

By: Representatives Warren, Beckett

To: Appropriations

HOUSE BILL NO. 319  
(As Passed the House)

1 AN ACT TO AMEND SECTION 93-11-111, MISSISSIPPI CODE OF 1972,  
2 TO EXTEND THE REPEALER ON WITHHOLDING TO DEFRAID ADMINISTRATIVE  
3 COSTS INCURRED BY THE DEPARTMENT OF HUMAN SERVICES FOR CHILD  
4 SUPPORT; TO CREATE NEW SECTION 75-76-282, MISSISSIPPI CODE OF  
5 1972, TO PROVIDE THAT GAMING PROCEEDS ABOVE A CERTAIN AMOUNT SHALL  
6 BE SUBJECT TO JUDGMENTS OF DELINQUENT CHILD SUPPORT; TO REQUIRE  
7 THE DEPARTMENT OF HUMAN SERVICES TO MAINTAIN A REGISTRY WITH  
8 INFORMATION OF JUDGMENTS OF DELINQUENT CHILD SUPPORT, WHICH SHALL  
9 BE AVAILABLE TO PAYORS OF GAMING PROCEEDS ON AN INTERNET WEBSITE;  
10 TO REQUIRE PAYORS TO DETERMINE IF PROCEEDS OVER A CERTAIN AMOUNT  
11 ARE SUBJECT TO A JUDGMENT OF DELINQUENT CHILD SUPPORT, AND IF SO,  
12 TO WITHHOLD AND DISBURSE THE PROCEEDS TO THE DEPARTMENT; TO  
13 PROVIDE A COURT PROCEDURE FOR THE PAYEE TO CONTEST THE WITHHOLDING  
14 OF THE PROCEEDS; TO PROVIDE CIVIL LIABILITY FOR PAYORS FOR  
15 ACTIONS MADE IN GOOD FAITH TO COMPLY WITH THE PROVISIONS OF THIS  
16 ACT; TO AMEND SECTION 93-11-71, MISSISSIPPI CODE OF 1972, TO  
17 CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

19 **SECTION 1.** Section 93-11-111, Mississippi Code of 1972, is  
20 amended as follows:

21 93-11-111. (1) It shall be the duty of any payor who has  
22 been served with a copy of the order for withholding and an  
23 attached affidavit of accounting, a certified record of payments,  
24 or judgment for delinquency to deduct and pay over income as  
25 provided in this section. The payor shall deduct the amount  
26 designated in the order for withholding beginning with the next  
27 payment of income that is payable to the obligor after fourteen  
28 (14) days following service of the order and notice. The payor  
29 shall pay the amounts withheld to the department within seven (7)  
30 days of the date the obligor is paid in accordance with the order  
31 for withholding and in accordance with any later notification  
32 received redirecting payments. The department shall then forward  
33 those amounts to the obligee.

34           (2) For each intrastate withholding of income, the payor  
35 shall be entitled to receive a fee of Two Dollars (\$2.00) to be  
36 withheld from the income of the obligor in addition to the support  
37 payments, regardless of the number of payments the payor makes to  
38 the department. However, in all interstate withholding, the rules  
39 and laws of the state where the obligor works shall determine the  
40 payor's processing fee.

41           (3) The payor shall, unless otherwise notified by the  
42 department, withhold from the income of the obligor and forward to  
43 the department each month, an amount specified by the department  
44 not to exceed Fifteen Dollars (\$15.00) per month to defray the  
45 department's administrative costs incurred in receiving and  
46 distributing money withheld under Sections 93-11-101 through  
47 93-11-119. The payor may pay such amount to the department in any  
48 manner determined by the payor to be convenient and may include  
49 that amount in checks to the department for amounts withheld  
50 pursuant to the order for withholding. This subsection (3) shall  
51 stand repealed on July 1, 2010.

