

By: Senator(s) Huggins

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2389

1 AN ACT TO AMEND SECTIONS 43-19-31 AND 43-19-35, MISSISSIPPI
2 CODE OF 1972, TO DEFINE THE RANGE OF SERVICES TO BE PROVIDED BY
3 THE DEPARTMENT OF HUMAN SERVICES THROUGH ITS CHILD SUPPORT UNIT
4 AND TO PROVIDE THAT COURT COSTS AND ATTORNEY'S FEES RECOVERED BY
5 THE CHILD SUPPORT UNIT SHALL BE DEPOSITED IN A SPECIAL FUND FOR
6 CHILD SUPPORT SERVICES; TO CODIFY SECTION 43-19-32, MISSISSIPPI
7 CODE OF 1972, TO PROVIDE FOR THE ADMINISTRATIVE ESTABLISHMENT OF
8 CHILD SUPPORT OBLIGATIONS BY THE CHILD SUPPORT UNIT OF THE
9 DEPARTMENT OF HUMAN SERVICES BY APPLICANTS FOR SERVICES, TO
10 ESTABLISH AN OFFICE OF ADMINISTRATIVE HEARINGS, TO PROVIDE FOR
11 JURISDICTION OVER PARTIES, NOTICE OF PROCEEDINGS TO ESTABLISH
12 ADMINISTRATIVE SUPPORT ORDERS, PROVIDE PROCEDURES FOR HEARINGS AND
13 ISSUANCE OF ADMINISTRATIVE ORDERS, TO PROVIDE FOR COLLECTION
14 ACTIONS AND ENFORCEMENT OF ADMINISTRATIVE ORDERS FOR SUPPORT
15 THROUGH INCOME WITHHOLDING, TO PROVIDE FOR ADMINISTRATIVE REVIEW
16 AND JUDICIAL REVIEW OF ADMINISTRATIVE SUPPORT ORDERS, TO PROVIDE
17 FOR COURT ORDER SUPERSEDING AN ADMINISTRATIVE ORDER, AND TO
18 AUTHORIZE THE DEPARTMENT TO PROMULGATE RULES TO ADMINISTER
19 ADMINISTRATIVE SUPPORT PROCEEDINGS; TO AMEND SECTION 43-19-37,
20 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ATTORNEY'S FEES SHALL BE
21 ASSESSED BY THE COURT IN CHILD SUPPORT AND PATERNITY ACTIONS
22 BROUGHT BY THE CHILD SUPPORT UNIT OF THE DEPARTMENT OF HUMAN
23 SERVICES, AND THAT SUCH ATTORNEY'S FEES SHALL BE USED TO MATCH
24 FEDERAL FUNDS FOR THE SUPPORT OF THE LEGAL DIVISION OF THE CHILD
25 SUPPORT UNIT; TO AMEND SECTIONS 43-19-47 AND 43-19-55, MISSISSIPPI
26 CODE OF 1972, TO PROVIDE A MINIMUM SALARY FOR STAFF AND SENIOR
27 ATTORNEYS IN THE CHILD SUPPORT UNIT TO BE PAID FROM THE SPECIAL
28 FUND FOR CHILD SUPPORT SERVICES, AND TO AUTHORIZE THE EMPLOYMENT
29 OF CONTRACT ATTORNEYS FOR CHILD SUPPORT ENFORCEMENT SERVICES; TO
30 AMEND SECTIONS 93-9-9 AND 9-5-255, MISSISSIPPI CODE OF 1972, TO
31 PROVIDE FOR MINIMUM ATTORNEY'S FEES IN PATERNITY AND FAMILY MASTER
32 ACTIONS; TO AMEND SECTION 93-25-5, MISSISSIPPI CODE OF 1972, TO
33 PROVIDE THAT THE OFFICE OF ADMINISTRATIVE HEARINGS OF THE
34 DEPARTMENT OF HUMAN SERVICES IS AN OFFICIAL TRIBUNAL FOR UFISA
35 ACTIONS; AND FOR RELATED PURPOSES.

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

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

39 43-19-31. The Department of Human Services is hereby
40 authorized and empowered to establish a single and separate Child
41 Support Unit for the following purposes:

42 (a) To develop and implement a nonsupport and paternity
43 program and institute proceedings in the name of the Department of



44 Human Services or in the name of the recipient in any court of
45 competent jurisdiction in any county where the mother of the child
46 resides or is found, in the county where the father resides or is
47 found, or in the county where the child resides or is found;

48 (b) To secure, modify, enforce and collect support by
49 any method authorized under state law and establish paternity for
50 any child or children receiving aid from the department any form
51 of public assistance, including, but not limited to, medical
52 assistance, foster care, food stamps, TANF, or any other program
53 under the federal Social Security Act, from a parent or any other
54 person legally liable for such support who has either failed or
55 refused to provide support, deserted, neglected or abandoned the
56 child or children, including cooperating with other states in
57 establishing paternity, locating absent parents and securing
58 compliance with court orders for support of Temporary Assistance
59 for Needy Families (TANF) children; the department may petition
60 the court for the inclusion of health insurance as part of any
61 child support order on behalf of any child receiving aid from the
62 department unless good cause for noncooperation, as defined by the
63 Social Security Act or the Mississippi Department of Human
64 Services, is established. Whenever a child or children for whom
65 child support services have been provided ceases to receive public
66 assistance, the department shall continue to provide services and
67 establish paternity, secure, modify, enforce and collect such
68 support payments from a parent or any other person legally liable
69 for such support in accordance with the standards prescribed
70 pursuant to the federal Social Security Act;

71 (c) To accept applications for child support
72 enforcement services to establish paternity, secure, modify,
73 enforce and collect support from any proper party or person as
74 defined by Title IV-D of the federal Social Security Act
75 notwithstanding the fact that the child or children do not
76 currently receive or have never received public assistance. The



77 department shall have the authority to secure, modify, enforce and
78 collect support by any method authorized under state law and
79 establish paternity for any child or children on behalf of a
80 recipient of child support services, including individuals who do
81 not currently receive or have never received public assistance
82 from a parent or any other person legally liable for such support
83 who has either failed or refused to provide support, deserted,
84 neglected or abandoned the child or children, including
85 cooperating with other states in establishing paternity, locating
86 absent parents and securing compliance with court orders for
87 support; the department may petition the court for the inclusion
88 of health insurance as part of any child support order on behalf
89 of such recipients of child support services. The proceeds of any
90 collections resulting from such application shall be distributed
91 in accordance with the standards prescribed in the federal Social
92 Security Act;

