

By: Huggins

To: Public Health and
Welfare; JudiciaryCOMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2840

1 AN ACT TO AMEND SECTIONS 43-19-34 AND 93-5-23, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE FOR REVIEW ON A 3-YEAR CYCLE FOR POSSIBLE
3 MODIFICATION OF CHILD SUPPORT ORDERS, AND TO PROVIDE THAT ONLY
4 UPWARD, NOT DOWNWARD, ADJUSTMENTS MAY BE ORDERED RETROACTIVELY; TO
5 AMEND SECTION 43-19-45, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
6 FULL FAITH AND CREDIT BE GIVEN TO THE NOTICES AND SUBPOENAS ISSUED
7 BY 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 **[Until July 1, 2002, this section shall read as follows:]**

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

33 (2) With respect to a child support order in cases initiated

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

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

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

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

72 **[From and after July 1, 2002, this section shall read as**
73 **follows:]**

74 43-19-34. (1) In lieu of legal proceedings instituted to
75 obtain a modification for an order for support, a written
76 stipulated agreement for modification executed by the responsible
77 parent when acknowledged before a clerk of the court having
78 jurisdiction over such matters or a notary public and filed with
79 and approved by the judge of said court shall have the same force
80 and effect, retroactively and prospectively, in accordance with
81 the terms of said agreement as an order for modification of
82 support entered by the court, and shall be enforceable and subject
83 to subsequent modification in the same manner as is provided by
84 law for orders of the court in such cases.

85 (2) With respect to a child support order in cases initiated
86 or enforced by the Department of Human Services pursuant to Title
87 IV-D of the Social Security Act, wherein the department has
88 determined that a modification is appropriate, the department
89 shall send a motion and notice of intent to modify the order,
90 together with the proposed modification of the order under this
91 section to the last known mailing address of the defendant. Such
92 notice shall specify the date and time certain of the hearing and
93 shall be sent by certified mail, restricted delivery, return
94 receipt requested; notice shall be deemed complete as of the date
95 of delivery as evidenced by the return receipt. The required
96 notice may also be delivered by personal service in accordance
97 with Rule 4 of the Mississippi Rules of Civil Procedure insofar as
98 it may be applied to service of an administrative order or notice.
99 The defendant may accept the proposed modification by signing and

100 returning it to the department prior to the date of hearing for
101 presentation to the court for approval. In the event that the
102 defendant does not sign and return the proposed modification, the
103 court shall on the date and time previously set for hearing review
104 the proposal and make a determination as to whether it should be
105 approved in whole or in part.

106 SECTION 2. Section 93-5-23, Mississippi Code of 1972, is
107 amended as follows:

108 [Until July 1, 2002, this section shall read as
109 follows:][CSQ2]

110 93-5-23. (1) When a divorce shall be decreed from the bonds
111 of matrimony, the court may, in its discretion, having regard to
112 the circumstances of the parties and the nature of the case, as
113 may seem equitable and just, make all orders touching the care,
114 custody and maintenance of the children of the marriage, and also
115 touching the maintenance and alimony of the wife or the husband,
116 or any allowance to be made to her or him, and shall, if need be,
117 require bond, sureties or other guarantee for the payment of the
118 sum so allowed. Orders touching on the custody of the children of
119 the marriage may be made in accordance with the provisions of
120 Section 93-5-24. The court may afterwards, on petition, change
121 the decree, and make from time to time such new decrees as the
122 case may require. However, where proof shows that both parents
123 have separate incomes or estates, the court may require that each
124 parent contribute to the support and maintenance of the children
125 of the marriage in proportion to the relative financial ability of
126 each. In the event a legally responsible parent has health
127 insurance available to him or her through an employer or
128 organization that may extend benefits to the dependents of such
129 parent, any order of support issued against such parent may
130 require him or her to exercise the option of additional coverage
131 in favor of such children as he or she is legally responsible to
132 support.

133 (2) Whenever the court has ordered a party to make periodic
134 payments for the maintenance or support of a child, but no bond,
135 sureties or other guarantee has been required to secure such
136 payments, and whenever such payments as have become due remain
137 unpaid for a period of at least thirty (30) days, the court may,
138 upon petition of the person to whom such payments are owing, or
139 such person's legal representative, enter an order requiring that
140 bond, sureties or other security be given by the person obligated
141 to make such payments, the amount and sufficiency of which shall
142 be approved by the court. The obligor shall, as in other civil
143 actions, be served with process and shall be entitled to a hearing
144 in such case.

145 (3) (a) Every three (3) years, upon the request of either
146 parent, or if there is an assignment under Section 43-19-35, upon
147 the request of the Department of Human Services or of either
148 parent, the department shall review and, if appropriate, seek to
149 adjust any support order in accordance with the guidelines
150 established pursuant to Section 43-19-101, if the amount of the
151 child support award under the order differs from the amount that
152 would be awarded in accordance with the guidelines, taking into
153 account the best interests of the child involved. No proof of a
154 material change in circumstances is necessary in the three-year
155 review for adjustment pursuant to this subsection (3). Proof of a
156 material change in circumstances is necessary for modification
157 outside the three-year cycle.

158 (b) Any order for the support of minor children,
159 whether entered through the judicial system or through an
160 expedited process, shall not be subject to a downward retroactive
161 modification. An upward retroactive modification may be ordered
162 back to the date of the event justifying the upward modification.

163 (4) (a) Whenever in any proceeding in the chancery court
164 concerning the custody of a child a party alleges that the child
165 whose custody is at issue has been the victim of sexual or

166 physical abuse by the other party, the court may, on its own
167 motion, grant a continuance in the custody proceeding only until
168 such allegation has been investigated by the Department of Human
169 Services. At the time of ordering such continuance the court may
170 direct the party, and his attorney, making such allegation of
171 child abuse to report in writing and provide all evidence touching
172 on the allegation of abuse to the Department of Human Services.
173 The Department of Human Services shall investigate such allegation
174 and take such action as it deems appropriate and as provided in
175 such cases under the Youth Court Law (being Chapter 21 of Title
176 43, Mississippi Code of 1972) or under the laws establishing
177 family courts (being Chapter 23 of Title 43, Mississippi Code of
178 1972).

179 **(b)** If after investigation by the Department of Human
180 Services or final disposition by the youth court or family court
181 allegations of child abuse are found to be without foundation, the
182 chancery court shall order the alleging party to pay all court
183 costs and reasonable attorney's fees incurred by the defending
184 party in responding to such allegation.

185 **(c)** The court may investigate, hear and make a
186 determination in a custody action when a charge of abuse and/or
187 neglect arises in the course of a custody action as provided in
188 Section 43-21-151, and in such cases the court shall appoint a
189 guardian ad litem for the child as provided under Section
190 43-21-121, who shall be an attorney. Unless the chancery court's
191 jurisdiction has been terminated, all disposition orders in such
192 cases for placement with the Department of Human Services shall be
193 reviewed by the court or designated authority at least annually to
194 determine if continued placement with the department is in the
195 best interest of the child or public.

