

By: Senator(s) Huggins

To: Public Health and Welfare

SENATE BILL NO. 2470

1 AN ACT TO AMEND SECTIONS 43-19-31 AND 43-19-35, MISSISSIPPI
2 CODE OF 1972, TO CLARIFY THE RANGE OF SERVICES TO BE PROVIDED BY
3 THE DEPARTMENT OF HUMAN SERVICES THROUGH ITS SEPARATE CHILD
4 SUPPORT UNIT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-19-31, Mississippi Code of 1972, is
7 amended as follows:

8 43-19-31. The Department of Human Services is hereby
9 authorized and empowered to establish a single and separate Child
10 Support Unit for the following purposes:

11 (a) To develop and implement a nonsupport and paternity
12 program and institute proceedings in the name of the Department of
13 Human Services or in the name of the recipient in any court of
14 competent jurisdiction in any county where the mother of the child
15 resides or is found, in the county where the father resides or is
16 found, or in the county where the child resides or is found;

17 (b) To secure, modify, enforce and collect support by
18 any method authorized under state law and establish paternity for
19 any child or children receiving aid from the department any form
20 of public assistance, including, but not limited to, medical
21 assistance, foster care, food stamps, TANF, or any other program
22 under the federal Social Security Act, from a parent or any other
23 person legally liable for such support who has either failed or
24 refused to provide support, deserted, neglected or abandoned the
25 child or children, including cooperating with other states in
26 establishing paternity, locating absent parents and securing
27 compliance with court orders for support of Temporary Assistance
28 for Needy Families (TANF) children; the department may petition



29 the court for the inclusion of health insurance as part of any
30 child support order on behalf of any child receiving aid from the
31 department unless good cause for noncooperation, as defined by the
32 Social Security Act or the Mississippi Department of Human
33 Services, is established. Whenever a child or children for whom
34 child support services have been provided ceases to receive public
35 assistance, the department shall continue to provide services and
36 establish paternity, secure, modify, enforce and collect such
37 support payments from a parent or any other person legally liable
38 for such support in accordance with the standards prescribed
39 pursuant to the federal Social Security Act;

40 (c) To accept applications for child support
41 enforcement services to establish paternity, secure, modify,
42 enforce and collect support from any proper party or person as
43 defined by Title IV-D of the federal Social Security Act
44 notwithstanding the fact that the child or children do not
45 currently receive or have never received public assistance. The
46 department shall have the authority to secure, modify, enforce and
47 collect support by any method authorized under state law and
48 establish paternity for any child or children on behalf of a
49 recipient of child support services including individuals who do
50 not currently receive or have never received public assistance
51 from a parent or any other person legally liable for such support
52 who has either failed or refused to provide support, deserted,
53 neglected or abandoned the child or children, including
54 cooperating with other states in establishing paternity, locating
55 absent parents and securing compliance with court orders for
56 support; the department may petition the court for the inclusion
57 of health insurance as part of any child support order on behalf
58 of such recipients of child support services. The proceeds of any
59 collections resulting from such application shall be distributed
60 in accordance with the standards prescribed in the federal Social
61 Security Act;



62 (d) The department shall seek to recover from the
63 individual who owes a support obligation to any individual who is
64 a recipient of Title IV-D services as set forth in paragraph (b)
65 or (c) on whose behalf the department is providing services, upon
66 judicial proceedings conducted thereon after advance notice to
67 such obligor, reasonable attorney's fees and court costs, in
68 excess of any administrative fees collected and in excess of
69 amounts of current support owed by the obligor, which the
70 department incurs in recovering and collecting the support
71 obligation, such costs as the department recovers to be deposited
72 in the General Fund of the State Treasury;

73 (e) To initiate contempt of court proceedings or any
74 other remedial proceedings necessary to enforce (i) any order or
75 decree of court relating to child support, and (ii) any order or
76 decree of court relating to the maintenance and/or alimony of a
77 parent where support collection services on his or her child's
78 behalf are being provided by the department;

79 (f) To secure and collect by any method authorized
80 under state law any maintenance and/or alimony on behalf of a
81 parent whose child or children's support is being collected by the
82 department. The department shall collect only such maintenance
83 and/or alimony as is ordered or decreed by the court, and only in
84 the event that the minor child and parent to whom such maintenance
85 and/or alimony has been ordered are living in the same household;

86 (g) To obtain restitution of monies expended for public
87 assistance from a parent or any other person legally liable for
88 the support of any child or children receiving aid from the
89 department; said action for restitution shall arise from the
90 payment of public assistance for the dependent child or children
91 and shall be for the amount of the public assistance paid. Said
92 action for restitution shall not arise against the parent or other
93 person legally responsible who receives public assistance for the
94 benefit of any dependent child or children. When a court order of



95 support has been issued, the amount recoverable shall be limited
96 to the amount of the court order;

97 (h) Setting off against a debtor's income tax refund or
98 rebate any debt which is in the form of a liquidated sum due and
99 owing for the care, support or maintenance of a child;

100 (i) To have full responsibility in the aforementioned
101 cases for initiating actions under the Uniform Interstate Family
102 Support Act and for responding to the actions of other
103 jurisdictions under said law when Mississippi is the responding
104 state; however, this shall not impair private litigants' rights to
105 proceed under any applicable interstate enforcement mechanisms;

106 (j) To enter into contracts for the purpose of
107 performing any test which the department may, from time to time,
108 require;

