

## REPORT OF CONFERENCE COMMITTEE

**MADAM PRESIDENT AND MR. SPEAKER:**

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2493: Emancipation of a minor and recovery of child support payments in arrears in such cases; provide for.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
  
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

12           **SECTION 1.** Section 93-5-23, Mississippi Code of 1972, is  
13 amended as follows:  
14           93-5-23. (1) When a divorce shall be decreed from the bonds  
15 of matrimony, the court may, in its discretion, having regard to  
16 the circumstances of the parties and the nature of the case, as  
17 may seem equitable and just, make all orders touching the care,  
18 custody and maintenance of the children of the marriage, and also  
19 touching the maintenance and alimony of the wife or the husband,  
20 or any allowance to be made to her or him, and shall, if need be,  
21 require bond, sureties or other guarantee for the payment of the  
22 sum so allowed. Orders touching on the custody of the children of  
23 the marriage shall be made in accordance with the provisions of  
24 Section 93-5-24. The court may afterwards, on petition, change  
25 the decree, and make from time to time such new decrees as the  
26 case may require. However, where proof shows that both parents  
27 have separate incomes or estates, the court may require that each  
28 parent contribute to the support and maintenance of the children  
29 of the marriage in proportion to the relative financial ability of  
30 each. In the event a legally responsible parent has health  
31 insurance available to him or her through an employer or  
32 organization that may extend benefits to the dependents of such  
33 parent, any order of support issued against such parent may

34 require him or her to exercise the option of additional coverage  
35 in favor of such children as he or she is legally responsible to  
36 support.

37 (2) Whenever the court has ordered a party to make periodic  
38 payments for the maintenance or support of a child, but no bond,  
39 sureties or other guarantee has been required to secure such  
40 payments, and whenever such payments as have become due remain  
41 unpaid for a period of at least thirty (30) days, the court may,  
42 upon petition of the person to whom such payments are owing, or  
43 such person's legal representative, enter an order requiring that  
44 bond, sureties or other security be given by the person obligated  
45 to make such payments, the amount and sufficiency of which shall  
46 be approved by the court. The obligor shall, as in other civil  
47 actions, be served with process and shall be entitled to a hearing  
48 in such case.

49 (3) Whenever in any proceeding in the chancery court  
50 concerning the custody of a child a party alleges that the child  
51 whose custody is at issue has been the victim of sexual or  
52 physical abuse by the other party, the court may, on its own  
53 motion, grant a continuance in the custody proceeding only until  
54 such allegation has been investigated by the Department of Human  
55 Services. At the time of ordering such continuance the court may  
56 direct the party, and his attorney, making such allegation of  
57 child abuse to report in writing and provide all evidence touching  
58 on the allegation of abuse to the Department of Human Services.  
59 The Department of Human Services shall investigate such allegation  
60 and take such action as it deems appropriate and as provided in  
61 such cases under the Youth Court Law (being Chapter 21 of Title  
62 43, Mississippi Code of 1972) or under the laws establishing  
63 family courts (being Chapter 23 of Title 43, Mississippi Code of  
64 1972).

65 (4) If after investigation by the Department of Human  
66 Services or final disposition by the youth court or family court  
67 allegations of child abuse are found to be without foundation, the  
68 chancery court shall order the alleging party to pay all court  
69 costs and reasonable attorney's fees incurred by the defending

70 party in responding to such allegation.

71       (5) The court may investigate, hear and make a determination  
72 in a custody action when a charge of abuse and/or neglect arises  
73 in the course of a custody action as provided in Section  
74 43-21-151, and in such cases the court shall appoint a guardian ad  
75 litem for the child as provided under Section 43-21-121, who shall  
76 be an attorney. Unless the chancery court's jurisdiction has been  
77 terminated, all disposition orders in such cases for placement  
78 with the Department of Human Services shall be reviewed by the  
79 court or designated authority at least annually to determine if  
80 continued placement with the department is in the best interest of  
81 the child or public.

82       (6) (a) The duty of support of a child terminates upon the  
83 emancipation of the child. The court may determine that  
84 emancipation has occurred and no other support obligation exists  
85 when the child:

86               (i) Attains the age of twenty-one (21) years; or

87               (ii) Marries; or

88               (iii) Discontinues full-time enrollment in school  
89 and obtains full-time employment prior to attaining the age of  
90 twenty-one (21) years; or

91               (iv) Voluntarily moves from the home of the  
92 custodial parent or guardian and establishes independent living  
93 arrangements and obtains full-time employment prior to attaining  
94 the age of twenty-one (21) years.