93 (d) The department shall seek to recover from the
94 individual who owes a support obligation to any individual who is
95 a recipient of Title IV-D services as set forth in paragraph (b)
96 or (c) on whose behalf the department is providing services, upon
97 judicial proceedings conducted thereon after advance notice to
98 such obligor, reasonable attorney's fees and court costs, in
99 excess of any administrative fees collected and in excess of
100 amounts of current support owed by the obligor, which the
101 department incurs in recovering and collecting the support
102 obligation, such costs and fees as the department recovers to be
103 deposited in the Special Fund of the Mississippi Department of
104 Human Services which is hereby established for the pursuit and
105 collection of child support;

106 (e) To initiate contempt of court proceedings or any
107 other remedial proceedings necessary to enforce (i) any order or
108 decree of court relating to child support, and (ii) any order or
109 decree of court relating to the maintenance and/or alimony of a



110 parent where support collection services on his or her child's
111 behalf are being provided by the department;

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

119 (g) To obtain restitution of monies expended for public
120 assistance from a parent or any other person legally liable for
121 the support of any child or children receiving aid from the
122 department; said action for restitution shall arise from the
123 payment of public assistance for the dependent child or children
124 and shall be for the amount of the public assistance paid. Said
125 action for restitution shall not arise against the parent or other
126 person legally responsible who receives public assistance for the
127 benefit of any dependent child or children. When a court order of
128 support has been issued, the amount recoverable shall be limited
129 to the amount of the court order;

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

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

139 (j) To enter into contracts for the purpose of
140 performing any test which the department may, from time to time,
141 require;



142 (k) To maintain a Central Receipting and Disbursement
143 Unit to which all payments required by withholding orders and
144 orders for support in all actions to which the Department of Human
145 Services is a party shall be forwarded, and from which child
146 support payments ordered by the court in actions to which the
147 Department of Human Services is a party shall be disbursed to the
148 custodial parent or other such party as may be designated by the
149 court order. The Central Receipting and Disbursement Unit shall
150 be operated by the Department of Human Services or any financial
151 institution having operations and qualified to do business in
152 Mississippi, whose deposits are insured by the Federal Deposit
153 Insurance Corporation. The department shall conduct cost-benefit
154 analyses to determine and utilize the more cost efficient manner
155 of operating the unit;

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

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

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

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

167 1. Information collected from case filing
168 forms shall be furnished to the Mississippi Department of Human
169 Services, Division of Child Support Enforcement, in order that
170 compliance with court-ordered obligations of support may be
171 tracked with specificity throughout the duration of said
172 obligations and any subsequent proceedings.

173 2. Such tracking system shall include: 1.
174 the names, residential and mailing addresses, telephone numbers,



175 Social Security numbers, driver's license numbers and dates of
176 birth of each child and parent named in or subject to the court
177 order; 2. the court cause number of the action; 3. name, address
178 and telephone number of employer; 4. any restraining or protective
179 order indicating domestic violence; and 5. any other information
180 which may be used for the purpose of identifying any person named
181 in or subject to the order or for the purposes of establishing,
182 enforcing or modifying a child support order; and

183 (m) To take administrative actions relating to genetic
184 testing, determine paternity, establish child support orders,
185 modification of child support orders, income withholding, liens
186 and subpoenas without the necessity of obtaining an order from any
187 judicial or other administrative tribunal with respect to cases
188 initiated or enforced by the department pursuant to Title IV-D of
189 the Social Security Act;

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

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

199 **SECTION 2.** The following shall be codified as Section
200 43-19-32, Mississippi Code of 1972:

201 43-19-32. Administrative establishment of child support
202 obligations.

203 (1) Definitions. As used in this section, the term:

204 (a) "Administrative support order" means a final order
205 rendered by or on behalf of the department pursuant to this
206 section determining paternity, establishing or modifying the
207 obligation of a noncustodial parent to contribute to the support



208 and maintenance of his or her child or children, which may include
209 provisions for monetary support, retroactive support, health care,
210 and other elements of support pursuant to Chapters 43 and 93,
211 Mississippi Code of 1972.

212 (b) The recipient of services is any individual who is
213 currently receiving or has previously accepted public assistance
214 or has made an application for child support services.

215 (c) "Filed" means a document has been received and
216 accepted for filing at the offices of the department by the clerk
217 or any authorized deputy clerk of the department. The date of
218 filing must be indicated on the face of the document by the clerk
219 or deputy clerk.

220 (d) "Financial declaration" means an affidavit or
221 written declaration which shows an individual's income, allowable
222 deductions, net income and other information needed to calculate
223 the child support guideline amount under Sections 43-19-101 and
224 43-19-103.

225 (e) "Rendered" means that a signed written order is
226 filed with the clerk or any deputy clerk of the department and
227 sent to the respondent. The date of filing must be indicated on
228 the face of the order at the time of rendition.

229 (f) "Title IV-D case" means a case or proceeding in
230 which the department is providing child support services within
231 the scope of Title IV-D of the Social Security Act, 42 USC Section
232 651 et seq.

233 (g) "Retroactive support" means a child support
234 obligation established pursuant to Sections 93-9-11 and 93-11-65.

235 Other terms used in this section have the meanings ascribed
236 in Chapters 43 and 93, Mississippi Code of 1972.

237 (2) Purpose and scope.

238 (a) It is not the Legislature's intent to limit the
239 jurisdiction of the courts to hear and determine issues regarding
240 child support. This section is intended to provide the department



241 with an alternative procedure for establishing child support
242 obligations in Title IV-D cases in a fair and expeditious manner
243 when there is no court order of support. The procedures in this
244 section are effective throughout the state and shall be
245 implemented statewide.

246 (b) The administrative procedure set forth in this
247 section concerns only the determination of paternity and the
248 establishment and the modification of child support obligations.
249 This section does not grant jurisdiction to the department or the
250 Office of Administrative Hearings to hear or determine issues of
251 dissolution of marriage, separation, alimony or spousal support,
252 termination of parental rights, dependency, award of or change of
253 custody, or visitation. This paragraph notwithstanding, the
254 department and the Office of Administrative Hearings may make
255 findings of fact that are necessary for a proper determination of
256 a noncustodial parent's support obligation as authorized by this
257 section.

258 (c) When there is no court order for paternity or
259 support, the department may determine paternity and establish the
260 noncustodial parent's child support obligation pursuant to this
261 chapter and Chapter 93, Mississippi Code of 1972, and other
262 relevant provisions of state law. The noncustodial parent's
263 obligation determined by the department may include any obligation
264 to pay retroactive support and shall address health care coverage
265 for the minor child(ren). The department may proceed on behalf
266 of:

- 267 (i) An applicant or recipient of public
268 assistance;
- 269 (ii) A former recipient of public assistance;
- 270 (iii) An individual who has applied for services;
- 271 (iv) Itself; or
- 272 (v) A state or local government of another state.



