

By: Moody

To: Judiciary A

## 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)  
223 through (e), multiply the monthly amount of adjusted gross income  
224 by the appropriate percentage designated in subsection (1) to  
225 arrive at 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 Income withholding must be administered by the department through  
445 the Central Receipting and Disbursement Unit. The Department of  
446 Human Services may be the designated agency to receive payments  
447 made by income withholding in all child support orders. All  
448 withholding orders shall be on a form as prescribed by the  
449 department.

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

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

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

482 (5) The order for withholding shall:

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

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

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

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

500 birthing, postnatal care and any other medical expenses incurred  
501 by the child or by the mother as a consequence of her pregnancy or  
502 delivery.

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

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

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

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

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

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

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

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

532 (12) An employer who complies with an income withholding



533 notice that is regular on its face and which is accompanied by the  
534 required accounting affidavit, notarized record of overdue  
535 payments or attested judgment of delinquency or contempt shall not  
536 be subject to civil liability to any individual or agency for  
537 conduct in compliance with the notice.

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

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

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

553 (3) The order for withholding shall:

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

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

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

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