404 notify the licensee by first class mail that ninety (90) days
405 after the licensee receives the notice of being out of compliance
406 with the order, the licensing entity will be notified to
407 immediately suspend the licensee's license unless the licensee
408 pays the arrearage owing, according to the accounting records of
409 the Mississippi Department of Human Services, or enters into a
410 stipulated agreement and agreed judgment establishing a schedule
411 for the payment of the arrearage. The licensee shall be presumed
412 to have received the notice five (5) days after it is deposited in

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413 the mail.

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

416 (a) Request a review with the division; however, the
417 issues the licensee may raise at the review are limited to whether
418 the licensee is the person required to pay under the order for
419 support and whether the licensee is out of compliance with the
420 order for support; or

421 (b) Request to participate in negotiations with the
422 division for the purpose of establishing a payment schedule for
423 the arrearage.

424 (3) The division director or the designees of the division
425 director may and, upon request of a licensee, shall negotiate with
426 a licensee to establish a payment schedule for the arrearage.
427 Payments made under the payment schedule shall be in addition to
428 the licensee's ongoing obligation under the latest entered
429 periodic order for support.

430 (4) Should the division and the licensee reach an agreement
431 on a payment schedule for the arrearage, the division director
432 shall submit to the court the stipulated agreement and agreed
433 judgment containing the payment schedule which, upon the court's
434 approval, is enforceable as any order of the court. If the court
435 does not approve the stipulated agreement and agreed judgment, the
436 court may require a hearing on a case-by-case basis for the
437 judicial review of the payment schedule agreement.

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

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

446 (7) If at the end of the ninety (90) days the licensee has
447 an arrearage according to the accounting records of the
448 Mississippi Department of Human Services and the licensee has not
449 entered into a stipulated agreement and agreed judgment
450 establishing a payment schedule for the arrearage, the division
451 shall immediately notify all applicable licensing entities in
452 writing to suspend the licensee's license, and the licensing
453 entities shall immediately suspend the license and shall within
454 three (3) business days notify the licensee and the licensee's
455 employer, where known, of the license suspension and the date of
456 such suspension by certified mail return receipt requested.
457 Within forty-eight (48) hours of receipt of a request in writing
458 delivered personally, by mail or by electronic means, the
459 department shall furnish to the licensee, licensee's attorney or
460 other authorized representative a copy of the department's
461 accounting records of the licensee's payment history. A licensing
462 entity shall immediately reinstate the suspended license upon the
463 division's notification of the licensing entities in writing that
464 the licensee no longer has an arrearage or that the licensee has
465 entered into a stipulated agreement and agreed judgment.

466 (8) Within thirty (30) days after a licensing entity
467 suspends the licensee's license at the direction of the division
468 under subsection (7) of this section, the licensee may appeal the
469 license suspension to the chancery court of the county in which
470 the licensee resides or to the Chancery Court of the First
471 Judicial District of Hinds County, Mississippi, upon giving bond
472 with sufficient sureties in the amount of Two Hundred Dollars
473 (\$200.00), approved by the clerk of the chancery court and
474 conditioned to pay any costs that may be adjudged against the
475 licensee. Notice of appeal shall be filed in the office of the
476 clerk of the chancery court. If there is an appeal, the appeal
477 may, in the discretion of and on motion to the chancery court, act
478 as a supersedeas of the license suspension. The department shall

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479 be the appellee in the appeal, and the licensing entity shall not
480 be a party in the appeal. The chancery court shall dispose of the
481 appeal and enter its decision within thirty (30) days of the
482 filing of the appeal. The hearing on the appeal may, in the
483 discretion of the chancellor, be tried in vacation. The decision
484 of the chancery court may be appealed to the Supreme Court in the
485 manner provided by the rules of the Supreme Court. In the
486 discretion of and on motion to the chancery court, no person shall
487 be allowed to practice any business, occupation or profession or
488 take any other action under the authority of any license the
489 suspension of which has been affirmed by the chancery court while
490 an appeal to the Supreme Court from the decision of the chancery
491 court is pending.

492 (9) If a licensee who has entered a stipulated agreement and
493 agreed judgment for the payment of an arrearage under this section
494 subsequently is out of compliance with an order for support, the
495 division shall immediately notify the licensing entity to suspend
496 the licensee's license, and the licensing entity shall immediately
497 suspend the license without a hearing and shall within three (3)
498 business days notify the licensee in writing of the license
499 suspension. In the case of a license suspension under the
500 provisions of this subsection, the procedures provided for under
501 subsections (1) and (2) of this section are not required;
502 however, the appeal provisions of subsection (8) of this section
503 still apply. After suspension of the license, if the licensee
504 subsequently enters into a stipulated agreement and agreed
505 judgment or the licensee otherwise informs the division of
506 compliance with the order for support, the division shall within
507 seven (7) days notify in writing the licensing entity that the
508 licensee is in compliance. Upon receipt of that notice from the
509 division, a licensing entity shall immediately reinstate the
510 license of the licensee and shall within three (3) business days
511 notify the licensee of the reinstatement.

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

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

521 (12) The requirement of a licensing entity to suspend a
522 license under this section does not affect the power of the
523 licensing entity to deny, suspend, revoke or terminate a license
524 for any other reason.