273 (d) Either parent, or a recipient of services if
274 applicable, may at any time file a civil action in a court having
275 jurisdiction and proper venue to determine the noncustodial
276 parent's child support obligations, if any. An order issued by a
277 court may supersede an administrative support order rendered by
278 the department prospectively only.

279 (e) Pursuant to paragraph (b), neither the department
280 nor the Office of Administrative Hearings has jurisdiction to
281 award or change child custody or rights of visitation. Either
282 parent may at any time file a civil action in a court having
283 jurisdiction and proper venue for a determination of child custody
284 and rights of visitation.

285 (f) The department shall terminate the administrative
286 proceeding, if written notice is received within twenty (20) days
287 of the initial filing that the noncustodial parent has filed an
288 action to determine paternity and/or support in a court of
289 appropriate jurisdiction.

290 (g) The notices and orders issued by the department
291 under this section shall be written clearly and plainly.

292 (3) Office of Administrative Hearings.

293 (a) The Office of Administrative Hearings within the
294 child support division of the department shall be headed by a
295 chief administrative law judge who shall be appointed by the
296 executive director of the department. The chief administrative
297 law judge, and any deputy chief administrative law judge, must
298 possess the same minimum qualifications as the administrative law
299 judges employed by the office. The funding for this office shall
300 be provided in a separate appropriation bill for the office which
301 shall be separate and under the control of the chief
302 administrative law judge. The department shall provide
303 administrative support and service to the office to the extent
304 requested by the chief administrative law judge. The office shall
305 not be subject to control, supervision or direction by the



306 department in any manner, including, but not limited to,
307 personnel, purchasing, transactions involving real or personal
308 property and budgetary matters.

309 (b) The office shall employ a minimum of ten (10)
310 administrative law judges to conduct hearings required by this
311 chapter or other law. Any person employed by the office as an
312 administrative law judge must have been a member of The
313 Mississippi Bar in good standing for the preceding five (5) years.

314 (c) The chief administrative law judge shall have the
315 discretion to designate a temporary interim administrative law
316 judge if there is a vacancy for over thirty (30) days.

317 (d) By rule, the office may establish:

318 (i) Further qualifications for administrative law
319 judges and shall establish procedures by which candidates will be
320 considered for employment or contract.

321 (ii) Procedures for the assignment of
322 administrative law judges.

323 (e) The office shall have the authority to adopt
324 reasonable rules to carry out the provisions of this act.

325 (f) Rules promulgated by the office may authorize any
326 reasonable sanctions except contempt for violation of the rules of
327 the office or failure to comply with a reasonable order issued by
328 an administrative law judge, which is not under judicial review.

329 (g) The office and its administrative law judges shall
330 have power to preserve and enforce order during hearings; to issue
331 subpoenas for, to administer oaths to and to compel the attendance
332 and testimony of witnesses or the production of books, papers,
333 documents and other evidence, or the taking of depositions before
334 any designated individual competent to administer oaths; to
335 examine witnesses; and to do all things conformable to law which
336 may be necessary to enable them effectively to discharge the
337 duties of their office.



338 (h) If any person in proceedings before an
339 administrative law judge disobeys or resists any lawful order or
340 process, or misbehaves during a hearing or so near the place
341 thereof as to obstruct the same, or neglects to produce, after
342 having been ordered to do so, any pertinent book, paper or
343 document, or refuses to appear after having been subpoenaed or
344 upon appearing refuses to take the oath as a witness, or after
345 having taken the oath refuses to be examined according to law, the
346 administrative law judge shall certify the facts to the court
347 having jurisdiction in the place in which it is sitting, and the
348 court shall thereupon in a summary manner hear the evidence as to
349 the acts complained of and, if the evidence so warrants, punish
350 such person in the same manner and to the same extent as for a
351 contempt committed before the court, or commit such person upon
352 the same condition as if the doing of the forbidden act had
353 occurred with reference to the process of or in the presence of
354 the court.

355 (i) In making an investigation or inquiry or conducting
356 a hearing, the administrative law judge shall not be bound by
357 common law or statutory rules of evidence or by technical or
358 formal rules or procedure, except as provided by this chapter, but
359 may make such investigation or inquiry or conduct such hearing in
360 such manner as best to ascertain the rights of the parties.

361 (4) Jurisdiction over nonresidents. The department may use
362 the procedures authorized by this section to determine paternity
363 or establish or modify child support obligations against a
364 nonresident over whom the state may assert personal jurisdiction
365 under Chapter 43 or Chapter 93, Mississippi Code of 1972.

366 (5) Notice of proceeding to establish administrative support
367 order. To commence a proceeding under this section, the
368 department shall provide to the custodial parent a notice of
369 proceeding to establish an administrative order and serve the
370 noncustodial parent with a notice of proceeding to establish an



371 administrative order along with a blank financial declaration
372 form. The notice must state:

373 (a) The names of both parents, the name of the
374 recipient of services, if any, and the name and date of birth of
375 the child or children;

376 (b) The date, time and location of the administrative
377 hearing at which the department intends to establish an
378 administrative order as defined in this section;

379 (c) That the noncustodial parent must submit a
380 completed financial declaration on or before the date of the
381 hearing to the department after receiving the notice, as provided
382 by paragraph (13) (a);

383 (d) That both parents, or parent and recipient of
384 services if applicable, are required to furnish to the department
385 information regarding their identities and locations, as provided
386 by paragraph (13) (b);

387 (e) That both parents, or parent and recipient of
388 services if applicable, are required to promptly notify the
389 department of any change in their mailing addresses to ensure
390 receipt of all subsequent pleadings, notices and orders, as
391 provided by paragraph (13) (c);

392 (f) That the department will calculate support
393 obligations based on the child support guidelines in Sections
394 43-19-101 and 43-19-103 and using all available information, as
395 provided by paragraph (5) (a);

396 (g) That the department will send by regular mail to
397 both parents, or parent and recipient of services if applicable, a
398 copy of the administrative support order when entered;

399 (h) That the noncustodial parent may sign an agreed
400 order at any time in the process and thereby waive an
401 administrative hearing;



402 (i) That if the noncustodial parent does not appear at
403 the scheduled hearing after receiving proper notice, the
404 department will issue an administrative support order;

405 (j) That after an administrative support order is
406 rendered, the department will file a copy of the order with the
407 clerk of the court of appropriate jurisdiction;

408 (k) That after an administrative support order is
409 rendered, the department may enforce the administrative support
410 order by any lawful means;

411 (l) That either parent, or recipient of services if
412 applicable, may file at any time a civil action in a court having
413 jurisdiction and proper venue to determine the noncustodial
414 parent's child support obligations, if any, and that a support
415 order issued by a court may supersede an administrative support
416 order rendered by the department prospectively only;

417 (m) That if written notice is received within twenty
418 (20) days of the initial filing that the noncustodial parent has
419 filed an action to determine paternity and/or support in a court
420 of appropriate jurisdiction, then the department shall terminate
421 the administrative process.

