

By: Senator(s) Huggins, Gollott, Jackson
(15th), Nunnelee, Thames, Williamson

To: Public Health and
Welfare

SENATE BILL NO. 3023

1 AN ACT TO AMEND SECTION 93-11-159, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE DEPARTMENT OF PUBLIC SAFETY AND THE DEPARTMENT OF
3 WILDLIFE, FISHERIES AND PARKS TO ASSESS A FEE FOR REISSUANCE OF
4 LICENSES SUSPENDED FOR FAILURE TO PAY CHILD SUPPORT AND TO PROVIDE
5 THAT SUCH FUNDS BE USED FOR THE SUPPORT OF THE LEGAL DIVISION OF
6 THE CHILD SUPPORT UNIT OF THE DEPARTMENT OF HUMAN SERVICES; TO
7 AMEND 93-11-157, MISSISSIPPI CODE OF 1972 TO CONFORM; AND FOR
8 RELATED PURPOSES.

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

10 **SECTION 1.** Section 93-11-159, Mississippi Code of 1972, is
11 amended as follows:

12 93-11-159. (1) The licensing entities subject to Sections
13 93-11-151 through 93-11-161 may establish an additional
14 administrative fee not to exceed Twenty-five Dollars (\$25.00) to
15 be paid by licensees who are out of compliance with an order of
16 support and who are subject to the provisions of Sections
17 93-11-151 through 93-11-161 for the purpose of recovering costs of
18 the licensing entities associated with the implementation of
19 Sections 93-11-151 through 93-11-161.

20 (2) In addition to the fee that may be assessed in
21 subsection (1), the Department of Public Safety and the Department
22 of Wildlife, Fisheries and Parks shall assess an administrative
23 fee of Twenty-five Dollars (\$25.00) to be paid by licensees whose
24 licenses are reinstated and such funds shall be transferred to the
25 Mississippi Department of Human Services to be used solely for the
26 support of the Legal Division of the Child Support Unit of the
27 Department.

28 **SECTION 2.** Section 93-11-157, Mississippi Code of 1972, is
29 amended as follows:

30 93-11-157. (1) The division shall review the information
31 received under Section 93-11-155 and any other information
32 available to the division, and shall determine if a licensee is
33 out of compliance with an order for support. If a licensee is out
34 of compliance with the order for support, the division shall
35 notify the licensee by first class mail that ninety (90) days
36 after the licensee receives the notice of being out of compliance
37 with the order, the licensing entity will be notified to
38 immediately suspend the licensee's license unless the licensee
39 pays the arrearage owing, according to the accounting records of
40 the Mississippi Department of Human Services or the attorney
41 representing the party to whom support is due, as the case may be,
42 or enters into a stipulated agreement and agreed judgment
43 establishing a schedule for the payment of the arrearage. The
44 licensee shall be presumed to have received the notice five (5)
45 days after it is deposited in the mail.

46 (2) Upon receiving the notice provided in subsection (1) of
47 this section the licensee may:

48 (a) Request a review with the division; however, the
49 issues the licensee may raise at the review are limited to whether
50 the licensee is the person required to pay under the order for
51 support and whether the licensee is out of compliance with the
52 order for support; or

53 (b) Request to participate in negotiations with the
54 division for the purpose of establishing a payment schedule for
55 the arrearage.

56 (3) The division director or the designees of the division
57 director may and, upon request of a licensee, shall negotiate with
58 a licensee to establish a payment schedule for the arrearage.
59 Payments made under the payment schedule shall be in addition to
60 the licensee's ongoing obligation under the latest entered
61 periodic order for support.

62 (4) Should the division and the licensee reach an agreement
63 on a payment schedule for the arrearage, the division director
64 shall submit to the court the stipulated agreement and agreed
65 judgment containing the payment schedule which, upon the court's
66 approval, is enforceable as any order of the court. If the court
67 does not approve the stipulated agreement and agreed judgment, the
68 court may require a hearing on a case-by-case basis for the
69 judicial review of the payment schedule agreement.

70 (5) If the licensee and the division do not reach an
71 agreement on a payment schedule for the arrearage, the licensee
72 may move the court to establish a payment schedule. However, this
73 action does not stay the license suspension.

74 (6) The notice given to a licensee that the licensee's
75 license will be suspended in ninety (90) days must clearly state
76 the remedies and procedures that are available to a licensee under
77 this section.

78 (7) If at the end of the ninety (90) days the licensee has
79 an arrearage according to the accounting records of the
80 Mississippi Department of Human Services or the attorney
81 representing the party to whom support is due, as the case may be,
82 and the licensee has not entered into a stipulated agreement and
83 agreed judgment establishing a payment schedule for the arrearage,
84 the division shall immediately notify all applicable licensing
85 entities in writing to suspend the licensee's license, and the
86 licensing entities shall immediately suspend the license and shall
87 within three (3) business days notify the licensee and the
88 licensee's employer, where known, of the license suspension and
89 the date of such suspension by certified mail return receipt
90 requested. Within forty-eight (48) hours of receipt of a request
91 in writing delivered personally, by mail or by electronic means,
92 the department shall furnish to the licensee, licensee's attorney
93 or other authorized representative a copy of the department's
94 accounting records of the licensee's payment history. A licensing

95 entity shall immediately reinstate the suspended license upon the
96 division's notification of the licensing entities in writing that
97 the licensee no longer has an arrearage or that the licensee has
98 entered into a stipulated agreement and agreed judgment.