196 **(5)** The duty of support of a child terminates upon the
197 emancipation of the child. The court may determine that
198 emancipation has occurred and no other support obligation exists

199 when the child:

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

201 (b) Marries, or

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

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

209 **[From and after July 1, 2002, this section shall read as**
210 **follows:]**

211 93-5-23. When a divorce shall be decreed from the bonds of
212 matrimony, the court may, in its discretion, having regard to the
213 circumstances of the parties and the nature of the case, as may
214 seem equitable and just, make all orders touching the care,
215 custody and maintenance of the children of the marriage, and also
216 touching the maintenance and alimony of the wife or the husband,
217 or any allowance to be made to her or him, and shall, if need be,
218 require bond, sureties or other guarantee for the payment of the
219 sum so allowed. Orders touching on the custody of the children of
220 the marriage may be made in accordance with the provisions of
221 Section 93-5-24. The court may afterwards, on petition, change
222 the decree, and make from time to time such new decrees as the
223 case may require. However, where proof shows that both parents
224 have separate incomes or estates, the court may require that each
225 parent contribute to the support and maintenance of the children
226 of the marriage in proportion to the relative financial ability of
227 each. In the event a legally responsible parent has health
228 insurance available to him or her through an employer or
229 organization that may extend benefits to the dependents of such
230 parent, any order of support issued against such parent may
231 require him or her to exercise the option of additional coverage

232 in favor of such children as he or she is legally responsible to
233 support.

234 Whenever the court has ordered a party to make periodic
235 payments for the maintenance or support of a child, but no bond,
236 sureties or other guarantee has been required to secure such
237 payments, and whenever such payments as have become due remain
238 unpaid for a period of at least thirty (30) days, the court may,
239 upon petition of the person to whom such payments are owing, or
240 such person's legal representative, enter an order requiring that
241 bond, sureties or other security be given by the person obligated
242 to make such payments, the amount and sufficiency of which shall
243 be approved by the court. The obligor shall, as in other civil
244 actions, be served with process and shall be entitled to a hearing
245 in such case.

246 Whenever in any proceeding in the chancery court concerning
247 the custody of a child a party alleges that the child whose
248 custody is at issue has been the victim of sexual or physical
249 abuse by the other party, the court may, on its own motion, grant
250 a continuance in the custody proceeding only until such allegation
251 has been investigated by the Department of Human Services. At the
252 time of ordering such continuance the court may direct the party,
253 and his attorney, making such allegation of child abuse to report
254 in writing and provide all evidence touching on the allegation of
255 abuse to the Department of Human Services. The Department of
256 Human Services shall investigate such allegation and take such
257 action as it deems appropriate and as provided in such cases under
258 the Youth Court Law (being Chapter 21 of Title 43, Mississippi
259 Code of 1972) or under the laws establishing family courts (being
260 Chapter 23 of Title 43, Mississippi Code of 1972).

261 If after investigation by the Department of Human Services or
262 final disposition by the youth court or family court allegations
263 of child abuse are found to be without foundation, the chancery
264 court shall order the alleging party to pay all court costs and

265 reasonable attorney's fees incurred by the defending party in
266 responding to such allegation.

267 The court may investigate, hear and make a determination in a
268 custody action when a charge of abuse and/or neglect arises in the
269 course of a custody action as provided in Section 43-21-151, and
270 in such cases the court shall appoint a guardian ad litem for the
271 child as provided under Section 43-21-121, who shall be an
272 attorney. Unless the chancery court's jurisdiction has been
273 terminated, all disposition orders in such cases for placement
274 with the Department of Human Services shall be reviewed by the
275 court or designated authority at least annually to determine if
276 continued placement with the department is in the best interest of
277 the child or public.

278 The duty of support of a child terminates upon the
279 emancipation of the child. The court may determine that
280 emancipation has occurred and no other support obligation exists
281 when the child:

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

283 (b) Marries, or

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

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

291 SECTION 3. Section 43-19-45, Mississippi Code of 1972, is
292 amended as follows:[CSQ3]

293 [Until July 1, 2002, this section shall read as follows:]

294 43-19-45. (1) The Child Support Unit shall establish a
295 state parent locator service for the purpose of locating absent
296 and nonsupporting parents and alleged parents, which will utilize
297 all appropriate public and private locator sources. In order to

298 carry out the responsibilities imposed under Sections 43-19-31
299 through 43-19-53, the Child Support Unit may secure by
300 administrative subpoena from the customer records of public
301 utilities and cable television companies the names and addresses
302 of individuals and the names and addresses of employers of such
303 individuals that would enable the location of parents or alleged
304 parents who have a duty to provide support and maintenance for
305 their children. The Child Support Unit may also administratively
306 subpoena any and all financial information, including account
307 numbers, names and social security numbers of record for assets,
308 accounts, and account balances from any individual, financial
309 institution, business or other entity, public or private, needed
310 to establish, modify or enforce a support order. No entity
311 complying with an administrative subpoena to supply the requested
312 information of whatever nature shall be liable in any civil action
313 or proceeding on account of such compliance. Full faith and
314 credit shall be given to all uniform administrative subpoenas
315 issued by other state child support units. The recipient of an
316 administrative subpoena shall supply said Child Support Unit,
317 other state and federal IV-D agencies, its attorneys,
318 investigators, probation officers, county or district attorneys in
319 this state, all information relative to the location, employment,
320 employment related benefits including, but not limited to,
321 availability of medical insurance, income and property of such
322 parents and alleged parents and with all information on hand
323 relative to the location and prosecution of any person who has, by
324 means of a false statement or misrepresentation or by
325 impersonation or other fraudulent device, obtained Temporary
326 Assistance for Needy Families (TANF) to which he or she was not
327 entitled, notwithstanding any provision of law making such
328 information confidential. The Mississippi Department of
329 Information Technology Services and any other agency in this state
330 using the facilities of the Mississippi Department of Information

331 Technology Services are directed to permit the Child Support Unit
332 access to their files, inclusive of those maintained for other
333 state agencies, for the purpose of locating absent and
334 nonsupporting parents and alleged parents, except to the extent
335 that any such access would violate any valid federal statute or
336 regulation issued pursuant thereto. The Child Support Unit, other
337 state and federal IV-D agencies, its attorneys, investigators,
338 probation officers, or county or district attorneys, shall use
339 such information only for the purpose of investigating or
340 enforcing the support liability of such absent parents or alleged
341 parents or for the prosecution of other persons mentioned herein.

342 Neither the Child Support Unit nor said authorities shall use the
343 information, or disclose it, for any other purpose. All records
344 maintained pursuant to the provisions of Sections 43-19-31 through
345 43-19-53 shall be confidential and shall be available only to the
346 Child Support Unit, other state and federal IV-D agencies, the
347 attorneys, investigators and other staff employed or under
348 contract under Sections 43-19-31 through 43-19-53, district or
349 county attorneys, probation departments, child support units in
350 other states, and courts having jurisdiction in paternity, support
351 or abandonment proceedings. The Child Support Unit may release to
352 the public the name, photo, last known address, arrearage amount
353 and other necessary information of a parent who has a judgment
354 against him for child support and is currently in arrears in the
355 payment of this support. Such release may be included in a "Most
356 Wanted List" or other media in order to solicit assistance.

