

By: Representative Currie

To: Judiciary A

HOUSE BILL NO. 320

1 AN ACT TO AUTHORIZE COURT-ORDERED SUPPORT FOR PREGNANT WOMEN
2 OUT OF LAWFUL MATRIMONY; TO AMEND SECTION 93-9-3, MISSISSIPPI
3 CODE OF 1972, TO CLARIFY THE AUTHORITY OF THE CHANCERY COURT TO
4 AWARD SUPPORT TO PREGNANT WOMEN OUT OF MATRIMONY; TO DEFINE UNBORN
5 CHILD; TO AMEND SECTION 93-9-7, MISSISSIPPI CODE OF 1972, TO
6 PROVIDE THAT THE OBLIGATIONS OF THE FATHER EXTEND TO THE SUPPORT
7 OF THE MOTHER OF AN UNBORN CHILD; TO AMEND SECTION 93-9-9,
8 MISSISSIPPI CODE OF 1972, TO INCLUDE PETITIONS FOR THE SUPPORT OF
9 THE MOTHER OF AN UNBORN CHILD; TO AMEND SECTION 93-9-11,
10 MISSISSIPPI CODE OF 1972, TO REVISE THE LIMITATION ON RECOVERY OF
11 SUPPORT FROM A FATHER; TO AMEND SECTION 93-9-13, MISSISSIPPI CODE
12 OF 1972, TO REVISE THE LIMITATION ON RECOVERY OF SUPPORT FROM A
13 FATHER'S ESTATE; TO AMEND SECTION 93-9-19, MISSISSIPPI CODE OF
14 1972, TO REMOVE THE PROHIBITION THAT PREGNANCY HALTS THE CUSTODY
15 OR SUPPORT HEARINGS; TO AMEND SECTION 93-9-28, MISSISSIPPI CODE OF
16 1972, TO REVISE THE PROCEDURES FOR VOLUNTARY ACKNOWLEDGEMENT OF
17 PATERNITY; TO AMEND SECTION 93-9-29, MISSISSIPPI CODE OF 1972, TO
18 PROVIDE THAT A COURT ORDER MAY INCLUDE THE SUPPORT OF THE MOTHER
19 OF AN UNBORN CHILD; TO AMEND SECTION 93-9-35, MISSISSIPPI CODE OF
20 1972, TO INCLUDE THE SUPPORT OF THE MOTHER OF AN UNBORN CHILD AS A
21 RESPONSIBILITY OF THE FATHER OF THE CHILD; TO AMEND SECTION
22 93-11-65, MISSISSIPPI CODE OF 1972, TO INCLUDE EXPENSES TO THE
23 PREGNANT MOTHER IN THE CUSTODY PROVISIONS; TO AMEND SECTION
24 93-11-71, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN ORDER OF
25 CHILD SUPPORT CAN INCLUDE SUPPORT OF THE PREGNANT MOTHER; TO AMEND
26 SECTIONS 93-11-101 AND 93-11-153, MISSISSIPPI CODE OF 1972, TO
27 INCLUDE SUPPORT OF THE PREGNANT MOTHER IN THE ORDER OF SUPPORT; TO
28 AMEND SECTION 43-19-31, MISSISSIPPI CODE OF 1972, TO REVISE THE
29 DUTIES OF THE CHILD SUPPORT UNIT TO INCLUDE THE SUPPORT OF
30 PREGNANT WOMEN; TO AMEND SECTION 43-19-33, MISSISSIPPI CODE OF
31 1972, TO PROVIDE THAT THE STIPULATED AGREEMENT BETWEEN A FATHER
32 AND THE PREGNANT WOMAN OF HIS UNBORN CHILD MAY INCLUDE THE SUPPORT
33 OF THE MOTHER; TO AMEND SECTION 43-19-35, MISSISSIPPI CODE OF
34 1972, TO INCLUDE PREGNANT MOTHERS WHO RECEIVE GOVERNMENTAL