525 (13) The procedure for suspension of a license for being out
526 of compliance with an order for support, and the procedure for the
527 reissuance or reinstatement of a license suspended for that
528 purpose, shall be governed by this section and not by the general
529 licensing and disciplinary provisions applicable to a licensing
530 entity. Actions taken by a licensing entity in suspending a
531 license when required by this section are not actions from which
532 an appeal may be taken under the general licensing and
533 disciplinary provisions applicable to the licensing entity. Any
534 appeal of a license suspension that is required by this section
535 shall be taken in accordance with the appeal procedure specified
536 in subsection (8) of this section rather than any procedure
537 specified in the general licensing and disciplinary provisions
538 applicable to the licensing entity. If there is any conflict
539 between any provision of this section and any provision of the
540 general licensing and disciplinary provisions applicable to a
541 licensing entity, the provisions of this section shall control.

542 (14) No license shall be suspended under this section until
543 ninety (90) days after July 1, 1996. This ninety-day period shall
544 be a one-time amnesty period in which any person who may be

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545 subject to license suspension under this article may comply with
546 an order of support in order to avoid the suspension of any
547 license.

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

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

554 93-11-159. * * * The licensing entities subject to Sections
555 93-11-151 through 93-11-161 may establish an additional
556 administrative fee not to exceed Twenty-five Dollars (\$25.00) to
557 be paid by licensees who are out of compliance with an order of
558 support and who are subject to the provisions of Sections
559 93-11-151 through 93-11-161 for the purpose of recovering costs of
560 the licensing entities associated with the implementation of
561 Sections 93-11-151 through 93-11-161.

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

564 93-11-163. In addition to the procedures in Section
565 93-11-157, the court may, upon a finding that a defendant is
566 delinquent for being out of compliance with an order for support,
567 order the licensing entity as defined in Section 93-11-153(a) to
568 suspend the license of the defendant. In its discretion, the
569 court may stay such an order for a reasonable time to allow the
570 defendant to purge himself of the delinquency. If a license is
571 suspended under this section, the court may also order the
572 licensing entity to reinstate the license when it is satisfied
573 that the defendant has purged himself of the delinquency.

574 Licensing entities shall treat a suspension under this section the
575 same as a suspension under Section 93-11-157. Defendants whose
576 license is suspended under this section shall be subject to any
577 administrative fees established for reinstatement under Section

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578 93-11-159.

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

581 41-57-23. (1) Any petition, bill of complaint or other
582 proceeding filed in the chancery court to: (a) change the date of
583 birth by two (2) or more days, (b) change the surname of a child,
584 (c) change the surname of either or both parents, (d) change the
585 birthplace of the child because of an error or omission of such
586 information as originally recorded or (e) make any changes or
587 additions to a birth certificate resulting from a legitimation,
588 filiation or any changes not specifically authorized elsewhere by
589 statute, shall be filed in the county of residence of the
590 petitioner or filed in any chancery court district of the state if
591 the petitioner be a nonresident petitioner. In all such
592 proceedings, the State Board of Health shall be made a respondent
593 therein, and a certified copy of the petition, bill of complaint
594 or other proceeding shall be forwarded to the State Board of
595 Health. Process may be served upon the State Registrar of Vital
596 Records. The State Board of Health shall file an answer to all
597 such proceedings within the time as provided by general law. The
598 provisions of this section shall not apply to adoption
599 proceedings. Upon receipt of a certified copy of a decree, which
600 authorizes and directs the State Board of Health to alter the
601 certificate, it shall comply with all of the provisions of such
602 decree.

603 (2) If a child is born to a mother who was not married at
604 the time of conception or birth, or at any time between conception
605 and birth, and the natural father acknowledges paternity, the name
606 of the father shall be added to the birth certificate if a
607 notarized affidavit by both parents acknowledging paternity is
608 received on the form prescribed or as provided in Section 93-9-9.
609 The surname of the child shall be that of the father except that
610 an affidavit filed at birth by both listed mother and father may

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611 alter this rule. In the event the mother was married at the time
612 of conception or birth, or at any time between conception and
613 birth, or if a father is already listed on the birth certificate,
614 action must be taken under Section 41-57-23(1) to add or change
615 the name of the father.

616 (3) (a) A signed voluntary acknowledgment of paternity is
617 subject to the right of any signatory to rescind the
618 acknowledgment within the earlier of:

619 (i) Sixty (60) days; or

620 (ii) The date of a judicial proceeding relating to
621 the child (including a proceeding to establish a support order) in
622 which the signatory is a party.

623 (b) After the expiration of the sixty-day period
624 specified in subsection (3)(a)(i) of this section, a signed
625 voluntary acknowledgment of paternity may be challenged in court
626 only on the basis of fraud, duress, or material mistake of fact,
627 with the burden of proof upon the challenger; the legal
628 responsibilities, including child support obligations, of any
629 signatory arising from the acknowledgment may not be suspended
630 during the pendency of the challenge, except for good cause shown.