357 (2) The Child Support Unit shall have the authority to
358 secure information from the records of the Mississippi Employment
359 Security Commission that may be necessary to locate absent and
360 nonsupporting parents and alleged parents under the provisions of
361 Sections 43-19-31 through 43-19-53. Upon request of the Child
362 Support Unit, all departments, boards, bureaus and agencies of the
363 state shall provide to the Child Support Unit verification of

364 employment or payment and the address and social security number
365 of any person designated as an absent or nonsupporting parent or
366 alleged parent. In addition, upon request of the Child Support
367 Unit, the Mississippi Employment Security Commission, or any
368 private employer or payor of any income to a person designated as
369 an absent or nonsupporting parent or alleged parent, shall provide
370 to the Child Support Unit verification of employment or payment
371 and the address and social security number of the person so
372 designated. Full faith and credit shall be given to such notices
373 issued by child support units in other states. All such records
374 and information shall be confidential and shall not be used for
375 any purposes other than those specified by Sections 43-19-31
376 through 43-19-53. The violation of the provisions of this
377 subsection shall be unlawful and any person convicted of violating
378 the provisions of this subsection shall be guilty of a misdemeanor
379 and shall pay a fine of not more than Two Hundred Dollars
380 (\$200.00).

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

388 [From and after July 1, 2002, this shall read as follows:]

389 43-19-45. (1) The Child Support Unit shall establish a
390 state parent locator service for the purpose of locating absent
391 and nonsupporting parents and alleged parents, which will utilize
392 all appropriate public and private locator sources. In order to
393 carry out the responsibilities imposed under Sections 43-19-31
394 through 43-19-53, the Child Support Unit may secure by
395 administrative subpoena from the customer records of public
396 utilities and cable television companies the names and addresses

397 of individuals and the names and addresses of employers of such
398 individuals that would enable the location of parents or alleged
399 parents who have a duty to provide support and maintenance for
400 their children. The Child Support Unit may also administratively
401 subpoena any and all financial information, including account
402 numbers, names and social security numbers of record for assets,
403 accounts, and account balances from any individual, financial
404 institution, business or other entity, public or private, needed
405 to establish, modify or enforce a support order. No entity
406 complying with an administrative subpoena to supply the requested
407 information of whatever nature shall be liable in any civil action
408 or proceeding on account of such compliance. The recipient of an
409 administrative subpoena shall supply said Child Support Unit,
410 other state and federal IV-D agencies, its attorneys,
411 investigators, probation officers, county or district attorneys in
412 this state, all information relative to the location, employment,
413 employment related benefits including, but not limited to,
414 availability of medical insurance, income and property of such
415 parents and alleged parents and with all information on hand
416 relative to the location and prosecution of any person who has, by
417 means of a false statement or misrepresentation or by
418 impersonation or other fraudulent device, obtained Temporary
419 Assistance for Needy Families (TANF) to which he or she was not
420 entitled, notwithstanding any provision of law making such
421 information confidential. The Mississippi Department of
422 Information Technology Services and any other agency in this state
423 using the facilities of the Mississippi Department of Information
424 Technology Services are directed to permit the Child Support Unit
425 access to their files, inclusive of those maintained for other
426 state agencies, for the purpose of locating absent and
427 nonsupporting parents and alleged parents, except to the extent
428 that any such access would violate any valid federal statute or
429 regulation issued pursuant thereto. The Child Support Unit, other

430 state and federal IV-D agencies, its attorneys, investigators,
431 probation officers, or county or district attorneys, shall use
432 such information only for the purpose of investigating or
433 enforcing the support liability of such absent parents or alleged
434 parents or for the prosecution of other persons mentioned herein.

435 Neither the Child Support Unit nor said authorities shall use the
436 information, or disclose it, for any other purpose. All records
437 maintained pursuant to the provisions of Sections 43-19-31 through
438 43-19-53 shall be confidential and shall be available only to the
439 Child Support Unit, other state and federal IV-D agencies, the
440 attorneys, investigators and other staff employed or under
441 contract under Sections 43-19-31 through 43-19-53, district or
442 county attorneys, probation departments, child support units in
443 other states, and courts having jurisdiction in paternity, support
444 or abandonment proceedings. The Child Support Unit may release to
445 the public the name, photo, last known address, arrearage amount
446 and other necessary information of a parent who has a judgment
447 against him for child support and is currently in arrears in the
448 payment of this support. Such release may be included in a "Most
449 Wanted List" or other media in order to solicit assistance.

450 (2) The Child Support Unit shall have the authority to
451 secure information from the records of the Mississippi Employment
452 Security Commission that may be necessary to locate absent and
453 nonsupporting parents and alleged parents under the provisions of
454 Sections 43-19-31 through 43-19-53. Upon request of the Child
455 Support Unit, all departments, boards, bureaus and agencies of the
456 state shall provide to the Child Support Unit verification of
457 employment or payment and the address and social security number
458 of any person designated as an absent or nonsupporting parent or
459 alleged parent. In addition, upon request of the Child Support
460 Unit, the Mississippi Employment Security Commission, or any
461 private employer or payor of any income to a person designated as
462 an absent or nonsupporting parent or alleged parent, shall provide

463 to the Child Support Unit verification of employment or payment
464 and the address and social security number of the person so
465 designated. All such records and information shall be
466 confidential and shall not be used for any purposes other than
467 those specified by Sections 43-19-31 through 43-19-53. The
468 violation of the provisions of this subsection shall be unlawful
469 and any person convicted of violating the provisions of this
470 subsection shall be guilty of a misdemeanor and shall pay a fine
471 of not more than Two Hundred Dollars (\$200.00).

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

479 SECTION 4. Section 43-19-101, Mississippi Code of 1972, is
480 amended as follows:[CSQ4]

481 **[Until July 1, 2002, this section shall read as follows:]**

482 43-19-101. (1) The following child support award guidelines
483 shall be a rebuttable presumption in all judicial or
484 administrative proceedings regarding the awarding or modifying of
485 child support awards in this state:

486	Number Of Children	Percentage Of Adjusted Gross Income
487	Due Support	That Should Be Awarded For Support
488	1	14%
489	2	20%
490	3	22%
491	4	24%
492	5 or more	26%

493 (2) The guidelines provided for in subsection (1) of this
494 section apply unless the judicial or administrative body awarding
495 or modifying the child support award makes a written finding or

496 specific finding on the record that the application of the
497 guidelines would be unjust or inappropriate in a particular case
498 as determined under the criteria specified in Section 43-19-103.

