

By: Representative Dedeaux

To: Gaming; Public Health
and Human Services

HOUSE BILL NO. 742

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

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

16 **SECTION 1.** The following shall be codified as Section
17 75-76-282, Mississippi Code of 1972:

18 75-76-282. (1) As used in this section:

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

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

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

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

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

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

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

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

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

58 (5) If it is determined that the payee has a judgment of
59 delinquent child support against him or her, proceeds necessary to
60 pay the full amount of the delinquent child support shall be
61 withheld and disbursed to the department. If a payee contests the
62 delinquent child support as provided in subsection (6) of this
63 section, the proceeds shall be held by the department until the
64 final disposition of the contest by the court. Proceeds beyond
65 the amount of the delinquent child support shall be delivered to

66 the payee. No disbursement shall be made by the department for a
67 period of thirty (30) days in order to allow the payee sufficient
68 time to contest the validity of the claim to the proceeds in
69 court.

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

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

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

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

94 (7) A payor shall be immune from any civil action for
95 withholding proceeds from a payee based on information from the
96 department, for failure to withhold proceeds based on information
97 from the department or because information from the department was
98 unavailable when the payor attempted to access it, or for

99 compliance with any of the provisions of this section, provided
100 that the actions of the payor are made in good faith.

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

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

106 93-11-71. (1) Whenever a court orders any person to make
107 periodic payments of a sum certain for the maintenance or support
108 of a child, and whenever the payments that have become due remain
109 unpaid for a period of at least thirty (30) days, a judgment by
110 operation of law shall arise against the obligor in an amount
111 equal to all payments that are then due and owing.

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

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

119 (2) Any judgment arising under the provisions of this
120 section shall operate as a lien upon all the property of the
121 judgment debtor, both real and personal, which lien shall be
122 perfected as to third parties without actual notice of the lien
123 only upon enrollment on the judgment roll. The department or
124 attorney representing the party to whom support is owed shall
125 furnish an abstract of the judgment for periodic payments for the
126 maintenance and support of a child, along with sworn documentation
127 of the delinquent child support, to the circuit clerk of the
128 county where the judgment is rendered, and it shall be the duty of
129 the circuit clerk to enroll the judgment on the judgment roll.

130 Liens arising under the provisions of this section may be executed

131 upon and enforced in the same manner and to the same extent as any
132 other judgment.

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

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

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

142 (c) Assets held in financial institutions;

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

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

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

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