

By: Representative McLean

To: Judiciary A

HOUSE BILL NO. 1082

1 AN ACT TO AMEND SECTIONS 43-19-31 AND 89-12-39, MISSISSIPPI
 2 CODE OF 1972, TO AUTHORIZE THE DEPARTMENT OF HUMAN SERVICES AND
 3 THE STATE TREASURER TO COLLABORATE FOR THE PURPOSE OF COLLECTING
 4 CHILD SUPPORT ARREARAGES FROM OWNERS OF UNCLAIMED PROPERTY; TO
 5 AMEND SECTION 92-11-71, MISSISSIPPI CODE OF 1972, TO ADD UNCLAIMED
 6 PROPERTY TO LIST OF ITEMS THAT CAN BE COLLECTED FOR CHILD SUPPORT
 7 ARREARAGE; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 43-19-31, Mississippi Code of 1972, is
 10 amended as follows:

11 43-19-31. The Department of Human Services is hereby
 12 authorized and empowered to establish a single and separate Child
 13 Support Unit for the following purposes:

14 (a) To develop and implement a nonsupport and paternity
 15 program and institute proceedings in the name of the Department of
 16 Human Services or in the name of the recipient in any court of
 17 competent jurisdiction in any county where the mother of the child
 18 resides or is found, in the county where the father resides or is
 19 found, or in the county where the child resides or is found;



20 (b) To secure and collect support by any method
21 authorized under state law and establish paternity for any child
22 or children receiving aid from the department any form of public
23 assistance, including, but not limited to, medical assistance,
24 foster care, food stamps, TANF, or any other program under the
25 federal Social Security Act, from a parent or any other person
26 legally liable for such support who has either failed or refused
27 to provide support, deserted, neglected or abandoned the child or
28 children, including cooperating with other states in establishing
29 paternity, locating absent parents and securing compliance with
30 court orders for support of Temporary Assistance for Needy
31 Families (TANF) children; the department may petition the court
32 for the inclusion of health insurance as part of any child support
33 order on behalf of any child receiving aid from the department
34 unless good cause for noncooperation, as defined by the Social
35 Security Act or the Mississippi Department of Human Services, is
36 established. Unless notified to the contrary, whenever a child or
37 children for whom child support services have been provided ceases
38 to receive public assistance, the department will continue to
39 provide services and establish paternity, secure and collect such
40 support payments from a parent or any other person legally liable
41 for such support in accordance with the standards prescribed
42 pursuant to the federal Social Security Act;

43 (c) To accept applications for child support
44 enforcement services to establish paternity, secure and collect



45 support from any proper party or person as defined by Title IV-D
46 of the federal Social Security Act notwithstanding the fact that
47 the child or children do not currently receive or have never
48 received public assistance. The department shall have the
49 authority to secure and collect support by any method authorized
50 under state law and establish paternity for any child or children
51 on behalf of a recipient of child support services, including
52 individuals who do not currently receive or have never received
53 public assistance from a parent or any other person legally liable
54 for such support who has either failed or refused to provide
55 support, deserted, neglected or abandoned the child or children,
56 including cooperating with other states in establishing paternity,
57 locating absent parents and securing compliance with court orders
58 for support; the department may petition the court for the
59 inclusion of health insurance as part of any child support order
60 on behalf of such recipients of child support services. The
61 proceeds of any collections resulting from such application shall
62 be distributed in accordance with the standards prescribed in the
63 federal Social Security Act;

64 (d) The department shall seek to recover from the
65 individual who owes a support obligation to any individual who is
66 a recipient of Title IV-D services as set forth in paragraph (b)
67 or (c) on whose behalf the department is providing services, upon
68 judicial proceedings conducted thereon after advance notice to
69 such obligor, reasonable attorney's fees and court costs, in



70 excess of any administrative fees collected and in excess of
71 amounts of current support owed by the obligor, which the
72 department incurs in recovering and collecting the support
73 obligation, such costs and fees as the department recovers to be
74 deposited in the Special Fund of the Mississippi Department of
75 Human Services which is hereby established for the pursuit and
76 collection of child support;

77 (e) To initiate contempt of court proceedings or any
78 other remedial proceedings necessary to enforce (i) any order or
79 decree of court relating to child support, and (ii) any order or
80 decree of court relating to the maintenance and/or alimony of a
81 parent where support collection services on his or her child's
82 behalf are being provided by the department;

83 (f) To secure and collect by any method authorized
84 under state law any maintenance and/or alimony on behalf of a
85 parent whose child or children's support is being collected by the
86 department. The department shall collect only such maintenance
87 and/or alimony as is ordered or decreed by the court, and only in
88 the event that the minor child and parent to whom such maintenance
89 and/or alimony has been ordered are living in the same household;

90 (g) To obtain restitution of monies expended for public
91 assistance from a parent or any other person legally liable for
92 the support of any child or children receiving aid from the
93 department; said action for restitution shall arise from the
94 payment of public assistance for the dependent child or children