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

633 93-9-9. (1) Paternity may be determined upon the petition
634 of the mother, or father, the child or any public authority
635 chargeable by law with the support of the child; provided that
636 such an adjudication after the death of the defendant must be made
637 only upon clear and convincing evidence. If paternity has been
638 lawfully determined, or has been acknowledged in writing according
639 to the laws of this state, the liabilities of the noncustodial
640 parent may be enforced in the same or other proceedings by the
641 custodial parent, the child, or any public authority which has
642 furnished or may furnish the reasonable expenses of pregnancy,
643 confinement, education, necessary support and maintenance, and

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

664 (2) If the alleged father in an action to determine
665 paternity to which the Department of Human Services is a party
666 fails to appear for a scheduled hearing after having been served
667 with process or subsequent notice consistent with the Rules of
668 Civil Procedure, his paternity of the child(ren) shall be
669 established by the court if an affidavit sworn to by the mother
670 averring the alleged father's paternity of the child has
671 accompanied the complaint to determine paternity. Said affidavit
672 shall constitute sufficient grounds for the court's finding of the
673 alleged father's paternity without the necessity of the presence
674 or testimony of the mother at the said hearing. The court shall,
675 upon motion by the Department of Human Services, enter a judgment
676 of paternity. Any person who shall willfully and knowingly file a

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677 false affidavit shall be subject to a fine of not more than One
678 Thousand Dollars (\$1,000.00).

679 (3) Upon application of both parents to the State Board of
680 Health and receipt by the State Board of Health of a sworn
681 acknowledgement of paternity executed by both parents subsequent
682 to the birth of a child born out of wedlock, the birth certificate
683 of the child shall be amended to show such paternity if paternity
684 is not shown on the birth certificate. Upon request of the
685 parents for the legitimization of a child under this section, the
686 surname of the child shall be changed on the certificate to that
687 of the father.

688 (4) (a) A signed voluntary acknowledgment of paternity is
689 subject to the right of any signatory to rescind the
690 acknowledgment within the earlier of:

691 (i) Sixty (60) days; or

692 (ii) The date of a judicial proceeding relating to
693 the child (including a proceeding to establish a support order) in
694 which the signatory is a party.

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

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

705 93-9-28. (1) The Mississippi Department of Health in
706 cooperation with the Mississippi Department of Human Services
707 shall develop a form and procedure which may be used to secure a
708 voluntary acknowledgement of paternity from the mother and father
709 of any child born out of wedlock in Mississippi. The form shall

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710 clearly state on its face that the execution of the
711 acknowledgement of paternity shall result in the same legal effect
712 as if the father and mother had been married at the time of the
713 birth of the child. When such form has been completed according
714 to the established procedure and the signatures of both the mother
715 and father have been notarized, then such voluntary
716 acknowledgement shall constitute a full determination of the legal
717 parentage of the child. The completed voluntary acknowledgement
718 of paternity shall be filed * * * with the Bureau of Vital
719 Statistics of the Mississippi Department of Health. The name of
720 the father shall be entered on the certificate of birth upon
721 receipt of the completed voluntary acknowledgement.

722 (2) (a) A signed voluntary acknowledgment of paternity is
723 subject to the right of any signatory to rescind the
724 acknowledgment within the earlier of:

725 (i) Sixty (60) days; or

726 (ii) The date of a judicial proceeding relating to
727 the child (including a proceeding to establish a support order) in
728 which the signatory is a party.

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

737 (3) The Mississippi Department of Health and the Mississippi
738 Department of Human Services shall cooperate to establish
739 procedures to facilitate the voluntary acknowledgement of
740 paternity by both father and mother at the time of the birth of
741 any child born out of wedlock. Such procedures shall establish
742 responsibilities for each of the departments and for hospitals,

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743 birthing centers, midwives, and/or other birth attendants to seek
744 and report voluntary acknowledgements of paternity. In
745 establishing such procedures, the departments shall provide for
746 obtaining the Social Security account numbers of both the father
747 and mother on voluntary acknowledgements.

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

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

768 43-19-34. (1) In lieu of legal proceedings instituted to
769 obtain a modification for an order for support, a written
770 stipulated agreement for modification executed by the responsible
771 parent when acknowledged before a clerk of the court having
772 jurisdiction over such matters or a notary public and filed with
773 and approved by the judge of said court shall have the same force
774 and effect, retroactively and prospectively, in accordance with
775 the terms of said agreement as an order for modification of

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776 support entered by the court, and shall be enforceable and subject
777 to subsequent modification in the same manner as is provided by
778 law for orders of the court in such cases.

779 (2) With respect to a child support order in cases initiated
780 or enforced by the Department of Human Services pursuant to Title
781 IV-D of the Social Security Act, wherein the department has
782 determined that a modification is appropriate, the department
783 shall send a motion and notice of intent to modify the order,
784 together with the proposed modification of the order under this
785 section by first class mail to the last known mailing address of
786 the defendant. Such notice shall specify the date and time
787 certain of the hearing. The defendant may accept the proposed
788 modification by signing and returning it to the department prior
789 to the date of hearing for presentation to the court for approval.
790 In the event that the defendant does not sign and return the
791 proposed modification, the court shall on the date and time
792 previously set for hearing review the proposal and make a
793 determination as to whether it should be approved in whole or in
794 part.

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

797 43-19-33. (1) In lieu of legal proceedings instituted to
798 obtain support for a dependent child from the responsible parent,
799 a written stipulated agreement to support said child by periodic
800 payments executed by the responsible parent when acknowledged
801 before a clerk of the court having jurisdiction over such matters
802 or a notary public and filed with and approved by the judge of
803 said court shall have the same force and effect, retroactively and
804 prospectively, in accordance with the terms of said agreement as
805 an order of support entered by the court, and shall be enforceable
806 and subject to modification in the same manner as is provided by
807 law for orders of the court in such cases.