422 (n) That if such action is terminated as set forth in
423 paragraph 5(m), the administrative process ends without prejudice
424 and the action may proceed in court;

425 The department may serve the notice of proceeding to
426 establish administrative support order by certified mail,
427 restricted delivery, return receipt requested. Alternatively, the
428 department may serve the notice by any means permitted for service
429 of process in a civil action. For purposes of this section, an
430 authorized employee of the department may serve the notice and
431 execute an affidavit of service. Service by certified mail is
432 completed when the certified mail is received or refused by the
433 addressee or by an authorized agent as designated by the addressee
434 in writing. If a person other than the addressee signs the return



435 receipt, the department shall attempt to reach the addressee by
436 telephone to confirm whether the notice was received, and the
437 department shall document any telephonic communications and shall
438 submit an affidavit of same. The Office of Administrative Hearing
439 shall determine if the evidence is sufficient to constitute actual
440 notice. If someone other than the addressee signs the return
441 receipt, the addressee does not respond to the notice, and the
442 department is unable to confirm that the addressee has received
443 the notice, service is not completed and the department shall
444 attempt to have the addressee served under any means permitted for
445 service of process in a civil action. The department shall
446 provide the custodial parent or recipient of services with a copy
447 of the notice by regular mail to the last known address of the
448 custodial parent or caretaker.

449 (6) Hearing.

450 (a) The hearing may be conducted in the county where
451 the custodial parent resides or where the administrative support
452 order was entered. However, venue is subject to transfer pursuant
453 to Section 93-9-17. Further, in actions taken under the Uniform
454 Interstate Family Support Act, to determine paternity or establish
455 support, the hearing may be conducted where the noncustodial
456 parent resides or may be found as provided under Chapter 93,
457 Mississippi Code of 1972.

458 (b) The administrative law judge shall consider all
459 available and admissible information and any presumptions that
460 apply as provided herein.

461 (c) After serving notice upon the noncustodial parent
462 in accordance with subsection (4), the department shall calculate
463 the noncustodial parent's child support obligation under the child
464 support guidelines as provided by Sections 43-19-101 and
465 42-19-103, based on any timely financial declarations received and
466 other information available to the department. If the
467 noncustodial parent fails to comply with the requirement to



468 furnish a financial declaration, the department may proceed on the
469 basis of information available from any source, if such
470 information is sufficiently reliable and detailed to allow
471 calculation of guideline amounts under Sections 43-19-101 and
472 43-19-103. If there is a lack of sufficient reliable information
473 concerning a noncustodial parent's actual earnings for a current
474 or past period, it shall be presumed for the purpose of
475 establishing a support obligation that the parent had an earning
476 capacity equal to the federal minimum wage during the applicable
477 period.

478 (d) If the department receives additional information
479 that makes it necessary to modify, amend, alter or set aside the
480 administrative support order, it shall follow the same procedure
481 as enumerated in this section.

482 (7) Administrative support order.

483 (a) If a hearing is held, the administrative law judge
484 of the Office of Administrative Hearings shall issue an
485 administrative support order, or a final order denying an
486 administrative support order, which constitutes final action by
487 the office. The Office of Administrative Hearings shall transmit
488 any such order to the department for filing and rendering.

489 (b) If the noncustodial parent waives the right to a
490 hearing, or consents in writing to the entry of an order without a
491 hearing, the department through the office may render an
492 administrative support order.

493 (c) The department shall send by regular mail a copy of
494 the administrative support order, or the final order denying an
495 administrative support order, to both parents, or a parent and
496 recipient of services if applicable. The noncustodial parent
497 shall be notified of the right to seek judicial review of the
498 administrative support order by filing an action with the
499 appropriate court.



500 (d) The department shall develop a standard form or
501 forms for administrative support orders. An administrative
502 support order must provide and state findings, if applicable,
503 concerning:

504 (i) The full name and date of birth of the child
505 or children;

506 (ii) The name of the noncustodial parent and the
507 custodial parent or recipient of services;

508 (iii) The noncustodial parent's duty and ability
509 to provide support;

510 (iv) The amount of the noncustodial parent's
511 monthly support obligation;

512 (v) Any obligation to pay retroactive support;

513 (vi) The noncustodial parent's obligation to
514 provide for the health care needs of each child through insurance
515 coverage;

516 (vii) The beginning date of any required monthly
517 payments and health care coverage;

518 (viii) That all support payments ordered must be
519 paid to the Mississippi Centralized Receipting and Disbursement
520 Unit;

521 (ix) That the parents, or recipient of services if
522 applicable, must file with the department when the administrative
523 support order is rendered, if they have not already done so, and
524 update as appropriate the information required pursuant to
525 paragraph (13) (b); and

526 (x) That both parents, or parent and recipient of
527 services if applicable, shall be required to promptly notify the
528 department of any change in their mailing addresses pursuant to
529 paragraph (13) (c).

530 An order for withholding which complies with the provisions
531 of Section 93-11-101 et seq. shall be entered by the Office of



532 Administrative Hearings in every case where a child support
533 obligation is established or modified pursuant to this section.

534 (8) Filing with the clerk of the court; official payment
535 record; judgment by operation of law. The department shall file
536 with the clerk of the court of appropriate jurisdiction a
537 certified copy of an administrative support order rendered under
538 this section. The cost of this filing shall not exceed Ten
539 Dollars (\$10.00). The County Department of Human Services where
540 the administrative support order has been filed shall:

541 (a) Act as the official record keeper for payments
542 required under the administrative support order;

543 (b) Establish and maintain the necessary payment
544 accounts;

545 (c) Upon a delinquency, initiate the judgment by
546 operation of law procedure as provided by Section 93-11-71; and

547 (d) Perform all other duties required with respect to a
548 support order entered by a tribunal or court of this state.

549 (9) Collection action; enforcement.

550 (a) The department may implement an income withholding
551 notice/order immediately upon rendition of said notice/order.

552 (b) The department may initiate other collection action
553 thirty (30) days after the date an administrative support order is
554 rendered under this section.

555 (c) In a subsequent proceeding to enforce an
556 administrative support order, notice of the proceeding that is
557 sent by regular mail to the person's address of record furnished
558 to the department constitutes adequate notice of the proceeding
559 pursuant to paragraph (13)(c).

