

By: Moody

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1525

1 AN ACT TO AMEND SECTION 43-19-34, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE FOR REVIEW ON A 3-YEAR CYCLE FOR POSSIBLE MODIFICATION
3 OF CHILD SUPPORT ORDERS, AND TO PROVIDE THAT ONLY UPWARD, NOT
4 DOWNWARD, ADJUSTMENTS MAY BE ORDERED RETROACTIVELY; TO AMEND
5 SECTION 43-19-45, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT FULL
6 FAITH AND CREDIT BE GIVEN TO THE NOTICES AND SUBPOENAS ISSUED BY
7 OTHER STATES; TO AMEND SECTION 43-19-101, MISSISSIPPI CODE OF
8 1972, TO PROVIDE THAT ALL CHILD SUPPORT ORDERS SHALL ORDER
9 REASONABLE MEDICAL SUPPORT; TO AMEND SECTION 93-9-15, AND SECTION
10 93-9-27, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THERE IS NO
11 RIGHT TO A TRIAL BY JURY IN AN ACTION TO ESTABLISH PATERNITY; TO
12 AMEND SECTION 93-11-65, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
13 TEMPORARY SUPPORT IS TO BE GRANTED PENDING A DETERMINATION OF
14 PARENTAGE; TO AMEND SECTIONS 93-11-103 AND 93-11-105, MISSISSIPPI
15 CODE OF 1972, TO PROVIDE THAT NOTICE OF AN ADMINISTRATIVE ORDER
16 FOR CHILD SUPPORT MAY BE GIVEN THROUGH REGULAR MAIL TO THE LAST
17 KNOWN ADDRESS OF THE OBLIGOR; AND FOR RELATED PURPOSES.

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

19 SECTION 1. Section 43-19-34, Mississippi Code of 1972, is
20 amended as follows:[CSQ1]

21 43-19-34. (1) In lieu of legal proceedings instituted to
22 obtain a modification for an order for support, a written
23 stipulated agreement for modification executed by the responsible
24 parent when acknowledged before a clerk of the court having
25 jurisdiction over such matters or a notary public and filed with
26 and approved by the judge of said court shall have the same force
27 and effect, retroactively and prospectively, in accordance with
28 the terms of said agreement as an order for modification of
29 support entered by the court, and shall be enforceable and subject
30 to subsequent modification in the same manner as is provided by
31 law for orders of the court in such cases.

32 (2) With respect to a child support order in cases initiated
33 or enforced by the Department of Human Services pursuant to Title

34 IV-D of the Social Security Act, wherein the department has
35 determined that a modification is appropriate, the department
36 shall send a motion and notice of intent to modify the order,
37 together with the proposed modification of the order under this
38 section to the last known mailing address of the defendant. Such
39 notice shall specify the date and time certain of the hearing and
40 shall be sent by certified mail, restricted delivery, return
41 receipt requested; notice shall be deemed complete as of the date
42 of delivery as evidenced by the return receipt. The required
43 notice may also be delivered by personal service in accordance
44 with Rule 4 of the Mississippi Rules of Civil Procedure insofar as
45 it may be applied to service of an administrative order or notice.

46 The defendant may accept the proposed modification by signing and
47 returning it to the department prior to the date of hearing for
48 presentation to the court for approval. In the event that the
49 defendant does not sign and return the proposed modification, the
50 court shall on the date and time previously set for hearing review
51 the proposal and make a determination as to whether it should be
52 approved in whole or in part.

53 (3) Every three (3) years, upon the request of either
54 parent, or if there is an assignment under Section 43-19-35, upon
55 the request of the Department of Human Services or of either
56 parent, the department shall review and, if appropriate, seek to
57 adjust a support order being enforced under 43-19-31 in accordance
58 with the guidelines established pursuant to Section 43-19-101, if
59 the amount of the child support award under the order differs from
60 the amount that would be awarded in accordance with the
61 guidelines, taking into account the best interests of the child
62 involved. No proof of a material change in circumstances is
63 necessary in the three-year review for adjustment pursuant to this
64 subsection (3). Proof of a material change in circumstances is
65 necessary for modification outside the three-year cycle.

