

By: Representative Wooten

To: Judiciary A

HOUSE BILL NO. 1291

1 AN ACT TO CREATE CHILD SUPPORT DELINQUENCY GUIDELINES FOR ANY
 2 PERSON WHO IS CURRENT WITH CHILD SUPPORT PAYMENTS, BUT IS
 3 OTHERWISE DELINQUENT OR IN ARREARAGE FOR PREVIOUS CHILD SUPPORT;
 4 TO CREATE GUIDELINES TO BE USED TO DETERMINE THE REQUIREMENTS FOR
 5 RELEASE OF ANY PERSON WHO IS ARRESTED AND IMPRISONED FOR FAILURE
 6 TO PAY CHILD SUPPORT AND CHILD SUPPORT ARREARS; TO AMEND SECTIONS
 7 93-11-103 AND 93-11-105, MISSISSIPPI CODE OF 1972, TO CONFORM TO
 8 THE PRECEDING SECTION; TO AMEND SECTIONS 93-5-23, 93-9-33, 9-1-17
 9 AND 9-5-87, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY PERSON
 10 WHO IS IMPRISONED FOR FAILURE TO PAY CHILD SUPPORT SHALL NOT BE
 11 HELD LONGER THAN 48 HOURS WITHOUT BEING BROUGHT BEFORE THE COURT;
 12 TO BRING FORWARD SECTION 93-11-65, MISSISSIPPI CODE OF 1972, WHICH
 13 PROVIDES FOR THE JURISDICTION OF THE CHANCERY COURT; AND FOR
 14 RELATED PURPOSES.

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

16 **SECTION 1.** (1) The following guidelines shall be used to
 17 determine the amount of additional child support to be paid by any
 18 person whose child support payments are current, but who is
 19 otherwise delinquent or in arrears for previous child support.

20 The additional amount shall be:

21 (a) Twenty-five Dollars (\$25.00) a month, until payment
 22 in full of any delinquency, for delinquency or arrearage not less
 23 than Twenty-five Dollars (\$25.00), but not more than One Thousand
 24 Dollars (\$1,000.00);



25 (b) Fifty Dollars (\$50.00) a month, until payment in
26 full of any delinquency, for delinquency or arrearage more than
27 One Thousand Dollars (\$1,000.00), but not more than Two Thousand
28 Five Hundred Dollars (\$2,500.00);

29 (c) Seventy-five Dollars (\$75.00) a month, until
30 payment in full of any delinquency, for delinquency or arrearage
31 more than Two Thousand Five Hundred Dollars (\$2,500.00), but not
32 more than Five Thousand Dollars (\$5,000.00);

33 (d) One Hundred Dollars (\$100.00) a month, until
34 payment in full of any delinquency, for delinquency or arrearage
35 more than Five Thousand Dollars (\$5,000.00), but not more than
36 Seven Thousand Five Hundred Dollars (\$7,500.00);

37 (e) One Hundred Fifty Dollars (\$150.00) a month, until
38 payment in full of any delinquency, for delinquency or arrearage
39 more than Seven Thousand Five Hundred Dollars (\$7,500.00).

40 (2) The following guidelines shall be used to determine the
41 requirements for release of a person who is arrested and
42 imprisoned for failure to pay both monthly child support and
43 child support arrears. If the person is imprisoned for such
44 failure, the following guidelines shall be used to determine when
45 the person will be released from imprisonment and how much the
46 person is required to pay before release:

47 (a) For the first finding of contempt for such failure,
48 the person shall be brought before the court within forty-eight
49 (48) hours of imprisonment, and shall be required to pay ten



50 percent (10%) of the total amount of all child support and
51 arrearage owed;

52 (b) For the second finding of contempt for such
53 failure, the person shall be brought before the court within seven
54 (7) days of imprisonment, and shall be required to pay twenty
55 percent (20%) of the total amount of all child support and
56 arrearage owed;

57 (c) For the third finding of contempt for such failure,
58 the person shall be brought before the court within fourteen (14)
59 days of imprisonment, and shall be required to pay twenty-five
60 percent (25%) of the total amount of all child support and
61 arrearage owed;