808 (2) In lieu of legal proceedings instituted to establish

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809 paternity, a written admission of paternity containing a
810 stipulated agreement of support executed by the putative father of
811 the dependent child, when accompanied by a written affirmation of
812 paternity executed and sworn to by the mother of the dependent
813 child, when acknowledged by the putative father before a clerk of
814 the court having jurisdiction over such matters or a notary public
815 and filed with and approved by the judge of said court, shall have
816 the same force and effect, retroactively and prospectively, in
817 accordance with the terms of said agreement, as an order of
818 filiation and support entered by the court, and shall be
819 enforceable and subject to modification in the same manner as is
820 provided by law for orders of the court in such cases.

821 (3) At any time after filing with the court having
822 continuing jurisdiction of such matters of an acknowledgment of
823 paternity wherein a provision of support has not been entered
824 into, upon notice by the department to the defendant by first
825 class mail at his last known mailing address and without the
826 requirement of a summons being issued, the defendant shall be
827 required to appear in court at any time and place named therein,
828 to show cause, if any he can, why the court should not enter an
829 order for the support of the child by periodic payments, which
830 order may include provisions for reimbursement for medical
831 expenses incident to the pregnancy and the birth of the child,
832 accrued maintenance and reasonable expenses of the action under
833 this subsection on the acknowledgment of paternity previously
834 filed with said court. Provided, that in the case of a child who,
835 upon reaching the age of twenty-one (21) years, is mentally or
836 physically incapable of self-support, the putative father shall
837 not be relieved of the duty of support unless said child is a
838 long-term patient in a facility owned or operated by the State of
839 Mississippi. The prior judgment as to paternity shall be res
840 judicata as to that issue and shall not be reconsidered by the
841 court.

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842 (4) Such agreements of support, acknowledgments and
843 affirmations of paternity and support shall be sworn to and shall
844 be binding on the person executing the same whether he be an adult
845 or a minor and may include provisions for the reimbursement of
846 medical expenses incident to the pregnancy and birth of the child,
847 accrued maintenance and reasonable expenses of any action
848 previously filed before the court.

849 (5) In lieu of legal proceedings instituted to enforce an
850 order for support, a written stipulated agreement for the
851 provision of periodic payments towards an arrearage executed by
852 the defendant when acknowledged before a clerk of the court having
853 jurisdiction over such matters or a notary public and filed with
854 and approved by the judge of said court shall have the same force
855 and effect, retroactively and prospectively, in accordance with
856 the terms of said agreement as a judgment for overdue support
857 entered by the court, and shall be enforceable and subject to
858 modification in the same manner as is provided by law for orders
859 of the court in such cases.

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

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

866 43-19-44. For purposes of this section, an "authorized
867 person" shall mean:

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

873 (b) The court which has authority to issue an order or
874 to serve as the initiating court in an action to seek an order

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875 against a noncustodial parent of the support and maintenance of a
876 child, or any agent of such court;

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

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

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

888 (f) Any court having jurisdiction to make or enforce
889 such a child custody or visitation determination, or any agent of
890 such court; and

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

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

897 A state agency, court, department of another state, obligor,
898 obligee and such other persons or entities as the department may
899 specify may provide the department with reasonable evidence of a
900 risk of harm in such manner as the department may require. The
901 department shall not be required to safeguard personal data in
902 intrastate cases for longer than one (1) year unless the
903 department is provided with reasonable evidence of a continued
904 risk of harm in such manner as the department may require. The
905 department shall notify individuals whose personal data is
906 safeguarded under this section that in order for the safeguards to
907 remain in effect, such individuals must provide the department

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908 annually with reasonable evidence of a continued risk of harm.
909 For the purposes of this section "reasonable evidence of a risk of
910 harm" shall mean reasonable evidence that the release of
911 information may result in physical harm to the parent or child,
912 that the release of information may result in emotional harm to
913 the parent or child which would significantly reduce the parent's
914 capacity to care for the child, or would significantly reduce the
915 parent or child's ability to function adequately, or that a
916 protective order or restraining order has been issued on behalf of
917 the parent or child.

918 If the department is provided with reasonable evidence of a
919 risk of harm, the department, its employees and its contractors
920 shall not disclose any personal data that could otherwise be
921 disclosed about the location of a parent or child, including
922 residential address, telephone number and name, address and
923 telephone number of employer, and shall not disclose the Social
924 Security number of a parent or child; provided, however, that such
925 personal data may be shared by and between employees of the
926 department and its contractors; provided further, that the
927 department may disclose such personal data to the Federal Parent
928 Locator Service, to the court, or agent of a court that is
929 authorized to receive information from the Federal Parent Locator
930 Service established pursuant to Title IV-D of the Social Security
931 Act.

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

936 If the department is provided with reasonable evidence of a
937 risk of harm pursuant to this section, the department shall notify
938 the Federal Parent Locator Service established pursuant to Title
939 IV-D of the Social Security Act that a risk of harm exists. Upon
940 order of the court in an intrastate matter the department shall

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941 release personal data, which may include location information and
942 Social Security numbers, to such court or agent, as required by
943 said Title IV-D of the Social Security Act; provided, however,
944 that if the department has been provided with reasonable evidence
945 of a risk of harm, the department shall notify the court or agent
946 that the department has received such information; before making
947 any disclosure of such personal data, the court is required to
948 determine whether such disclosure to any other person could be
949 harmful to the parent or child. A person or agency seeking
950 disclosure of personal data which the department is prohibited
951 from disclosing because of a risk of harm, but which could
952 otherwise be disclosed, may file a petition with the chancery
953 court to request disclosure of such personal data.

