

By: Representative Reeves

To: Judiciary A

HOUSE BILL NO. 116

1 AN ACT TO AMEND SECTION 43-19-101, MISSISSIPPI CODE OF 1972,
2 TO REVISE CHILD SUPPORT AWARD GUIDELINES; TO PROVIDE THAT GAMING
3 AND BINGO PROCEEDS SHALL BE SUBJECT TO CHILD SUPPORT JUDGMENTS; TO
4 REQUIRE REPORTING OF SUCH PROCEEDS; TO PROVIDE PENALTIES FOR
5 VIOLATIONS OF THIS ACT; TO AMEND SECTION 93-11-71, MISSISSIPPI
6 CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; TO
7 ENCOURAGE GAMING ENTITIES NOT SUBJECT TO STATE REGULATION TO
8 COMPLY WITH THIS ACT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 43-19-101, Mississippi Code of 1972, is
11 amended as follows:

12 43-19-101. (1) The following child support award guidelines
13 shall be a rebuttable presumption in all judicial or
14 administrative proceedings regarding the awarding or modifying of
15 child support awards in this state:

Number Of Children Due Support	Percentage Of Adjusted Gross Income That Should Be Awarded For Support
1	<u>19%</u>
2	<u>25%</u>
3	<u>27%</u>
4	<u>29%</u>
5 or more	<u>31%</u>

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



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

32 (a) Determine gross income from all potential sources
33 that may reasonably be expected to be available to the absent
34 parent including, but not limited to, the following: wages and
35 salary income; income from self employment; income from
36 commissions; income from investments, including dividends,
37 interest income and income on any trust account or property;
38 absent parent's portion of any joint income of both parents;
39 workers' compensation, disability, unemployment, annuity and
40 retirement benefits, including an individual retirement account
41 (IRA); any other payments made by any person, private entity,
42 federal or state government or any unit of local government;
43 alimony; any income earned from an interest in or from inherited
44 property; any other form of earned income; and gross income shall
45 exclude any monetary benefits derived from a second household,
46 such as income of the absent parent's current spouse;

47 (b) Subtract the following legally mandated deductions:

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

51 (ii) Social security contributions;

52 (iii) Retirement and disability contributions
53 except any voluntary retirement and disability contributions;

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

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



61 (e) Compute the total annual amount of adjusted gross
62 income based on paragraphs (a) through (d), then divide this
63 amount by twelve (12) to obtain the monthly amount of adjusted
64 gross income.

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

69 (4) In cases in which the adjusted gross income as defined
70 in this section is more than Fifty Thousand Dollars (\$50,000.00)
71 or less than Five Thousand Dollars (\$5,000.00), the court shall
72 make a written finding in the record as to whether or not the
73 application of the guidelines established in this section is
74 reasonable.

75 (5) The Department of Human Services shall review the
76 appropriateness of these guidelines beginning January 1, 1994, and
77 every four (4) years thereafter and report its findings to the
78 Legislature no later than the first day of the regular legislative
79 session of that year. The Legislature shall thereafter amend
80 these guidelines when it finds that amendment is necessary to
81 ensure that equitable support is being awarded in all cases
82 involving the support of minor children.

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

88 **SECTION 2.** (1) Gaming proceeds (proceeds) shall be subject
89 to encumbrance for delinquent child support payments assessed by a
90 court of competent jurisdiction or as otherwise provided in Titles
91 43 and 93, Mississippi Code of 1972.

92 (2) Proceeds in the amount of One Thousand Two Hundred
93 Dollars (\$1,200.00) or more for slot machines and in the amount of



94 Ten Thousand Dollars (\$10,000.00) or more for all games except
95 slot machines as the term "game" is defined in Section 75-76-5
96 shall be reported by the payor to the Mississippi Department of
97 Human Services, Division of Child Support Enforcement (the
98 department) pursuant to the provisions set forth herein.

99 (3) Any person to whom a duty of child support is owed must
100 provide a copy of the order requiring a payee to pay such child
101 support to the department in order to receive proceeds under this
102 act. The order shall be maintained in a registry by the
103 department which shall be current and which shall be easily
104 accessed by a payor through electronic media or other means which
105 provides instant accessibility.

106 (4) If it is determined that the payee has a child support
107 delinquency, proceeds up to the full amount of the delinquency
108 shall be withheld and disbursed to the department or to the
109 attorney of record in cases not involving the department. If a
110 payee contests such delinquency, the proceeds shall be held by the
111 department until the final disposition of such contest. Proceeds
112 beyond the amount of the delinquency shall be delivered to the
113 payee.