95       (b) In child support orders where the current child  
96 support obligation has terminated and there exists an arrearage  
97 for unpaid child support, then the amount that is currently  
98 ordered to be paid (current and arrearage obligation) shall  
99 continue, until further order of the court, to be paid by the  
100 obligor or withheld by the obligor's employer. Said payments  
101 shall be applied to the child support arrearage until paid in full  
102 without further order of the court.

103       **SECTION 2.** Section 93-11-65, Mississippi Code of 1972, is  
104 amended as follows:

105       93-11-65. (1) (a) In addition to the right to proceed

106 under Section 93-5-23, Mississippi Code of 1972, and in addition  
107 to the remedy of habeas corpus in proper cases, and other existing  
108 remedies, the chancery court of the proper county shall have  
109 jurisdiction to entertain suits for the custody, care, support and  
110 maintenance of minor children and to hear and determine all such  
111 matters, and shall, if need be, require bond, sureties or other  
112 guarantee to secure any order for periodic payments for the  
113 maintenance or support of a child. In the event a legally  
114 responsible parent has health insurance available to him or her  
115 through an employer or organization that may extend benefits to  
116 the dependents of such parent, any order of support issued against  
117 such parent may require him or her to exercise the option of  
118 additional coverage in favor of such children as he or she is  
119 legally responsible to support. Proceedings may be brought by or  
120 against a resident or nonresident of the State of Mississippi,  
121 whether or not having the actual custody of minor children, for  
122 the purpose of judicially determining the legal custody of a  
123 child. All actions herein authorized may be brought in the county  
124 where the child is actually residing, or in the county of the  
125 residence of the party who has actual custody, or of the residence  
126 of the defendant. Process shall be had upon the parties as  
127 provided by law for process in person or by publication, if they  
128 be nonresidents of the state or residents of another jurisdiction  
129 or are not found therein after diligent search and inquiry or are  
130 unknown after diligent search and inquiry; provided that the court  
131 or chancellor in vacation may fix a date in termtime or in  
132 vacation to which process may be returnable and shall have power  
133 to proceed in termtime or vacation. Provided, however, that if  
134 the court shall find that both parties are fit and proper persons  
135 to have custody of the children, and that either party is able to  
136 adequately provide for the care and maintenance of the children,  
137 and that it would be to the best interest and welfare of the  
138 children, then any such child who shall have reached his twelfth  
139 birthday shall have the privilege of choosing the parent with whom  
140 he shall live.

141 (b) An order of child support shall specify the sum to

142 be paid weekly or otherwise. In addition to providing for support  
143 and education, the order shall also provide for the support of the  
144 child prior to the making of the order for child support, and such  
145 other expenses as the court may deem proper.

146 (c) The court may require the payment to be made to the  
147 custodial parent, or to some person or corporation to be  
148 designated by the court as trustee, but if the child or custodial  
149 parent is receiving public assistance, the Department of Human  
150 Services shall be made the trustee.

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

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

159 (3) Whenever the court has ordered a party to make periodic  
160 payments for the maintenance or support of a child, but no bond,  
161 sureties or other guarantee has been required to secure such  
162 payments, and whenever such payments as have become due remain  
163 unpaid for a period of at least thirty (30) days, the court may,  
164 upon petition of the person to whom such payments are owing, or  
165 such person's legal representative, enter an order requiring that  
166 bond, sureties or other security be given by the person obligated  
167 to make such payments, the amount and sufficiency of which shall  
168 be approved by the court. The obligor shall, as in other civil  
169 actions, be served with process and shall be entitled to a hearing  
170 in such case.

171 (4) When a charge of abuse or neglect of a child first  
172 arises in the course of a custody or maintenance action pending in  
173 the chancery court pursuant to this section, the chancery court  
174 may proceed with the investigation, hearing and determination of  
175 such abuse or neglect charge as a part of its hearing and  
176 determination of the custody or maintenance issue as between the  
177 parents, as provided in Section 43-21-151, notwithstanding the

178 other provisions of the Youth Court Law. The proceedings in  
179 chancery court on the abuse or neglect charge shall be  
180 confidential in the same manner as provided in youth court  
181 proceedings, and the chancery court shall appoint a guardian ad  
182 litem in such cases, as provided under Section 43-21-121 for youth  
183 court proceedings, who shall be an attorney. Unless the chancery  
184 court's jurisdiction has been terminated, all disposition orders  
185 in such cases for placement with the Department of Human Services  
186 shall be reviewed by the court or designated authority at least  
187 annually to determine if continued placement with the department  
188 is in the best interest of the child or the public.