66 (4) Any order for the support of minor children, whether
67 entered through the judicial system or through an expedited
68 process, shall not be subject to a downward retroactive
69 modification. An upward retroactive modification may be ordered
70 back to the date of the event justifying the upward modification.

71 SECTION 2. Section 43-19-45, Mississippi Code of 1972, is
72 amended as follows:[CSQ2]

73 43-19-45. (1) The Child Support Unit shall establish a
74 state parent locator service for the purpose of locating absent
75 and nonsupporting parents and alleged parents, which will utilize
76 all appropriate public and private locator sources. In order to
77 carry out the responsibilities imposed under Sections 43-19-31
78 through 43-19-53, the Child Support Unit may secure by
79 administrative subpoena from the customer records of public
80 utilities and cable television companies the names and addresses
81 of individuals and the names and addresses of employers of such
82 individuals that would enable the location of parents or alleged
83 parents who have a duty to provide support and maintenance for
84 their children. The Child Support Unit may also administratively
85 subpoena any and all financial information, including account
86 numbers, names and social security numbers of record for assets,
87 accounts, and account balances from any individual, financial
88 institution, business or other entity, public or private, needed
89 to establish, modify or enforce a support order. No entity
90 complying with an administrative subpoena to supply the requested
91 information of whatever nature shall be liable in any civil action
92 or proceeding on account of such compliance. Full faith and
93 credit shall be given to all uniform administrative subpoenas
94 issued by other state child support units. The recipient of an
95 administrative subpoena shall supply said Child Support Unit,
96 other state and federal IV-D agencies, its attorneys,
97 investigators, probation officers, county or district attorneys in
98 this state, all information relative to the location, employment,
99 employment related benefits including, but not limited to,
100 availability of medical insurance, income and property of such
101 parents and alleged parents and with all information on hand
102 relative to the location and prosecution of any person who has, by
103 means of a false statement or misrepresentation or by

104 impersonation or other fraudulent device, obtained Temporary
105 Assistance for Needy Families (TANF) to which he or she was not
106 entitled, notwithstanding any provision of law making such
107 information confidential. The Mississippi Department of
108 Information Technology Services and any other agency in this state
109 using the facilities of the Mississippi Department of Information
110 Technology Services are directed to permit the Child Support Unit
111 access to their files, inclusive of those maintained for other
112 state agencies, for the purpose of locating absent and
113 nonsupporting parents and alleged parents, except to the extent
114 that any such access would violate any valid federal statute or
115 regulation issued pursuant thereto. The Child Support Unit, other
116 state and federal IV-D agencies, its attorneys, investigators,
117 probation officers, or county or district attorneys, shall use
118 such information only for the purpose of investigating or
119 enforcing the support liability of such absent parents or alleged
120 parents or for the prosecution of other persons mentioned herein.

121 Neither the Child Support Unit nor said authorities shall use the
122 information, or disclose it, for any other purpose. All records
123 maintained pursuant to the provisions of Sections 43-19-31 through
124 43-19-53 shall be confidential and shall be available only to the
125 Child Support Unit, other state and federal IV-D agencies, the
126 attorneys, investigators and other staff employed or under
127 contract under Sections 43-19-31 through 43-19-53, district or
128 county attorneys, probation departments, child support units in
129 other states, and courts having jurisdiction in paternity, support
130 or abandonment proceedings. The Child Support Unit may release to
131 the public the name, photo, last known address, arrearage amount
132 and other necessary information of a parent who has a judgment
133 against him for child support and is currently in arrears in the
134 payment of this support. Such release may be included in a "Most
135 Wanted List" or other media in order to solicit assistance.

136 (2) The Child Support Unit shall have the authority to

137 secure information from the records of the Mississippi Employment
138 Security Commission that may be necessary to locate absent and
139 nonsupporting parents and alleged parents under the provisions of
140 Sections 43-19-31 through 43-19-53. Upon request of the Child
141 Support Unit, all departments, boards, bureaus and agencies of the
142 state shall provide to the Child Support Unit verification of
143 employment or payment and the address and social security number
144 of any person designated as an absent or nonsupporting parent or
145 alleged parent. In addition, upon request of the Child Support
146 Unit, the Mississippi Employment Security Commission, or any
147 private employer or payor of any income to a person designated as
148 an absent or nonsupporting parent or alleged parent, shall provide
149 to the Child Support Unit verification of employment or payment
150 and the address and social security number of the person so
151 designated. Full faith and credit shall be given to such notices
152 issued by child support units in other states. All such records
153 and information shall be confidential and shall not be used for
154 any purposes other than those specified by Sections 43-19-31
155 through 43-19-53. The violation of the provisions of this
156 subsection shall be unlawful and any person convicted of violating
157 the provisions of this subsection shall be guilty of a misdemeanor
158 and shall pay a fine of not more than Two Hundred Dollars
159 (\$200.00).

