

By: Senator(s) Nunnelee

To: Judiciary, Division A

SENATE BILL NO. 2851
(As Passed the Senate)

1 AN ACT TO UPDATE THE UNIFORM INTERSTATE FAMILY SUPPORT ACT;
2 TO AMEND SECTIONS 93-25-3, 93-25-7, 93-25-9, 93-25-11, 93-25-17,
3 93-25-19, 93-25-21, 93-25-25, 93-25-27, 93-25-31, 93-25-33,
4 93-25-35, 93-25-39, 93-25-41, 93-25-45, 93-25-47, 93-25-49,
5 93-25-51, 93-25-53, 93-25-57, 93-25-59, 93-25-63, 93-25-65,
6 93-25-67, 93-25-77, 93-25-79, 93-25-83, 93-25-87, 93-25-89,
7 93-25-93, 93-25-101, 93-25-103, 93-25-109 AND 93-25-113,
8 MISSISSIPPI CODE OF 1972; TO CODIFY SECTIONS 93-25-26, 93-25-26.1
9 AND 93-25-108, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
10 AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 93-25-3, Mississippi Code of 1972, is
13 amended as follows:

14 93-25-3. For purposes of Sections 93-25-1 through 93-25-117,
15 the following words and phrases shall have the meanings ascribed
16 herein, unless the context clearly indicates otherwise:

17 (a) "Child" means an individual, whether over or under
18 the age of majority, who is or is alleged to be owed a duty of
19 support by the individual's parent or who is or is alleged to be
20 the beneficiary of a support order directed to the parent.

21 (b) "Child support order" means a support order for a
22 child, including a child who has attained the age of majority
23 under the law of the issuing state.

24 (c) "Duty of support" means an obligation imposed or
25 imposable by law to provide support for a child, spouse or former
26 spouse, including an unsatisfied obligation to provide support.

27 (d) "Home state" means the state in which a child lived
28 with a parent or a person acting as parent for at least six (6)
29 consecutive months immediately preceding the time of filing of a
30 petition or comparable pleading for support and, if a child is
31 less than six (6) months old, the state in which the child lived

32 from birth with any of them. A period of temporary absence of any
33 of them is counted as part of the six-month or other period.

34 (e) "Income" includes earnings or * * * periodic
35 entitlements to money from any source and any other property
36 subject to withholding for support under the laws of this state.

37 (f) "Income-withholding order" means an order or other
38 legal process directed to an obligor's employer or other debtor,
39 as defined by Sections 93-11-101 through 93-11-119, Mississippi
40 Code of 1972, to withhold support from the income of the obligor.

41 (g) "Initiating state" means a state from which a
42 proceeding is forwarded or in which a proceeding is filed for
43 forwarding to a responding state under this chapter or a law or
44 procedure substantially similar to this chapter * * *.

45 (h) "Initiating tribunal" means the authorized tribunal
46 in an initiating state.

47 (i) "Issuing state" means the state in which a tribunal
48 issues a support order or renders a judgment determining
49 parentage.

50 (j) "Issuing tribunal" means the tribunal that issues a
51 support order or renders a judgment determining parentage.

52 (k) "Law" includes decisional and statutory law and
53 rules and regulations having the force of law.

54 (l) "Obligee" means:

55 (i) An individual to whom a duty of support is or
56 is alleged to be owed or in whose favor a support order has been
57 issued or a judgment determining parentage has been rendered;

58 (ii) A state or political subdivision to which the
59 rights under a duty of support or support order have been assigned
60 or which has independent claims based on financial assistance
61 provided to an individual obligee; or

62 (iii) An individual seeking a judgment determining
63 parentage of the individual's child.

64 (m) "Obligor" means an individual or the estate of a
65 decedent:

66 (i) Who owes or is alleged to owe a duty of
67 support;

68 (ii) Who is alleged but has not been adjudicated
69 to be a parent of a child; or

70 (iii) Who is liable under a support order.

71 (n) "Person" means an individual, corporation, business
72 trust, estate, trust, partnership, limited liability company,
73 association, joint venture, government, governmental subdivision,
74 agency, or instrumentality, public corporation, or any other legal
75 or commercial entity.

76 (o) "Record" means information that is inscribed on a
77 tangible medium or that is stored in an electronic or other medium
78 and is retrievable in perceivable form.

79 (p) "Register" means to record a support order or
80 judgment determining parentage in a court of this state having
81 jurisdiction.

82 (q) "Registering tribunal" means a tribunal in which a
83 support order is registered.