189 (5) Each party to a paternity or child support proceeding  
190 shall notify the other within five (5) days after any change of  
191 address. In addition, the noncustodial and custodial parent shall  
192 file and update, with the court and with the state case registry,  
193 information on that party's location and identity, including  
194 social security number, residential and mailing addresses,  
195 telephone numbers, photograph, driver's license number, and name,  
196 address and telephone number of the party's employer. This  
197 information shall be required upon entry of an order or within  
198 five (5) days of a change of address.

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

202 (7) In any subsequent child support enforcement action  
203 between the parties, upon sufficient showing that diligent effort  
204 has been made to ascertain the location of a party, due process  
205 requirements for notice and service of process shall be deemed to  
206 be met with respect to the party upon delivery of written notice  
207 to the most recent residential or employer address filed with the  
208 state case registry.

209 (8) (a) The duty of support of a child terminates upon the  
210 emancipation of the child. The court may determine that  
211 emancipation has occurred and no other support obligation exists  
212 when the child:

213 (i) Attains the age of twenty-one (21) years; or

214                   (ii) Marries; or  
215                   (iii) Discontinues full-time enrollment in school  
216 and obtains full-time employment prior to attaining the age of  
217 twenty-one (21) years; or  
218                   (iv) Voluntarily moves from the home of the  
219 custodial parent or guardian and establishes independent living  
220 arrangements and obtains full-time employment prior to attaining  
221 the age of twenty-one (21) years.

222                   (b) In child support orders where the current child  
223 support obligation has terminated and there exists an arrearage  
224 for unpaid child support, then the amount that is currently  
225 ordered to be paid (current and arrearage obligation) shall  
226 continue, until further order of the court, to be paid by the  
227 obligor or withheld by the obligor's employer. Said payments  
228 shall be applied to the child support arrearage until paid in full  
229 without further order of the court.

230                   (9) Upon motion of a party requesting temporary child  
231 support pending a determination of parentage, temporary support  
232 shall be ordered if there is clear and convincing evidence of  
233 paternity on the basis of genetic tests or other evidence, unless  
234 the court makes written findings of fact on the record that the  
235 award of temporary support would be unjust or inappropriate in a  
236 particular case.

237                   **SECTION 3.** Section 43-19-31, Mississippi Code of 1972, is  
238 amended as follows:

239                   43-19-31. The Department of Human Services is hereby  
240 authorized and empowered to establish a single and separate Child  
241 Support Unit for the following purposes:

242                   (a) To develop and implement a nonsupport and paternity  
243 program and institute proceedings in the name of the Department of  
244 Human Services or in the name of the recipient in any court of  
245 competent jurisdiction in any county where the mother of the child  
246 resides or is found, in the county where the father resides or is  
247 found, or in the county where the child resides or is found;

248                   (b) To secure, modify, enforce and collect support by  
249 any method authorized under state law and establish paternity for

250 any child or children receiving aid from the department any form  
251 of public assistance, including, but not limited to, medical  
252 assistance, foster care, food stamps, TANF, or any other program  
253 under the federal Social Security Act, from a parent or any other  
254 person legally liable for such support who has either failed or  
255 refused to provide support, deserted, neglected or abandoned the  
256 child or children, including cooperating with other states in  
257 establishing paternity, locating absent parents and securing  
258 compliance with court orders for support of Temporary Assistance  
259 for Needy Families (TANF) children; the department may petition  
260 the court for the inclusion of health insurance as part of any  
261 child support order on behalf of any child receiving aid from the  
262 department unless good cause for noncooperation, as defined by the  
263 Social Security Act or the Mississippi Department of Human  
264 Services, is established. Whenever a child or children for whom  
265 child support services have been provided ceases to receive public  
266 assistance, the department shall continue to provide services and  
267 establish paternity, secure, modify, enforce and collect such  
268 support payments from a parent or any other person legally liable  
269 for such support in accordance with the standards prescribed  
270 pursuant to the federal Social Security Act;

271 (c) To accept applications for child support  
272 enforcement services to establish paternity, secure, modify,  
273 enforce and collect support from any proper party or person as  
274 defined by Title IV-D of the federal Social Security Act  
275 notwithstanding the fact that the child or children do not  
276 currently receive or have never received public assistance. The  
277 department shall have the authority to secure, modify, enforce and  
278 collect support by any method authorized under state law and  
279 establish paternity for any child or children on behalf of a  
280 recipient of child support services including individuals who do  
281 not currently receive or have never received public assistance  
282 from a parent or any other person legally liable for such support  
283 who has either failed or refused to provide support, deserted,  
284 neglected or abandoned the child or children, including  
285 cooperating with other states in establishing paternity, locating