62 (d) For the fourth or subsequent finding of contempt
63 for such failure, the person shall be brought before the court
64 within thirty (30) days of imprisonment. The court shall assess
65 the person's ability or inability to pay child support by
66 determining on the record whether the person is indigent according
67 to the factors described in this paragraph. If the court finds
68 that the person can pay the child support, the court shall require
69 the person to pay thirty percent (30%) of the total amount of all
70 child support and arrearage owed. If the court finds that the
71 person is indigent, the court shall release such person from
72 imprisonment and require such person to appear in court every six
73 (6) months to assess whether the person is still indigent as



74 defined by this paragraph. For purposes of this paragraph, the
75 court shall find that the person is indigent if the person is:

76 (i) Receiving Temporary Assistance for Needy
77 Families, general assistance, poverty-related veterans' benefits,
78 food stamps or food stamp benefits transferred electronically,
79 refugee resettlement benefits, Medicaid, or supplemental security
80 income;

81 (ii) Involuntarily committed to a public mental
82 health facility; or

83 (iii) Receiving an annual income, after taxes, of
84 one hundred twenty-five percent (125%) or less of the current
85 federally established poverty level.

86 **SECTION 2.** Section 93-5-23, Mississippi Code of 1972, is
87 amended as follows:

88 93-5-23. When a divorce shall be decreed from the bonds of
89 matrimony, the court may, in its discretion, having regard to the
90 circumstances of the parties and the nature of the case, as may
91 seem equitable and just, make all orders touching the care,
92 custody and maintenance of the children of the marriage, and also
93 touching the maintenance and alimony of the wife or the husband,
94 or any allowance to be made to her or him, and shall, if need be,
95 require bond, sureties or other guarantee for the payment of the
96 sum so allowed. Orders touching on the custody of the children of
97 the marriage shall be made in accordance with the provisions of
98 Section 93-5-24. For the purposes of orders touching the



99 maintenance and alimony of the wife or husband, "property" and "an
100 asset of a spouse" shall not include any interest a party may have
101 as an heir at law of a living person or any interest under a
102 third-party will, nor shall any such interest be considered as an
103 economic circumstance or other factor. The court may afterwards,
104 on petition, change the decree, and make from time to time such
105 new decrees as the case may require. However, where proof shows
106 that both parents have separate incomes or estates, the court may
107 require that each parent contribute to the support and maintenance
108 of the children of the marriage in proportion to the relative
109 financial ability of each. In the event a legally responsible
110 parent has health insurance available to him or her through an
111 employer or organization that may extend benefits to the
112 dependents of such parent, any order of support issued against
113 such parent may require him or her to exercise the option of
114 additional coverage in favor of such children as he or she is
115 legally responsible to support.

116 Whenever the court has ordered a party to make periodic
117 payments for the maintenance or support of a child, but no bond,
118 sureties or other guarantee has been required to secure such
119 payments, and whenever such payments as have become due remain
120 unpaid for a period of at least thirty (30) days, the court may,
121 upon petition of the person to whom such payments are owing, or
122 such person's legal representative, enter an order requiring that
123 bond, sureties or other security be given by the person obligated



124 to make such payments, the amount and sufficiency of which shall
125 be approved by the court. The obligor shall, as in other civil
126 actions, be served with process and shall be entitled to a hearing
127 in such case.

128 At the discretion of the court, any person found in contempt
129 for failure to pay child support and imprisoned therefor may be
130 referred for placement in a state, county or municipal
131 restitution, house arrest or restorative justice center or
132 program, provided such person meets the qualifications prescribed
133 in Section 99-37-19. Any person found in contempt for failure to
134 pay child support and imprisoned for such failure shall be brought
135 before the court within the time provided in Section 1 of this
136 act. Upon appearance, the court shall assess the amount of any
137 payments owed by the person in accordance with Section 1 of this
138 act.

139 Whenever in any proceeding in the chancery court concerning
140 the custody of a child a party alleges that the child whose
141 custody is at issue has been the victim of sexual or physical
142 abuse by the other party, the court may, on its own motion, grant
143 a continuance in the custody proceeding only until such allegation
144 has been investigated by the Department of Human Services. At the
145 time of ordering such continuance, the court may direct the party
146 and his attorney making such allegation of child abuse to report
147 in writing and provide all evidence touching on the allegation of
148 abuse to the Department of Human Services. The Department of



149 Human Services shall investigate such allegation and take such
150 action as it deems appropriate and as provided in such cases under
151 the Youth Court Law (being Chapter 21 of Title 43, Mississippi
152 Code of 1972) or under the laws establishing family courts (being
153 Chapter 23 of Title 43, Mississippi Code of 1972).