84 (r) "Responding state" means a state in which a
85 proceeding is filed or to which a proceeding is forwarded for
86 filing from an initiating state under this chapter or a law or
87 procedure substantially similar to this chapter, the Uniform
88 Reciprocal Enforcement of Support Act, or the Revised Uniform
89 Reciprocal Enforcement of Support Act.

90 (s) "Responding tribunal" means the authorized tribunal
91 in a responding state.

92 (t) "Spousal-support order" means a support order for a
93 spouse or former spouse of the obligor.

94 (u) "State" means a state of the United States, the
95 District of Columbia, Puerto Rico, the United States Virgin

Islands or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes:

- (i) An Indian tribe; and
- (ii) A foreign country or political subdivision

jurisdiction that: has been declared to be a foreign reciprocating country or political subdivision under federal law; has established a reciprocal arrangement for child support with this state; has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this chapter * * *.

(v) "Support enforcement agency" means a public official or agency authorized to seek:

- (i) Enforcement of support orders or laws relating to the duty of support;

- (ii) Establishment or modification of child support;

- (iii) Determination of parentage; * * *

- (iv) Location of obligors or their assets; or

- (v) Determination of the controlling child support order.

(w) "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, for the benefit of a child, a spouse or a former spouse, which provides for monetary support, health care, arrearages or reimbursement and may include related costs and fees, interest, income withholding, attorney's fees and other relief.

(x) "Tribunal" means a court, administrative agency or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage.

SECTION 2. Section 93-25-7, Mississippi Code of 1972, is amended as follows:

93-25-7. (1) Remedies provided by this chapter are cumulative and do not affect the availability of remedies under

other law, including the recognition of a foreign support order on the basis of comity.

(2) This chapter does not:

(a) Provide the exclusive method of establishing or enforcing a support order under the law of this state; or

(b) Grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody and visitation in a proceeding under this chapter.

SECTION 3. Section 93-25-9, Mississippi Code of 1972, is amended as follows:

93-25-9. In a proceeding to establish or enforce * * * a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(a) The individual is personally served with process within this state;

(b) The individual submits to the jurisdiction of this state by consent, by entering a general appearance or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(c) The individual resided with the child in this state;

(d) The individual resided in this state and provided prenatal expenses or support for the child;

(e) The child resides in this state as a result of the acts or directives of the individual;

(f) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

(g) The individual asserted parentage as provided by law; or

(h) There is any other basis consistent with the Constitutions of this state and the United States for the exercise of personal jurisdiction.

Unless Section 93-25-101 or 93-25-107 applies, the bases of personal jurisdiction set forth in this section may not be used to acquire jurisdiction for a tribunal of this state to modify a child support order issued by a tribunal of another state.

SECTION 4. Section 93-25-11, Mississippi Code of 1972, is amended as follows:

93-25-11. Personal jurisdiction acquired by a tribunal of this state in a proceeding under this chapter or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by Sections 93-25-17, 93-25-19 and 93-25-26.1.

SECTION 5. Section 93-25-17, Mississippi Code of 1972, is amended as follows:

93-25-17. (1) A tribunal of this state that has issued a support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order and:

(a) At the time of the filing of a request for modification this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(b) Even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise its jurisdiction to modify its order.

(2) A tribunal of this state that has issued a child support order consistent with the law of this state may not exercise * * * continuing exclusive jurisdiction to modify the order if:

193 (a) All of the parties who are individuals file consent
194 in a record with the tribunal of this state that a tribunal of
195 another state with jurisdiction over at least one (1) of the
196 parties who is an individual or that is located in the state of
197 residence of the child may modify the order and assume continuing,
198 exclusive jurisdiction; or

199 (b) Its order is not the controlling order.

200 * * *

201 (3) If a tribunal of another state * * * has issued a child
202 support order pursuant to this chapter or to a law substantially
203 similar to this chapter which modifies a child support order of a
204 tribunal of the state, tribunals of this state shall recognize the
205 continuing, exclusive jurisdiction of the tribunal of the other
206 state.

207 (4) A tribunal of this state which lacks continuing,
208 exclusive jurisdiction to modify a child support order may serve
209 as an initiating tribunal to request a tribunal of another state
210 to modify a support order issued in that state.

211 (5) A temporary support order issued ex parte or pending
212 resolution of a jurisdictional conflict does not create
213 continuing, exclusive jurisdiction in the issuing tribunal.

214 * * *

215 **SECTION 6.** Section 93-25-19, Mississippi Code of 1972, is
216 amended as follows:

217 93-25-19. (1) A tribunal of this state that has issued a
218 child support order consistent with the law of this state may
219 serve as an initiating tribunal to request a tribunal of another
220 state to enforce:

221 (a) The order, if the order is the controlling order
222 and has not been modified by a tribunal of another state which
223 assumed jurisdiction pursuant to this act; or

(b) A money judgment for support arrears and interest on the order accumulated prior to a determination that an order of another state is the controlling order.