560 (d) An administrative support order rendered under this
561 section has the same force and effect as a court order and, until
562 modified by the department or superseded by a court order, may be
563 enforced:



564 (i) In any administrative manner permitted for
565 enforcement of a support order issued by a court of this state,
566 except for contempt, including, but not limited to:

567 1. The collection procedures pursuant to
568 Chapters 43 and 93, Mississippi Code of 1972; or

569 2. The filing of a petition for enforcement
570 before the Office of Administrative Hearings; or

571 (ii) Pursuant to the following judicial and
572 quasi-judicial remedies:

573 1. Except as otherwise provided by statute:

574 a. The department may seek enforcement
575 of an administrative order by filing a petition for confirmation
576 and enforcement of the administrative order, as provided in this
577 section, in the court of the appropriate jurisdiction. The matter
578 shall be triable thirty (30) days after service of process is
579 effected upon the defendant pursuant to the Rules of Civil
580 Procedure.

581 b. A petition for enforcement of an
582 administrative order filed by a nongovernmental person in the
583 court of appropriate jurisdiction may be in the name of the State
584 of Mississippi on the relation of the petitioner, and the
585 doctrines of res judicata and collateral estoppel shall apply.

586 c. In an action brought under item (b),
587 the department whose action is sought to be enforced, if not a
588 party, may intervene as a matter of right.

589 2. A petition for enforcement may request
590 declaratory relief; temporary or permanent equitable relief; any
591 fine, forfeiture, penalty or other remedy provided by statute; any
592 combination of the foregoing; or, in the absence of any other
593 specific statutory authority, a fine not to exceed One Thousand
594 Dollars (\$1,000.00).

595 3. If the court issues its own order
596 enforcing the administrative support order, the court may enforce



597 its order by contempt. The presumption of ability to pay and
598 purge contempt applies to an administrative support order that
599 includes a finding of present ability to pay. Enforcement by the
600 court, without any change by the court in the support obligations
601 established in the administrative support order, does not
602 supersede the administrative support order or affect the
603 department's authority to modify the administrative support order
604 as provided by subsection (12). An order by the court that
605 requires the noncustodial parent to make periodic payments on
606 arrearages does not constitute a change in the support obligations
607 established in the administrative support order and does not
608 supersede the administrative order.

609 4. After the court has rendered judgment on a
610 petition for enforcement, no other petition shall be filed or
611 adjudicated against the same department action, on the basis of
612 the same transaction or occurrence, unless expressly authorized on
613 remand. The doctrines of res judicata and collateral estoppel
614 shall apply, and the court shall make such orders as are necessary
615 to avoid multiplicity of actions.

616 5. In all judicial enforcement proceedings:

617 a. If enforcement depends on any facts
618 other than those appearing in the record, the court may ascertain
619 such facts under the rules.

620 b. If one or more petitions for
621 enforcement and a petition for review involving the same
622 department action are pending at the same time, the court
623 considering the review petition may order all such actions
624 transferred to and consolidated in one court. Each party shall be
625 under an affirmative duty to notify the court when it becomes
626 aware of multiple proceedings.

627 c. Should any party willfully fail to
628 comply with an order of the court, the court shall punish that



629 party in accordance with the law applicable to contempt committed
630 by a person in the trial of any other action.

631 6. In any enforcement proceeding the
632 respondent may assert as a defense the invalidity of any relevant
633 statute, the inapplicability of the administrative determination
634 to respondent, compliance by the respondent, the inappropriateness
635 of the remedy sought by the department, or any combination of the
636 foregoing. In addition, if the petition for enforcement is filed
637 during the time within which the respondent could petition for
638 judicial review of the administrative order, the respondent may
639 assert the invalidity of the department action.

640 7. In any final order on a petition for
641 enforcement where the department prevails, the court shall award
642 to the department costs of litigation and reasonable attorney's
643 fees and expert witness fees.

644 (10) Administrative review; judicial review, enforcement or
645 court order superseding administrative support order.

646 (a) A noncustodial parent or the department may file
647 before the Office of Administrative Hearings a motion for
648 rehearing within ten (10) days of the rendering of an
649 administrative support order or an order denying an administrative
650 support order.

651 (b) A noncustodial parent has the right to seek
652 judicial review of an administrative support order or a final
653 order denying an administrative support order in accordance with
654 this section. The department has the right to seek judicial
655 review, in accordance with this section, of an administrative
656 support order or a final order denying an administrative support
657 order entered by an administrative law judge of the Office of
658 Administrative Hearings.

659 (c) A court of this state, where venue is proper and
660 the court has jurisdiction of the parties, may enter an order
661 prospectively changing the support obligations established in an



662 administrative support order, in which case the administrative
663 support order is superseded and the court's order shall govern
664 future proceedings in the case. Any unpaid support owed under the
665 superseded administrative support order may not be retroactively
666 modified by the court, except as provided by Section 43-19-34, and
667 remains enforceable by the department, by the obligee or by the
668 court. In all cases in which an administrative support order is
669 superseded, the court shall determine the amount of any unpaid
670 support owed under the administrative support order and shall
671 include the amount as arrearage in its superseding order. In such
672 instances, the court may remand the case for future action by the
673 Office of Administrative Hearings.

674 (d) The procedure for judicial review shall be as
675 follows:

676 (i) A party who is adversely affected by a final
677 administrative order is entitled to judicial review in the court
678 of appropriate jurisdiction located in the county where the order
679 is filed.

680 (ii) All proceedings shall be instituted by filing
681 a petition for review in accordance with the Mississippi Rules of
682 Civil Procedure within thirty (30) days after the rendition of the
683 order for which review is sought.

684 (iii) The filing of the petition does not itself
685 stay enforcement of the Office of Administrative Hearings' order,
686 absent an order of the court. The Office of Administrative
687 Hearings may also grant a stay upon appropriate terms. In any
688 event, the court or the Office of Administrative Hearings shall
689 specify the conditions, if any, upon which the stay or supersedeas
690 is granted.

691 (iv) Judicial review of any administrative order
692 shall be de novo but the court shall take judicial notice of all
693 contents of the file of the Office of Administrative Hearings.



694 (v) The reviewing court's decision may be
695 mandatory, prohibitory or declaratory in form, and it shall
696 provide whatever relief is appropriate irrespective of the
697 original form of the petition.

698 (vi) If the court sets aside an administrative
699 order or remands the case to the Office of Administrative Hearings
700 for further proceedings, it may make such interlocutory order as
701 the court finds necessary to preserve the interests of any party
702 and the public pending further proceedings.