160 (3) Federal and state IV-D agencies shall have access to the
161 state parent locator service and any system used by the Child
162 Support Unit to locate an individual for purposes relating to
163 motor vehicles or law enforcement. No employer or other source of
164 income who complies with this section shall be liable in any civil
165 action or proceeding brought by the obligor or obligee on account
166 of such compliance.

167 SECTION 3. Section 43-19-101, Mississippi Code of 1972, is
168 amended as follows:[CSQ3]

169 43-19-101. (1) The following child support award guidelines

170 shall be a rebuttable presumption in all judicial or
171 administrative proceedings regarding the awarding or modifying of
172 child support awards in this state:

173	Number Of Children	Percentage Of Adjusted Gross Income
174	Due Support	That Should Be Awarded For Support
175	1	14%
176	2	20%
177	3	22%
178	4	24%
179	5 or more	26%

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

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

189 (a) Determine gross income from all potential sources
190 that may reasonably be expected to be available to the absent
191 parent including, but not limited to, the following: wages and
192 salary income; income from self employment; income from
193 commissions; income from investments, including dividends,
194 interest income and income on any trust account or property;
195 absent parent's portion of any joint income of both parents;
196 workers' compensation, disability, unemployment, annuity and
197 retirement benefits, including an individual retirement account
198 (IRA); any other payments made by any person, private entity,
199 federal or state government or any unit of local government;
200 alimony; any income earned from an interest in or from inherited
201 property; any other form of earned income; and gross income shall
202 exclude any monetary benefits derived from a second household,

203 such as income of the absent parent's current spouse;

204 (b) Subtract the following legally mandated deductions:

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

208 (ii) Social security contributions;

209 (iii) Retirement and disability contributions
210 except any voluntary retirement and disability contributions;

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

214 (d) If the absent parent is also the parent of another
215 child or other children residing with him, then the court may
216 subtract an amount that it deems appropriate to account for the
217 needs of said child or children;

218 (e) Compute the total annual amount of adjusted gross
219 income based on paragraphs (a) through (d), then divide this
220 amount by twelve (12) to obtain the monthly amount of adjusted
221 gross income.

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

226 (4) In cases in which the adjusted gross income as defined
227 in this section is more than Fifty Thousand Dollars (\$50,000.00)
228 or less than Five Thousand Dollars (\$5,000.00), the court shall
229 make a written finding in the record as to whether or not the
230 application of the guidelines established in this section is
231 reasonable.

232 (5) The Department of Human Services shall review the
233 appropriateness of these guidelines beginning January 1, 1994, and
234 every four (4) years thereafter and report its findings to the
235 Legislature no later than the first day of the regular legislative

236 session of that year. The Legislature shall thereafter amend
237 these guidelines when it finds that amendment is necessary to
238 ensure that equitable support is being awarded in all cases
239 involving the support of minor children.

240 (6) All orders involving support of minor children, as a
241 matter of law, shall include reasonable medical support. Notice
242 to the noncustodial parent's employer that medical support has
243 been ordered shall be on a form as prescribed by the Department of
244 Human Services.

245 SECTION 4. Section 93-9-15, Mississippi Code of 1972, is
246 amended as follows:[CSQ4]

247 93-9-15. The county court, * * * the circuit court, or the
248 chancery court has jurisdiction of an action under Sections 93-9-1
249 through 93-9-49, and all remedies for the enforcement of orders
250 for expenses of pregnancy and confinement for a wife, or for
251 education, necessary support and maintenance, or funeral expenses
252 for legitimate children shall apply. The defendant must defend
253 the cause in whichever court the action is commenced. The court
254 has continuing jurisdiction to modify or revoke an order and to
255 increase or decrease amounts fixed by order for future education
256 and necessary support and maintenance. All remedies under the
257 Uniform Reciprocal Enforcement of Support Act, and amendments
258 thereto, are available for enforcement of duties of support and
259 maintenance under Sections 93-9-1 through 93-9-49. Parties to an
260 action to establish paternity shall not be entitled to a jury
261 trial.