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

502 (a) Determine gross income from all potential sources
503 that may reasonably be expected to be available to the absent
504 parent including, but not limited to, the following: wages and
505 salary income; income from self employment; income from
506 commissions; income from investments, including dividends,
507 interest income and income on any trust account or property;
508 absent parent's portion of any joint income of both parents;
509 workers' compensation, disability, unemployment, annuity and
510 retirement benefits, including an individual retirement account
511 (IRA); any other payments made by any person, private entity,
512 federal or state government or any unit of local government;
513 alimony; any income earned from an interest in or from inherited
514 property; any other form of earned income; and gross income shall
515 exclude any monetary benefits derived from a second household,
516 such as income of the absent parent's current spouse;

517 (b) Subtract the following legally mandated deductions:

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

521 (ii) Social security contributions;

522 (iii) Retirement and disability contributions
523 except any voluntary retirement and disability contributions;

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

527 (d) If the absent parent is also the parent of another
528 child or other children residing with him, then the court may

529 subtract an amount that it deems appropriate to account for the
530 needs of said child or children;

531 (e) Compute the total annual amount of adjusted gross
532 income based on paragraphs (a) through (d), then divide this
533 amount by twelve (12) to obtain the monthly amount of adjusted
534 gross income.

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

539 (4) In cases in which the adjusted gross income as defined
540 in this section is more than Fifty Thousand Dollars (\$50,000.00)
541 or less than Five Thousand Dollars (\$5,000.00), the court shall
542 make a written finding in the record as to whether or not the
543 application of the guidelines established in this section is
544 reasonable.

545 (5) The Department of Human Services shall review the
546 appropriateness of these guidelines beginning January 1, 1994, and
547 every four (4) years thereafter and report its findings to the
548 Legislature no later than the first day of the regular legislative
549 session of that year. The Legislature shall thereafter amend
550 these guidelines when it finds that amendment is necessary to
551 ensure that equitable support is being awarded in all cases
552 involving the support of minor children.

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

558 **[From and after July 1, 2002, this section shall read as**
559 **follows:]**

560 43-19-101. (1) The following child support award guidelines
561 shall be a rebuttable presumption in all judicial or

562 administrative proceedings regarding the awarding or modifying of
563 child support awards in this state:

564	Number Of Children	Percentage Of Adjusted Gross Income
565	Due Support	That Should Be Awarded For Support
566	1	14%
567	2	20%
568	3	22%
569	4	24%
570	5 or more	26%

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

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

580 (a) Determine gross income from all potential sources
581 that may reasonably be expected to be available to the absent
582 parent including, but not limited to, the following: wages and
583 salary income; income from self employment; income from
584 commissions; income from investments, including dividends,
585 interest income and income on any trust account or property;
586 absent parent's portion of any joint income of both parents;
587 workers' compensation, disability, unemployment, annuity and
588 retirement benefits, including an individual retirement account
589 (IRA); any other payments made by any person, private entity,
590 federal or state government or any unit of local government;
591 alimony; any income earned from an interest in or from inherited
592 property; any other form of earned income; and gross income shall
593 exclude any monetary benefits derived from a second household,
594 such as income of the absent parent's current spouse;

595 (b) Subtract the following legally mandated deductions:

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

599 (ii) Social security contributions;

600 (iii) Retirement and disability contributions
601 except any voluntary retirement and disability contributions;

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

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

609 (e) Compute the total annual amount of adjusted gross
610 income based on paragraphs (a) through (d), then divide this
611 amount by twelve (12) to obtain the monthly amount of adjusted
612 gross income.

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

617 (4) In cases in which the adjusted gross income as defined
618 in this section is more than Fifty Thousand Dollars (\$50,000.00)
619 or less than Five Thousand Dollars (\$5,000.00), the court shall
620 make a written finding in the record as to whether or not the
621 application of the guidelines established in this section is
622 reasonable.

623 (5) The Department of Human Services shall review the
624 appropriateness of these guidelines beginning January 1, 1994, and
625 every four (4) years thereafter and report its findings to the
626 Legislature no later than the first day of the regular legislative
627 session of that year. The Legislature shall thereafter amend

628 these guidelines when it finds that amendment is necessary to
629 ensure that equitable support is being awarded in all cases
630 involving the support of minor children.

631 SECTION 5. Section 93-9-15, Mississippi Code of 1972, is
632 amended as follows:[CSQ5]

633 **[Until July 1, 2002, this section shall read as follows:]**

634 93-9-15. The county court, * * * the circuit court, or the
635 chancery court has jurisdiction of an action under sections 93-9-1
636 through 93-9-49, and all remedies for the enforcement of orders
637 for expenses of pregnancy and confinement for a wife, or for
638 education, necessary support and maintenance, or funeral expenses
639 for legitimate children shall apply. The defendant must defend
640 the cause in whichever court the action is commenced. The court
641 has continuing jurisdiction to modify or revoke an order and to
642 increase or decrease amounts fixed by order for future education
643 and necessary support and maintenance. All remedies under the
644 uniform reciprocal enforcement of support act, and amendments
645 thereto, are available for enforcement of duties of support and
646 maintenance under Sections 93-9-1 through 93-9-49. Parties to an
647 action to establish paternity shall not be entitled to a jury
648 trial.

649 **[From and after July 1, 2002, this section shall read as**
650 **follows:]**

651 93-9-15. The county court, the family court, the circuit
652 court, or the chancery court has jurisdiction of an action under
653 sections 93-9-1 through 93-9-49, and all remedies for the
654 enforcement of orders for expenses of pregnancy and confinement
655 for a wife, or for education, necessary support and maintenance,
656 or funeral expenses for legitimate children shall apply. The
657 defendant must defend the cause in whichever court the action is
658 commenced. The court has continuing jurisdiction to modify or
659 revoke an order and to increase or decrease amounts fixed by order
660 for future education and necessary support and maintenance. All

661 remedies under the uniform reciprocal enforcement of support act,
662 and amendments thereto, are available for enforcement of duties of
663 support and maintenance under Sections 93-9-1 through 93-9-49.

664 SECTION 6. Section 93-9-27, Mississippi Code of 1972, is
665 amended as follows:[CSQ6]

666 **[Until July 1, 2002, this section shall read as follows:]**

667 93-9-27. (1) If the court finds that the conclusions of all
668 the experts, as disclosed by the evidence based upon the tests,
669 are that the alleged father is not the father of the child, the
670 question of paternity shall be resolved accordingly. If an expert
671 concludes that the blood or other tests show the probability of
672 paternity, such evidence shall be admitted.

673 (2) There shall be rebuttable presumption, affecting the
674 burden of proof, of paternity, if the court finds that the
675 probability of paternity, as calculated by the experts qualified
676 as examiners of genetic tests, is ninety-eight percent (98%) or
677 greater. This presumption may only be rebutted by a preponderance
678 of the evidence.