954 Upon an order by the court in interstate cases to override
955 nondisclosure procedures in cases dealing with domestic violence,
956 the court shall order the department to release this information
957 within thirty (30) days of the order. Whereupon, the department
958 shall transmit said court order to the Federal Office of Child
959 Support Enforcement (OCSE), Federal Parent Locator Service (FPLS),
960 whereby OCSE will notify the department of its decision to remove
961 the nondisclosure code. Upon notification from OCSE, the
962 department shall release said information unto the court.

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

966 A person or agency, including the department, seeking
967 personal data which the department is prohibited from disclosing
968 because of a risk of harm, but which could otherwise be disclosed
969 or which the Federal Parent Locator Service established pursuant
970 to Title IV-D of the Social Security Act is prohibited from
971 disclosing because the Secretary of the Federal Department of
972 Health and Human Services has been notified that there is a
973 reasonable evidence of domestic violence or child abuse, may file

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974 a petition with the court where the person resides to request
975 disclosure of such personal data. The petition shall specify the
976 purpose for which such personal data is required. When a petition
977 is filed, or when the court receives notice from the department
978 that the department has been notified of a risk of harm, the court
979 shall determine whether disclosure of personal data could be
980 harmful to the parent or child before releasing such data to any
981 other person or agency. In making such determination, the court
982 shall notify the parent that the court has received a request to
983 release personal data and shall provide a specific date by which
984 the parent must object to release of the information and provide
985 the basis for objection. The parent may provide such information
986 in writing and shall not be required to appear in person to
987 contest the release of information. The court shall also notify
988 the department of any petition filed pursuant to this section and
989 the department shall release to the court any information which it
990 has been provided regarding the risk of harm; however, the
991 department shall not be made a party to the action. Further, the
992 attorney for the Department of Human Services, in any proceeding
993 herein, shall not be deemed to be appearing in a representative
994 capacity for any party. The court may also request information
995 directly from the Federal Parent Locator Service from the
996 department of another state, and from any other source.

997 In determining whether disclosure of personal data could be
998 harmful to the parent or child, the court shall consider any
999 relevant information provided by the parent or child, any
1000 information provided by the department or by the department of
1001 another state, and any evidence provided by the person seeking the
1002 personal data. Documentary evidence transmitted to the court by
1003 facsimile, telecopier or other means that do not provide an
1004 original writing may not be excluded from evidence on an objection
1005 based on the means of transmission. The court may permit a party
1006 or witness to be deposed or to testify by telephone, audiovisual

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1007 means, or other electronic means.

1008 The court may enter an order (1) impounding the personal data
1009 and prohibiting any disclosure by the court or its agents, (2)
1010 permitting disclosure by the court or its agents to a specific
1011 person or persons, or (3) removing any restrictions on disclosure
1012 by the court and its agents. An order permitting disclosure of
1013 personal data may specify the purposes for which the data may be
1014 used and may prohibit a person to whom the data is disclosed from
1015 making further disclosures to any other person. The court shall
1016 notify the department of any order entered pursuant to this
1017 section. Any person or agency who violates an order issued
1018 pursuant to this section may be held in contempt of court and
1019 subject to the penalties provided herein.

1020 The court may disclose location information about a parent
1021 for the limited purpose of notifying the parent of a proceeding
1022 under this section or of any other proceeding in court, provided
1023 that such information shall not be disclosed to another party
1024 unless the court issues an order pursuant to this section
1025 permitting such disclosure.

1026 SECTION 15. Section 93-11-65, Mississippi Code of 1972, is
1027 amended as follows:

1028 93-11-65. (1) In addition to the right to proceed under
1029 Section 93-5-23, Mississippi Code of 1972, and in addition to the
1030 remedy of habeas corpus in proper cases, and other existing
1031 remedies, the chancery court of the proper county shall have
1032 jurisdiction to entertain suits for the custody, care, support and
1033 maintenance of minor children and to hear and determine all such
1034 matters, and shall, if need be, require bond, sureties or other
1035 guarantee to secure any order for periodic payments for the
1036 maintenance or support of a child. In the event a legally
1037 responsible parent has health insurance available to him or her
1038 through an employer or organization that may extend benefits to
1039 the dependents of such parent, any order of support issued against

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1040 such parent may require him or her to exercise the option of
1041 additional coverage in favor of such children as he or she is
1042 legally responsible to support. Proceedings may be brought by or
1043 against a resident or nonresident of the State of Mississippi,
1044 whether or not having the actual custody of minor children, for
1045 the purpose of judicially determining the legal custody of a
1046 child. All actions herein authorized may be brought in the county
1047 where the child is actually residing, or in the county of the
1048 residence of the party who has actual custody, or of the residence
1049 of the defendant. Process shall be had upon the parties as
1050 provided by law for process in person or by publication, if they
1051 be nonresidents of the state or residents of another jurisdiction
1052 or are not found therein after diligent search and inquiry or are
1053 unknown after diligent search and inquiry; provided that the court
1054 or chancellor in vacation may fix a date in termtime or in
1055 vacation to which process may be returnable and shall have power
1056 to proceed in termtime or vacation. Provided, however, that if
1057 the court shall find that both parties are fit and proper persons
1058 to have custody of the children, and that either party is able to
1059 adequately provide for the care and maintenance of the children,
1060 and that it would be to the best interest and welfare of the
1061 children, then any such child who shall have reached his twelfth
1062 birthday shall have the privilege of choosing the parent with whom
1063 he shall live.