262 SECTION 5. Section 93-9-27, Mississippi Code of 1972, is
263 amended as follows:[CSQ5]

264 93-9-27. (1) If the court finds that the conclusions of all
265 the experts, as disclosed by the evidence based upon the tests,
266 are that the alleged father is not the father of the child, the
267 question of paternity shall be resolved accordingly. If an expert
268 concludes that the blood or other tests show the probability of

269 paternity, such evidence shall be admitted.

270 (2) There shall be rebuttable presumption, affecting the
271 burden of proof, of paternity, if the court finds that the
272 probability of paternity, as calculated by the experts qualified
273 as examiners of genetic tests, is ninety-eight percent (98%) or
274 greater. This presumption may only be rebutted by a preponderance
275 of the evidence.

276 (3) Parties to an action to establish paternity shall not be
277 entitled to a jury trial.

278 SECTION 6. Section 93-11-65, Mississippi Code of 1972, is
279 amended as follows:[CSQ6]

280 93-11-65. (1) (a) In addition to the right to proceed
281 under Section 93-5-23, Mississippi Code of 1972, and in addition
282 to the remedy of habeas corpus in proper cases, and other existing
283 remedies, the chancery court of the proper county shall have
284 jurisdiction to entertain suits for the custody, care, support and
285 maintenance of minor children and to hear and determine all such
286 matters, and shall, if need be, require bond, sureties or other
287 guarantee to secure any order for periodic payments for the
288 maintenance or support of a child. In the event a legally
289 responsible parent has health insurance available to him or her
290 through an employer or organization that may extend benefits to
291 the dependents of such parent, any order of support issued against
292 such parent may require him or her to exercise the option of
293 additional coverage in favor of such children as he or she is
294 legally responsible to support. Proceedings may be brought by or
295 against a resident or nonresident of the State of Mississippi,
296 whether or not having the actual custody of minor children, for
297 the purpose of judicially determining the legal custody of a
298 child. All actions herein authorized may be brought in the county
299 where the child is actually residing, or in the county of the
300 residence of the party who has actual custody, or of the residence
301 of the defendant. Process shall be had upon the parties as

302 provided by law for process in person or by publication, if they
303 be nonresidents of the state or residents of another jurisdiction
304 or are not found therein after diligent search and inquiry or are
305 unknown after diligent search and inquiry; provided that the court
306 or chancellor in vacation may fix a date in termtime or in
307 vacation to which process may be returnable and shall have power
308 to proceed in termtime or vacation. Provided, however, that if
309 the court shall find that both parties are fit and proper persons
310 to have custody of the children, and that either party is able to
311 adequately provide for the care and maintenance of the children,
312 and that it would be to the best interest and welfare of the
313 children, then any such child who shall have reached his twelfth
314 birthday shall have the privilege of choosing the parent with whom
315 he shall live.

316 (b) An order of child support shall specify the sum to
317 be paid weekly or otherwise. In addition to providing for support
318 and education, the order shall also provide for the support of the
319 child prior to the making of the order for child support, and such
320 other expenses as the court may deem proper.

321 (c) The court may require the payment to be made to the
322 custodial parent, or to some person or corporation to be
323 designated by the court as trustee, but if the child or custodial
324 parent is receiving public assistance, the Department of Human
325 Services shall be made the trustee.