154 If after investigation by the Department of Human Services or
155 final disposition by the youth court or family court allegations
156 of child abuse are found to be without foundation, the chancery
157 court shall order the alleging party to pay all court costs and
158 reasonable attorney's fees incurred by the defending party in
159 responding to such allegation.

160 The court may investigate, hear and make a determination in a
161 custody action when a charge of abuse and/or neglect arises in the
162 course of a custody action as provided in Section 43-21-151, and
163 in such cases the court shall appoint a guardian ad litem for the
164 child as provided under Section 43-21-121, who shall be an
165 attorney. Unless the chancery court's jurisdiction has been
166 terminated, all disposition orders in such cases for placement
167 with the Department of Human Services shall be reviewed by the
168 court or designated authority at least annually to determine if
169 continued placement with the department is in the best interest of
170 the child or public.

171 The duty of support of a child terminates upon the
172 emancipation of the child. The court may determine that
173 emancipation has occurred pursuant to Section 93-11-65.



174 Custody and visitation upon military temporary duty,
175 deployment or mobilization shall be governed by Section 93-5-34.

176 **SECTION 3.** Section 93-9-33, Mississippi Code of 1972, is
177 amended as follows:

178 93-9-33. The court also has power, on default as aforesaid,
179 to adjudge the father in contempt and to order him committed to
180 jail in the same manner and with the same powers as in case of
181 commitment for default in giving security. The commitment of the
182 father shall not operate to stay execution upon the judgment of
183 the bond. Any father adjudged in contempt for failure to pay
184 child support and committed to jail for such failure shall be
185 brought before the court within the time provided in Section 1 of
186 this act. Upon appearance, the court shall assess the amount of
187 any payments owed by the father in accordance with Section 1 of
188 this act.

189 **SECTION 4.** Section 93-11-103, Mississippi Code of 1972, is
190 amended as follows:

191 93-11-103. (1) Upon entry of any order for support by a
192 court of this state where the custodial parent is a recipient of
193 services under Title IV-D of the federal Social Security Act,
194 issued on or after October 1, 1996, the court entering such order
195 shall enter a separate order for withholding which shall take
196 effect immediately without any requirement that the obligor be
197 delinquent in payment. All such orders for support issued prior
198 to October 1, 1996, shall, by operation of law, be amended to



199 conform with the provisions contained herein. All such orders for
200 support issued shall:

201 (a) Contain a provision for monthly income withholding
202 procedures to take effect in the event the obligor becomes
203 delinquent in paying the order for support without further
204 amendment to the order or further action by the court; and

205 (b) Require that the payor withhold any additional
206 amount for delinquency specified in any order if accompanied by an
207 affidavit of accounting, a notarized record of overdue payments,
208 official payment record or an attested judgment for delinquency or
209 contempt. Any person who willfully and knowingly files a false
210 affidavit, record or judgment shall be subject to a fine of not
211 more than One Thousand Dollars (\$1,000.00). The Department of
212 Human Services shall be the designated agency to receive payments
213 made by income withholding in child support orders enforced by the
214 department. All withholding orders shall be on a form as
215 prescribed by the department.

216 (2) Upon entry of any order for support by a court of this
217 state where the custodial parent is not a recipient of services
218 under Title IV-D of the federal Social Security Act, issued or
219 modified or found to be in arrears on or after January 1, 1994,
220 the court entering such order shall enter a separate order for
221 withholding which shall take effect immediately. Such orders
222 shall not be subject to immediate income withholding under this
223 subsection: (a) if one (1) of the parties (i.e., noncustodial or



224 custodial parent) demonstrates, and the court finds, that there is
225 good cause not to require immediate income withholding, or (b) if
226 both parties agree in writing to an alternative arrangement. The
227 Department of Human Services shall be the designated agency to
228 receive payments made by income withholding in all child support
229 orders. Withholding orders shall be on a form as prescribed by
230 the department.