52           (4) Regardless of the amount designated in the order for  
53 withholding and regardless of other fees imposed or amounts  
54 withheld under this section, the payor shall not deduct from the  
55 income of the obligor in excess of the amounts allowed under  
56 Section 303(b) of the Consumer Credit Protection Act, being 15  
57 USCS 1673, as amended.

58           (5) A payor may combine all amounts that he is required to  
59 withhold and pay to the department in one (1) payment; however,  
60 the payor must send to the department a list showing the amount of  
61 the payment attributable to each obligor.

62           (6) Whenever the obligor is no longer receiving income from  
63 the payor, the payor shall return a copy of the order for  
64 withholding to the department and shall forward the obligor's last  
65 known address and name and address of the obligor's new employer,  
66 if known, to the department. The payor shall cooperate in

67 providing further information for the purpose of enforcing  
68 Sections 93-11-101 through 93-11-119.

69 (7) Withholding of income under this section shall be made  
70 without regard to any prior or subsequent garnishments,  
71 attachments, wage assignments or any other claims of creditors.  
72 Payment as required by the order for withholding shall be a  
73 complete defense by the payor against any claims of the obligor or  
74 his creditors as to the sum so paid.

75 (8) In cases in which the payor has been served more than  
76 one (1) order for withholding for the same obligor, the payor  
77 shall honor the orders on a pro rata basis to result in  
78 withholding an amount for each order that is in direct proportion  
79 to the percentage of the obligor's adjusted gross income that the  
80 order represents, and the payor shall honor all those withholdings  
81 to the extent that the total amount withheld does not exceed the  
82 maximum amount specified in subsection (1) of this section.

83 (9) No payor shall discharge, discipline, refuse to hire or  
84 otherwise penalize any obligor because of the duty to withhold  
85 income.

86 **SECTION 2.** The following shall be codified as Section  
87 75-76-282, Mississippi Code of 1972:

88 75-76-282. (1) As used in this section:

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

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

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

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

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

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

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

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

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

128                   (5) If it is determined that the payee has a judgment of  
129 delinquent child support against him or her, proceeds necessary to  
130 pay the full amount of the delinquent child support shall be  
131 withheld and disbursed to the department. If a payee contests the

132 delinquent child support as provided in subsection (6) of this  
133 section, the proceeds shall be held by the department until the  
134 final disposition of the contest by the court. Proceeds beyond  
135 the amount of the delinquent child support shall be delivered to  
136 the payee. No disbursement shall be made by the department for a  
137 period of thirty (30) days in order to allow the payee sufficient  
138 time to contest the validity of the claim to the proceeds in  
139 court.

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

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

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

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

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

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

174 **SECTION 3.** Section 93-11-71, Mississippi Code of 1972, is  
175 amended as follows:

176 93-11-71. (1) Whenever a court orders any person to make  
177 periodic payments of a sum certain for the maintenance or support  
178 of a child, and whenever the payments that have become due remain  
179 unpaid for a period of at least thirty (30) days, a judgment by  
180 operation of law shall arise against the obligor in an amount  
181 equal to all payments that are then due and owing.

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

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

189 (2) Any judgment arising under the provisions of this  
190 section shall operate as a lien upon all the property of the  
191 judgment debtor, both real and personal, which lien shall be  
192 perfected as to third parties without actual notice of the lien  
193 only upon enrollment on the judgment roll. The department or  
194 attorney representing the party to whom support is owed shall  
195 furnish an abstract of the judgment for periodic payments for the  
196 maintenance and support of a child, along with sworn documentation

197 of the delinquent child support, to the circuit clerk of the  
198 county where the judgment is rendered, and it shall be the duty of  
199 the circuit clerk to enroll the judgment on the judgment roll.  
200 Liens arising under the provisions of this section may be executed  
201 upon and enforced in the same manner and to the same extent as any  
202 other judgment.

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

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

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

212 (c) Assets held in financial institutions;

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

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

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

223 **SECTION 4.** This act shall take effect and be in force from  
224 and after July 1, 2005.