35 ASSISTANCE UNDER THE JURISDICTION OF THE CHILD SUPPORT UNIT; TO
36 AMEND SECTION 43-19-101, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
37 THE COURT TO CONSIDER THE EXPENSES TO THE PREGNANT MOTHER FOR
38 CHILD SUPPORT; TO BRING FORWARD SECTION 93-9-15, MISSISSIPPI CODE
39 OF 1972, WHICH PROVIDES FOR THE JURISDICTION OF THE COURTS TO
40 PROVIDE REMEDIES FOR SUPPORT ORDERS INCLUDING PREGNANCY, FOR
41 PURPOSES OF AMENDMENT; TO BRING FORWARD SECTION 93-9-21,
42 MISSISSIPPI CODE OF 1972, WHICH PROVIDES BLOOD TESTS FOR PATERNITY
43 TESTING, FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

45 **SECTION 1.** (1) The court-ordered awards for pregnant women
46 shall, at a minimum, cover the medical expenses of the pregnant
47 mother during the pregnancy, the post pregnancy medical care of
48 the mother for no less than two (2) years after the birth of the
49 child, including any mental or dietary needs of the mother of the
50 child that can be reasonably traced by a physician as a result of
51 the mother having giving birth. The award guidelines described in
52 this section shall be a rebuttable presumption in all judicial or
53 administrative proceedings regarding the awarding or modifying of
54 support for mothers with unborn children out of wedlock in this
55 state.

56 (2) The guidelines provided for in subsection (1) of this
57 section apply unless the judicial or administrative body awarding
58 the support award makes a written finding or specific finding on
59 the record that the application of the guidelines would be unjust
60 or inappropriate in a particular case.

61 (3) The amount of "adjusted gross income" for any father
62 against whom the support award is ordered shall be calculated as
63 follows:



64 (a) Determine gross income from all potential sources
65 that may reasonably be expected to be available to the absent
66 parent including, but not limited to, the following: wages and
67 salary income; income from self-employment; income from
68 commissions; income from investments, including dividends,
69 interest income and income on any trust account or property;
70 absent parent's portion of any joint income of both parents;
71 workers' compensation, disability, unemployment, annuity and
72 retirement benefits, including an Individual Retirement Account
73 (IRA); any other payments made by any person, private entity,
74 federal or state government or any unit of local government;
75 alimony; any income earned from an interest in or from inherited
76 property; any other form of earned income; and gross income shall
77 exclude any monetary benefits derived from a second household,
78 such as income of the absent parent's current spouse;

79 (b) Subtract the following legally mandated deductions:

80 (i) Federal, state and local taxes. Contributions
81 to the payment of taxes over and beyond the actual liability for
82 the taxable year shall not be considered a mandatory deduction;

83 (ii) Social security contributions;

84 (iii) Retirement and disability contributions
85 except any voluntary retirement and disability contributions;

86 (c) If the father is subject to an existing court order
87 for another child or children, subtract the amount of that
88 court-ordered support;



89 (d) If the father is also the parent of another child
90 or other children residing with him, then the court may subtract
91 an amount that it deems appropriate to account for the needs of
92 said child or children; and

93 (e) Compute the total annual amount of adjusted gross
94 income based on paragraphs (a) through (d) of this subsection,
95 then divide this amount by twelve (12) to obtain the monthly
96 amount of adjusted gross income.

97 Upon conclusion of the calculation of paragraphs (a) through
98 (e) of this subsection, multiply the monthly amount of adjusted
99 gross income by the appropriate percentage designated in
100 subsection (1) of this section to arrive at the amount of the
101 monthly child-support award.

102 (4) In cases in which the adjusted gross income as defined
103 in this section is more than One Hundred Thousand Dollars
104 (\$100,000.00) or less than Ten Thousand Dollars (\$10,000.00), the
105 court shall make a written finding in the record as to whether or
106 not the application of the guidelines established in this section
107 is reasonable. The court shall take into account the basic
108 subsistence needs of the father who has a limited ability to pay.

