

By: Huggins

To: Public Health and  
Welfare; JudiciarySENATE BILL NO. 2840  
(As Passed the Senate)

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.