

By: Representative Holland

To: Public Health and Human Services

HOUSE BILL NO. 648

1 AN ACT TO AMEND SECTION 43-19-48, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE INSURANCE COMPANIES, BEFORE PAYING PROCEEDS, TO  
3 COOPERATE WITH THE DEPARTMENT OF HUMAN SERVICES TO IDENTIFY  
4 POLICYHOLDERS OR OTHER INTENDED RECIPIENTS WHO OWE PAST-DUE CHILD  
5 SUPPORT; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 43-19-48, Mississippi Code of 1972, is  
8 amended as follows:

9 43-19-48. (1) The Department of Human Services and  
10 financial institutions or property and casualty and liability  
11 insurance companies doing business in the state are required to  
12 enter into agreements to accomplish either paragraphs (a), (c) and  
13 (d) or (b), (c) and (d):

14 (a) To develop and operate a data match system, using  
15 automated data exchanges, in which each such financial institution  
16 is required to provide for each calendar quarter the name, record  
17 address, social security number or other taxpayer identification  
18 number, and other identifying information for each noncustodial  
19 parent who maintains an account at such institution and who owes  
20 past-due support, as identified by the Department of Human  
21 Services by name and social security number or other taxpayer  
22 identification number;

23 (b) To develop and operate a data match system, using  
24 automated data exchanges, in which each such insurance company is  
25 required, before issuing payment of a claim under a policy of  
26 property, casualty, automobile or liability insurance covering  
27 real or personal property damaged by fire, tornado, wind, flood,  
28 collision or other casualty or covering bodily injury to ascertain

29 whether its insured or other recipient of such forthcoming payment  
30 is a noncustodial parent who owes past-due child support as  
31 identified by the Department of Human Services by name and social  
32 security number or other taxpayer identification number in a  
33 database or compilation supplied each calendar quarter by the  
34 department;

35           (c) To encumber or surrender, as the case may be,  
36 assets held by such institution on behalf of any noncustodial  
37 parent who is subject to a child support lien; and

38           (d) To provide for payment of reasonable fees to  
39 financial institutions for conducting data matches, and for  
40 responding to other requests made pursuant to this section, with  
41 such fees not to exceed the actual costs incurred by such  
42 financial institutions.

43           (2) When the operation of such data match system results in  
44 the location of an account of a noncustodial parent who owes  
45 past-due support, or when such account is located through any  
46 means, the department may request and shall receive additional  
47 financial or other information including account numbers, names  
48 and social security numbers on record for accounts, and account  
49 balances, from any financial institution needed to establish,  
50 modify or enforce a support order.

51           (3) The department shall have the authority to encumber and  
52 seize assets held by an obligor in a financial institution and  
53 proceeds to be paid to an obligor by an insurance company doing  
54 business in Mississippi. Such assets shall be encumbered for  
55 either:

56           (a) A forty-five-day period; or

57           (b) Until such time as the issue of overdue support is  
58 resolved, provided the obligor has filed a petition for hearing  
59 with a court of appropriate jurisdiction and the financial  
60 institution or insurance company receives written notice thereof

61 from the department before the end of the said forty-five-day  
62 period.

63 (4) Notice of such encumbrance initiated by the department  
64 shall be provided to the financial institution or insurance  
65 company and to the obligor:

66 (a) The department shall send, by certified mail,  
67 notice to the financial institution with which the account is  
68 placed or the insurance company with whom the policy is held,  
69 directing that the financial institution or insurance company  
70 shall:

71 (i) Immediately encumber funds in any account(s)  
72 or policy proceeds in which the obligor has an interest, and to  
73 the extent of the debt indicated in the notice from the  
74 department;

75 (ii) Forward the encumbered funds to the  
76 department after either the forty-five-day period stated in  
77 subsection 3(a) of this section, or a determination favorable to  
78 the department by a court of appropriate jurisdiction; or

79 (iii) In the event the obligor prevails before the  
80 court, immediately release said funds to the obligor.

81 (b) Notice shall be delivered to the obligor at the  
82 current mailing address as recorded by the department. Such  
83 notice shall be sent by regular mail at the commencement of the  
84 action described herein.

85 (c) The financial institution or insurance company  
86 shall not disclose to an account holder or the depositor that the  
87 name of such person has been received from or furnished to the  
88 department. The financial institution shall disclose to its  
89 account holders or its depositors that under the data match system  
90 the department has the authority to request certain identifying  
91 information on the account holders' or the depositor's accounts.

92 (5) Challenges to encumbrance of an account:

93           (a) Challenges to such levy for child support arrearage  
94 may be initiated only by the obligor or by an account holder or  
95 policyholder of interest.

96           (b) Challenges shall be made by the filing of a  
97 petition for hearing by the obligor in a court of appropriate  
98 jurisdiction under Rule 81(d)(2) of the Mississippi Rules of Civil  
99 Procedure. Service upon the department shall be as prescribed by  
100 Rule 4(d)(5) of the Mississippi Rules of Civil Procedure.

101           (c) Grounds for the petition challenging the  
102 encumbrance shall be limited to:

103                   (i) Mistakes of identity; or

104                   (ii) Mistakes in amount of overdue support.

105           (6) Liability of the financial institution or insurance  
106 company and the department:

107           (a) Neither the department nor the financial  
108 institution shall be liable for any applicable early withdrawal  
109 penalties on the obligor's account(s).

110           (b) A financial institution or insurance company shall  
111 be absolutely immune from any civil liability under any law or  
112 regulation to any person for the disclosure of or failure to  
113 disclose any information pursuant to this chapter or for the  
114 escrow, encumbrance, seizure or surrender of any assets held by  
115 the financial institution or insurance company in response to any  
116 notice issued by the Department of Human Services, the Child  
117 Support Unit or any contractors or agents thereof unless the  
118 disclosure or failure to disclose was willful or intentional, or  
119 for any other action taken in good faith to comply with the  
120 requirements of this chapter.

121           (7) Any amount encumbered and forwarded by the financial  
122 institution or insurance company to the department under this  
123 section shall not exceed the arrearage owed by the obligor.

124 (8) The provisions herein and any other relevant sections  
125 shall be employed equally by authorized contractors of the  
126 department to collect delinquent support payments.

127 (9) A financial institution or insurance company shall not  
128 be liable under federal or state law to any person:

129 (a) For any disclosure of information to the Department  
130 of Human Services;

131 (b) For encumbering or forwarding any assets held by  
132 such financial institution or proceeds paid by an insurance  
133 company in response to a notice of lien or levy;

134 (c) For any other action taken in good faith to comply  
135 with the requirements of subsection (1)(a) or (b) above.

136 (10) **Definitions.** For purposes of this section:

137 (a) The term "financial institution" has the meaning  
138 given to such by Section 81-12-3, Mississippi Code of 1972, and  
139 shall include, but not be limited to, credit unions, stock  
140 brokerages, public or private entities administering retirement,  
141 savings, annuities, life insurance and/or pension funds;

142 (b) The term "account" means a demand deposit account,  
143 checking or negotiable withdrawal order account, savings account,  
144 time deposit account or money-market mutual fund account;

145 (c) The term "insurance company" has the meaning  
146 defined by Sections 83-5-1 and 83-5-5, Mississippi Code of 1972.

147 (11) Failure to comply with the provisions of this section  
148 or the willful rendering of false information shall subject the  
149 financial institution to a fine of not less than One Thousand  
150 Dollars (\$1,000.00).

151 **SECTION 2.** This act shall take effect and be in force from  
152 and after July 1, 2006.