109 (5) Imputation of income shall not be based upon a standard
110 amount in lieu of fact-gathering. In the absence of specific
111 sufficient evidence of past earnings and employment history to use
112 as the measure of a father's ability to pay, the recommended
113 support obligation amount should be based on available information



114 about the specific circumstances of the obligated parent. This
115 can include, but is not limited to, such factors as assets,
116 residence, job skills, educational attainment, literacy, age,
117 health, criminal record and other employment barriers, and record
118 of seeking work, as well as the local job market, the availability
119 of employers willing to hire the obligated parent, prevailing
120 earnings level in the local community, and other relevant factors
121 in the case.

122 **SECTION 2.** Section 93-9-3, Mississippi Code of 1972, is
123 amended as follows:

124 93-9-3. (1) Nothing herein contained shall be construed as
125 abridging the power and jurisdiction of the chancery courts of the
126 State of Mississippi, exercised over the estates of minors, nor as
127 an abridgment of the power and authority of said chancery courts
128 or the chancellor in vacation or chancery clerk in vacation to
129 appoint guardians for minors. The Uniform Law on Paternity shall
130 be so interpreted and construed as to effectuate its general
131 purpose to make uniform the laws of those states which enact it.

132 (2) The provisions herein shall be construed to provide
133 authority to the chancery courts of the State of Mississippi to
134 order the father of an unborn child out of lawful matrimony to
135 provide support to the mother of the unborn child out of lawful
136 matrimony who asserts the paternity of a father. For purposes of
137 this chapter, the term "unborn child" means a child in the
138 mother's womb.



139 **SECTION 3.** Section 93-9-7, Mississippi Code of 1972, is
140 amended as follows:

141 93-9-7. The father of a child which is unborn out of law
142 matrimony, is born out of lawful matrimony or may be born out of
143 lawful matrimony is liable to the same extent as the father of a
144 child born of lawful matrimony, whether or not the child is born
145 alive, for the reasonable expenses of the mother's physical and
146 mental pre-natal care, pregnancy and confinement, and for the
147 education, necessary support and maintenance, and medical and
148 funeral expenses of the child. A child born out of lawful
149 matrimony also includes a child born to a married woman by a man
150 other than her lawful husband.

151 **SECTION 4.** Section 93-9-9, Mississippi Code of 1972, is
152 amended as follows:

153 93-9-9. (1) Paternity may be determined upon the petition
154 of the mother, or father, the child or any public authority
155 chargeable by law with the support of the child or an unborn
156 child; provided that such an adjudication after the death of the
157 defendant must be made only upon clear and convincing evidence.
158 If paternity has been lawfully determined, lawfully asserted by
159 the mother of an unborn child or has been acknowledged in writing
160 according to the laws of this state, the liabilities of the
161 noncustodial parent may be enforced in the same or other
162 proceedings by the custodial parent, the child, or any public
163 authority which has furnished or may furnish the reasonable



164 expenses of pregnancy, confinement, education, necessary support
165 and maintenance, and medical or funeral expenses for the custodial
166 parent or the child. The trier of fact shall receive without the
167 need for third-party foundation testimony certified, attested or
168 sworn documentation as evidence of (a) childbirth records; (b)
169 cost of filing fees; (c) court costs; (d) services of process
170 fees; (e) mailing cost; (f) genetic tests and testing fees; (g)
171 the department's attorney's fees; (h) in cases where the state or
172 any of its entities or divisions have provided medical services to
173 the child or the child's mother, all costs of prenatal care,
174 birthing, postnatal care and any other medical expenses incurred
175 by the child or by the mother as a consequence of the mother's
176 pregnancy or delivery; and (i) funeral expenses. All costs and
177 fees shall be ordered paid to the Department of Human Services in
178 all cases successfully prosecuted with a minimum of Two Hundred
179 Fifty Dollars (\$250.00) in attorney's fees or an amount determined
180 by the court without submitting an affidavit. Proceedings may be
181 instituted at any time until such child attains the age of
182 twenty-one (21) years unless the child has been emancipated as
183 provided in Section 93-5-23 and Section 93-11-65. In the event of
184 court-determined paternity, the surname of the child shall be that
185 of the father, unless the judgment specifies otherwise.