286 absent parents and securing compliance with court orders for  
287 support; the department may petition the court for the inclusion  
288 of health insurance as part of any child support order on behalf  
289 of such recipients of child support services. The proceeds of any  
290 collections resulting from such application shall be distributed  
291 in accordance with the standards prescribed in the federal Social  
292 Security Act;

293 (d) The department shall seek to recover from the  
294 individual who owes a support obligation to any individual who is  
295 a recipient of Title IV-D services as set forth in paragraph (b)  
296 or (c) on whose behalf the department is providing services, upon  
297 judicial proceedings conducted thereon after advance notice to  
298 such obligor, reasonable attorney's fees and court costs, in  
299 excess of any administrative fees collected and in excess of  
300 amounts of current support owed by the obligor, which the  
301 department incurs in recovering and collecting the support  
302 obligation, such costs as the department recovers to be deposited  
303 in the General Fund of the State Treasury;

304 (e) To initiate contempt of court proceedings or any  
305 other remedial proceedings necessary to enforce (i) any order or  
306 decree of court relating to child support, and (ii) any order or  
307 decree of court relating to the maintenance and/or alimony of a  
308 parent where support collection services on his or her child's  
309 behalf are being provided by the department;

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

317 (g) To obtain restitution of monies expended for public  
318 assistance from a parent or any other person legally liable for  
319 the support of any child or children receiving aid from the  
320 department; said action for restitution shall arise from the  
321 payment of public assistance for the dependent child or children

322 and shall be for the amount of the public assistance paid. Said  
323 action for restitution shall not arise against the parent or other  
324 person legally responsible who receives public assistance for the  
325 benefit of any dependent child or children. When a court order of  
326 support has been issued, the amount recoverable shall be limited  
327 to the amount of the court order and any recovery cost as follows:  
328 The Department of Human Services is authorized, in its  
329 discretion, to enter into a contract for the recovery of  
330 delinquent child support collections from a parent or other person  
331 legally liable for the support of any child receiving assistance  
332 from the department, on a twenty percent (20%) contingency fee  
333 basis, with the fee to be based upon the recovered funds and added  
334 to the delinquency owed to the custodial parent. Any such  
335 recovered funds shall be remitted directly to the department. Any  
336 such contract shall not be subject to the approval of the Personal  
337 Service Contract Review Board;

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

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

347 (j) To enter into contracts for the purpose of  
348 performing any test which the department may, from time to time,  
349 require;

350 (k) To maintain a Central Receipting and Disbursement  
351 Unit to which all payments required by withholding orders and  
352 orders for support in all actions to which the Department of Human  
353 Services is a party shall be forwarded, and from which child  
354 support payments ordered by the court in actions to which the  
355 Department of Human Services is a party shall be disbursed to the  
356 custodial parent or other such party as may be designated by the  
357 court order. The Central Receipting and Disbursement Unit shall

358 be operated by the Department of Human Services or any financial  
359 institution having operations and qualified to do business in  
360 Mississippi, whose deposits are insured by the Federal Deposit  
361 Insurance Corporation. The department shall conduct cost-benefit  
362 analyses to determine and utilize the more cost efficient manner  
363 of operating the unit;

364 (1) To maintain a Mississippi Department of Human  
365 Services Case Registry containing records with respect to:

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

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

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

375 (A) Information collected from case filing  
376 forms shall be furnished to the Mississippi Department of Human  
377 Services, Division of Child Support Enforcement, in order that  
378 compliance with court-ordered obligations of support may be  
379 tracked with specificity throughout the duration of said  
380 obligations and any subsequent proceedings.

