

By: Senator(s) Doty

To: Judiciary, Division A

SENATE BILL NO. 2800

1 AN ACT TO AMEND SECTION 93-11-103, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT WITHHOLDING ORDERS FOR CHILD SUPPORT SHALL BE IN  
3 COMPLIANCE WITH THE FEDERAL CONSUMER CREDIT PROTECTION ACT  
4 WITHHOLDING LIMITS; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 93-11-103, Mississippi Code of 1972, is  
7 amended as follows:

8 93-11-103. (1) Upon entry of any order for support by a  
9 court of this state where the custodial parent is a recipient of  
10 services under Title IV-D of the federal Social Security Act,  
11 issued on or after October 1, 1996, the court entering such order  
12 shall enter a separate order for withholding which shall take  
13 effect immediately without any requirement that the obligor be  
14 delinquent in payment. All such orders for support issued prior  
15 to October 1, 1996, shall, by operation of law, be amended to  
16 conform with the provisions contained herein. All such orders for  
17 support issued shall:

18 (a) Contain a provision for monthly income withholding  
19 procedures to take effect in the event the obligor becomes



20 delinquent in paying the order for support without further  
21 amendment to the order or further action by the court; and

22 (b) Require that the payor withhold any additional  
23 amount for delinquency specified in any order if accompanied by an  
24 affidavit of accounting, a notarized record of overdue payments,  
25 official payment record or an attested judgment for delinquency or  
26 contempt. Any person who willfully and knowingly files a false  
27 affidavit, record or judgment shall be subject to a fine of not  
28 more than One Thousand Dollars (\$1,000.00). The Department of  
29 Human Services shall be the designated agency to receive payments  
30 made by income withholding in child support orders enforced by the  
31 department. All withholding orders shall be on a form as  
32 prescribed by the department.

33 (2) Upon entry of any order for support by a court of this  
34 state where the custodial parent is not a recipient of services  
35 under Title IV-D of the federal Social Security Act, issued or  
36 modified or found to be in arrears on or after January 1, 1994,  
37 the court entering such order shall enter a separate order for  
38 withholding which shall take effect immediately. Such orders  
39 shall not be subject to immediate income withholding under this  
40 subsection: (a) if one (1) of the parties (i.e., noncustodial or  
41 custodial parent) demonstrates, and the court finds, that there is  
42 good cause not to require immediate income withholding, or (b) if  
43 both parties agree in writing to an alternative arrangement. The  
44 Department of Human Services shall be the designated agency to



45 receive payments made by income withholding in all child support  
46 orders. Withholding orders shall be on a form as prescribed by  
47 the department.

48 (3) If a child support order is issued or modified in the  
49 state but is not subject to immediate income withholding, it  
50 automatically becomes so if the court finds that a support payment  
51 is thirty (30) days past due. If the support order was issued or  
52 modified in another state but is not subject to immediate income  
53 withholding, it becomes subject to immediate income withholding on  
54 the date on which child support payments are at least thirty (30)  
55 days in arrears, or (a) the date as of which the noncustodial  
56 parent requests that withholding begin, (b) the date as of which  
57 the custodial parent requests that withholding begin, or (c) an  
58 earlier date chosen by the court, whichever is earlier.

59 (4) The clerk of the court shall submit copies of such  
60 orders to the obligor's payor, any additional or subsequent payor,  
61 and to the Mississippi Department of Human Services Case Registry.  
62 The clerk of the court, the obligee's attorney, or the department  
63 may serve such immediate order for withholding by first-class mail  
64 or personal delivery on the obligor's payor, superintendent,  
65 manager, agent or subsequent payor, as the case may be. There  
66 shall be no need for further notice, hearing, order, process or  
67 procedure before service of said order on the payor or any  
68 additional or subsequent payor. The obligor may contest, if  
69 grounds exist, service of the order of withholding on additional



70 or subsequent payors, by filing an action with the issuing court.  
71 Such filing shall not stay the obligor's duty to support pending  
72 judicial determination of the obligor's claim. Nothing herein  
73 shall be construed to restrict the authority of the courts of this  
74 state from entering any order it deems appropriate to protect the  
75 rights of any parties involved.

76 (5) The order for withholding shall:

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

79 (b) Direct any payor to withhold an additional amount,  
80 not less than fifteen percent (15%) of the order for support,  
81 until payment in full of any delinquency; and

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

85 (6) All orders for withholding may permit the Department of  
86 Human Services to withhold through said withholding order  
87 additional amounts to recover costs incurred through its efforts  
88 to secure the support order, including, but not limited to, all  
89 filing fees, court costs, service of process fees, mailing costs,  
90 birth certificate certification fee, genetic testing fees, the  
91 department's attorney's fees; and, in cases where the state or any  
92 of its entities or divisions have provided medical services to the  
93 child or the child's mother, all medical costs of prenatal care,  
94 birthing, postnatal care and any other medical expenses incurred



95 by the child or by the mother as a consequence of her pregnancy or  
96 delivery.

97 (7) At the time the order for withholding is entered, the  
98 clerk of the court shall provide copies of the order for  
99 withholding and the order for support to the obligor, which shall  
100 be accompanied by a statement of the rights, remedies and duties  
101 of the obligor under Sections 93-11-101 through 93-11-119. The  
102 clerk of the court shall make copies available to the obligee and  
103 to the department or its local attorney.

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

106 (9) The failure of an order for withholding to state an  
107 arrearage is not conclusive of the issue of whether an arrearage  
108 is owing.

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

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

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

117 (b) The information along with the required affidavit  
118 of accounting, notarized record of overdue payment or attested



119 judgment of delinquency or contempt has been sent to the employer;  
120 and

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

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

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

137 An employer to whom this section applies shall notify the  
138 Department of Human Services of its intention to make a lump-sum  
139 payment at least forty-five (45) days before the planned date of  
140 the lump-sum payment, or as soon as the decision is made to make  
141 the payment, should that be less than forty-five (45) days. The  
142 employer shall not release the lump sum to the obligor until  
143 thirty (30) days after the intended date of the payment or until



144 authorization is received from the Department of Human Services,  
145 whichever is earlier.

146       Upon receipt of notice to pay a lump sum from an employer,  
147 the Department of Human Services shall provide the employer with a  
148 Notice of Lien in accordance with Section 93-11-71 specifying the  
149 amount of the lump sum to be withheld for payment of child support  
150 arrearage. \* \* \* The amount withheld from the lump sum for child  
151 support arrearages \* \* \* shall be in compliance with the Consumer  
152 Credit Protection Act, 15 U.S.C. Chapter 41.

153       **SECTION 2.** This act shall take effect and be in force from  
154 and after July 1, 2020.