(2) A tribunal of this state having continuing * * * jurisdiction over a support order may act as a responding tribunal to enforce * * * the order. * * *

* * *

SECTION 7. Section 93-25-21, Mississippi Code of 1972, is amended as follows:

93-25-21. (1) If a proceeding is brought under this chapter, and only one (1) tribunal has issued a child support order, the order of that tribunal is controlling and must be so recognized.

(2) If a proceeding is brought under this chapter, and two (2) or more child support orders have been issued by * * * tribunals of this state or another state with regard to the same obligor and the same child, a tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls:

(a) If only one (1) of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls and must be so recognized.

(b) If more than one (1) of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child controls * * *; but if an order has not been issued in the current home state of the child, the order most recently issued controls * * *.

(c) If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state * * * shall issue a child support order, which controls * * *.

(3) If two (2) or more child support orders have been issued for the same obligor and the same child * * *, upon request of a party who is an individual or a support enforcement agency, a tribunal of this state having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls * * * under subsection (2). The request may be filed with a registration for enforcement or registration for modification, or may be filed as a separate proceeding.

(4) A request for determination of which is the controlling order must be accompanied by a copy of every child support order in effect and the applicable record of payments. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.

(5) The tribunal that issued the controlling order under subsection (1), (2) or (3) is the tribunal that has continuing * * * jurisdiction to the extent provided in Section 93-25-17 or 93-25-19.

(6) A tribunal of this state that determines by order which is the controlling order under subsection (2)(a), (2)(b) or subsection (3), or that issues a new controlling child support order under subsection (2)(c), shall state in that order:

(a) The basis upon which the tribunal made its determination;

(b) The amount of prospective support, if any; and

(c) The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited.

(7) Within thirty (30) days after issuance of an order determining which is the controlling order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or registered an earlier order of child support. A party or support enforcement agency obtaining the order that fails to file a certified copy is subject to appropriate sanctions by a

tribunal in which the issue of failure to file arises. The
failure to file does not affect on the validity or enforceability
of the controlling order.

(8) An order that has been determined to be the controlling
order, or a judgment for consolidated arrears of support and
interest, if any, made pursuant to this section must be recognized
in proceedings under this chapter.

SECTION 8. Section 93-25-25, Mississippi Code of 1972, is
amended as follows:

93-25-25. A tribunal of this state shall credit amounts
collected * * * for a particular period pursuant to any child
support order against the amounts owed for the same period under
any other child support order for support of the same child issued
by a tribunal of this or another state * * *.

SECTION 9. The following shall be codified as Section
93-25-26, Mississippi Code of 1972:

93-25-26. A tribunal of this state exercising personal
jurisdiction over a nonresident in a proceeding under this
chapter, under other law of this state relating to a support
order, or recognizing a support order of a foreign country or
political subdivision on the basis of comity may apply Section
93-25-57 to receive evidence from another state, Section 93-25-59
to communicate with a tribunal of another state, and Section
93-25-61 to obtain discovery through a tribunal of another state.
In all other respects, Sections 93-25-27 through 93-25-109 do not
apply and the tribunal shall apply the procedural and substantive
law of this state.

SECTION 10. The following shall be codified as Section
93-25-26.1, Mississippi Code of 1972:

93-25-26.1. (1) A tribunal of this state issuing a spousal
support order consistent with the law of this state has
continuing, exclusive jurisdiction to modify the spousal support
order throughout the existence of the support obligation.

(2) A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

(3) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as:

(a) An initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state; or

(b) A responding tribunal to enforce or modify its own spousal support order.

SECTION 11. Section 93-25-27, Mississippi Code of 1972, is amended as follows:

93-25-27. (1) Except as otherwise provided in this chapter, Sections 93-25-27 through 93-25-63 apply to all proceedings under this chapter.

* * *

(2) An individual or a support enforcement agency may initiate a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.

SECTION 12. Section 93-25-31, Mississippi Code of 1972, is amended as follows:

93-25-31. Except as otherwise provided by this chapter, a responding tribunal of this state:

(a) Shall apply the procedural and substantive law * * * generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(b) Shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

SECTION 13. Section 93-25-33, Mississippi Code of 1972, is amended as follows:

93-25-33. (1) Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward * * * the petition and its accompanying documents:

(a) To the responding tribunal or appropriate support enforcement agency in the responding state; or

(b) If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

(2) If requested by the responding tribunal * * *, a tribunal of this state shall issue a certificate or other document and make findings required by the law of the responding state. If the responding state is a foreign country or political subdivision, upon request the tribunal shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding state.