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

681 **[From and after July 1, 2002, this section shall read as**
682 **follows:]**

683 93-9-27. (1) If the court finds that the conclusions of all
684 the experts, as disclosed by the evidence based upon the tests,
685 are that the alleged father is not the father of the child, the
686 question of paternity shall be resolved accordingly. If an expert
687 concludes that the blood or other tests show the probability of
688 paternity, such evidence shall be admitted.

689 (2) There shall be rebuttable presumption, affecting the
690 burden of proof, of paternity, if the court finds that the
691 probability of paternity, as calculated by the experts qualified
692 as examiners of genetic tests, is ninety-eight percent (98%) or
693 greater. This presumption may only be rebutted by a preponderance

694 of the evidence.

695 SECTION 7. Section 93-11-65, Mississippi Code of 1972, is
696 amended as follows:[CSQ7]

697 **[Until July 1, 2002, this section shall read as follows:]**

698 93-11-65. (1) (a) In addition to the right to proceed
699 under Section 93-5-23, Mississippi Code of 1972, and in addition
700 to the remedy of habeas corpus in proper cases, and other existing
701 remedies, the chancery court of the proper county shall have
702 jurisdiction to entertain suits for the custody, care, support and
703 maintenance of minor children and to hear and determine all such
704 matters, and shall, if need be, require bond, sureties or other
705 guarantee to secure any order for periodic payments for the
706 maintenance or support of a child. In the event a legally
707 responsible parent has health insurance available to him or her
708 through an employer or organization that may extend benefits to
709 the dependents of such parent, any order of support issued against
710 such parent may require him or her to exercise the option of
711 additional coverage in favor of such children as he or she is
712 legally responsible to support. Proceedings may be brought by or
713 against a resident or nonresident of the State of Mississippi,
714 whether or not having the actual custody of minor children, for
715 the purpose of judicially determining the legal custody of a
716 child. All actions herein authorized may be brought in the county
717 where the child is actually residing, or in the county of the
718 residence of the party who has actual custody, or of the residence
719 of the defendant. Process shall be had upon the parties as
720 provided by law for process in person or by publication, if they
721 be nonresidents of the state or residents of another jurisdiction
722 or are not found therein after diligent search and inquiry or are
723 unknown after diligent search and inquiry; provided that the court
724 or chancellor in vacation may fix a date in termtime or in
725 vacation to which process may be returnable and shall have power
726 to proceed in termtime or vacation. Provided, however, that if

727 the court shall find that both parties are fit and proper persons
728 to have custody of the children, and that either party is able to
729 adequately provide for the care and maintenance of the children,
730 and that it would be to the best interest and welfare of the
731 children, then any such child who shall have reached his twelfth
732 birthday shall have the privilege of choosing the parent with whom
733 he shall live.

734 (b) An order of child support shall specify the sum to
735 be paid weekly or otherwise. In addition to providing for support
736 and education, the order shall also provide for the support of the
737 child prior to the making of the order for child support, and such
738 other expenses as the court may deem proper.

739 (c) The court may require the payment to be made to the
740 custodial parent, or to some person or corporation to be
741 designated by the court as trustee, but if the child or custodial
742 parent is receiving public assistance, the Department of Human
743 Services shall be made the trustee.

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

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

752 (3) Whenever the court has ordered a party to make periodic
753 payments for the maintenance or support of a child, but no bond,
754 sureties or other guarantee has been required to secure such
755 payments, and whenever such payments as have become due remain
756 unpaid for a period of at least thirty (30) days, the court may,
757 upon petition of the person to whom such payments are owing, or
758 such person's legal representative, enter an order requiring that
759 bond, sureties or other security be given by the person obligated

760 to make such payments, the amount and sufficiency of which shall
761 be approved by the court. The obligor shall, as in other civil
762 actions, be served with process and shall be entitled to a hearing
763 in such case.

764 (4) When a charge of abuse or neglect of a child first
765 arises in the course of a custody or maintenance action pending in
766 the chancery court pursuant to this section, the chancery court
767 may proceed with the investigation, hearing and determination of
768 such abuse or neglect charge as a part of its hearing and
769 determination of the custody or maintenance issue as between the
770 parents, as provided in Section 43-21-151, notwithstanding the
771 other provisions of the Youth Court Law. The proceedings in
772 chancery court on the abuse or neglect charge shall be
773 confidential in the same manner as provided in youth court
774 proceedings, and the chancery court shall appoint a guardian ad
775 litem in such cases, as provided under Section 43-21-121 for youth
776 court proceedings, who shall be an attorney. Unless the chancery
777 court's jurisdiction has been terminated, all disposition orders
778 in such cases for placement with the Department of Human Services
779 shall be reviewed by the court or designated authority at least
780 annually to determine if continued placement with the department
781 is in the best interest of the child or the public.

782 (5) Each party to a paternity or child support proceeding
783 shall notify the other within five (5) days after any change of
784 address. In addition, the noncustodial and custodial parent shall
785 file and update, with the court and with the state case registry,
786 information on that party's location and identity, including
787 social security number, residential and mailing addresses,
788 telephone numbers, photograph, driver's license number, and name,
789 address and telephone number of the party's employer. This
790 information shall be required upon entry of an order or within
791 five (5) days of a change of address.

792 (6) In any case subsequently enforced by the Department of

793 Human Services pursuant to Title IV-D of the Social Security Act,
794 the court shall have continuing jurisdiction.

795 (7) In any subsequent child support enforcement action
796 between the parties, upon sufficient showing that diligent effort
797 has been made to ascertain the location of a party, due process
798 requirements for notice and service of process shall be deemed to
799 be met with respect to the party upon delivery of written notice
800 to the most recent residential or employer address filed with the
801 state case registry.

802 (8) The duty of support of a child terminates upon the
803 emancipation of the child. The court may determine that
804 emancipation has occurred and no other support obligation exists
805 when the child:

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

807 (b) Marries, or

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

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

815 (9) Upon motion of a party requesting temporary child
816 support pending a determination of parentage, temporary support
817 shall be ordered if there is clear and convincing evidence of
818 paternity on the basis of genetic tests or other evidence, unless
819 the court makes written findings of fact on the record that the
820 award of temporary support would be unjust or inappropriate in a
821 particular case.