381 (B) Such tracking system shall include: 1.  
382 the names, residential and mailing addresses, telephone numbers,  
383 social security numbers, driver's license numbers and dates of  
384 birth of each child and parent named in or subject to the court  
385 order; 2. the court cause number of the action; 3. name, address  
386 and telephone number of employer; 4. any restraining or protective  
387 order indicating domestic violence; and 5. any other information  
388 which may be used for the purpose of identifying any person named  
389 in or subject to the order or for the purposes of establishing,  
390 enforcing or modifying a child support order; and

391 (m) To take administrative actions relating to genetic  
392 testing, modification of child support orders, income withholding,  
393 liens and subpoenas without the necessity of obtaining an order

394 from any judicial or other administrative tribunal with respect to  
395 cases initiated or enforced by the department pursuant to Title  
396 IV-D of the Social Security Act;

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

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

406 **SECTION 4.** Section 43-19-35, Mississippi Code of 1972, is  
407 amended as follows:

408 43-19-35. (1) A person who accepts or has accepted public  
409 assistance or who makes application for child support services for  
410 or on behalf of a child or children \* \* \* shall be deemed to have  
411 made an assignment to the State Department of Human Services of  
412 any and all rights and interests in any cause of action, past,  
413 present or future, that the person or the children may have  
414 against any parent failing to provide for the support and  
415 maintenance of said minor child or children \* \* \*; said department  
416 shall be subrogated to any and all rights, title and interest the  
417 recipient or the children may have against any and all property  
418 belonging to the absent or nonsupporting parent in the enforcement  
419 of any claim for child or spousal support, whether liquidated  
420 through court order or not. The recipient of Title IV-D services  
421 shall also be deemed, without the necessity of signing any  
422 document, to have appointed the State Department of Human Services  
423 to act in his or her, as well as the children's, name, place, and  
424 stead to perform the specific act of instituting suit to establish  
425 paternity or secure support, collecting any and all amounts due  
426 and owing for child or spousal support or any other service as  
427 required or permitted under Title IV-D of the federal Social  
428 Security Act, and endorsing any and all drafts, checks, money  
429 orders or other negotiable instruments representing child or

430 spousal support payments which are received on behalf of the  
431 recipient or the children, and retaining any portion thereof  
432 permitted under federal and state statutes as reimbursement for  
433 public assistance monies previously paid to the recipient or  
434 children.

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

444 (3) Any attorney authorized by the state to initiate any  
445 action pursuant to Title IV-D of the federal Social Security Act,  
446 including, but not limited to, any action initiated pursuant to  
447 Sections 43-19-31 et seq. and 93-25-1 et seq. shall be deemed to  
448 represent the interest of the State Department of Human Services  
449 exclusively; no attorney-client relationship shall exist between  
450 said attorney and any recipient of services pursuant to Title IV-D  
451 of the federal Social Security Act for and on behalf of a child or  
452 children, regardless of the name in which the legal proceedings  
453 are initiated. Said attorney representing the state in a Title  
454 IV-D case is only authorized to appear and prosecute and/or defend  
455 issues of support and cannot in a Title IV-D case address or  
456 provide representation to the Title IV-D client on any other  
457 ancillary issues raised or presented in that action.

458 (4) Said assignment to the State Department of Human  
459 Services shall be free of any legal or equitable defense to the  
460 payment of child support that may accrue to any person legally  
461 liable for the support of any child or children receiving aid from  
462 the State Department of Human Services, as a result of the conduct  
463 of the person who is accepting public assistance for and on behalf  
464 of said child or children.

**Further, amend by striking the title in its entirety and**

inserting in lieu thereof the following:

1 AN ACT TO AMEND SECTIONS 93-5-23 AND 93-11-65, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE FOR THE AUTOMATIC EMANCIPATION OF A MINOR  
3 AND THE RECOVERY OF ARREARS BEYOND THE AGE OF EMANCIPATION IN  
4 CHILD SUPPORT ENFORCEMENT CASES; TO AMEND SECTIONS 43-19-31 AND  
5 43-19-35, MISSISSIPPI CODE OF 1972, TO CLARIFY THE RANGE OF  
6 SERVICES TO BE PROVIDED BY THE DEPARTMENT OF HUMAN SERVICES  
7 THROUGH ITS SEPARATE CHILD SUPPORT UNIT; TO AUTHORIZE THE  
8 DEPARTMENT TO ENTER INTO A CONTRACT TO PROVIDE FOR THE COLLECTION  
9 OF DELINQUENT CHILD SUPPORT PAYMENTS ON A CONTINGENCY FEE BASIS;  
10 AND FOR RELATED PURPOSES.

CONFEREES FOR THE SENATE

X \_\_\_\_\_  
Robert G. Huggins

X \_\_\_\_\_  
Neely C. Carlton

X \_\_\_\_\_  
Alan Nunnelee

CONFEREES FOR THE HOUSE

X \_\_\_\_\_  
Percy W. Watson

\_\_\_\_\_  
John R. Reeves

X \_\_\_\_\_  
Tyrone Ellis