231 (3) If a child support order is issued or modified in the
232 state but is not subject to immediate income withholding, it
233 automatically becomes so if the court finds that a support payment
234 is thirty (30) days past due. If the support order was issued or
235 modified in another state but is not subject to immediate income
236 withholding, it becomes subject to immediate income withholding on
237 the date on which child support payments are at least thirty (30)
238 days in arrears, or (a) the date as of which the noncustodial
239 parent requests that withholding begin, (b) the date as of which
240 the custodial parent requests that withholding begin, or (c) an
241 earlier date chosen by the court, whichever is earlier.

242 (4) The clerk of the court shall submit copies of such
243 orders to the obligor's payor, any additional or subsequent payor,
244 and to the Mississippi Department of Human Services Case Registry.
245 The clerk of the court, the obligee's attorney, or the department
246 may serve such immediate order for withholding by first-class mail
247 or personal delivery on the obligor's payor, superintendent,
248 manager, agent or subsequent payor, as the case may be. There



249 shall be no need for further notice, hearing, order, process or
250 procedure before service of said order on the payor or any
251 additional or subsequent payor. The obligor may contest, if
252 grounds exist, service of the order of withholding on additional
253 or subsequent payors, by filing an action with the issuing court.
254 Such filing shall not stay the obligor's duty to support pending
255 judicial determination of the obligor's claim. Nothing herein
256 shall be construed to restrict the authority of the courts of this
257 state from entering any order it deems appropriate to protect the
258 rights of any parties involved.

259 (5) The order for withholding shall:

260 (a) Direct any payor to withhold an amount equal to the
261 order for current support;

262 (b) Direct any payor to withhold an additional amount,
263 not less than * * * the amounts listed in Section 1 of this act,
264 until payment in full of any delinquency; and

265 (c) Direct the payor not to withhold in excess of the
266 amounts allowed under Section 303(b) of the Consumer Credit
267 Protection Act, being 15 USCS 1673, as amended.

268 (6) All orders for withholding may permit the Department of
269 Human Services to withhold through said withholding order
270 additional amounts to recover costs incurred through its efforts
271 to secure the support order, including, but not limited to, all
272 filing fees, court costs, service of process fees, mailing costs,
273 birth certificate certification fee, genetic testing fees, the



274 department's attorney's fees; and, in cases where the state or any
275 of its entities or divisions have provided medical services to the
276 child or the child's mother, all medical costs of prenatal care,
277 birthing, postnatal care and any other medical expenses incurred
278 by the child or by the mother as a consequence of her pregnancy or
279 delivery.

280 (7) At the time the order for withholding is entered, the
281 clerk of the court shall provide copies of the order for
282 withholding and the order for support to the obligor, which shall
283 be accompanied by a statement of the rights, remedies and duties
284 of the obligor under Sections 93-11-101 through 93-11-119. The
285 clerk of the court shall make copies available to the obligee and
286 to the department or its local attorney.

287 (8) The order for withholding shall remain in effect for as
288 long as the order for support upon which it is based.

289 (9) The failure of an order for withholding to state an
290 arrearage is not conclusive of the issue of whether an arrearage
291 is owing.

292 (10) Any order for withholding entered pursuant to this
293 section shall not be considered a garnishment.

294 (11) All existing orders for support shall become subject to
295 additional withholding if arrearages occur, subject to court
296 hearing and order. The Department of Human Services or the
297 obligee or his agent or attorney must send to each delinquent
298 obligor notice that:



299 (a) The withholding on the delinquency has commenced;

300 (b) The information along with the required affidavit
301 of accounting, notarized record of overdue payment or attested
302 judgment of delinquency or contempt has been sent to the employer;
303 and

304 (c) The obligor may file an action with the issuing
305 court on the grounds of mistake of fact. Such filing must be made
306 within thirty (30) days of receipt of the notice and shall not
307 stay the obligor's duty to support pending judicial determination
308 of the obligor's claim.

309 (12) An employer who complies with an income withholding
310 notice that is regular on its face and which is accompanied by the
311 required accounting affidavit, notarized record of overdue
312 payments or attested judgment of delinquency or contempt shall not
313 be subject to civil liability to any individual or agency for
314 conduct in compliance with the notice.

315 (13) Any employer who has been served with an order for
316 withholding under this section, which includes a provision for
317 payment of arrears, shall notify the Department of Human Services
318 before making any lump-sum payment of more than Five Hundred
319 Dollars (\$500.00) to the obligor.