99 (8) Within thirty (30) days after a licensing entity
100 suspends the licensee's license at the direction of the division
101 under subsection (7) of this section, the licensee may appeal the
102 license suspension to the chancery court of the county in which
103 the licensee resides or to the Chancery Court of the First
104 Judicial District of Hinds County, Mississippi, upon giving bond
105 with sufficient sureties in the amount of Two Hundred Dollars
106 (\$200.00), approved by the clerk of the chancery court and
107 conditioned to pay any costs that may be adjudged against the
108 licensee. Notice of appeal shall be filed in the office of the
109 clerk of the chancery court. If there is an appeal, the appeal
110 may, in the discretion of and on motion to the chancery court, act
111 as a supersedeas of the license suspension. The department shall
112 be the appellee in the appeal, and the licensing entity shall not
113 be a party in the appeal. The chancery court shall dispose of the
114 appeal and enter its decision within thirty (30) days of the
115 filing of the appeal. The hearing on the appeal may, in the
116 discretion of the chancellor, be tried in vacation. The decision
117 of the chancery court may be appealed to the Supreme Court in the
118 manner provided by the rules of the Supreme Court. In the
119 discretion of and on motion to the chancery court, no person shall
120 be allowed to practice any business, occupation or profession or
121 take any other action under the authority of any license the
122 suspension of which has been affirmed by the chancery court while
123 an appeal to the Supreme Court from the decision of the chancery
124 court is pending.

125 (9) If a licensee who has entered a stipulated agreement and
126 agreed judgment for the payment of an arrearage under this section
127 subsequently is out of compliance with an order for support, the

128 division shall immediately notify the licensing entity to suspend
129 the licensee's license, and the licensing entity shall immediately
130 suspend the license without a hearing and shall within three (3)
131 business days notify the licensee in writing of the license
132 suspension. In the case of a license suspension under the
133 provisions of this subsection, the procedures provided for under
134 subsections (1) and (2) of this section are not required; however,
135 the appeal provisions of subsection (8) of this section still
136 apply. After suspension of the license, if the licensee
137 subsequently enters into a stipulated agreement and agreed
138 judgment or the licensee otherwise informs the division of
139 compliance with the order for support, the division shall within
140 seven (7) days notify in writing the licensing entity that the
141 licensee is in compliance. Upon receipt of that notice from the
142 division, a licensing entity shall immediately reinstate the
143 license of the licensee and shall within three (3) business days
144 notify the licensee of the reinstatement.

145 (10) Nothing in this section prohibits a licensee from
146 filing a motion for the modification of an order for support or
147 for any other applicable relief. However, no such action shall
148 stay the license suspension procedure, except as may be allowed
149 under subsection (8) of this section.

150 (11) If a license is suspended under the provisions of this
151 section, the licensing entity is not required to refund any fees
152 paid by a licensee in connection with obtaining or renewing a
153 license.

154 (12) The requirement of a licensing entity to suspend a
155 license under this section does not affect the power of the
156 licensing entity to deny, suspend, revoke or terminate a license
157 for any other reason.

158 (13) The procedure for suspension of a license for being out
159 of compliance with an order for support, and the procedure for the
160 reissuance or reinstatement of a license suspended for that

161 purpose, shall be governed by this section and not by the general
162 licensing and disciplinary provisions applicable to a licensing
163 entity. Actions taken by a licensing entity in suspending a
164 license when required by this section are not actions from which
165 an appeal may be taken under the general licensing and
166 disciplinary provisions applicable to the licensing entity. Any
167 appeal of a license suspension that is required by this section
168 shall be taken in accordance with the appeal procedure specified
169 in subsection (8) of this section rather than any procedure
170 specified in the general licensing and disciplinary provisions
171 applicable to the licensing entity. If there is any conflict
172 between any provision of this section and any provision of the
173 general licensing and disciplinary provisions applicable to a
174 licensing entity, the provisions of this section shall control.

175 (14) No license shall be suspended under this section until
176 ninety (90) days after July 1, 1996. This ninety-day period shall
177 be a one-time amnesty period in which any person who may be
178 subject to license suspension under this article may comply with
179 an order of support in order to avoid the suspension of any
180 license.

181 (15) Any individual who fails to comply with a subpoena or
182 warrant relating to paternity or child support proceedings after
183 receiving appropriate notice may be subject to suspension or
184 withholding of issuance of a license under this section.

185 (16) Any person whose license is suspended under this
186 section shall be subject to the administrative fees established
187 for reinstatement under Section 93-11-159.

188 **SECTION 3.** This act shall take effect and be in force from
189 and after July 1, 2004.