186 (2) If the alleged father in an action to determine
187 paternity to which the Department of Human Services is a party
188 fails to appear for a scheduled hearing after having been served



189 with process or subsequent notice consistent with the Rules of
190 Civil Procedure, his paternity of the child(ren) shall be
191 established by the court if a written declaration in support of
192 establishing paternity made under penalty of perjury to the best
193 of her knowledge, information and belief by the mother averring
194 the alleged father's paternity of the child has accompanied the
195 complaint to determine paternity. The written declaration shall
196 constitute sufficient grounds for the court's finding of the
197 alleged father's paternity without the necessity of the presence
198 or testimony of the mother at the said hearing. The court shall,
199 upon motion by the Department of Human Services, enter a judgment
200 of paternity. Any person who shall willfully and knowingly file a
201 false affidavit or who shall willfully, intentionally and
202 knowingly file a false written declaration under penalty of
203 perjury shall be subject to a fine of not more than One Thousand
204 Dollars (\$1,000.00).

205 (3) Upon application of both parents to the State Board of
206 Health and receipt by the State Board of Health of a sworn
207 acknowledgement of paternity executed by both parents subsequent
208 to the birth of a child born out of wedlock, the birth certificate
209 of the child shall be amended to show such paternity if paternity
210 is not shown on the birth certificate. Upon request of the
211 parents for the legitimization of a child under this section, the
212 surname of the child shall be changed on the certificate to that
213 of the father.



214 (4) (a) A signed voluntary acknowledgment of paternity is
215 subject to the right of any signatory to rescind the
216 acknowledgment within the earlier of:

217 (i) One (1) year; or

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

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

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

233 (d) The one-year time limit, specified in subsection
234 (4) (a) (i) of this section, for the right of the alleged father to
235 rescind the signed voluntary acknowledgement of paternity shall be
236 tolled from the date the alleged father files his formal
237 application for genetic testing with the Department of Human
238 Services until the date the test results are revealed to the



239 alleged father by the department. After the one-year time period
240 has expired, not including any period of time tolled for the
241 purpose of acquiring genetic testing through the department, the
242 provisions of subsection (4)(b) of this section shall apply.

243 **SECTION 5.** Section 93-9-11, Mississippi Code of 1972, is
244 amended as follows:

245 93-9-11. The father's liabilities for past education and
246 necessary support and maintenance and other expenses are limited
247 to a period of * * * three (3) years preceding the commencement of
248 an action.

249 **SECTION 6.** Section 93-9-13, Mississippi Code of 1972, is
250 amended as follows:

251 93-9-13. The obligation of the estate of the father for
252 liabilities under Section 93-9-7 * * * shall not be limited to
253 amounts accrued prior to his death. However, in order to hold the
254 estate of the father liable under Section 93-9-7, the action must
255 be filed within one (1) year after the death of the father or
256 within ninety (90) days after the first publication of notice to
257 creditors to present their claims, whichever is less.

258 **SECTION 7.** Section 93-9-19, Mississippi Code of 1972, is
259 amended as follows:

260 93-9-19. If the issue of paternity is raised in an action
261 commenced during the pregnancy of the mother, the trial shall
262 * * * be had to determine expenses of the mother and father.