320 An employer to whom this section applies shall notify the
321 Department of Human Services of its intention to make a lump-sum
322 payment at least forty-five (45) days before the planned date of
323 the lump-sum payment, or as soon as the decision is made to make



324 the payment, should that be less than forty-five (45) days. The
325 employer shall not release the lump sum to the obligor until
326 thirty (30) days after the intended date of the payment or until
327 authorization is received from the Department of Human Services,
328 whichever is earlier.

329 Upon receipt of notice to pay a lump sum from an employer,
330 the Department of Human Services shall provide the employer with a
331 Notice of Lien in accordance with Section 93-11-71 specifying the
332 amount of the lump sum to be withheld for payment of child support
333 arrearage. Unless the lump sum is considered severance pay, any
334 amount of the lump sum up to the entire arrearage may be withheld.
335 If the lump sum is for severance pay, the amount withheld for
336 child support arrearages may not exceed an amount equal to the
337 amount the employer would have withheld if the severance pay had
338 been paid as the employee's usual earnings.

339 **SECTION 5.** Section 93-11-105, Mississippi Code of 1972, is
340 amended as follows:

341 93-11-105. (1) Notwithstanding the provisions of Section
342 93-11-103, the Department of Human Services shall be authorized to
343 implement administrative orders for withholding without the
344 necessity of obtaining an order through judicial proceedings. The
345 administrative order for withholding shall be implemented pursuant
346 to a previously rendered order for support and shall be on a form
347 prescribed by the Department of Human Services. Unless
348 inconsistent with the provisions of this section, the order for



349 withholding shall be subject to the same requirements as provided
350 in Sections 93-11-101 through 93-11-118.

351 (2) A copy of the administrative order shall be transmitted
352 to the obligor by regular mail to the last-known address of the
353 obligor.

354 (3) The order for withholding shall:

355 (a) Direct any payor to withhold an amount equal to the
356 order for the current support obligation;

357 (b) Direct any payor to withhold an additional amount
358 equal to * * * to the amounts listed in Section 1 of this act,
359 unless a different amount has been previously ordered by the
360 court, until payment in full of any delinquency; and

361 (c) Direct the payor not to withhold in excess of the
362 amounts allowed under Section 303(b) of the Consumer Credit
363 Protection Act, being 15 USCS 1673, as amended.

364 **SECTION 6.** Section 9-1-17, Mississippi Code of 1972, is
365 amended as follows:

366 9-1-17. The Supreme, circuit, chancery and county courts and
367 the Court of Appeals shall have power to fine and imprison any
368 person guilty of contempt of the court while sitting, but the fine
369 shall not exceed One Hundred Dollars (\$100.00) for each offense,
370 nor shall the imprisonment continue longer than thirty (30) days;
371 however, any person found in contempt for failure to pay child
372 support and imprisoned for such failure shall be brought before
373 the court within the time provided in Section 1 of this act. Upon



374 appearance, the court shall assess the amount of any child support
375 payments owed in accordance with Section 1 of this act. If any
376 witness refuse to be sworn or to give evidence, or if any officer
377 or person refuse to obey or perform any rules, order, or judgment
378 of the court, such court shall have power to fine and imprison
379 such officer or person until he shall give evidence, or until the
380 rule, order, or judgment shall be complied with.

381 At the discretion of the court, any person found in contempt
382 for failure to pay child support and imprisoned therefor may be
383 referred for placement in a state, county or municipal
384 restitution, house arrest or restorative justice center or
385 program, provided such person meets the qualifications prescribed
386 in Section 99-37-19.

387 **SECTION 7.** Section 9-5-87, Mississippi Code of 1972, is
388 amended as follows:

389 9-5-87. The chancery court, or the chancellor in vacation,
390 or judge granting the writ, shall have power to punish any person
391 for breach of injunction, or any other order, decree, or process
392 of the court, by fine or imprisonment, or both, or the chancellor
393 or judge granting the writ may require bail for the appearance of
394 the party at the next term of the court to answer for the
395 contempt; but such person shall be first cited to appear and
396 answer. And any person so punished by order of the chancellor in
397 vacation, may on five (5) days' notice to the opposite party,
398 apply to a judge of the Supreme Court, who, for good cause shown,



399 may supersede the punishment until the meeting of the said
400 chancery court.