SECTION 14. Section 93-25-35, Mississippi Code of 1972, is amended as follows:

93-25-35. (1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to Section 93-25-27 * * *, it shall cause the petition or pleading to be filed and shall notify the petitioner where and when it was filed.

(2) A responding tribunal of this state, to the extent not prohibited by other law, may do one or more of the following:

386 (a) Issue or enforce a support order, modify a child
387 support order, determine the controlling child support order, or
388 render a judgment to determine parentage;

389 (b) Order an obligor to comply with a support order,
390 specifying the amount and the manner of compliance;

391 (c) Order income withholding;

392 (d) Determine the amount of any arrearage and specify a
393 method of payment;

394 (e) Enforce orders by civil or criminal contempt, or
395 both;

396 (f) Set aside property for satisfaction of the support
397 order;

398 (g) Place liens and order execution on the obligor's
399 property;

400 (h) Order an obligor to keep the tribunal informed of
401 the obligor's current residential address, telephone number,
402 employer, address of employment and telephone number at the place
403 of employment;

404 (i) Issue a bench warrant, capias, for an obligor who
405 has failed after proper notice to appear at a hearing ordered by
406 the tribunal and enter the bench warrant, capias, in any local and
407 state computer systems for criminal warrants;

408 (j) Order the obligor to seek appropriate employment by
409 specified methods;

410 (k) Award reasonable attorney's fees and other fees and
411 costs; and

412 (l) Grant any other available remedy.

413 (3) A responding tribunal of this state shall include in a
414 support order issued under this chapter, or in the documents
415 accompanying the order, the calculations on which the support
416 order is based.

(4) A responding tribunal of this state may not condition the payment of a support order issued under this chapter upon compliance by a party with provisions for visitation.

(5) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal, if any.

(6) If requested to enforce or modify a support order, arrears or judgment stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under applicable official exchange rates as publicly reported.

SECTION 15. Section 93-25-39, Mississippi Code of 1972, is amended as follows:

93-25-39. (1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(2) A support enforcement agency that is providing services to the petitioner as appropriate shall:

(a) Take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;

(b) Request an appropriate tribunal to set a date, time and place for a hearing;

(c) Make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(d) Within two (2) days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written notice from initiating, responding or registering tribunal, send a copy of the notice to the petitioner;

(e) Within two (2) days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written

communication from the respondent or the respondent's attorney,
send a copy of the communication to the petitioner; and

(f) Notify the petitioner if jurisdiction over the
respondent cannot be obtained.

(3) A support enforcement agency of this state that is
requesting registration of a child support order for enforcement
or for modification in this state shall make reasonable efforts:

(a) To ensure that the order to be registered is the
controlling order; or

(b) To ensure that, if two (2) or more child support
orders exist and the identity of the controlling order has not
been determined, a request for such a determination is made in a
tribunal with jurisdiction to do so.

(4) A support enforcement agency of this state that is
requesting registration and enforcement of a support order,
arrearage or judgment stated in a foreign currency shall convert the
amounts stated in the foreign currency into the equivalent amounts
in dollars under applicable official exchange rates as publicly
reported.

(5) A support enforcement agency of this state shall request
a tribunal of this state to issue a child support order and an
income-withholding order that redirect payment of current support,
arrearage and interest if requested to do so by a support
enforcement agency of another state pursuant to Section 93-25-63.

(6) This chapter does not create or negate a relationship of
attorney and client or other fiduciary relationship between a
support enforcement agency or the attorney for the agency and the
individual being assisted by the agency.

SECTION 16. Section 93-25-41, Mississippi Code of 1972, is
amended as follows:

93-25-41. (1) If the appropriate state official or agency
determines that the support enforcement agency is neglecting or
refusing to provide services to an individual, the official or

agency may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

(2) The appropriate state official or agency may determine that a foreign country or political subdivision has established a child support reciprocity arrangement with this state and take appropriate action for notification of the determination.

SECTION 17. Section 93-25-45, Mississippi Code of 1972, is amended as follows:

93-25-45. (1) The Department of Human Services is the state information agency under this chapter.

(2) The state information agency shall:

(a) Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state, and transmit a copy to the state information agency of every other state;

(b) Maintain a register of names and addresses of tribunals and support enforcement agencies received from other states;

(c) Forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from an initiating tribunal or the state information agency of the initiating state; and

(d) Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics,

515 law enforcement, taxation, motor vehicles, driver's licenses and
516 social security.