1064 (2) Provided further, that where the proof shows that both
1065 parents have separate incomes or estates, the court may require
1066 that each parent contribute to the support and maintenance of the
1067 children in proportion to the relative financial ability of each.

1068 (3) Whenever the court has ordered a party to make periodic
1069 payments for the maintenance or support of a child, but no bond,
1070 sureties or other guarantee has been required to secure such
1071 payments, and whenever such payments as have become due remain
1072 unpaid for a period of at least thirty (30) days, the court may,

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1073 upon petition of the person to whom such payments are owing, or
1074 such person's legal representative, enter an order requiring that
1075 bond, sureties or other security be given by the person obligated
1076 to make such payments, the amount and sufficiency of which shall
1077 be approved by the court. The obligor shall, as in other civil
1078 actions, be served with process and shall be entitled to a hearing
1079 in such case.

1080 (4) When a charge of abuse or neglect of a child first
1081 arises in the course of a custody or maintenance action pending in
1082 the chancery court pursuant to this section, the chancery court
1083 may proceed with the investigation, hearing and determination of
1084 such abuse or neglect charge as a part of its hearing and
1085 determination of the custody or maintenance issue as between the
1086 parents, as provided in Section 43-21-151, notwithstanding the
1087 other provisions of the Youth Court Law. The proceedings in
1088 chancery court on the abuse or neglect charge shall be
1089 confidential in the same manner as provided in youth court
1090 proceedings, and the chancery court shall appoint a guardian ad
1091 litem in such cases, as provided under Section 43-21-121 for youth
1092 court proceedings, who shall be an attorney. Unless the chancery
1093 court's jurisdiction has been terminated, all disposition orders
1094 in such cases for placement with the Department of Human Services
1095 shall be reviewed by the court or designated authority at least
1096 annually to determine if continued placement with the department
1097 is in the best interest of the child or the public.

1098 (5) The noncustodial parent and custodial parent in a
1099 paternity or child support proceeding shall each notify the other
1100 thirty (30) days prior to changing address. In addition, the
1101 noncustodial and custodial parent shall be required to file and
1102 update, with the court and with the state case registry,
1103 information on location and identity of the party, including
1104 Social Security number, residential and mailing addresses,
1105 telephone numbers, photograph, driver's license number, and name,

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1106 address and telephone number of the party's employer. This
1107 information shall be required upon entry of an order or within
1108 five (5) days of a change of address.

1109 (6) In such cases subsequently enforced by the Department of
1110 Human Services pursuant to Title IV-D of the Social Security Act,
1111 the court shall have continuing jurisdiction. State due process
1112 requirements for notice and service of process shall be met with
1113 respect to the party upon written notice sent by first class mail
1114 at least thirty (30) days prior to the hearing to the most recent
1115 residential or employer address filed with the court and the state
1116 case registry.

1117 (7) The duty of support of a child terminates upon the
1118 emancipation of the child. The court may determine that
1119 emancipation has occurred and no other support obligation exists
1120 when the child:

1121 (a) Attains the age of twenty-one (21) years, or

1122 (b) Marries, or

1123 (c) Discontinues full-time enrollment in school and
1124 obtains full-time employment prior to attaining the age of
1125 twenty-one (21) years, or

1126 (d) Voluntarily moves from the home of the custodial
1127 parent or guardian and establishes independent living arrangements
1128 and obtains full-time employment prior to attaining the age of
1129 twenty-one (21) years.

1130 SECTION 16. Section 93-11-71, Mississippi Code of 1972, is
1131 amended as follows:

1132 93-11-71. (1) Whenever a court orders any person to make
1133 periodic payments of a sum certain due at a prescribed time or
1134 times for the maintenance or support of a child, and whenever such
1135 payments as have become due remain unpaid for a period of at least
1136 thirty (30) days, a judgment by operation of law shall arise
1137 against the obligor in such amount as is equal to all such
1138 payments which are then due and owing.

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1139 (a) A judgment arising under this section shall have
1140 the same effect and be fully enforceable as any other judgment
1141 entered in this state. A judicial or administrative action to
1142 enforce said judgment may be commenced at any time; and

1143 (b) Such judgments arising in other states by operation
1144 of law shall be entitled to be given full faith and credit.

1145 (2) Any judgment arising under the provisions of this
1146 section shall operate as a lien upon all the property of the
1147 judgment debtor, both real and personal, which lien shall be
1148 perfected as to third parties who had no actual notice thereof
1149 only upon enrollment on the judgment roll. The department shall
1150 furnish an abstract of the judgment for periodic payments for the
1151 maintenance and support of a child, along with sworn documentation
1152 of the delinquent child support, to the circuit clerk of the
1153 county where the decree is rendered, and it shall be the duty of
1154 the circuit clerk to enroll the same on the judgment roll. Liens
1155 arising under the provisions of this section may be executed upon
1156 and enforced in the same manner and to the same extent as any
1157 other judgment.