703 (vii) The court shall remand a case to the Office
704 of Administrative Hearings for further proceedings consistent with
705 the court's decision or set aside the administrative order, as
706 appropriate, when it finds that:

707 1. There has been no hearing prior to entry
708 of an administrative order and the reviewing court finds that the
709 validity of the action depends upon disputed facts;

710 2. The Office of Administrative Hearings'
711 decision depends on any finding of fact that is not supported by
712 competent, substantial evidence in the record of a hearing;
713 however, the court shall not substitute its judgment for that of
714 the Office of Administrative Hearings as to the weight of the
715 evidence on any disputed finding of fact;

716 3. The fairness of the proceedings or the
717 correctness of the action may have been impaired by a material
718 error in procedure or a failure to follow prescribed procedure;

719 4. The Office of Administrative Hearings has
720 erroneously interpreted a provision of law and a correct
721 interpretation compels a particular action; or

722 5. The Office of Administrative Hearings'
723 exercise of discretion was:

724 a. Outside the range of discretion
725 delegated to the Office of Administrative Hearings by law; or



726 b. Otherwise in violation of a
727 constitutional or statutory provision; but the court shall not
728 substitute its judgment for that of the Office of Administrative
729 Hearings on an issue of discretion.

730 (viii) Unless the court finds a ground for setting
731 aside, modifying, remanding or ordering the Office of
732 Administrative Hearings to take further action or ancillary relief
733 under a specified provision of this section, it shall affirm the
734 Office of Administrative Hearings' order.

735 (11) Effectiveness of administrative support order. An
736 administrative support order rendered under this section has the
737 same force and effect as a court order and remains in effect until
738 modified by the department, vacated on review or superseded by a
739 subsequent court order. If the department closes a Title IV-D
740 case in which an administrative support order has been rendered:

741 (a) The department shall take no further action to
742 enforce or modify the administrative support order;

743 (b) The administrative support order remains effective
744 until superseded by a subsequent court order; and

745 (c) The administrative support order may be enforced by
746 the obligee by any means provided by law.

747 (12) Modification of administrative support order. If it
748 has not been superseded by a subsequent court order or has been
749 remanded by a court of appropriate jurisdiction, the Office of
750 Administrative Hearings may modify, suspend or terminate an
751 administrative support order in a Title IV-D case, subject to the
752 provisions of Section 43-19-34, by following the same procedures
753 set forth in this section for establishing an administrative
754 support order, as applicable.

755 (13) Required disclosures; presumptions; notice sent to
756 address of record. In all proceedings pursuant to this section:

757 (a) An updated financial declaration must be executed
758 and furnished to the department at the inception of each



759 proceeding to modify an administrative support order. Recipient
760 of services are not required to furnish financial declarations.

761 (b) The noncustodial parent, custodial parent and
762 recipient of services if applicable, shall disclose to the
763 department, and update as appropriate, information regarding their
764 identity and location, including names they are known by; social
765 security numbers; residential and mailing addresses; telephone
766 numbers; driver's license numbers; and names, addresses and
767 telephone numbers of employers. Pursuant to the federal Personal
768 Responsibility and Work Opportunity Reconciliation Act of 1996,
769 each person must provide his or her social security number in
770 accordance with this section. Disclosure of social security
771 numbers obtained through this requirement shall be limited to the
772 purpose of administration of the Title IV-D program for child
773 support enforcement.

774 (c) The noncustodial parent, custodial parent and
775 recipient of services, if applicable, have a continuing obligation
776 to promptly inform the department in writing of any change in
777 their mailing addresses to ensure receipt of all subsequent
778 pleadings, notices, payments, statements and orders, and receipt
779 is presumed if sent by regular mail to the most recent address
780 furnished by the person.

781 (14) Judicial pleadings and motions. A party to any
782 subsequent judicial proceeding concerning the support of the same
783 child or children shall affirmatively plead the existence of, and
784 furnish the court with a correct copy of, an administrative
785 support order rendered under this section, and shall provide the
786 department with a copy of the initial pleading. The department
787 may intervene as a matter of right in any such judicial proceeding
788 involving issues within the scope of the Title IV-D case.

789 (15) Provisions supplemental to existing law. This section
790 does not limit or negate the department's authority to determine



791 paternity, seek establishment or modification of child support
792 obligations under any other applicable state or federal law.

793 (16) Rulemaking authority. The department and the office may
794 adopt rules to administer this section.

795 **SECTION 3.** Section 43-19-35, Mississippi Code of 1972, is
796 amended as follows:

797 43-19-35. (1) By currently or previously accepting public
798 assistance or making application for child support services for
799 and on behalf of a child or children, the recipient shall be
800 deemed to have made an assignment to the State Department of Human
801 Services of any and all rights and interests in any cause of
802 action, past, present or future, that said recipient or the
803 children may have against any parent failing to provide for the
804 support and maintenance of said minor child or children * * *;
805 said department shall be subrogated to any and all rights, title
806 and interest the recipient or the children may have against any
807 and all property belonging to the absent or nonsupporting parent
808 in the enforcement of any claim for child or spousal support,
809 whether liquidated through court order or not. The recipient of
810 Title IV-D services shall also be deemed, without the necessity of
811 signing any document, to have appointed the State Department of
812 Human Services to act in his or her, as well as the children's,
813 name, place, and stead to perform the specific act of instituting
814 suit to establish paternity or secure support, collecting any and
815 all amounts due and owing for child or spousal support or any
816 other service as required or permitted under Title IV-D of the
817 federal Social Security Act, and endorsing any and all drafts,
818 checks, money orders or other negotiable instruments representing
819 child or spousal support payments which are received on behalf of
820 the recipient or the children, and retaining any portion thereof
821 permitted under federal and state statutes as reimbursement for
822 public assistance monies previously paid to the recipient or
823 children.



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

833 (3) Any attorney authorized by the state to initiate any
834 action pursuant to Title IV-D of the federal Social Security Act,
835 including, but not limited to, any action initiated pursuant to
836 Sections 43-19-31 et seq. and 93-25-1 et seq. shall be deemed to
837 represent the interest of the State Department of Human Services
838 exclusively; no attorney-client relationship shall exist between
839 said attorney and any recipient of services pursuant to Title IV-D
840 of the federal Social Security Act for and on behalf of a child or
841 children, regardless of the name in which the legal proceedings
842 are initiated. Said attorney representing the state in a Title
843 IV-D case is only authorized to appear and prosecute and/or defend
844 issues of support and cannot in a Title IV-D case address or
845 provide representation to the Title IV-D recipient on any other
846 ancillary issues raised or presented in that action.

847 (4) Said assignment to the State Department of Human
848 Services shall be free of any legal or equitable defense to the
849 payment of child support that may accrue to any person legally
850 liable for the support of any child or children receiving aid from
851 the State Department of Human Services, as a result of the conduct
852 of the person who is accepting public assistance for and on behalf
853 of said child or children.

