

Am #2

AMENDMENT PROPOSED TO

HOUSE BILL NO. 319

By Dedeaux

Amend after line 72 by inserting the following language:

AMEND TITLE (to conform) (as follows):

(12) The department shall establish and maintain a registry in which shall be kept information of judgments of delinquent child support, as provided in subsection (4) of this section. If a payee receives proceeds in an amount that is subject to the withholding or reporting requirements of the Internal Revenue Code, the payor of those proceeds shall determine if the proceeds are subject to a judgment for delinquent child support and withhold the proceeds under the provisions set forth in this section.

(13) To receive the benefits of this section, an obligee or the obligee's attorney must provide to the department a copy of the judgment finding delinquent child support. The judgment shall be maintained by the department in a registry that shall be current and easily and readily accessible to the payor, payee, obligee and attorney for any of these at all times when any payor is open for business. Accessibility shall be maintained through electronic media or other means that provides instant feedback. In addition to any other means of accessibility maintained by the department, the department shall make the information in the registry available on an Internet website that can be accessed by payors using the name, social security number or driver's license number of the payee.

(14) If it is determined that the payee has a judgment of delinquent child support against him or her, proceeds necessary to pay the full amount of the delinquent child support shall be withheld and disbursed to the department. If a payee contests the delinquent child support as provided in subsection (5) of this section, the proceeds shall be held by the department until the final disposition of the contest by the court. Proceeds beyond the amount of the delinquent child support shall be delivered to the payee. No disbursement shall be made by the department for a period of thirty (30) days in order to allow the payee sufficient time to contest the validity of the claim to the proceeds in court.

(15) The payee shall have available to him or her the opportunity to contest the accuracy of the payee's identity or the accuracy of the reported amount of the delinquent child support as follows:

(a) To initiate the contest, the payee must file a petition or complaint in the court that issued the judgment of delinquent child support, if the court is in the State of Mississippi. If the court is outside the State of Mississippi, the contest shall be filed in the chancery court of the county in which the payor is located. The petition or complaint must be filed within five (5) business days from the date that the payee becomes entitled to the proceeds.

(b) Any such contest shall be governed procedurally by Rule 81(d)(2) of the Mississippi Rules of Civil Procedure. Service upon the department, where applicable, shall be made as provided by Rule 4(d)(5).

(c) Throughout the contest, the proceeds shall be held in escrow by the department in an account of the department's choosing. Upon the expiration of time for filing a contest or conclusion of a contest to the claim in court, whichever first occurs, the proceeds shall be delivered to the obligee or, if represented by an attorney, his or her attorney, if the outcome is against the payee, or delivered to the payee if the outcome is in his or her favor.

(16) A payor shall be immune from any civil action for withholding proceeds from a payee based on information from the department, for failure to withhold proceeds based on information from the department or because information from the department was unavailable when the payor attempted to access it, or for compliance with any of the provisions of this section, provided that the actions of the payor are made in good faith.

(17) The provisions of this section shall be cumulative, and not in lieu of, any other provisions of law concerning collection or enforcements of judgments.

~~SECTION 2. Section 93-11-71, Mississippi Code of 1972, is amended as follows:~~

(1) Whenever a court orders any person to make periodic payments of a sum certain for the maintenance or support of a child, and whenever the payments that have become due remain unpaid for a period of at least thirty (30) days, a judgment by operation of law shall arise against the obligor in an amount equal to all payments that are then due and owing.

(a) A judgment arising under this section shall have the same effect and be fully enforceable as any other judgment entered in this state. A judicial or administrative action to enforce the judgment may be begun at any time; and

(b) Those judgments arising in other states by operation of law shall be given full faith and credit in this state.

(19) Any judgment arising under the provisions of this section shall operate as a lien upon all the property of the judgment debtor, both real and personal, which lien shall be perfected as to third parties without actual notice of the lien only upon enrollment on the judgment roll. The department or attorney representing the party to whom support is owed shall furnish an abstract of the judgment for periodic payments for the maintenance and support of a child, along with sworn documentation of the delinquent child support, to the circuit clerk of the county where the judgment is rendered, and it shall be the duty of the circuit clerk to enroll the judgment on the judgment roll. Liens arising under the provisions of this section may be executed upon and enforced in the same manner and to the same extent as any other judgment.

(20) Notwithstanding the provisions in subsection (2) of this section, any judgment arising under the provisions of this section shall subject the following assets to interception or seizure without regard to the entry of the judgment on the judgment roll of the situs district or jurisdiction:

(a) Periodic or lump-sum payments from a federal, state or local agency, including unemployment compensation, workers' compensation and other benefits;

(b) Winnings from lotteries and gaming winnings \* \* \*;

(c) Assets held in financial institutions;

(d) Settlements and awards resulting from civil actions; and

(e) Public and private retirement funds, only to the extent that the obligor is qualified to receive and receives a lump sum or periodic distribution from the funds.

(21) In any case in which a child receives assistance from block grants for Temporary Assistance for Needy Families (TANF), and the obligor owes past-due child support, the obligor, if not incapacitated, may be required by the court to participate in any work programs offered by any state agency.

~~SECTION 3. This act shall take effect and be in force from and after July 1, 2005.~~

SECTION 1. The following shall be codified as Section 75-76-282, Mississippi Code of 1972:

~~75-76-282. (1) As used in this section:~~

(10) For

(a) "Delinquent child support" has the same meaning as the term "delinquency" as defined in Section 93-11-101.

(b) "Department" means the Department of Human Services, Office of Child Support Enforcement.

(c) "Gaming proceeds" or "proceeds" means any monies paid in lump sum or otherwise to an individual from games or gambling games as defined in Section 75-76-5.

(d) "Payor" means the individual, agent or entity, licensed or unlicensed, disbursing the gaming proceeds to the payee.

(e) "Payee" means the gaming activity participant to whom the gaming proceeds are due.

(f) "Obligee" means the person to whom the duty of child support is owed.

(10) (X) Gaming proceeds shall be subject to encumbrance for child support payments that are found by a Mississippi court of competent jurisdiction to be delinquent.