822 **[From and after July 1, 2002, this section shall read as**
823 **follows:]**

824 93-11-65. (1) (a) In addition to the right to proceed
825 under Section 93-5-23, Mississippi Code of 1972, and in addition

826 to the remedy of habeas corpus in proper cases, and other existing
827 remedies, the chancery court of the proper county shall have
828 jurisdiction to entertain suits for the custody, care, support and
829 maintenance of minor children and to hear and determine all such
830 matters, and shall, if need be, require bond, sureties or other
831 guarantee to secure any order for periodic payments for the
832 maintenance or support of a child. In the event a legally
833 responsible parent has health insurance available to him or her
834 through an employer or organization that may extend benefits to
835 the dependents of such parent, any order of support issued against
836 such parent may require him or her to exercise the option of
837 additional coverage in favor of such children as he or she is
838 legally responsible to support. Proceedings may be brought by or
839 against a resident or nonresident of the State of Mississippi,
840 whether or not having the actual custody of minor children, for
841 the purpose of judicially determining the legal custody of a
842 child. All actions herein authorized may be brought in the county
843 where the child is actually residing, or in the county of the
844 residence of the party who has actual custody, or of the residence
845 of the defendant. Process shall be had upon the parties as
846 provided by law for process in person or by publication, if they
847 be nonresidents of the state or residents of another jurisdiction
848 or are not found therein after diligent search and inquiry or are
849 unknown after diligent search and inquiry; provided that the court
850 or chancellor in vacation may fix a date in termtime or in
851 vacation to which process may be returnable and shall have power
852 to proceed in termtime or vacation. Provided, however, that if
853 the court shall find that both parties are fit and proper persons
854 to have custody of the children, and that either party is able to
855 adequately provide for the care and maintenance of the children,
856 and that it would be to the best interest and welfare of the
857 children, then any such child who shall have reached his twelfth
858 birthday shall have the privilege of choosing the parent with whom

859 he shall live.

860 (b) An order of child support shall specify the sum to
861 be paid weekly or otherwise. In addition to providing for support
862 and education, the order shall also provide for the support of the
863 child prior to the making of the order for child support, and such
864 other expenses as the court may deem proper.

865 (c) The court may require the payment to be made to the
866 custodial parent, or to some person or corporation to be
867 designated by the court as trustee, but if the child or custodial
868 parent is receiving public assistance, the Department of Human
869 Services shall be made the trustee.

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

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

878 (3) Whenever the court has ordered a party to make periodic
879 payments for the maintenance or support of a child, but no bond,
880 sureties or other guarantee has been required to secure such
881 payments, and whenever such payments as have become due remain
882 unpaid for a period of at least thirty (30) days, the court may,
883 upon petition of the person to whom such payments are owing, or
884 such person's legal representative, enter an order requiring that
885 bond, sureties or other security be given by the person obligated
886 to make such payments, the amount and sufficiency of which shall
887 be approved by the court. The obligor shall, as in other civil
888 actions, be served with process and shall be entitled to a hearing
889 in such case.

890 (4) When a charge of abuse or neglect of a child first
891 arises in the course of a custody or maintenance action pending in

892 the chancery court pursuant to this section, the chancery court
893 may proceed with the investigation, hearing and determination of
894 such abuse or neglect charge as a part of its hearing and
895 determination of the custody or maintenance issue as between the
896 parents, as provided in Section 43-21-151, notwithstanding the
897 other provisions of the Youth Court Law. The proceedings in
898 chancery court on the abuse or neglect charge shall be
899 confidential in the same manner as provided in youth court
900 proceedings, and the chancery court shall appoint a guardian ad
901 litem in such cases, as provided under Section 43-21-121 for youth
902 court proceedings, who shall be an attorney. Unless the chancery
903 court's jurisdiction has been terminated, all disposition orders
904 in such cases for placement with the Department of Human Services
905 shall be reviewed by the court or designated authority at least
906 annually to determine if continued placement with the department
907 is in the best interest of the child or the public.

908 (5) Each party to a paternity or child support proceeding
909 shall notify the other within five (5) days after any change of
910 address. In addition, the noncustodial and custodial parent shall
911 file and update, with the court and with the state case registry,
912 information on that party's location and identity, including
913 social security number, residential and mailing addresses,
914 telephone numbers, photograph, driver's license number, and name,
915 address and telephone number of the party's employer. This
916 information shall be required upon entry of an order or within
917 five (5) days of a change of address.

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

921 (7) In any subsequent child support enforcement action
922 between the parties, upon sufficient showing that diligent effort
923 has been made to ascertain the location of a party, due process
924 requirements for notice and service of process shall be deemed to

925 be met with respect to the party upon delivery of written notice
926 to the most recent residential or employer address filed with the
927 state case registry.

928 (8) The duty of support of a child terminates upon the
929 emancipation of the child. The court may determine that
930 emancipation has occurred and no other support obligation exists
931 when the child:

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

933 (b) Marries, or

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

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

941 SECTION 8. Section 93-11-103, Mississippi Code of 1972, is
942 amended as follows:[CSQ8]

943 **[Until July 1, 2002, this section shall read as follows:]**

944 93-11-103. (1) **Child support orders enforced by Department**
945 **of Human Services.** Upon entry of any order for support by a court
946 of this state where the custodial parent is a recipient of
947 services under Title IV-D of the federal Social Security Act,
948 issued on or after October 1, 1996, the court entering such order
949 shall enter a separate order for withholding which shall take
950 effect immediately without any requirement that the obligor be
951 delinquent in payment. All such orders for support issued prior
952 to October 1, 1996, shall, by operation of law, be amended to
953 conform with the provisions contained herein. All such orders for
954 support issued shall:

955 (a) Contain a provision for monthly income withholding
956 procedures to take effect in the event the obligor becomes
957 delinquent in paying the order for support without further

958 amendment to the order or further action by the court; and

959 (b) Require that the payor withhold any additional
960 amount for delinquency specified in any order if accompanied by an
961 affidavit of accounting, a notarized record of overdue payments or
962 an attested judgment for delinquency or contempt. Any person who
963 willfully and knowingly files a false affidavit, record or
964 judgment shall be subject to a fine of not more than One Thousand
965 Dollars (\$1,000.00). The Department of Human Services shall be
966 the designated agency to receive payments made by income
967 withholding in child support orders enforced by the department.
968 All withholding orders shall be on a form as prescribed by the
969 department.

970 (2) **Child support orders not enforced by the Department of**
971 **Human Services.** Upon entry of any order for support by a court of
972 this state where the custodial parent is not a recipient of
973 services under Title IV-D of the federal Social Security Act,
974 issued or modified or found to be in arrears on or after January
975 1, 1994, the court entering such order shall enter a separate
976 order for withholding which shall take effect immediately. Such
977 orders shall not be subject to immediate income withholding under
978 this subsection (a) if one (1) of the parties (i.e. noncustodial
979 or custodial parent) demonstrates, and the court finds, that there
980 is good cause not to require immediate income withholding, or (b)
981 if both parties agree in writing to an alternative arrangement.
982 Income withholding must be administered by the department through
983 the Central Receipting and Disbursement Unit. The Department of
984 Human Services shall be the designated agency to receive payments
985 made by income withholding in all child support orders. All
986 withholding orders shall be on a form as prescribed by the
987 department.

988 (3) If a child support order is issued or modified in the
989 state but is not subject to immediate income withholding, it
990 automatically becomes so if the court finds that a support payment

991 is thirty (30) days past due. If the support order was issued or
992 modified in another state but is not subject to immediate income
993 withholding, it becomes subject to immediate income withholding on
994 the date on which child support payments are at least thirty (30)
995 days in arrears, or (a) the date as of which the noncustodial
996 parent requests that withholding begin, (b) the date as of which
997 the custodial parent requests that withholding begin, or (c) an
998 earlier date chosen by the court whichever is earlier.