114 (5) The payee shall have available to him or her the
115 opportunity to contest the accuracy of said payee's identity or
116 the reported amount of the delinquency:

117 (a) The payee shall have the right to a review of the
118 department's claim of the proceeds. To request such review, the
119 payee must contact the office of the department in the county in
120 which the child support order is entered. Such contact must be
121 made within five (5) business days from the date upon which the
122 payee seeks payment of the proceeds from the payor.

123 (b) The department shall grant a review which shall
124 occur within twenty-four (24) business hours if contact is made
125 with the office by personal appearance, telephone or electronic



126 medium. If contact is made by writing, such review shall occur
127 within five (5) business days of receipt of such contact.

128 (c) The payee may contest the determination of the
129 review by filing a petition with a court of competent jurisdiction
130 as in any matter governed by Rule 81(d)(2) of the Mississippi
131 Rules of Civil Procedure. Service upon the department shall be
132 made as provided by Rule 4(d)(5).

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

137 (e) Any administrative and legal fees incurred by the
138 payor or the department throughout the procedures described herein
139 or pursuant to such procedures shall be assessed to the payee in
140 the event the proceeds are forwarded to the department.

141 (6) In proceedings not involving the department a payee
142 shall have thirty (30) days from the commencement of proceedings
143 under this act to contest such proceedings. A contest of such
144 proceedings shall be in the court which issued the obligation of
145 support against the payee.

146 (7) For the purposes of this section, the following words
147 and phrases shall have the meanings ascribed herein unless the
148 context clearly indicates otherwise:

149 (a) "Gaming proceeds" or "proceeds" shall mean any
150 monies paid in lump sum or otherwise to an individual from
151 lotteries, games or gambling games as defined by Section
152 75-76-5(k), or games or gambling games as described by Section
153 97-33-50, et seq.

154 (b) "Child support delinquency" shall have the same
155 meaning as that given it in Section 93-11-101.

156 (c) "Payor" shall mean the individual, agent or entity,
157 licensed or unlicensed, disbursing the gaming proceeds to the
158 payee.



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

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

164 (9) Notwithstanding any provision of this or any other
165 section of the Mississippi Code, the Department of Human Services
166 shall not be prohibited from entering into a contractual or other
167 similar arrangement with any individual, agent, entity or payor
168 conducting such games or gambling games in Mississippi as are
169 addressed herein.

170 (10) A payor shall be immune from any civil action for
171 compliance with the provisions of this act provided that such
172 compliance is in good faith.

173 **SECTION 3.** Section 93-11-71, Mississippi Code of 1972, is
174 amended as follows:

175 93-11-71. (1) Whenever a court orders any person to make
176 periodic payments of a sum certain for the maintenance or support
177 of a child, and whenever such payments as have become due remain
178 unpaid for a period of at least thirty (30) days, a judgment by
179 operation of law shall arise against the obligor in an amount
180 equal to all payments which are then due and owing.

181 (a) A judgment arising under this section shall have
182 the same effect and be fully enforceable as any other judgment
183 entered in this state. A judicial or administrative action to
184 enforce said judgment may be commenced at any time; and

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

187 (2) Any judgment arising under the provisions of this
188 section shall operate as a lien upon all the property of the
189 judgment debtor, both real and personal, which lien shall be
190 perfected as to third parties without actual notice thereof only
191 upon enrollment on the judgment roll. The department or attorney



192 representing the party to whom support is owed shall furnish an
193 abstract of the judgment for periodic payments for the maintenance
194 and support of a child, along with sworn documentation of the
195 delinquent child support, to the circuit clerk of the county where
196 the judgment is rendered, and it shall be the duty of the circuit
197 clerk to enroll the judgment on the judgment roll. Liens arising
198 under the provisions of this section may be executed upon and
199 enforced in the same manner and to the same extent as any other
200 judgment.

201 (3) Notwithstanding the provisions in paragraph (2), any
202 judgment arising under the provisions of this section shall
203 subject the following assets to interception or seizure without
204 regard to the entry of the judgment on the judgment roll of the
205 situs district or jurisdiction:

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

209 (b) Winnings from lotteries and gaming winnings * * *;

210 (c) Assets held in financial institutions;

211 (d) Settlements and awards resulting from civil
212 actions; and

213 (e) Public and private retirement funds, only to the
214 extent that the obligor is qualified to receive and receives a
215 lump sum or periodic distribution from the funds.

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

221 **SECTION 4.** The Governor shall make a good faith effort to
222 enter into a compact with any Native Americans operating gaming
223 activities to encourage voluntary compliance with the provisions
224 of this act.



225 **SECTION 5.** This act shall take effect and be in force from
226 and after July 1, 2002.

