

By: Representative Wooten

To: Judiciary A

HOUSE BILL NO. 1320

1 AN ACT TO AMEND SECTION 93-9-9, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT ALL COSTS AND FEES MAY BE ORDERED PAID TO THE
3 DEPARTMENT OF HUMAN SERVICES IN ALL CASES SUCCESSFULLY PROSECUTED;
4 AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 93-9-9, Mississippi Code of 1972, is
7 amended as follows:

8 93-9-9. (1) Paternity may be determined upon the petition
9 of the mother, or father, the child or any public authority
10 chargeable by law with the support of the child; provided that
11 such an adjudication after the death of the defendant must be made
12 only upon clear and convincing evidence. If paternity has been
13 lawfully determined, or has been acknowledged in writing according
14 to the laws of this state, the liabilities of the noncustodial
15 parent may be enforced in the same or other proceedings by the
16 custodial parent, the child, or any public authority which has
17 furnished or may furnish the reasonable expenses of pregnancy,
18 confinement, education, necessary support and maintenance, and
19 medical or funeral expenses for the custodial parent or the child.



20 The trier of fact shall receive without the need for third-party
21 foundation testimony certified, attested or sworn documentation as
22 evidence of (a) childbirth records; (b) cost of filing fees; (c)
23 court costs; (d) services of process fees; (e) mailing cost; (f)
24 genetic tests and testing fees; (g) the department's attorney's
25 fees; (h) in cases where the state or any of its entities or
26 divisions have provided medical services to the child or the
27 child's mother, all costs of prenatal care, birthing, postnatal
28 care and any other medical expenses incurred by the child or by
29 the mother as a consequence of the mother's pregnancy or delivery;
30 and (i) funeral expenses. All costs and fees * * * may be ordered
31 paid to the Department of Human Services in all cases successfully
32 prosecuted with a minimum of Two Hundred Fifty Dollars (\$250.00)
33 in attorney's fees or an amount determined by the court without
34 submitting an affidavit. Proceedings may be instituted at any
35 time until such child attains the age of twenty-one (21) years
36 unless the child has been emancipated as provided in Section
37 93-5-23 and Section 93-11-65. In the event of court-determined
38 paternity, the surname of the child shall be that of the father,
39 unless the judgment specifies otherwise.

40 (2) If the alleged father in an action to determine
41 paternity to which the Department of Human Services is a party
42 fails to appear for a scheduled hearing after having been served
43 with process or subsequent notice consistent with the Rules of
44 Civil Procedure, his paternity of the child(ren) shall be



45 established by the court if an affidavit sworn to by the mother
46 averring the alleged father's paternity of the child has
47 accompanied the complaint to determine paternity. Said affidavit
48 shall constitute sufficient grounds for the court's finding of the
49 alleged father's paternity without the necessity of the presence
50 or testimony of the mother at the said hearing. The court shall,
51 upon motion by the Department of Human Services, enter a judgment
52 of paternity. Any person who shall willfully and knowingly file a
53 false affidavit shall be subject to a fine of not more than One
54 Thousand Dollars (\$1,000.00).

55 (3) Upon application of both parents to the State Board of
56 Health and receipt by the State Board of Health of a sworn
57 acknowledgement of paternity executed by both parents subsequent
58 to the birth of a child born out of wedlock, the birth certificate
59 of the child shall be amended to show such paternity if paternity
60 is not shown on the birth certificate. Upon request of the
61 parents for the legitimization of a child under this section, the
62 surname of the child shall be changed on the certificate to that
63 of the father.

64 (4) (a) A signed voluntary acknowledgment of paternity is
65 subject to the right of any signatory to rescind the
66 acknowledgment within the earlier of:

67 (i) One (1) year; or



68 (ii) The date of a judicial proceeding relating to
69 the child, including a proceeding to establish a support order, in
70 which the signatory is a party.

71 (b) After the expiration of the one-year period
72 specified in subsection (4) (a) (i) of this section, a signed
73 voluntary acknowledgment of paternity may be challenged in court
74 only on the basis of fraud, duress or material mistake of fact,
75 with the burden of proof upon the challenger; the legal
76 responsibilities, including child support obligations, of any
77 signatory arising from the acknowledgment may not be suspended
78 during the pendency of the challenge, except for good cause shown.

79 (c) During the one-year time period specified in
80 subsection (4) (a) (i) of this section, the alleged father may
81 request genetic testing through the Department of Human Services
82 in accordance with the provisions of Section 93-9-21.

83 (d) The one-year time limit, specified in subsection
84 (4) (a) (i) of this section, for the right of the alleged father to
85 rescind the signed voluntary acknowledgement of paternity shall be
86 tolled from the date the alleged father files his formal
87 application for genetic testing with the Department of Human
88 Services until the date the test results are revealed to the
89 alleged father by the department. After the one-year time period
90 has expired, not including any period of time tolled for the
91 purpose of acquiring genetic testing through the department, the
92 provisions of subsection (4) (b) of this section shall apply.



93 **SECTION 2.** This act shall take effect and be in force from
94 and after July 1, 2018.