517 **SECTION 18.** Section 93-25-47, Mississippi Code of 1972, is
518 amended as follows:

519 93-25-47. (1) In a proceeding under this chapter, a
520 petitioner seeking to establish * * * a support order, to
521 determine parentage, or to register and modify a support order of
522 another state, must file a petition. Unless otherwise ordered
523 under Section 93-25-49 * * *, the petition or accompanying
524 documents must provide, so far as known, the name, residential
525 address and social security numbers of the obligor and the obligee
526 or the parent and alleged parent, and the name, sex, residential
527 address, social security number and date of birth of each child
528 for whose benefit support is sought or whose parentage is to be
529 determined. Unless filed at the time of registration, the
530 petition must be accompanied by a * * * copy of any support order
531 known to have been issued by another tribunal. The petition may
532 include any other information that may assist in locating or
533 identifying the respondent.

534 (2) The petition must specify the relief sought. The
535 petition and accompanying documents must conform substantially
536 with the requirements imposed by the forms mandated by federal law
537 for use in cases filed by a support enforcement agency.

538 **SECTION 19.** Section 93-25-49, Mississippi Code of 1972, is
539 amended as follows:

540 93-25-49. If a party alleges in an affidavit or a pleading
541 under oath that the health, safety or liberty of a party or child
542 would be jeopardized by disclosure of specific identifying
543 information, that information must be sealed and may not be
544 disclosed to the other party or the public. After a hearing in
545 which a tribunal takes into consideration the health, safety or
546 liberty of the party or child, the tribunal may order disclosure

547 of that information that the tribunal determines to be in the
548 interest of justice.

549 **SECTION 20.** Section 93-25-51, Mississippi Code of 1972, is
550 amended as follows:

551 93-25-51. (1) The petitioner may not be required to pay a
552 filing fee or other costs.

553 (2) If an obligee prevails, a responding tribunal may assess
554 against an obligor filing fees, reasonable attorney's fees, other
555 costs and necessary travel and other reasonable expenses incurred
556 by the obligee and the obligee's witnesses. The tribunal may not
557 assess fees, costs or expenses against the obligee or the support
558 enforcement agency of either the initiating or the responding
559 state, except as provided by other law. Attorney's fees may be
560 taxed as costs, and may be ordered paid directly to the attorney,
561 who may enforce the order in the attorney's own name. Payment of
562 support owed to the obligee has priority over fees, costs and
563 expenses.

564 (3) The tribunal shall order the payment of costs and
565 reasonable attorney's fees if it determines that a hearing was
566 requested primarily for delay. In a proceeding under Sections
567 93-25-91 and 93-25-101 (enforcement and modification of support
568 order after registration), a hearing is presumed to have been
569 requested primarily for delay if a registered support order is
570 confirmed or enforced without change.

571 **SECTION 21.** Section 93-25-53, Mississippi Code of 1972, is
572 amended as follows:

573 93-25-53. (1) Participation by a petitioner in a proceeding
574 under this chapter before a responding tribunal, whether in
575 person, by private attorney or through services provided by the
576 support enforcement agency, does not confer personal jurisdiction
577 over the petitioner in another proceeding.

578 (2) A petitioner is not amenable to service of civil process
579 while physically present in this state to participate in a
580 proceeding under this chapter.

581 (3) The immunity granted by this section does not extend to
582 civil litigation based on acts unrelated to a proceeding under
583 this chapter committed by a party while present in this state to
584 participate in the proceeding.

585 **SECTION 22.** Section 93-25-57, Mississippi Code of 1972, is
586 amended as follows:

587 93-25-57. (1) The physical presence of an individual,
588 nonresident party in a * * * tribunal of this state is not
589 required for the establishment, enforcement or modification of a
590 support order or the rendition of a judgment determining
591 parentage.

592 (2) An * * * affidavit, document substantially complying
593 with federally mandated forms, or document incorporated by
594 reference in any of them, not excluded under the hearsay rule if
595 given in person, is admissible in evidence if given under penalty
596 of perjury by a party or witness residing in another state.

597 (3) A copy of the record of child support payments certified
598 as a true copy of the original by the custodian of the record may
599 be forwarded to a responding tribunal. The copy is evidence of
600 facts asserted in it, and is admissible to show whether payments
601 were made.

602 (4) Copies of bills for testing for parentage, and for
603 prenatal and postnatal health care of the mother and child,
604 furnished to the adverse party at least ten (10) days before
605 trial, are admissible in evidence to prove the amount of the
606 charges billed and the charges were reasonable, necessary and
607 customary.

608 (5) Documentary evidence transmitted from another state to a
609 tribunal of this state by telephone, telecopier or other means

610 that do not provide an original record may not be excluded from
611 evidence on an objection based on the means of transmission.