263 **SECTION 8.** Section 93-9-28, Mississippi Code of 1972, is
264 amended as follows:

265 93-9-28. (1) The Mississippi State Department of Health in
266 cooperation with the Mississippi Department of Human Services
267 shall develop a form and procedure which may be used to secure a
268 voluntary acknowledgement of paternity from the mother and father
269 of any unborn child or child born out of wedlock in Mississippi.
270 The form shall clearly state on its face that the execution of the
271 acknowledgement of paternity shall result in the same legal effect
272 as if the father and mother had been married at the time of the
273 birth of the child. The form shall also clearly indicate the
274 right of the alleged father to request genetic testing through the
275 Department of Human Services within the one-year time period
276 specified in subsection (2) (a) (i) of this section and shall state
277 the adverse effects and ramifications of not availing himself of
278 this one-time opportunity to definitively establish the paternity
279 of the child. When such form has been completed according to the
280 established procedure and the signatures of both the mother and
281 father have been notarized, then such voluntary acknowledgement
282 shall constitute a full determination of the legal parentage of
283 the child. The completed voluntary acknowledgement of paternity
284 shall be filed with the Bureau of Vital Statistics of the
285 Mississippi State Department of Health. The name of the father
286 shall be entered on the certificate of birth upon receipt of the
287 completed voluntary acknowledgement.



288 (2) (a) A signed voluntary acknowledgment of paternity is
289 subject to the right of any signatory to rescind the
290 acknowledgment within the earlier of:

291 (i) One (1) year; or

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

295 (b) After the expiration of the one-year period
296 specified in subsection (2) (a) (i) of this section, a signed
297 voluntary acknowledgment of paternity may be challenged in court
298 only on the basis of fraud, duress, or material mistake of fact,
299 with the burden of proof upon the challenger; the legal
300 responsibilities, including child support obligations, of any
301 signatory arising from the acknowledgment may not be suspended
302 during the pendency of the challenge, except for good cause shown.

303 (c) During the one-year time period specified in
304 subsection (2) (a) (i) of this section, the alleged father may
305 request genetic testing through the Department of Human Services
306 in accordance with the provisions of Section 93-9-21.

307 (d) The one-year time limit, specified in subsection
308 (2) (a) (i) of this section, for the right of the alleged father to
309 rescind the signed voluntary acknowledgement of paternity shall be
310 tolled from the date the alleged father files his formal
311 application for genetic testing with the Department of Human
312 Services until the date the test results are revealed to the



313 alleged father by the department. After the one-year time period
314 has expired, not including any period of time tolled for the
315 purpose of acquiring genetic testing through the department, the
316 provisions of subsection (2)(b) of this section shall apply.

317 (3) The Mississippi State Department of Health and the
318 Mississippi Department of Human Services shall cooperate to
319 establish procedures to facilitate the voluntary acknowledgement
320 of paternity by both father and mother at the time of the birth of
321 any child born out of wedlock. Such procedures shall establish
322 responsibilities for each of the departments and for hospitals,
323 birthing centers, midwives, and/or other birth attendants to seek
324 and report voluntary acknowledgements of paternity. In
325 establishing such procedures, the departments shall provide for
326 obtaining the social security account numbers of both the father
327 and mother on voluntary acknowledgements.

328 (4) Upon the birth of a child out of wedlock, the hospital,
329 birthing center, midwife or other birth attendant shall provide an
330 opportunity for the child's mother and natural father to complete
331 an acknowledgement of paternity by giving the mother and natural
332 father the appropriate forms and information developed through the
333 procedures established in subsection (3). The hospital, birthing
334 center, midwife or other birth attendant shall be responsible for
335 providing printed information, and audio visual material if
336 available, related to the acknowledgement of paternity, and shall
337 be required to provide notary services needed for the completion



338 of acknowledgements of paternity. The information described above
339 shall be provided to the mother and natural father, if present and
340 identifiable, within twenty-four (24) hours of birth or before the
341 mother is released. Such information, including forms, brochures,
342 pamphlets, video tapes and other media, shall be provided at no
343 cost to the hospital, birthing center or midwife by the
344 Mississippi State Department of Health, the Department of Human
345 Services or other appropriate agency.

346 **SECTION 9.** Section 93-9-29, Mississippi Code of 1972, is
347 amended as follows:

348 93-9-29. (1) If the finding be against the defendant, the
349 court shall make an order of filiation, declaring paternity and
350 for the support and education of the child, and for the support
351 and expenses of the pregnant mother, if applicable.