1158 (3) Notwithstanding the provisions in paragraph (2), any
1159 judgment arising under the provisions of this section shall
1160 subject the following assets to interception or seizure without
1161 regard to the entry of such judgment on the judgment roll of the
1162 situs district or jurisdiction:

1163 (a) Periodic or lump-sum payments from a federal, state
1164 or local agency, including unemployment compensation, workers'
1165 compensation and other benefits;

1166 (b) Winnings from lotteries and gaming winnings which
1167 are received in periodic payments made over a period in excess of
1168 thirty (30) days;

1169 (c) Assets held in financial institutions;

1170 (d) Settlements and awards resulting from civil
1171 actions; and

1172 (e) Public and private retirement funds, only to the
1173 extent that the obligor is qualified to receive and receives a
1174 lump sum or periodic distribution from the funds.

1175 (4) In any case in which a child receives assistance from
1176 block grants for Temporary Assistance for Needy Families (TANF),
1177 and the obligor owes past-due child support, the obligor, if not
1178 incapacitated, may be required by the court to participate in any
1179 work programs offered by any state agency.

1180 SECTION 17. The following provision shall be codified as
1181 Section 93-11-105, Mississippi Code of 1972:

1182 93-11-105. (1) In cases in which the underlying support
1183 order does not speak to the amount for delinquencies, and
1184 notwithstanding the provisions of Section 93-11-103, the
1185 Department of Human Services shall be authorized to implement
1186 administrative orders for withholding without the necessity of
1187 obtaining an order through judicial proceedings. The
1188 administrative order for withholding shall be implemented pursuant
1189 to a previously rendered order for support and shall be on a form
1190 prescribed by the Department of Human Services. Unless
1191 inconsistent with the provisions of this section, the order for
1192 withholding shall be subject to the same requirements as provided
1193 in Sections 93-11-101 through 93-11-118.

1194 (2) The administrative order shall be filed with the clerk
1195 by the department and a copy shall be transmitted to the obligor
1196 by first class mail.

1197 (3) The order for withholding shall:

1198 (a) Direct any payor to withhold an amount equal to the
1199 order for support;

1200 (b) Direct any payor to withhold an additional amount
1201 equal to twenty percent (20%) of the current support obligation,
1202 unless a different amount has been previously ordered by the
1203 court, until payment in full of any delinquency; and

1204 (c) Direct the payor not to withhold in excess of the

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1205 amounts allowed under Section 303(b) of the Consumer Credit
1206 Protection Act, being 15 USCS 1673, as amended.

1207 SECTION 18. Section 93-11-103, Mississippi Code of 1972, is
1208 amended as follows:

1209 93-11-103. (1) **Child support orders enforced by Department**
1210 **of Human Services.** Upon entry of any order for support by a court
1211 of this state where the custodial parent is a recipient of
1212 services under Title IV-D of the federal Social Security Act,
1213 issued on or after October 1, 1996, the court entering such order
1214 shall enter a separate order for withholding which shall take
1215 effect immediately without any requirement that the obligor be
1216 delinquent in payment. All such orders for support issued prior
1217 to October 1, 1996, shall, by operation of law, be amended to
1218 conform with the provisions contained herein. All such orders for
1219 support issued shall:

1220 (a) Contain a provision for monthly income withholding
1221 procedures to take effect in the event the obligor becomes
1222 delinquent in paying the order for support without further
1223 amendment to the order or further action by the court; and

1224 (b) Require that the payor withhold any additional
1225 amount for delinquency specified in any order if accompanied by an
1226 affidavit of accounting, a notarized record of overdue payments or
1227 an attested judgment for delinquency or contempt. Any person who
1228 willfully and knowingly files a false affidavit, record or
1229 judgment shall be subject to a fine of not more than One Thousand
1230 Dollars (\$1,000.00). The Department of Human Services shall be
1231 the designated agency to receive payments made by income
1232 withholding.

1233 * * *

1234 (2) **Child support orders not enforced by the Department of**
1235 **Human Services.** Upon entry of any order for support by a court of
1236 this state where the custodial parent is not a recipient of
1237 services under Title IV-D of the federal Social Security Act,

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1238 issued or modified or found to be in arrears on or after January
1239 1, 1994, the court entering such order shall enter a separate
1240 order for withholding which shall take effect immediately. Such
1241 orders shall not be subject to immediate income withholding under
1242 this subsection (a) if one of the parties (i.e. noncustodial or
1243 custodial parent) demonstrates, and the court finds, that there is
1244 good cause not to require immediate income withholding, or (b) if
1245 both parties agree in writing to an alternative arrangement.

1246 (3) If a child support order is issued or modified in the
1247 state but is not subject to immediate income withholding, it
1248 automatically becomes so if the court finds that a support payment
1249 is thirty (30) days past due. If the support order were issued or
1250 modified in another state but is not subject to immediate income
1251 withholding, it becomes subject to income withholding on the date
1252 on which child support payments are at least one (1) month in
1253 arrears, or if it is earlier, the earliest of (a) the date as of
1254 which the noncustodial parent requests that withholding begin, (b)
1255 the date as of which the custodial parent requests that
1256 withholding begin, or (c) an earlier date chosen by the court.