612 (6) In a proceeding under this chapter, a tribunal of this
613 state shall permit a party or witness residing in another state to
614 be deposed or to testify under penalty of perjury by telephone,
615 audiovisual means or other electronic means at a designated
616 tribunal or other location in that state. A tribunal of this
617 state shall cooperate with tribunals of other states in
618 designating an appropriate location for the deposition or
619 testimony.

620 (7) If a party called to testify at a civil hearing refuses
621 to answer on the ground that the testimony may be
622 self-incriminating, the trier of fact may draw an adverse
623 inference from the refusal.

624 (8) A privilege against disclosure of communications between
625 spouses does not apply in a proceeding under this chapter.

626 (9) The defense of immunity based on the relationship of
627 husband and wife or parent and child does not apply in a
628 proceeding under this chapter.

629 (10) A voluntary acknowledgement of paternity, certified as
630 a true copy, is admissible to establish parentage of the child.

631 **SECTION 23.** Section 93-25-59, Mississippi Code of 1972, is
632 amended as follows:

633 93-25-59. A tribunal of this state may communicate with a
634 tribunal of another state or foreign country or political
635 subdivision in writing, or by telephone or other means, to obtain
636 information concerning the laws * * *, the legal effect of a
637 judgment, decree or order of that tribunal, and the status of a
638 proceeding in the other state or foreign country or political
639 subdivision. A tribunal of this state may furnish similar
640 information by similar means to a tribunal of another state or
641 foreign country or political subdivision.

SECTION 24. Section 93-25-63, Mississippi Code of 1972, is amended as follows:

93-25-63. (1) A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and date of all payments received.

(2) If neither the obligor, nor the obligee who is an individual, nor the child resides in this state, upon request from the support enforcement agency of this state or another state, the support enforcement agency of this state or a tribunal of this state shall:

(a) Direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and

(b) Issue a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

(3) The support enforcement agency of this state receiving redirected payments from another state pursuant to a law similar to subsection (2) shall furnish to a requesting party or tribunal of the other state a certified statement by a custodian of the record of the amount and dates of all payments received.

SECTION 25. Section 93-25-65, Mississippi Code of 1972, is amended as follows:

93-25-65. (1) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state may issue a support order if:

(a) The individual seeking the order resides in another state; or

(b) The support enforcement agency seeking the order is located in another state.

(2) The tribunal may issue a temporary child support order if the tribunal determines that such an order is appropriate and the individual ordered to pay is:

- (a) Presumed father of the child;
- (b) Petitioning to have his paternity adjudicated;
- (c) Identified as the father of the child through genetic testing;
- (d) An alleged father who has declined to submit to genetic testing;
- (e) Shown by clear and convincing evidence to be the father of the child;
- (f) An acknowledged father;
- (g) The mother of the child; or
- (h) An individual who has been ordered to pay child support in a previous proceeding that has not been reversed or vacated.

(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to Section 93-25-35 * * *.

SECTION 26. Section 93-25-67, Mississippi Code of 1972, is amended as follows:

93-25-67. An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency to the person * * * defined as the obligor's employer under Sections 93-11-101 through 93-11-119, without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

SECTION 27. Section 93-25-77, Mississippi Code of 1972, is amended as follows:

93-25-77. (1) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state by registering

the order in a tribunal of this state and filing a contest to that order as provided in Sections 93-25-81 through 93-25-111, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this state. Section 93-25-87 * * * applies to the contest.

(2) The obligor shall give notice of the contest to:

(a) A support enforcement agency providing services to the obligee;

(b) Each employer that has directly received an income-withholding order relating to the obligor; and

(c) The person * * * designated to receive payments in the income-withholding order, or if * * * no person or agency is designated, the obligee.

SECTION 28. Section 93-25-79, Mississippi Code of 1972, is amended as follows:

93-25-79. (1) A party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(2) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

SECTION 29. Section 93-25-83, Mississippi Code of 1972, is amended as follows:

93-25-83. (1) A support order or income-withholding order of another state may be registered in this state by sending the

741 following records and information to the appropriate tribunal in
742 this state:

743 (a) A letter of transmittal to the tribunal requesting
744 registration and enforcement;

745 (b) Two (2) copies, including one (1) certified copy,
746 of the order to be registered, including any modification of the
747 order;

748 (c) A sworn statement by the person requesting
749 registration or a certified statement by the custodian of the
750 records showing the amount of any arrearage;

751 (d) The name of the obligor and, if known:

752 (i) The obligor's address and social security
753 number;

754 (ii) The name and address of the obligor's
755 employer and any other source of income of the obligor; * * *

756 (iii) A description and the location of property
757 of the obligor in this state not exempt from execution; and

758 (e) Except as otherwise provided in Section 93-25-49,
759 the name and address of the obligee and, if applicable, the * * *
760 person to whom support payments are to be remitted.