352 (2) The order of filiation shall specify the sum to be paid
353 weekly or otherwise. In addition to providing for the support and
354 education, the order shall also provide for the funeral expenses
355 if the child has died; for the support of the child prior to the
356 making of the order of filiation; support of the mother and unborn
357 child and such other expenses as the court may deem proper. In
358 the event the defendant has health insurance available to him
359 through an employer or organization that may extend benefits to
360 the mother of the unborn child or the dependents of such
361 defendant, the order of filiation may require the defendant to



362 exercise the option of additional coverage in favor of the child
363 he is legally responsible to support.

364 (3) The court may require the payment to be made to the
365 mother, or to some person or corporation to be designated by the
366 court as trustee, but if the child is or is likely to become a
367 public charge on a county or the state, the public welfare agent
368 of that county shall be made the trustee. The payment shall be
369 directed to be made to a trustee if the mother does not reside
370 within the jurisdiction of the court. The trustee shall report to
371 the court annually, or oftener as directed by the court, the
372 amounts received and paid over.

373 **SECTION 10.** Section 93-9-35, Mississippi Code of 1972, is
374 amended as follows:

375 93-9-35. (1) If a mother of a natural child be possessed of
376 property and shall fail to support and educate her child, the
377 court having jurisdiction, on the application of the guardian or
378 next friend of the child or, if the child shall receive Temporary
379 Assistance for Needy Families (TANF) benefits or other financial
380 assistance, of the county human services agent or youth counselor,
381 may examine into the matter and after a hearing may make an order
382 charging the mother with the payment of money weekly or otherwise
383 for the support and education of the child.

384 (2) The court may require the mother to give security, by
385 bond or other security, with sufficient sureties approved by the
386 court, for the payment of the order. In default of such security,



387 when required, the court may commit her to jail, or put her on
388 probation. At any time within one (1) year she may be discharged
389 from jail, but her liability to pay the judgment shall not be
390 thereby affected.

391 (3) Nothing in this section shall be deemed to relieve the
392 father from liability for support and education of the child or
393 the support of the mother of the unborn child in accordance with
394 the provisions of Sections 93-9-1 through 93-9-49.

395 **SECTION 11.** Section 93-11-65, Mississippi Code of 1972, is
396 amended as follows:

397 93-11-65. (1) (a) In addition to the right to proceed
398 under Section 93-5-23, Mississippi Code of 1972, and in addition
399 to the remedy of habeas corpus in proper cases, and other existing
400 remedies, the chancery court of the proper county shall have
401 jurisdiction to entertain suits for the custody, care, support and
402 maintenance of minor children, the care, support and medical
403 expenses of the mother of the unborn child and to hear and
404 determine all such matters, and shall, if need be, require bond,
405 sureties or other guarantee to secure any order for periodic
406 payments for the maintenance or support of a child. In the event
407 a legally responsible parent has health insurance available to him
408 or her through an employer or organization that may extend
409 benefits to the dependents of such parent, any order of support
410 issued against such parent may require him or her to exercise the
411 option of additional coverage in favor of such children as he or



412 she is legally responsible to support. Proceedings may be brought
413 by or against a resident or nonresident of the State of
414 Mississippi, whether or not having the actual custody of minor
415 children, for the purpose of judicially determining the legal
416 custody of a child. All actions herein authorized may be brought
417 in the county where the child is actually residing, or in the
418 county of the residence of the party who has actual custody, or of
419 the residence of the defendant. Process shall be had upon the
420 parties as provided by law for process in person or by
421 publication, if they be nonresidents of the state or residents of
422 another jurisdiction or are not found therein after diligent
423 search and inquiry or are unknown after diligent search and
424 inquiry; provided that the court or chancellor in vacation may fix
425 a date in termtime or in vacation to which process may be
426 returnable and shall have power to proceed in termtime or
427 vacation. Provided, however, that if the court shall find that
428 both parties are fit and proper persons to have custody of the
429 children, and that either party is able to adequately provide for
430 the care and maintenance of the children, the chancellor may
431 consider the preference of a child of twelve (12) years of age or
432 older as to the parent with whom the child would prefer to live in
433 determining what would be in the best interest and welfare of the
434 child. The chancellor shall place on the record the reason or
435 reasons for which the award of custody was made and explain in
436 detail why the wishes of any child were or were not honored.