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

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

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

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

346 (4) When a charge of abuse or neglect of a child first
347 arises in the course of a custody or maintenance action pending in
348 the chancery court pursuant to this section, the chancery court
349 may proceed with the investigation, hearing and determination of
350 such abuse or neglect charge as a part of its hearing and
351 determination of the custody or maintenance issue as between the
352 parents, as provided in Section 43-21-151, notwithstanding the
353 other provisions of the Youth Court Law. The proceedings in
354 chancery court on the abuse or neglect charge shall be
355 confidential in the same manner as provided in youth court
356 proceedings, and the chancery court shall appoint a guardian ad
357 litem in such cases, as provided under Section 43-21-121 for youth
358 court proceedings, who shall be an attorney. Unless the chancery
359 court's jurisdiction has been terminated, all disposition orders
360 in such cases for placement with the Department of Human Services
361 shall be reviewed by the court or designated authority at least
362 annually to determine if continued placement with the department
363 is in the best interest of the child or the public.

364 (5) Each party to a paternity or child support proceeding
365 shall notify the other within five (5) days after any change of
366 address. In addition, the noncustodial and custodial parent shall
367 file and update, with the court and with the state case registry,

368 information on that party's location and identity, including
369 social security number, residential and mailing addresses,
370 telephone numbers, photograph, driver's license number, and name,
371 address and telephone number of the party's employer. This
372 information shall be required upon entry of an order or within
373 five (5) days of a change of address.

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

377 (7) In any subsequent child support enforcement action
378 between the parties, upon sufficient showing that diligent effort
379 has been made to ascertain the location of a party, due process
380 requirements for notice and service of process shall be deemed to
381 be met with respect to the party upon delivery of written notice
382 to the most recent residential or employer address filed with the
383 state case registry.

384 (8) The duty of support of a child terminates upon the
385 emancipation of the child. The court may determine that
386 emancipation has occurred and no other support obligation exists
387 when the child:

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

389 (b) Marries, or

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

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

397 (9) Upon motion of a party requesting temporary child
398 support pending a determination of parentage, temporary support
399 shall be ordered if there is clear and convincing evidence of
400 paternity on the basis of genetic tests or other evidence, unless

401 the court makes written findings of fact on the record that the
402 award of temporary support would be unjust or inappropriate in a
403 particular case.

404 SECTION 7. Section 93-11-103, Mississippi Code of 1972, is
405 amended as follows:[CSQ7]

406 93-11-103. (1) **Child support orders enforced by Department**
407 **of Human Services.** Upon entry of any order for support by a court
408 of this state where the custodial parent is a recipient of
409 services under Title IV-D of the federal Social Security Act,
410 issued on or after October 1, 1996, the court entering such order
411 shall enter a separate order for withholding which shall take
412 effect immediately without any requirement that the obligor be
413 delinquent in payment. All such orders for support issued prior
414 to October 1, 1996, shall, by operation of law, be amended to
415 conform with the provisions contained herein. All such orders for
416 support issued shall:

417 (a) Contain a provision for monthly income withholding
418 procedures to take effect in the event the obligor becomes
419 delinquent in paying the order for support without further
420 amendment to the order or further action by the court; and

421 (b) Require that the payor withhold any additional
422 amount for delinquency specified in any order if accompanied by an
423 affidavit of accounting, a notarized record of overdue payments or
424 an attested judgment for delinquency or contempt. Any person who
425 willfully and knowingly files a false affidavit, record or
426 judgment shall be subject to a fine of not more than One Thousand
427 Dollars (\$1,000.00). The Department of Human Services shall be
428 the designated agency to receive payments made by income
429 withholding in child support orders enforced by the department.
430 All withholding orders shall be on a form as prescribed by the
431 department.

432 (2) **Child support orders not enforced by the Department of**
433 **Human Services.** Upon entry of any order for support by a court of

434 this state where the custodial parent is not a recipient of
435 services under Title IV-D of the federal Social Security Act,
436 issued or modified or found to be in arrears on or after January
437 1, 1994, the court entering such order shall enter a separate
438 order for withholding which shall take effect immediately. Such
439 orders shall not be subject to immediate income withholding under
440 this subsection (a) if one (1) of the parties (i.e. noncustodial
441 or custodial parent) demonstrates, and the court finds, that there
442 is good cause not to require immediate income withholding, or (b)
443 if both parties agree in writing to an alternative arrangement.
444 The Department of Human Services or any other person or entity may
445 be the designated agency to receive payments made by income
446 withholding in all child support orders. Withholding orders shall
447 be on a form as prescribed by the department.