401 At the discretion of the court, any person found in contempt
402 for failure to pay child support and imprisoned therefor may be
403 referred for placement in a state, county or municipal
404 restitution, house arrest or restorative justice center or
405 program, provided such person meets the qualifications prescribed
406 in Section 99-37-19. Any person found in contempt for failure to
407 pay child support and imprisoned for such failure shall be brought
408 before the court within the time provided in Section 1 of this
409 act. Upon appearance, the court shall assess the amount of any
410 payments owed by the person in accordance with Section 1 of this
411 act.

412 **SECTION 8.** Section 93-11-65, Mississippi Code of 1972, is
413 brought forward as follows:

414 93-11-65. (1) (a) In addition to the right to proceed
415 under Section 93-5-23, Mississippi Code of 1972, and in addition
416 to the remedy of habeas corpus in proper cases, and other existing
417 remedies, the chancery court of the proper county shall have
418 jurisdiction to entertain suits for the custody, care, support and
419 maintenance of minor children and to hear and determine all such
420 matters, and shall, if need be, require bond, sureties or other
421 guarantee to secure any order for periodic payments for the
422 maintenance or support of a child. In the event a legally
423 responsible parent has health insurance available to him or her



424 through an employer or organization that may extend benefits to
425 the dependents of such parent, any order of support issued against
426 such parent may require him or her to exercise the option of
427 additional coverage in favor of such children as he or she is
428 legally responsible to support. Proceedings may be brought by or
429 against a resident or nonresident of the State of Mississippi,
430 whether or not having the actual custody of minor children, for
431 the purpose of judicially determining the legal custody of a
432 child. All actions herein authorized may be brought in the county
433 where the child is actually residing, or in the county of the
434 residence of the party who has actual custody, or of the residence
435 of the defendant. Process shall be had upon the parties as
436 provided by law for process in person or by publication, if they
437 be nonresidents of the state or residents of another jurisdiction
438 or are not found therein after diligent search and inquiry or are
439 unknown after diligent search and inquiry; provided that the court
440 or chancellor in vacation may fix a date in termtime or in
441 vacation to which process may be returnable and shall have power
442 to proceed in termtime or vacation. Provided, however, that if
443 the court shall find that both parties are fit and proper persons
444 to have custody of the children, and that either party is able to
445 adequately provide for the care and maintenance of the children,
446 the chancellor may consider the preference of a child of twelve
447 (12) years of age or older as to the parent with whom the child
448 would prefer to live in determining what would be in the best



449 interest and welfare of the child. The chancellor shall place on
450 the record the reason or reasons for which the award of custody
451 was made and explain in detail why the wishes of any child were or
452 were not honored.

453 (b) An order of child support shall specify the sum to
454 be paid weekly or otherwise. In addition to providing for support
455 and education, the order shall also provide for the support of the
456 child prior to the making of the order for child support, and such
457 other expenses as the court may deem proper.

458 (c) The court may require the payment to be made to the
459 custodial parent, or to some person or corporation to be
460 designated by the court as trustee, but if the child or custodial
461 parent is receiving public assistance, the Department of Human
462 Services shall be made the trustee.

463 (d) The noncustodial parent's liabilities for past
464 education and necessary support and maintenance and other expenses
465 are limited to a period of one (1) year next preceding the
466 commencement of an action.

467 (2) Provided further, that where the proof shows that both
468 parents have separate incomes or estates, the court may require
469 that each parent contribute to the support and maintenance of the
470 children in proportion to the relative financial ability of each.

471 (3) Whenever the court has ordered a party to make periodic
472 payments for the maintenance or support of a child, but no bond,
473 sureties or other guarantee has been required to secure such



474 payments, and whenever such payments as have become due remain
475 unpaid for a period of at least thirty (30) days, the court may,
476 upon petition of the person to whom such payments are owing, or
477 such person's legal representative, enter an order requiring that
478 bond, sureties or other security be given by the person obligated
479 to make such payments, the amount and sufficiency of which shall
480 be approved by the court. The obligor shall, as in other civil
481 actions, be served with process and shall be entitled to a hearing
482 in such case.