1257 (4) The clerk of the court shall submit copies of such
1258 orders to the obligor's payor, any additional or subsequent payor,
1259 and to the Mississippi Department of Human Services Case Registry.
1260 The clerk of the court, the obligee's attorney, or the
1261 department's attorney may serve such immediate order for
1262 withholding by first class mail or personal delivery on the
1263 obligor's payor, superintendent, manager, agent or subsequent
1264 payor, as the case may be. In a case where the obligee's attorney
1265 or the department's attorney serves such immediate order, the
1266 attorney shall notify the clerk of the court in writing, which
1267 notice shall be placed in the court file. There shall be no need
1268 for further notice, hearing, order, process or procedure prior to
1269 service of said order on the payor or any additional or subsequent
1270 payor. The obligor may contest, if grounds exist, service of the

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1271 order of withholding on additional or subsequent payors, by filing
1272 an action with the issuing court. Such filing shall not stay the
1273 obligor's duty to support pending judicial determination of the
1274 obligor's claim. Nothing herein shall be construed to restrict
1275 the authority of the courts of this state from entering any order
1276 it deems appropriate to protect the rights of any parties
1277 involved.

1278 (5) The order for withholding shall:

1279 (a) Direct any payor to withhold an amount equal to the
1280 order for support;

1281 (b) Direct any payor to withhold an additional amount,
1282 not less than ten percent (10%) of the order for support, until
1283 payment in full of any delinquency; and

1284 (c) Direct the payor not to withhold in excess of the
1285 amounts allowed under Section 303(b) of the Consumer Credit
1286 Protection Act, being 15 USCS 1673, as amended.

1287 (6) In cases initiated or enforced by the Department of
1288 Human Services pursuant to Title IV-D of the federal Social
1289 Security Act, all such orders for withholding may permit the
1290 Department of Human Services to withhold through said withholding
1291 order additional amounts to recover costs incurred through its
1292 efforts to secure the support order, including, but not limited
1293 to, all filing fees, court costs, service of process fees, mailing
1294 costs, birth certificate certification fee, genetic testing fees,
1295 the department's attorney's fees; and, in cases where the state or
1296 any of its entities or divisions have provided medical services to
1297 the child or the child's mother, all medical costs of prenatal
1298 care, birthing, postnatal care and any other medical expenses
1299 incurred by the child or by the mother as a consequence of her
1300 pregnancy or delivery.

1301 (7) At the time the order for withholding is entered, the
1302 clerk of the court shall provide copies of the order for
1303 withholding and the order for support to the obligor, which shall

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1304 be accompanied by a statement of the rights, remedies and duties
1305 of the obligor under Sections 93-11-101 through 93-11-119. The
1306 clerk of the court shall make copies available to the obligee and
1307 to the department or its local attorney.

1308 (8) The order for withholding shall remain in effect for as
1309 long as the order for support upon which it is based.

1310 (9) The failure of an order for withholding to state an
1311 arrearage is not conclusive of the issue of whether an arrearage
1312 is owing.

1313 (10) Any order for withholding entered pursuant to this
1314 section shall not be considered a garnishment.

1315 (11) All existing orders for support shall become subject to
1316 additional withholding if arrearages occur, subject to court
1317 hearing and order. The Department of Human Services or the
1318 obligee or his agent or attorney must send to each delinquent
1319 obligor notice that:

1320 (a) The withholding on the delinquency has commenced;

1321 (b) The information along with the required affidavit
1322 of accounting, notarized record of overdue payment or attested
1323 judgment of delinquency or contempt has been sent to the employer;
1324 and

1325 (c) The obligor may file an action with the issuing
1326 court on the grounds of mistake of fact. Such filing must be made
1327 within thirty (30) days of receipt of the notice and shall not
1328 stay the obligor's duty to support pending judicial determination
1329 of the obligor's claim.

1330 (12) An employer who complies with an income withholding
1331 notice that is regular on its face and which is accompanied by the
1332 required accounting affidavit, notarized record of overdue
1333 payments or attested judgment of delinquency or contempt shall not
1334 be subject to civil liability to any individual or agency for
1335 conduct in compliance with the notice.

1336 (13) The court shall designate the appropriate entity to

1337 receive the payments made by income withholding.

1338 SECTION 19. The following provision shall be codified as
1339 Section 43-19-59, Mississippi Code of 1972:

1340 43-19-59. (1) The Department of Human Services, as the
1341 Title IV-D child support enforcement agency of this state, shall
1342 use high-volume automated administrative enforcement, to the same
1343 extent as used for intrastate cases, in response to a request made
1344 by another state to enforce support orders, and shall promptly
1345 report the results of such enforcement procedure to the requesting
1346 state.

1347 (2) In this section, "high-volume, automated administrative
1348 enforcement" means the use of automatic data processing to search
1349 various available state data bases, including, but not limited to,
1350 license records, employment service data, and state new hire
1351 registries, to determine whether information is available
1352 regarding a parent who owes a child support obligation.

1353 (3) The department may, by electronic or other means,
1354 transmit to another state or receive from another state a request
1355 for assistance in enforcing support orders through high-volume,
1356 automated administrative enforcement, which request:

1357 (a) Shall include such information as will enable the
1358 state to which the request is transmitted to compare the
1359 information about the cases to the information in the data bases
1360 of the state receiving the request; and

1361 (b) Shall constitute a certification by the requesting
1362 state:

1363 (i) Of the amount of support under an order the
1364 payment of which is in arrears; and

1365 (ii) That the requesting state has complied with
1366 all procedural due process requirements applicable to each case.

1367 (c) If the department provides assistance to another
1368 state with respect to a case, or if another state seeks assistance
1369 from the department pursuant to this section, neither state shall

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1370 consider the case to be transferred to the caseload of such other
1371 state.

1372 SECTION 20. This act shall take effect and be in force from
1373 and after July 1, 1999.