999 (4) The clerk of the court shall submit copies of such
1000 orders to the obligor's payor, any additional or subsequent payor,
1001 and to the Mississippi Department of Human Services Case Registry.
1002 The clerk of the court, the obligee's attorney, or the
1003 department's attorney may serve such immediate order for
1004 withholding by first class mail or personal delivery on the
1005 obligor's payor, superintendent, manager, agent or subsequent
1006 payor, as the case may be. In a case where the obligee's attorney
1007 or the department's attorney serves such immediate order, the
1008 attorney shall notify the clerk of the court in writing, which
1009 notice shall be placed in the court file. There shall be no need
1010 for further notice, hearing, order, process or procedure before
1011 service of said order on the payor or any additional or subsequent
1012 payor. The obligor may contest, if grounds exist, service of the
1013 order of withholding on additional or subsequent payors, by filing
1014 an action with the issuing court. Such filing shall not stay the
1015 obligor's duty to support pending judicial determination of the
1016 obligor's claim. Nothing herein shall be construed to restrict
1017 the authority of the courts of this state from entering any order
1018 it deems appropriate to protect the rights of any parties
1019 involved.

1020 (5) The order for withholding shall:

1021 (a) Direct any payor to withhold an amount equal to the
1022 order for current support;

1023 (b) Direct any payor to withhold an additional amount,

1024 not less than ten percent (10%) of the order for support, until
1025 payment in full of any delinquency; and

1026 (c) Direct the payor not to withhold in excess of the
1027 amounts allowed under Section 303(b) of the Consumer Credit
1028 Protection Act, being 15 USCS 1673, as amended.

1029 (6) All orders for withholding may permit the Department of
1030 Human Services to withhold through said withholding order
1031 additional amounts to recover costs incurred through its efforts
1032 to secure the support order, including, but not limited to, all
1033 filing fees, court costs, service of process fees, mailing costs,
1034 birth certificate certification fee, genetic testing fees, the
1035 department's attorney's fees; and, in cases where the state or any
1036 of its entities or divisions have provided medical services to the
1037 child or the child's mother, all medical costs of prenatal care,
1038 birthing, postnatal care and any other medical expenses incurred
1039 by the child or by the mother as a consequence of her pregnancy or
1040 delivery.

1041 (7) At the time the order for withholding is entered, the
1042 clerk of the court shall provide copies of the order for
1043 withholding and the order for support to the obligor, which shall
1044 be accompanied by a statement of the rights, remedies and duties
1045 of the obligor under Sections 93-11-101 through 93-11-119. The
1046 clerk of the court shall make copies available to the obligee and
1047 to the department or its local attorney.

1048 (8) The order for withholding shall remain in effect for as
1049 long as the order for support upon which it is based.

1050 (9) The failure of an order for withholding to state an
1051 arrearage is not conclusive of the issue of whether an arrearage
1052 is owing.

1053 (10) Any order for withholding entered pursuant to this
1054 section shall not be considered a garnishment.

1055 (11) All existing orders for support shall become subject to
1056 additional withholding if arrearages occur, subject to court

1057 hearing and order. The Department of Human Services or the
1058 obligee or his agent or attorney must send to each delinquent
1059 obligor notice that:

1060 (a) The withholding on the delinquency has commenced;

1061 (b) The information along with the required affidavit
1062 of accounting, notarized record of overdue payment or attested
1063 judgment of delinquency or contempt has been sent to the employer;
1064 and

1065 (c) The obligor may file an action with the issuing
1066 court on the grounds of mistake of fact. Such filing must be made
1067 within thirty (30) days of receipt of the notice and shall not
1068 stay the obligor's duty to support pending judicial determination
1069 of the obligor's claim.

1070 (12) An employer who complies with an income withholding
1071 notice that is regular on its face and which is accompanied by the
1072 required accounting affidavit, notarized record of overdue
1073 payments or attested judgment of delinquency or contempt shall not
1074 be subject to civil liability to any individual or agency for
1075 conduct in compliance with the notice.

1076 **[From and after July 1, 2002, this section shall read as**
1077 **follows:]**

1078 93-11-103. (1) **Child support orders enforced by Department**
1079 **of Human Services.** Upon entry of any order for support by a court
1080 of this state where the custodial parent is a recipient of
1081 services under Title IV-D of the federal Social Security Act,
1082 issued on or after October 1, 1996, the court entering such order
1083 shall enter a separate order for withholding which shall take
1084 effect immediately without any requirement that the obligor be
1085 delinquent in payment. All such orders for support issued prior
1086 to October 1, 1996, shall, by operation of law, be amended to
1087 conform with the provisions contained herein. All such orders for
1088 support issued shall:

1089 (a) Contain a provision for monthly income withholding

1090 procedures to take effect in the event the obligor becomes
1091 delinquent in paying the order for support without further
1092 amendment to the order or further action by the court; and

1093 (b) Require that the payor withhold any additional
1094 amount for delinquency specified in any order if accompanied by an
1095 affidavit of accounting, a notarized record of overdue payments or
1096 an attested judgment for delinquency or contempt. Any person who
1097 willfully and knowingly files a false affidavit, record or
1098 judgment shall be subject to a fine of not more than One Thousand
1099 Dollars (\$1,000.00). The Department of Human Services shall be
1100 the designated agency to receive payments made by income
1101 withholding in child support orders enforced by the department.

1102 (2) **Child support orders not enforced by the Department of**
1103 **Human Services.** Upon entry of any order for support by a court of
1104 this state where the custodial parent is not a recipient of
1105 services under Title IV-D of the federal Social Security Act,
1106 issued or modified or found to be in arrears on or after January
1107 1, 1994, the court entering such order shall enter a separate
1108 order for withholding which shall take effect immediately. Such
1109 orders shall not be subject to immediate income withholding under
1110 this subsection (a) if one (1) of the parties (i.e. noncustodial
1111 or custodial parent) demonstrates, and the court finds, that there
1112 is good cause not to require immediate income withholding, or (b)
1113 if both parties agree in writing to an alternative arrangement.
1114 The court may designate the person or entity to receive payments
1115 made by income withholding.

1116 (3) If a child support order is issued or modified in the
1117 state but is not subject to immediate income withholding, it
1118 automatically becomes so if the court finds that a support payment
1119 is thirty (30) days past due. If the support order was issued or
1120 modified in another state but is not subject to immediate income
1121 withholding, it becomes subject to immediate income withholding on
1122 the date on which child support payments are at least thirty (30)

1123 days in arrears, or (a) the date as of which the noncustodial
1124 parent requests that withholding begin, (b) the date as of which
1125 the custodial parent requests that withholding begin, or (c) an
1126 earlier date chosen by the court whichever is earlier.