761 (2) On receipt of a request for registration, the
762 registering tribunal shall cause the order to be filed as a
763 foreign judgment, together with one (1) copy of the documents and
764 information, regardless of their form.

765 (3) A petition or comparable pleading seeking a remedy that
766 must be affirmatively sought under other law of this state may be
767 filed at the same time as the request for registration or later.
768 The pleading must specify the grounds for the remedy sought.

769 (4) If two (2) or more orders are in effect, the person
770 requesting registration shall:

771 (a) Furnish to the tribunal a copy of every support
772 order asserted to be in effect in addition to the documents
773 specified in this section;

(b) Specify the order alleged to be the controlling order, if any; and

(c) Specify the amount of consolidated arrears, if any.

(5) A request for a determination of which is the controlling order may be filed with a request for registration and enforcement, for registration and modification, or may be filed separately. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

SECTION 30. Section 93-25-87, Mississippi Code of 1972, is amended as follows:

93-25-87. (1) Except as otherwise provided in subsection (4), the law of the issuing state governs:

(a) The nature, extent, amount and duration of current payments under a registered support order;

(b) The computation and payment of arrearages and accrual of interest on the arrearages under the support order; and

(c) The existence and satisfaction of other obligations under the support order.

(2) In a proceeding for arrears under a registered support order, the statute of limitation * * * of this state or of the issuing state, whichever is longer, applies.

(3) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce current support and collect arrearages and interest due on a support order of another state registered in this state.

(4) After a tribunal of this or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state issuing the controlling order, including its law on interest on arrears, on current and future support and on consolidated arrears.

806 **SECTION 31.** Section 93-25-89, Mississippi Code of 1972, is
807 amended as follows:

808 93-25-89. (1) When a support order or income-withholding
809 order issued in another state is registered, the registering
810 tribunal shall notify the nonregistering party. The notice must
811 be accompanied by a copy of the registered order and the documents
812 and relevant information accompanying the order.

813 (2) The notice must inform the nonregistering party:

814 (a) That a registered order is enforceable as of the
815 date of registration in the same manner as an order issued by a
816 tribunal of this state;

817 (b) That a hearing to contest the validity or
818 enforcement of the registered order must be requested within
819 twenty (20) days after notice;

820 (c) That failure to contest the validity or enforcement
821 of the registered order in a timely manner will result in
822 confirmation of the order and enforcement of the order and the
823 alleged arrearages and precludes further contest of that order
824 with respect to any matter that could have been asserted; and

825 (d) Of the amount of any alleged arrearages.

826 (3) Upon registering an income-withholding order for
827 enforcement, the registering tribunal shall notify the obligor's
828 employer pursuant to Sections 93-11-101 through 93-11-119,
829 Mississippi Code of 1972.

830 (4) If the registering party asserts that two (2) or more
831 orders are in effect, a notice must also:

832 (a) Identify the two (2) or more orders and the order
833 alleged by the registering person to be the controlling order, if
834 any, and the consolidated arrears, if any;

835 (b) Notify the nonregistering party of the right to a
836 determination of which is the controlling order;

(c) State that the procedures provided in subsection (2) apply to the determination of which is the controlling order; and

(d) State that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation of the order as the controlling order.

SECTION 32. Section 93-25-93, Mississippi Code of 1972, is amended as follows:

93-25-93. (1) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(a) The issuing tribunal lacked personal jurisdiction over the contesting party;

(b) The order was obtained by fraud;

(c) The order has been vacated, suspended or modified by a later order;

(d) The issuing tribunal has stayed the order pending appeal;

(e) There is a defense under the law of this state to the remedy sought;

(f) Full or partial payment has been made; * * *

(g) The statute of limitation under Section 93-25-87 * * * precludes enforcement of some or all of the alleged arrearage; or

(h) The alleged controlling order is not the controlling order.

(2) If a party presents evidence establishing a full or partial defense under subsection (1), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence and issue other appropriate orders. An uncontested portion of the registered

870 order may be enforced by all remedies available under the law of
871 this state.

872 (3) If the contesting party does not establish a defense
873 under subsection (1) to the validity or enforcement of the order,
874 the registering tribunal shall issue an order confirming the
875 order.