854 **SECTION 4.** Section 43-19-37, Mississippi Code of 1972, is
855 amended as follows:



856 43-19-37. (1) Court orders of support in all cases brought
857 under the provisions of Sections 43-19-31 through 43-19-53 shall
858 specify that the payment of court costs shall be directed by the
859 absent parent to the Mississippi Department of Human Services
860 Central Receipting and Disbursement Unit for further disbursement
861 in the manner as prescribed by Title IV-D of the federal Social
862 Security Act. The court shall assess attorney's fees to recover
863 the costs associated with preparing and prosecuting the case,
864 which shall be paid directly to the Mississippi Department of
865 Human Services solely for the support of the legal division of the
866 Child Support Unit, in a manner separate and distinct from the
867 payment of child support. The court may allow the defendant to
868 pay the attorney's fee over a period not to exceed four (4)
869 months. The state portion of attorney's fees paid into the
870 department shall be used to match federal funds for the support of
871 the legal division of the Child Support Unit. Any payments made
872 by the absent parent directly to the recipient or applicant in
873 violation of the court order shall not be deemed to be a support
874 payment or an attorney's fee and shall not be credited to the
875 court-ordered obligation of said absent parent or to the
876 court-ordered obligation for the payment of the attorney's fee.
877 Failure of the absent parent to comply with an order of support or
878 for payment of an attorney's fee for a period of thirty (30) days
879 shall be directed to the court having jurisdiction of the matter
880 for contempt proceedings or execution issued in the manner and
881 form prescribed by statute. Should civil proceedings become
882 ineffective in producing support or attorney's fees in any case
883 involving a legitimate child or a child wherein paternity has been
884 established by law or acknowledged in writing, the case shall
885 promptly be referred to the district attorney for prosecution as a
886 violation of Section 97-5-3.

887 (2) Each application, petition, order or filing made under
888 this section shall include the social security number(s) of the



889 applicant or father, mother and child(ren), as applicable, in
890 accordance with Section 93-11-64, Mississippi Code of 1972.

891 **SECTION 5.** Section 43-19-47, Mississippi Code of 1972, is
892 amended as follows:

893 43-19-47. (1) The Child Support Unit of the State
894 Department of Human Services, in cooperation with the Attorney
895 General, may appoint at least one (1) full-time staff attorney in
896 or for each chancery court district for the purpose of initiating
897 proceedings under the provisions of Sections 43-19-31 through
898 43-19-53 in securing child support and establishing paternity. The
899 qualifications and annual salary of each of the attorneys
900 appointed by the Child Support Unit, in cooperation with the
901 Attorney General's office under the provisions of Sections
902 43-19-31 through 43-19-53 shall be fixed at such sums as may be
903 deemed proper in accordance with the salaries of other full-time
904 employed state attorneys with the Attorney General's Office. Such
905 salaries, inclusive of all reimbursable travel and other expenses,
906 inclusive of financial arrangements perfected with the appropriate
907 courts, the law enforcement officials and the district attorneys,
908 shall be paid monthly from the funds appropriated to the Child
909 Support Unit of the State Department of Human Services and from
910 the special fund for the Division of Child Support in which the
911 interest from its accounts and all attorney's fees and other fees
912 is placed. The Mississippi Personnel Board shall survey the
913 salaries of other Mississippi attorneys with the Attorney
914 General's Office each year and shall raise the start step of the
915 staff and senior attorneys accordingly and the minimum shall never
916 go below Forty Thousand Dollars (\$40,000.00) for staff attorneys
917 or Fifty Thousand Dollars (\$50,000.00) for senior attorneys.

918 (2) To assist in the implementation of the provisions of
919 Sections 43-19-31 through 43-19-53, the Commissioner of Human
920 Services is empowered to enter into cooperative agreements with
921 district attorneys, county attorneys and attorneys employed by the



922 county boards of supervisors. Said cooperative agreements shall
923 be made in compliance with the regulations established by the
924 Secretary of the Department of Health and Human Services, and may
925 be funded either by funds appropriated to the Child Support Unit
926 of the State Department of Human Services or funds appropriated by
927 any county board of supervisors in this state for their respective
928 county. Attorneys may be hired contractually to be paid in
929 amounts commensurate with the department's staff attorneys.

930 **SECTION 6.** Section 43-19-55, Mississippi Code of 1972, is
931 amended as follows:

932 43-19-55. The State Department of Human Services shall be
933 authorized in maintaining separate accounts with Mississippi banks
934 to handle funds received as incentives from the federal government
935 earned as a result of collecting support and also any funds
936 maintained on deposit as a result of federal and state income tax
937 offsets and any other relevant account, and to aggressively manage
938 the float in these accounts so as to accrue maximum interest
939 advantage of the funds in the account, and to retain all earned
940 interest on these funds to be applied to defray the expenses of
941 the Child Support Unit.

942 **SECTION 7.** Section 93-9-9, Mississippi Code of 1972, is
943 amended as follows:

944 93-9-9. (1) Paternity may be determined upon the petition
945 of the mother, or father, the child or any public authority
946 chargeable by law with the support of the child; provided that
947 such an adjudication after the death of the defendant must be made
948 only upon clear and convincing evidence. If paternity has been
949 lawfully determined, or has been acknowledged in writing according
950 to the laws of this state, the liabilities of the noncustodial
951 parent may be enforced in the same or other proceedings by the
952 custodial parent, the child, or any public authority which has
953 furnished or may furnish the reasonable expenses of pregnancy,
954 confinement, education, necessary support and maintenance, and



955 medical or funeral expenses for the custodial parent or the child.
956 The trier of fact shall receive without the need for third-party
957 foundation testimony certified, attested or sworn documentation as
958 evidence of (a) childbirth records; (b) cost of filing fees; (c)
959 court costs; (d) services of process fees; (e) mailing cost; (f)
960 genetic tests and testing fees; (g) the department's attorney's
961 fees; (h) in cases where the state or any of its entities or
962 divisions have provided medical services to the child or the
963 child's mother, all costs of prenatal care, birthing, postnatal
964 care and any other medical expenses incurred by the child or by
965 the mother as a consequence of the mother's pregnancy or delivery;
966 and (i) funeral expenses. All costs and fees shall be ordered
967 paid to the Department of Human Services in all cases successfully
968 prosecuted with a minimum of Two Hundred Fifty Dollars (\$250.00)
969 in attorney's fees or an amount determined by the court without
970 submitting an affidavit. However, proceedings hereunder shall not
971 be instituted by the Department of Human Services after the child
972 has reached the age of eighteen (18) years but proceedings may be
973 instituted by a private attorney at any time until such child
974 attains the age of twenty-one (21) years unless the child has been
975 emancipated as provided in Section 93-5-23 and Section 93-11-65.
976 In the event of court-determined paternity, the surname of the
977 child shall be that of the father, unless the judgment specifies
978 otherwise.