448 (3) If a child support order is issued or modified in the
449 state but is not subject to immediate income withholding, it
450 automatically becomes so if the court finds that a support payment
451 is thirty (30) days past due. If the support order was issued or
452 modified in another state but is not subject to immediate income
453 withholding, it becomes subject to immediate income withholding on
454 the date on which child support payments are at least thirty (30)
455 days in arrears, or (a) the date as of which the noncustodial
456 parent requests that withholding begin, (b) the date as of which
457 the custodial parent requests that withholding begin, or (c) an
458 earlier date chosen by the court whichever is earlier.

459 (4) The clerk of the court shall submit copies of such
460 orders to the obligor's payor, any additional or subsequent payor,
461 and to the Mississippi Department of Human Services Case Registry.
462 The clerk of the court, the obligee's attorney, or the
463 department's attorney may serve such immediate order for
464 withholding by first class mail or personal delivery on the
465 obligor's payor, superintendent, manager, agent or subsequent
466 payor, as the case may be. In a case where the obligee's attorney

467 or the department's attorney serves such immediate order, the
468 attorney shall notify the clerk of the court in writing, which
469 notice shall be placed in the court file. There shall be no need
470 for further notice, hearing, order, process or procedure before
471 service of said order on the payor or any additional or subsequent
472 payor. The obligor may contest, if grounds exist, service of the
473 order of withholding on additional or subsequent payors, by filing
474 an action with the issuing court. Such filing shall not stay the
475 obligor's duty to support pending judicial determination of the
476 obligor's claim. Nothing herein shall be construed to restrict
477 the authority of the courts of this state from entering any order
478 it deems appropriate to protect the rights of any parties
479 involved.

480 (5) The order for withholding shall:

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

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

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

489 (6) All orders for withholding may permit the Department of
490 Human Services to withhold through said withholding order
491 additional amounts to recover costs incurred through its efforts
492 to secure the support order, including, but not limited to, all
493 filing fees, court costs, service of process fees, mailing costs,
494 birth certificate certification fee, genetic testing fees, the
495 department's attorney's fees; and, in cases where the state or any
496 of its entities or divisions have provided medical services to the
497 child or the child's mother, all medical costs of prenatal care,
498 birthing, postnatal care and any other medical expenses incurred
499 by the child or by the mother as a consequence of her pregnancy or

500 delivery.

501 (7) At the time the order for withholding is entered, the
502 clerk of the court shall provide copies of the order for
503 withholding and the order for support to the obligor, which shall
504 be accompanied by a statement of the rights, remedies and duties
505 of the obligor under Sections 93-11-101 through 93-11-119. The
506 clerk of the court shall make copies available to the obligee and
507 to the department or its local attorney.

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

510 (9) The failure of an order for withholding to state an
511 arrearage is not conclusive of the issue of whether an arrearage
512 is owing.

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

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

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

521 (b) The information along with the required affidavit
522 of accounting, notarized record of overdue payment or attested
523 judgment of delinquency or contempt has been sent to the employer;
524 and

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

530 (12) An employer who complies with an income withholding
531 notice that is regular on its face and which is accompanied by the
532 required accounting affidavit, notarized record of overdue

533 payments or attested judgment of delinquency or contempt shall not
534 be subject to civil liability to any individual or agency for
535 conduct in compliance with the notice.

536 SECTION 8. Section 93-11-105, Mississippi Code of 1972, is
537 amended as follows:[CSQ8]

538 93-11-105. (1) Notwithstanding the provisions of Section
539 93-11-103, the Department of Human Services shall be authorized to
540 implement administrative orders for withholding without the
541 necessity of obtaining an order through judicial proceedings. The
542 administrative order for withholding shall be implemented pursuant
543 to a previously rendered order for support and shall be on a form
544 prescribed by the Department of Human Services. Unless
545 inconsistent with the provisions of this section, the order for
546 withholding shall be subject to the same requirements as provided
547 in Sections 93-11-101 through 93-11-118.

548 (2) The administrative order shall be filed with the clerk
549 by the department and a copy shall be transmitted to the obligor
550 by regular mail to the last known address of the obligor.

551 (3) The order for withholding shall:

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

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

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

561 SECTION 9. This act shall take effect and be in force from
562 and after July 1, 2000.