876 **SECTION 33.** Section 93-25-101, Mississippi Code of 1972, is
877 amended as follows:

878 93-25-101. (1) If Section 93-25-107 does not apply, except
879 as otherwise provided in Section 93-25-108, upon petition, a
880 tribunal of this state may modify a child support order issued in
881 another state which is registered in this state, if * * *, after
882 notice and hearing, it finds that:

883 (a) The following requirements are met:

884 (i) Neither the child, nor the * * * obligee who
885 is an individual, nor the obligor * * * resides in the issuing
886 state;

887 (ii) A petitioner who is a nonresident of this
888 state seeks modification; and

889 (iii) The respondent is subject to the personal
890 jurisdiction of the tribunal of this state; or

891 (b) This state is the state of residence of the child,
892 or a party who is an individual is subject to the personal
893 jurisdiction of the tribunal of this state, and all of the parties
894 who are individuals have filed * * * consents in a record in the
895 issuing tribunal for a tribunal of this state to modify the
896 support order and assume continuing, exclusive jurisdiction * * *.

897 (2) Modification of a registered child support order is
898 subject to the same requirements, procedures and defenses that
899 apply to the modification of an order issued by a tribunal of this
900 state and the order may be enforced and satisfied in the same
901 manner.

902 (3) Except as otherwise provided in Section 93-25-108, a
903 tribunal of this state may not modify any aspect of a child
904 support order that may not be modified under the law of the
905 issuing state, including the duration of the order of support. If
906 two (2) or more tribunals have issued child support orders for the
907 same obligor and the same child, the order that controls and must
908 be so recognized under the provisions of Section 93-25-21
909 establishes the aspects of the support order which are
910 nonmodifiable.

911 (4) In a proceeding to modify a child support order, the law
912 of the state that is determined to have issued the initial
913 controlling order governs the duration of the obligation of
914 support. The obligor's fulfillment of the duty of support
915 established by that order precludes imposition of a further
916 obligation of support by a tribunal of this state.

917 (5) On issuance of an order by a tribunal of this state
918 modifying a child support order issued in another state, the
919 tribunal of this state becomes the tribunal of continuing,
920 exclusive jurisdiction.

921 **SECTION 34.** Section 93-25-103, Mississippi Code of 1972, is
922 amended as follows:

923 93-25-103. If a child support order issued by a tribunal of
924 this state is modified * * * by a tribunal of another state which
925 assumed jurisdiction pursuant to this chapter, a tribunal of this
926 state:

927 (a) May enforce its order that was modified only as to
928 arrears and interest accruing before the modification;

929 * * *

930 (b) May provide * * * appropriate relief * * * for
931 violations of its order which occurred before the effective date
932 of the modification; and

933 (c) Shall recognize the modifying order of the other
934 state, upon registration, for the purpose of enforcement.

SECTION 35. The following shall be codified as Section 93-25-108, Mississippi Code of 1972:

93-25-108. (1) If a foreign country or political subdivision that is a state will not or may not modify its order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether or not the consent to modification of a support order otherwise required of the individual pursuant to Section 93-25-101 has been given or whether the individual seeking modification is a resident of this state or of the foreign country or political subdivision.

(2) An order issued pursuant to this section is the controlling order.

SECTION 36. Section 93-25-109, Mississippi Code of 1972, is amended as follows:

93-25-109. (1) A court of this state authorized to determine parentage of a child may serve as a * * * responding tribunal in a proceeding to determine parentage brought under this chapter or a law or procedure substantially similar to this chapter * * *.

(2) In a proceeding to determine parentage, a responding tribunal of this state shall apply the procedural and substantive law of this state * * *.

SECTION 37. Section 93-25-113, Mississippi Code of 1972, is amended as follows:

93-25-113. (1) Before making demand that the Governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the Governor of this state may require a prosecutor of this state to demonstrate that at least sixty (60) days previously the obligee had initiated proceedings for support pursuant to this chapter or that the proceeding would be of no avail.

968 (2) If, under this chapter or a law substantially similar to
969 this chapter, * * * the Governor of another state makes a demand
970 that the Governor of this state surrender an individual charged
971 criminally in that state with having failed to provide for the
972 support of a child or other individual to whom a duty of support
973 is owed, the Governor may require a prosecutor to investigate the
974 demand and report whether a proceeding for support has been
975 initiated or would be effective. If it appears that a proceeding
976 would be effective but has not been initiated, the Governor may
977 delay honoring the demand for a reasonable time to permit the
978 initiation of a proceeding.

979 (3) If a proceeding for support has been initiated and the
980 individual whose rendition is demanded prevails, the Governor may
981 decline to honor the demand. If the petitioner prevails and the
982 individual whose rendition is demanded is subject to a support
983 order, the Governor may decline to honor the demand if the
984 individual is complying with the support order.

985 **SECTION 38.** This act shall take effect and be in force from
986 and after July 1, 2004.