979 (2) If the alleged father in an action to determine
980 paternity to which the Department of Human Services is a party
981 fails to appear for a scheduled hearing after having been served
982 with process or subsequent notice consistent with the Rules of
983 Civil Procedure, his paternity of the child(ren) shall be
984 established by the court if an affidavit sworn to by the mother
985 averring the alleged father's paternity of the child has
986 accompanied the complaint to determine paternity. Said affidavit
987 shall constitute sufficient grounds for the court's finding of the



988 alleged father's paternity without the necessity of the presence
989 or testimony of the mother at the said hearing. The court shall,
990 upon motion by the Department of Human Services, enter a judgment
991 of paternity. Any person who shall willfully and knowingly file a
992 false affidavit shall be subject to a fine of not more than One
993 Thousand Dollars (\$1,000.00).

994 (3) Upon application of both parents to the State Board of
995 Health and receipt by the State Board of Health of a sworn
996 acknowledgement of paternity executed by both parents subsequent
997 to the birth of a child born out of wedlock, the birth certificate
998 of the child shall be amended to show such paternity if paternity
999 is not shown on the birth certificate. Upon request of the
1000 parents for the legitimization of a child under this section, the
1001 surname of the child shall be changed on the certificate to that
1002 of the father.

1003 (4) (a) A signed voluntary acknowledgment of paternity is
1004 subject to the right of any signatory to rescind the
1005 acknowledgment within the earlier of:

1006 (i) Sixty (60) days; or

1007 (ii) The date of a judicial proceeding relating to
1008 the child, including a proceeding to establish a support order, in
1009 which the signatory is a party.

1010 (b) After the expiration of the sixty-day period
1011 specified in subsection (4) (a) (i) of this section, a signed
1012 voluntary acknowledgment of paternity may be challenged in court
1013 only on the basis of fraud, duress or material mistake of fact,
1014 with the burden of proof upon the challenger; the legal
1015 responsibilities, including child support obligations, of any
1016 signatory arising from the acknowledgment may not be suspended
1017 during the pendency of the challenge, except for good cause shown.

1018 **SECTION 8.** Section 9-5-255, Mississippi Code of 1972, is
1019 amended as follows:



1020 9-5-255. (1) Except as provided by subsection (9) of this
1021 section, the senior chancellor of each chancery court district in
1022 the state may apply to the Chief Justice of the Supreme Court for
1023 the appointment of one or more persons to serve as family masters
1024 in chancery in each of the counties or for all of the counties
1025 within the respective chancery court district if the senior
1026 chancellor states in writing that the chancery court district's
1027 docket is crowded enough to warrant an appointment of a family
1028 master. The Chief Justice shall determine from the information
1029 provided by the senior chancellor if the need exists for the
1030 appointment of a family master. If the Chief Justice determines
1031 that the need exists, a family master shall be appointed. If the
1032 Chief Justice determines that the need does not exist, no family
1033 master shall be appointed.

1034 (2) Family masters in chancery shall have the power to hear
1035 cases and recommend orders establishing, modifying and enforcing
1036 orders for support in matters referred to them by chancellors and
1037 judges of the circuit, county or family courts of such county.
1038 The family master in chancery shall have jurisdiction over
1039 paternity matters brought pursuant to the Mississippi Uniform Law
1040 on Paternity and referred to them by chancellors and judges of the
1041 circuit, county or family courts of such county. As used in this
1042 section, "order for support" shall have the same meaning as such
1043 term is defined in Section 93-11-101.

1044 (3) In all cases in which an order for support has been
1045 established and the person to whom the support obligation is owed
1046 is a nonrelated Temporary Assistance for Needy Families (TANF)
1047 family on whose behalf the Department of Human Services is
1048 providing services, the family master in chancery or any other
1049 judge or court of competent jurisdiction shall, upon proper
1050 pleading by the department and upon appropriate proceedings
1051 conducted thereon, order that the department may recover and that
1052 the obligor shall be liable for reasonable attorney's fees at a



1053 minimum of Two Hundred Fifty Dollars (\$250.00) or an amount set by
1054 the court and court costs which the department incurs in enforcing
1055 and collecting amounts of support obligation which exceed
1056 administrative fees collected and current support owed by the
1057 obligor.

1058 (4) Persons appointed as family masters in chancery pursuant
1059 to this section shall meet and possess all of the qualifications
1060 required of chancery and circuit court judges of this state, shall
1061 remain in office at the pleasure of the appointing chancellor, and
1062 shall receive reasonable compensation for services rendered by
1063 them, as fixed by law, or allowed by the court. Family masters in
1064 chancery shall be paid out of any available funds budgeted by the
1065 board of supervisors of the county in which they serve; provided,
1066 however, in the event that a family master in chancery is
1067 appointed to serve in more than one county within a chancery court
1068 district, then the compensation and expenses of such master shall
1069 be equally apportioned among and paid by each of the counties in
1070 which such master serves. The chancery clerk shall issue to such
1071 persons a certificate of appointment.

1072 (5) Family masters in chancery shall have power to
1073 administer oaths, to take the examination of witnesses in cases
1074 referred to them, to examine and report upon all matters referred
1075 to them, and they shall have all the powers in cases referred to
1076 them properly belonging to masters or commissioners in chancery
1077 according to the practice of equity courts as heretofore
1078 exercised.

1079 (6) Family masters in chancery shall have power to issue
1080 subpoenas for witnesses to attend before them to testify in any
1081 matter referred to them or generally in the cause, and the
1082 subpoenas shall be executed in like manner as subpoenas issued by
1083 the clerk of the court. If any witness shall fail to appear, the
1084 master shall proceed by process of attachment to compel the
1085 witness to attend and give evidence.



1086 (7) Family masters in chancery are authorized and empowered
1087 to conduct original hearings on matters in such county referred to
1088 such masters by any chancellor or judge of such county.

1089 (8) In all cases heard by masters pursuant to this section,
1090 such masters shall make a written report to the chancellor or
1091 judge who refers the case to him. Such chancellor or judge may
1092 accept, reject or modify, in whole or in part, the findings or
1093 recommendations made and reported by the master, and may recommit
1094 the matter to the master with instructions. In all cases referred
1095 to such master, initialing for approval by the master of a
1096 proposed decree shall be sufficient to constitute the master's
1097 report.

1098 (9) Any chancellor required by this section to appoint a
1099 person or persons to serve as family masters in chancery may
1100 forego the requirement to appoint such masters or if family
1101 masters have been appointed, such chancellor may terminate such
1102 appointments and leave such positions vacant, only if an exemption
1103 from the United States Department of Health and Human Services is
1104 obtained for the county or counties involved. Such positions may
1105 remain vacant for as long as such exemption remains in effect.

1106 **SECTION 9.** Section 93-25-5, Mississippi Code of 1972, is
1107 amended as follows:

1108 93-25-5. The chancery courts, circuit and county courts,
1109 family courts and tribal courts, and the Office of Administrative
1110 Hearings of the Department of Human Services, are the tribunals of
1111 this state.

1112 **SECTION 10.** This act shall take effect and be in force from
1113 and after its passage.