95 and shall be for the amount of the public assistance paid. Said
96 action for restitution shall not arise against the parent or other
97 person legally responsible who receives public assistance for the
98 benefit of any dependent child or children. When a court order of
99 support has been issued, the amount recoverable shall be limited
100 to the amount of the court order;

101 (h) Setting off against a debtor's income tax refund or
102 rebate any debt which is in the form of a liquidated sum due and
103 owing for the care, support or maintenance of a child;

104 (i) To have full responsibility in the aforementioned
105 cases for initiating actions under the Uniform Interstate Family
106 Support Act and for responding to the actions of other
107 jurisdictions under said law when Mississippi is the responding
108 state; however, this shall not impair private litigants' rights to
109 proceed under any applicable interstate enforcement mechanisms;

110 (j) To enter into contracts for the purpose of
111 performing any test which the department may, from time to time,
112 require;

113 (k) To maintain a Central Receipting and Disbursement
114 Unit to which all payments required by withholding orders and
115 orders for support in all actions to which the Department of Human
116 Services is a party shall be forwarded, and from which child
117 support payments ordered by the court in actions to which the
118 Department of Human Services is a party shall be disbursed to the
119 custodial parent or other such party as may be designated by the



120 court order. The Central Receipting and Disbursement Unit shall
121 be operated by the Department of Human Services or any financial
122 institution having operations and qualified to do business in
123 Mississippi, whose deposits are insured by the Federal Deposit
124 Insurance Corporation. The department shall conduct cost-benefit
125 analyses to determine and utilize the more cost efficient manner
126 of operating the unit;

127 (1) To maintain a Mississippi Department of Human
128 Services Case Registry containing records with respect to:

129 (i) Each case in which services are being provided
130 by the department under this section; and

131 (ii) Each support order established or modified in
132 Mississippi on or after October 1, 1998; and

133 (iii) The Administrative Office of Courts, as
134 established by Section 9-21-1, Mississippi Code of 1972, in
135 consultation with the Mississippi Department of Human Services,
136 shall devise, promulgate and require the use of a Uniform Child
137 Support Order Tracking System.

138 1. Information collected from case filing
139 forms shall be furnished to the Mississippi Department of Human
140 Services, Division of Child Support Enforcement, in order that
141 compliance with court-ordered obligations of support may be
142 tracked with specificity throughout the duration of said
143 obligations and any subsequent proceedings.



144 2. Such tracking system shall include: * * *
145 a. the names, residential and mailing addresses, telephone
146 numbers, Social Security numbers, driver's license numbers and
147 dates of birth of each child and parent named in or subject to the
148 court order; * * * b. the court cause number of the action; * * *
149 c. name, address and telephone number of employer; * * * d. any
150 restraining or protective order indicating domestic violence;
151 and * * * e. any other information which may be used for the
152 purpose of identifying any person named in or subject to the order
153 or for the purposes of establishing, enforcing or modifying a
154 child support order;

155 (m) To take administrative actions relating to genetic
156 testing, determine paternity, establish child support orders,
157 modification of child support orders, income withholding, liens
158 and subpoenas without the necessity of obtaining an order from any
159 judicial or other administrative tribunal with respect to cases
160 initiated or enforced by the department pursuant to Title IV-D of
161 the Social Security Act;

162 (n) To have the authority to use high-volume automated
163 administrative enforcement in interstate cases to the same extent
164 as used for intrastate cases, in response to a request made by
165 another state to enforce support orders; and

166 (o) To provide any child support enforcement or other
167 service as may be required by the United States of America,
168 Department of Health and Human Services, Family Support



169 Administration, Office of Child Support Enforcement or their
170 successor pursuant to federal law or regulation.

171 (p) To collaborate with the Office of the State
172 Treasurer, Division of Unclaimed Property, in order to identify
173 persons presumed to have unclaimed property and intercept eligible
174 unclaimed property to satisfy, partially or in full, a child
175 support arrearage owed by the claimant.

176 **SECTION 2.** Section 89-12-39, Mississippi Code of 1972, is
177 amended as follows:

178 89-12-39. (1) Any person claiming an interest in any
179 property delivered to the state under the provisions of this
180 chapter may file a claim on the form prescribed by the Treasurer.

181 (2) The Treasurer shall consider any claim filed under the
182 provisions of subsection (1) of this section, and may hold a
183 hearing and receive evidence concerning it. If a hearing is held,
184 he or she shall prepare a finding and a decision in writing on
185 each claim filed, stating the substance of any evidence heard by
186 him or her and the reasons for his or her decision. The decision
187 shall be a public record.