483 (4) When a charge of abuse or neglect of a child first
484 arises in the course of a custody or maintenance action pending in
485 the chancery court pursuant to this section, the chancery court
486 may proceed with the investigation, hearing and determination of
487 such abuse or neglect charge as a part of its hearing and
488 determination of the custody or maintenance issue as between the
489 parents, as provided in Section 43-21-151, notwithstanding the
490 other provisions of the Youth Court Law. The proceedings in
491 chancery court on the abuse or neglect charge shall be
492 confidential in the same manner as provided in youth court
493 proceedings, and the chancery court shall appoint a guardian ad
494 litem in such cases, as provided under Section 43-21-121 for youth
495 court proceedings, who shall be an attorney. In determining
496 whether any portion of a guardian ad litem's fee shall be assessed
497 against any party or parties as a cost of court for reimbursement
498 to the county, the court shall consider each party's individual



499 ability to pay. Unless the chancery court's jurisdiction has been
500 terminated, all disposition orders in such cases for placement
501 with the Department of Human Services shall be reviewed by the
502 court or designated authority at least annually to determine if
503 continued placement with the department is in the best interest of
504 the child or the public.

505 (5) Each party to a paternity or child support proceeding
506 shall notify the other within five (5) days after any change of
507 address. In addition, the noncustodial and custodial parent shall
508 file and update, with the court and with the state case registry,
509 information on that party's location and identity, including
510 social security number, residential and mailing addresses,
511 telephone numbers, photograph, driver's license number, and name,
512 address and telephone number of the party's employer. This
513 information shall be required upon entry of an order or within
514 five (5) days of a change of address.

515 (6) In any case subsequently enforced by the Department of
516 Human Services pursuant to Title IV-D of the Social Security Act,
517 the court shall have continuing jurisdiction.

518 (7) In any subsequent child support enforcement action
519 between the parties, upon sufficient showing that diligent effort
520 has been made to ascertain the location of a party, due process
521 requirements for notice and service of process shall be deemed to
522 be met with respect to the party upon delivery of written notice



523 to the most recent residential or employer address filed with the
524 state case registry.

525 (8) (a) The duty of support of a child terminates upon the
526 emancipation of the child. Unless otherwise provided for in the
527 underlying child support judgment, emancipation shall occur when
528 the child:

529 (i) Attains the age of twenty-one (21) years, or

530 (ii) Marries, or

531 (iii) Joins the military and serves on a full-time
532 basis, or

533 (iv) Is convicted of a felony and is sentenced to
534 incarceration of two (2) or more years for committing such felony;
535 or

536 (b) Unless otherwise provided for in the underlying
537 child support judgment, the court may determine that emancipation
538 has occurred and no other support obligation exists when the
539 child:

540 (i) Discontinues full-time enrollment in school
541 having attained the age of eighteen (18) years, unless the child
542 is disabled, or

543 (ii) Voluntarily moves from the home of the
544 custodial parent or guardian, establishes independent living
545 arrangements, obtains full-time employment and discontinues
546 educational endeavors prior to attaining the age of twenty-one
547 (21) years, or



548 (iii) Cohabits with another person without the
549 approval of the parent obligated to pay support; and

550 (c) The duty of support of a child who is incarcerated
551 but not emancipated shall be suspended for the period of the
552 child's incarceration.

553 (9) A determination of emancipation does not terminate any
554 obligation of the noncustodial parent to satisfy arrearage
555 existing as of the date of emancipation; the total amount of
556 periodic support due prior to the emancipation plus any periodic
557 amounts ordered paid toward the arrearage shall continue to be
558 owed until satisfaction of the arrearage in full, in addition to
559 the right of the person for whom the obligation is owed to execute
560 for collection as may be provided by law.

561 (10) Upon motion of a party requesting temporary child
562 support pending a determination of parentage, temporary support
563 shall be ordered if there is clear and convincing evidence of
564 paternity on the basis of genetic tests or other evidence, unless
565 the court makes written findings of fact on the record that the
566 award of temporary support would be unjust or inappropriate in a
567 particular case.

568 (11) Custody and visitation upon military temporary duty,
569 deployment or mobilization shall be governed by Section 93-5-34.

570 **SECTION 9.** This act shall take effect and be in force from
571 and after July 1, 2018.

