

By: Moody

To: Judiciary A; Ways and
Means

HOUSE BILL NO. 1526

1 AN ACT TO CODIFY SECTION 75-76-282, MISSISSIPPI CODE OF 1972,
2 TO ESTABLISH A PROCEDURE WHEREBY THE PAYOR SHALL WITHHOLD AND PAY
3 TO THE CHILD SUPPORT UNIT CERTAIN GAMING PROCEEDS OF NONCUSTODIAL
4 PARENTS WHO OWE DELINQUENT CHILD SUPPORT, TO GRANT THE PAYEE THE
5 OPPORTUNITY TO CONTEST THE CLAIM ON SUCH PROCEEDS, AND TO PROVIDE
6 FOR A FINE FOR FAILURE TO COMPLY WITH SUCH WITHHOLDING
7 REQUIREMENT; TO AMEND SECTION 93-11-71, MISSISSIPPI CODE OF 1972,
8 IN CONFORMITY; AND FOR RELATED PURPOSES.

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

10 SECTION 1. The following provision shall be codified as

11 Section 75-76-282, Mississippi Code of 1972:

12 75-76-282. (1) Gaming proceeds shall be subject to
13 encumbrance for delinquent child support payments assessed by a
14 court of competent jurisdiction or otherwise provided in Titles 43
15 and 93, Mississippi Code of 1972.

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

21 (3) Initial inquiry shall be made by any entity or licensee
22 engaging in business regulated by or similar to business regulated
23 by the provisions of the Gaming Control Act. Such inquiry shall
24 determine the existence and amount of any child support
25 delinquency and may be made via telephone to a telephone number
26 provided and maintained by the department, and shall be accessible
27 twenty-four (24) hours, seven (7) days a week, or such other
28 electronic media as may be agreed upon by the department and the
29 payor.

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

32 (5) If it is determined that the payee has a child support
33 delinquency, proceeds up to the full amount of the delinquency
34 shall be withheld and disbursed to the department. Proceeds
35 beyond the amount of the delinquency shall be delivered to the
36 payee.

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

40 (a) The payee shall have the right to review of the
41 department's claim of the proceeds. To request such review, the
42 payee must contact the office of the department in the county in
43 which the child support order is entered. Such contact must be
44 made within five (5) business days from the date upon which the
45 payee seeks payment of the proceeds from the payor.

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

51 (c) The payee may contest the determination of the
52 review by filing a petition with a court of competent
53 jurisdiction.

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

58 (e) Any administrative and legal fees incurred by the
59 payor or the department throughout the procedures described herein
60 or pursuant to such procedures shall be assessed to the payee in
61 the event the proceeds are forwarded to the department.

62 (7) For purposes of this section:

63 (a) "Gaming proceeds" shall mean any monies paid in
64 lump sum or otherwise to an individual from lotteries, games or
65 gambling games as defined by Section 75-76-5(k), Mississippi Code
66 of 1972, or games or gambling games as defined by Section
67 97-33-51, Mississippi Code of 1972.

68 (b) "Child support delinquency" shall have the same
69 meaning as that given it in Section 93-11-101, Mississippi Code of
70 1972.

71 (c) "Payor" shall mean the individual, agency or
72 entity, licensed or unlicensed, disbursing the gaming proceeds to
73 the payee.

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

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

79 (9) Notwithstanding any provision of this or any other
80 section of the Mississippi Code of 1972, the Department of Human
81 Services shall not be prohibited from entering into a contractual
82 or other similar arrangement with any individual, agency, entity
83 or payor conducting such games or gambling games in Mississippi as
84 are addressed herein.

85 SECTION 2. Section 93-11-71, Mississippi Code of 1972, is
86 amended as follows:[CSQ1]

87 93-11-71. (1) Whenever a court orders any person to make
88 periodic payments of a sum certain for the maintenance or support
89 of a child, and whenever such payments as have become due remain
90 unpaid for a period of at least thirty (30) days, a judgment by
91 operation of law shall arise against the obligor in an amount
92 equal to all payments which are then due and owing.

93 (a) A judgment arising under this section shall have
94 the same effect and be fully enforceable as any other judgment
95 entered in this state. A judicial or administrative action to

96 enforce said judgment may be commenced at any time; and

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

99 (2) Any judgment arising under the provisions of this
100 section shall operate as a lien upon all the property of the
101 judgment debtor, both real and personal, which lien shall be
102 perfected as to third parties without actual notice thereof only
103 upon enrollment on the judgment roll. The department or attorney
104 representing the party to whom support is owed shall furnish an
105 abstract of the judgment for periodic payments for the maintenance
106 and support of a child, along with sworn documentation of the
107 delinquent child support, to the circuit clerk of the county where
108 the judgment is rendered, and it shall be the duty of the circuit
109 clerk to enroll the judgment on the judgment roll. Liens arising
110 under the provisions of this section may be executed upon and
111 enforced in the same manner and to the same extent as any other
112 judgment.

113 (3) Notwithstanding the provisions in paragraph (2), any
114 judgment arising under the provisions of this section shall
115 subject the following assets to interception or seizure without
116 regard to the entry of the judgment on the judgment roll of the
117 situs district or jurisdiction:

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

121 (b) Winnings from lotteries and gaming winnings as
122 provided in Section 1 of House Bill No. _____, 2000 Regular
123 Session;

124 (c) Assets held in financial institutions;

125 (d) Settlements and awards resulting from civil
126 actions; and

127 (e) Public and private retirement funds, only to the
128 extent that the obligor is qualified to receive and receives a

129 lump sum or periodic distribution from the funds.

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

135 SECTION 3. This act shall take effect and be in force from
136 and after July 1, 2000.