1127 (4) The clerk of the court shall submit copies of such
1128 orders to the obligor's payor, any additional or subsequent payor,
1129 and to the Mississippi Department of Human Services Case Registry.
1130 The clerk of the court, the obligee's attorney, or the
1131 department's attorney may serve such immediate order for
1132 withholding by first class mail or personal delivery on the
1133 obligor's payor, superintendent, manager, agent or subsequent
1134 payor, as the case may be. In a case where the obligee's attorney
1135 or the department's attorney serves such immediate order, the
1136 attorney shall notify the clerk of the court in writing, which
1137 notice shall be placed in the court file. There shall be no need
1138 for further notice, hearing, order, process or procedure before
1139 service of said order on the payor or any additional or subsequent
1140 payor. The obligor may contest, if grounds exist, service of the
1141 order of withholding on additional or subsequent payors, by filing
1142 an action with the issuing court. Such filing shall not stay the
1143 obligor's duty to support pending judicial determination of the
1144 obligor's claim. Nothing herein shall be construed to restrict
1145 the authority of the courts of this state from entering any order
1146 it deems appropriate to protect the rights of any parties
1147 involved.

1148 (5) The order for withholding shall:

1149 (a) Direct any payor to withhold an amount equal to the
1150 order for current support;

1151 (b) Direct any payor to withhold an additional amount,
1152 not less than ten percent (10%) of the order for support, until
1153 payment in full of any delinquency; and

1154 (c) Direct the payor not to withhold in excess of the
1155 amounts allowed under Section 303(b) of the Consumer Credit

1156 Protection Act, being 15 USCS 1673, as amended.

1157 (6) All orders for withholding may permit the Department of
1158 Human Services to withhold through said withholding order
1159 additional amounts to recover costs incurred through its efforts
1160 to secure the support order, including, but not limited to, all
1161 filing fees, court costs, service of process fees, mailing costs,
1162 birth certificate certification fee, genetic testing fees, the
1163 department's attorney's fees; and, in cases where the state or any
1164 of its entities or divisions have provided medical services to the
1165 child or the child's mother, all medical costs of prenatal care,
1166 birthing, postnatal care and any other medical expenses incurred
1167 by the child or by the mother as a consequence of her pregnancy or
1168 delivery.

1169 (7) At the time the order for withholding is entered, the
1170 clerk of the court shall provide copies of the order for
1171 withholding and the order for support to the obligor, which shall
1172 be accompanied by a statement of the rights, remedies and duties
1173 of the obligor under Sections 93-11-101 through 93-11-119. The
1174 clerk of the court shall make copies available to the obligee and
1175 to the department or its local attorney.

1176 (8) The order for withholding shall remain in effect for as
1177 long as the order for support upon which it is based.

1178 (9) The failure of an order for withholding to state an
1179 arrearage is not conclusive of the issue of whether an arrearage
1180 is owing.

1181 (10) Any order for withholding entered pursuant to this
1182 section shall not be considered a garnishment.

1183 (11) All existing orders for support shall become subject to
1184 additional withholding if arrearages occur, subject to court
1185 hearing and order. The Department of Human Services or the
1186 obligee or his agent or attorney must send to each delinquent
1187 obligor notice that:

1188 (a) The withholding on the delinquency has commenced;

1189 (b) The information along with the required affidavit
1190 of accounting, notarized record of overdue payment or attested
1191 judgment of delinquency or contempt has been sent to the employer;
1192 and

1193 (c) The obligor may file an action with the issuing
1194 court on the grounds of mistake of fact. Such filing must be made
1195 within thirty (30) days of receipt of the notice and shall not
1196 stay the obligor's duty to support pending judicial determination
1197 of the obligor's claim.

1198 (12) An employer who complies with an income withholding
1199 notice that is regular on its face and which is accompanied by the
1200 required accounting affidavit, notarized record of overdue
1201 payments or attested judgment of delinquency or contempt shall not
1202 be subject to civil liability to any individual or agency for
1203 conduct in compliance with the notice.

1204 SECTION 9. Section 93-11-105, Mississippi Code of 1972, is
1205 amended as follows:[CSQ9]

1206 **[Until July 1, 2002, this section shall read as follows:]**

1207 93-11-105. (1) Notwithstanding the provisions of Section
1208 93-11-103, the Department of Human Services shall be authorized to
1209 implement administrative orders for withholding without the
1210 necessity of obtaining an order through judicial proceedings. The
1211 administrative order for withholding shall be implemented pursuant
1212 to a previously rendered order for support and shall be on a form
1213 prescribed by the Department of Human Services. Unless
1214 inconsistent with the provisions of this section, the order for
1215 withholding shall be subject to the same requirements as provided
1216 in Sections 93-11-101 through 93-11-118.

1217 (2) The administrative order shall be filed with the clerk
1218 by the department and a copy shall be transmitted to the obligor
1219 by regular mail to the last known address of the obligor.

1220 (3) The order for withholding shall:

1221 (a) Direct any payor to withhold an amount equal to the

1222 order for the current support obligation;

1223 (b) Direct any payor to withhold an additional amount
1224 equal to twenty percent (20%) of the current support obligation,
1225 unless a different amount has been previously ordered by the
1226 court, until payment in full of any delinquency; and

1227 (c) Direct the payor not to withhold in excess of the
1228 amounts allowed under Section 303(b) of the Consumer Credit
1229 Protection Act, being 15 USCS 1673, as amended.

1230 [From and after July 1, 2002, this section shall read as
1231 follows:]

1232 93-11-105. (1) Notwithstanding the provisions of Section
1233 93-11-103, the Department of Human Services shall be authorized to
1234 implement administrative orders for withholding without the
1235 necessity of obtaining an order through judicial proceedings. The
1236 administrative order for withholding shall be implemented pursuant
1237 to a previously rendered order for support and shall be on a form
1238 prescribed by the Department of Human Services. Unless
1239 inconsistent with the provisions of this section, the order for
1240 withholding shall be subject to the same requirements as provided
1241 in Sections 93-11-101 through 93-11-118.

1242 (2) The administrative order shall be filed with the clerk
1243 by the department and a copy shall be transmitted to the obligor
1244 by certified mail, restricted delivery, return receipt requested;
1245 notice shall be deemed complete as of the date of delivery as
1246 evidences by the return receipt. The required notice may also be
1247 delivered by personal service in accordance with Rule 4 of the
1248 Mississippi Rules of Civil Procedure insofar as it may be applied
1249 to service of an administrative order or notice.

1250 (3) The order for withholding shall:

1251 (a) Direct any payor to withhold an amount equal to the
1252 order for the current support obligation;

1253 (b) Direct any payor to withhold an additional amount
1254 equal to twenty percent (20%) of the current support obligation,

1255 unless a different amount has been previously ordered by the
1256 court, until payment in full of any delinquency; and

1257 (c) Direct the payor not to withhold in excess of the
1258 amounts allowed under Section 303(b) of the Consumer Credit
1259 Protection Act, being 15 USCS 1673, as amended.

1260 SECTION 10. This act shall take effect and be in force from
1261 and after July 1, 2000.