188 (3) If the validity of a claim shall be determined in favor
189 of the claimant, the Treasurer shall pay over to the claimant only
190 that amount which the Treasurer actually received, without
191 deduction for costs of notices or for service charges, together
192 with interest at the rate of one-twelfth of one percent (1/12 of
193 1%) per month from the time when it was received by the Treasurer



194 to the time when it was paid by him or her to the claimant.
195 However, if the property claimed was interest bearing to the owner
196 on the date of surrender by the holder, then the Treasurer shall
197 instead add interest at a rate not to exceed five-twelfths of one
198 percent (5/12 of 1%) per month or the lesser current market rate.
199 The interest on interest-bearing property shall begin to
200 accumulate on the date that the property is delivered to the
201 Treasurer and shall cease on the earlier of the expiration of
202 fifteen (15) years following delivery or the date on which payment
203 is made to the owner. No interest on the interest-bearing
204 property shall be payable for any period prior to July 1, 1982.
205 Any holder who pays to the owner property which has been delivered
206 to the state and which, if claimed from the Treasurer, would be
207 subject to the provisions of this section as interest-bearing
208 property, shall add interest as provided in this section. The
209 added interest shall be repaid to the holder by the Treasurer in
210 the same manner as the principal.

211 (4) Further, if the validity of a claim shall be determined
212 in favor of the claimant, the Treasurer shall cooperate with the
213 Department of Human Services, Division of Child Support
214 Enforcement to identify claimants with a child support arrearage
215 and intercept eligible unclaimed property to satisfy, partially or
216 in full, a child support arrearage owed by the claimant.

217 **SECTION 3.** Section 93-11-71, Mississippi Code of 1972, is
218 amended as follows:



219 93-11-71. (1) Whenever a court orders any person to make
220 periodic payments of a sum certain for the maintenance or support
221 of a child, and whenever such payments as have become due remain
222 unpaid for a period of at least thirty (30) days, a judgment by
223 operation of law shall arise against the obligor in an amount
224 equal to all payments that are then due and owing.

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

229 (b) Such judgments arising in other states by operation
230 of law shall be given full faith and credit in this state.

231 (2) Any judgment arising under the provisions of this
232 section shall operate as a lien upon all the property of the
233 judgment debtor, both real and personal, which lien shall be
234 perfected as to third parties without actual notice thereof only
235 upon enrollment on the judgment roll. The department or attorney
236 representing the party to whom support is owed shall furnish an
237 abstract of the judgment for periodic payments for the maintenance
238 and support of a child, along with sworn documentation of the
239 delinquent child support, to the circuit clerk of the county where
240 the judgment is rendered, and it shall be the duty of the circuit
241 clerk to enroll the judgment on the judgment roll. Liens arising
242 under the provisions of this section may be executed upon and



243 enforced in the same manner and to the same extent as any other
244 judgment.

245 (3) Notwithstanding the provisions in subsection (2) of this
246 section, any judgment arising under the provisions of this section
247 shall subject the following assets to interception or seizure
248 without regard to the entry of the judgment on the judgment roll
249 of the situs district or jurisdiction and such assets shall apply
250 to all child support owed including all arrears:

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

254 (b) Winnings from lotteries and gaming winnings that
255 are received in periodic payments made over a period in excess of
256 thirty (30) days;

257 (c) Assets held in financial institutions;

258 (d) Settlements and awards resulting from civil
259 actions;

260 (e) Public and private retirement funds, only to the
261 extent that the obligor is qualified to receive and receives a
262 lump-sum or periodic distribution from the funds; and

263 (f) Lump-sum payments as defined in Section
264 93-11-101 * * *; and

265 (g) Unclaimed property as described in the Uniform
266 Disposition of Unclaimed Property Act, Mississippi Code Annotated
267 Sections 89-12-1 through 89-12-59.



268 (4) Notwithstanding the provisions of subsections (1) and
269 (2) of this section, upon disestablishment of paternity granted
270 pursuant to Section 93-9-10 and a finding of clear and convincing
271 evidence including negative DNA testing that the obligor is not
272 the biological father of the child or children for whom support
273 has been ordered, the court shall disestablish paternity and may
274 forgive any child support arrears of the obligor for the child or
275 children determined by the court not to be the biological child or
276 children of the obligor, if the court makes a written finding
277 that, based on the totality of the circumstances, the forgiveness
278 of the arrears is equitable under the circumstances.

279 (5) In any case in which a child receives assistance from
280 block grants for Temporary Assistance for Needy Families (TANF),
281 and the obligor owes past-due child support, the obligor, if not
282 incapacitated, may be required by the court to participate in any
283 work programs offered by any state agency.

284 (6) A parent who receives social security disability
285 insurance payments who is liable for a child support arrearage and
286 whose disability insurance benefits provide for the payment of
287 past due disability insurance benefits for the support of the
288 minor child or children for whom the parent owes a child support
289 arrearage shall receive credit toward the arrearage for the
290 payment or payments for the benefit of the minor child or children
291 if the arrearage accrued after the date of disability onset as
292 determined by the Social Security Administration.



293 **SECTION 4.** This act shall take effect and be in force from
294 and after July 1, 2022.