109 (k) To maintain a Central Receipting and Disbursement
110 Unit to which all payments required by withholding orders and
111 orders for support in all actions to which the Department of Human
112 Services is a party shall be forwarded, and from which child
113 support payments ordered by the court in actions to which the
114 Department of Human Services is a party shall be disbursed to the
115 custodial parent or other such party as may be designated by the
116 court order. The Central Receipting and Disbursement Unit shall
117 be operated by the Department of Human Services or any financial
118 institution having operations and qualified to do business in
119 Mississippi, whose deposits are insured by the Federal Deposit
120 Insurance Corporation. The department shall conduct cost-benefit
121 analyses to determine and utilize the more cost efficient manner
122 of operating the unit;

123 (l) To maintain a Mississippi Department of Human
124 Services Case Registry containing records with respect to:

125 (i) Each case in which services are being provided
126 by the department under this section; and



127 (ii) Each support order established or modified in
128 Mississippi on or after October 1, 1998; and

129 (iii) The Administrative Office of Courts, as
130 established by Section 9-21-1, Mississippi Code of 1972, in
131 consultation with the Mississippi Department of Human Services,
132 shall devise, promulgate and require the use of a Uniform Child
133 Support Order Tracking System.

134 (A) Information collected from case filing
135 forms shall be furnished to the Mississippi Department of Human
136 Services, Division of Child Support Enforcement, in order that
137 compliance with court-ordered obligations of support may be
138 tracked with specificity throughout the duration of said
139 obligations and any subsequent proceedings.

140 (B) Such tracking system shall include: 1.
141 the names, residential and mailing addresses, telephone numbers,
142 Social Security numbers, driver's license numbers and dates of
143 birth of each child and parent named in or subject to the court
144 order; 2. the court cause number of the action; 3. name, address
145 and telephone number of employer; 4. any restraining or protective
146 order indicating domestic violence; and 5. any other information
147 which may be used for the purpose of identifying any person named
148 in or subject to the order or for the purposes of establishing,
149 enforcing or modifying a child support order; and

150 (m) To take administrative actions relating to genetic
151 testing, modification of child support orders, income withholding,
152 liens and subpoenas without the necessity of obtaining an order
153 from any judicial or other administrative tribunal with respect to
154 cases initiated or enforced by the department pursuant to Title
155 IV-D of the Social Security Act;

156 (n) To have the authority to use high-volume automated
157 administrative enforcement in interstate cases to the same extent
158 as used for intrastate cases, in response to a request made by
159 another state to enforce support orders;



160 (o) To provide any child support enforcement or other
161 service as may be required by the United States of America,
162 Department of Health and Human Services, Family Support
163 Administration, Office of Child Support Enforcement or their
164 successor pursuant to federal law or regulation.

165 **SECTION 2.** Section 43-19-35, Mississippi Code of 1972, is
166 amended as follows:

167 43-19-35. (1) A person who accepts or has accepted public
168 assistance or who makes application for child support services for
169 or on behalf of a child or children * * * shall be deemed to have
170 made an assignment to the State Department of Human Services of
171 any and all rights and interests in any cause of action, past,
172 present or future, that the person or the children may have
173 against any parent failing to provide for the support and
174 maintenance of said minor child or children * * *; said department
175 shall be subrogated to any and all rights, title and interest the
176 recipient or the children may have against any and all property
177 belonging to the absent or nonsupporting parent in the enforcement
178 of any claim for child or spousal support, whether liquidated
179 through court order or not. The recipient of Title IV-D services
180 shall also be deemed, without the necessity of signing any
181 document, to have appointed the State Department of Human Services
182 to act in his or her, as well as the children's, name, place, and
183 stead to perform the specific act of instituting suit to establish
184 paternity or secure support, collecting any and all amounts due
185 and owing for child or spousal support or any other service as
186 required or permitted under Title IV-D of the federal Social
187 Security Act, and endorsing any and all drafts, checks, money
188 orders or other negotiable instruments representing child or
189 spousal support payments which are received on behalf of the
190 recipient or the children, and retaining any portion thereof
191 permitted under federal and state statutes as reimbursement for



192 public assistance monies previously paid to the recipient or
193 children.

194 (2) Court orders of support for any child or children
195 receiving services through Title IV-D of the federal Social
196 Security Act shall be amended, by operation of law, and without
197 the necessity of a motion by the Child Support Unit and a hearing
198 thereon to provide that the payment of support shall be directed
199 by the absent parent to the Mississippi Department of Human
200 Services Central Receipting and Disbursement Unit as provided in
201 Section 43-19-37 and not to the recipient. The absent parent
202 shall be notified of such amendment prior to it taking effect.

203 (3) Any attorney authorized by the state to initiate any
204 action pursuant to Title IV-D of the federal Social Security Act,
205 including, but not limited to, any action initiated pursuant to
206 Sections 43-19-31 et seq. and 93-25-1 et seq. shall be deemed to
207 represent the interest of the State Department of Human Services
208 exclusively; no attorney-client relationship shall exist between
209 said attorney and any recipient of services pursuant to Title IV-D
210 of the federal Social Security Act for and on behalf of a child or
211 children, regardless of the name in which the legal proceedings
212 are initiated. Said attorney representing the state in a Title
213 IV-D case is only authorized to appear and prosecute and/or defend
214 issues of support and cannot in a Title IV-D case address or
215 provide representation to the Title IV-D client on any other
216 ancillary issues raised or presented in that action.

217 (4) Said assignment to the State Department of Human
218 Services shall be free of any legal or equitable defense to the
219 payment of child support that may accrue to any person legally
220 liable for the support of any child or children receiving aid from
221 the State Department of Human Services, as a result of the conduct
222 of the person who is accepting public assistance for and on behalf
223 of said child or children.



224 **SECTION 3.** This act shall take effect and be in force from
225 and after its passage.