437 (b) An order of child support shall specify the sum to
438 be paid weekly or otherwise. In addition to providing for support
439 and education, the order shall also provide for the support of the
440 child prior to the making of the order for child support, and such
441 other expenses as the court may deem proper.

442 (c) The court may require the payment to be made to the
443 custodial parent, or to some person or corporation to be
444 designated by the court as trustee, but if the child or custodial
445 parent is receiving public assistance, the Department of Human
446 Services shall be made the trustee.

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

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

455 (3) Whenever the court has ordered a party to make periodic
456 payments for the maintenance or support of a child, but no bond,
457 sureties or other guarantee has been required to secure such
458 payments, and whenever such payments as have become due remain
459 unpaid for a period of at least thirty (30) days, the court may,
460 upon petition of the person to whom such payments are owing, or
461 such person's legal representative, enter an order requiring that



462 bond, sureties or other security be given by the person obligated
463 to make such payments, the amount and sufficiency of which shall
464 be approved by the court. The obligor shall, as in other civil
465 actions, be served with process and shall be entitled to a hearing
466 in such case.

467 (4) When a charge of abuse or neglect of a child first
468 arises in the course of a custody or maintenance action pending in
469 the chancery court pursuant to this section, the chancery court
470 may proceed with the investigation, hearing and determination of
471 such abuse or neglect charge as a part of its hearing and
472 determination of the custody or maintenance issue as between the
473 parents, as provided in Section 43-21-151, notwithstanding the
474 other provisions of the Youth Court Law. The proceedings in
475 chancery court on the abuse or neglect charge shall be
476 confidential in the same manner as provided in youth court
477 proceedings, and the chancery court shall appoint a guardian ad
478 litem in such cases, as provided under Section 43-21-121 for youth
479 court proceedings, who shall be an attorney. In determining
480 whether any portion of a guardian ad litem's fee shall be assessed
481 against any party or parties as a cost of court for reimbursement
482 to the county, the court shall consider each party's individual
483 ability to pay. Unless the chancery court's jurisdiction has been
484 terminated, all disposition orders in such cases for placement
485 with the Department of Human Services shall be reviewed by the
486 court or designated authority at least annually to determine if



487 continued placement with the department is in the best interest of
488 the child or the public.

489 (5) Each party to a paternity or child support proceeding
490 shall notify the other within five (5) days after any change of
491 address. In addition, the noncustodial and custodial parent shall
492 file and update, with the court and with the state case registry,
493 information on that party's location and identity, including
494 social security number, residential and mailing addresses,
495 telephone numbers, photograph, driver's license number, and name,
496 address and telephone number of the party's employer. This
497 information shall be required upon entry of an order or within
498 five (5) days of a change of address.

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

502 (7) In any subsequent child support enforcement action
503 between the parties, upon sufficient showing that diligent effort
504 has been made to ascertain the location of a party, due process
505 requirements for notice and service of process shall be deemed to
506 be met with respect to the party upon delivery of written notice
507 to the most recent residential or employer address filed with the
508 state case registry.

509 (8) (a) The duty of support of a child terminates upon the
510 emancipation of the child. Unless otherwise provided for in the



511 underlying child support judgment, emancipation shall occur when
512 the child:

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

514 (ii) Marries, or

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

517 (iv) Is convicted of a felony and is sentenced to
518 incarceration of two (2) or more years for committing such
519 felony; * * *

520 (b) Unless otherwise provided for in the underlying
521 child support judgment, the court may determine that emancipation
522 has occurred and no other support obligation exists when the
523 child:

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

527 (ii) Voluntarily moves from the home of the
528 custodial parent or guardian, establishes independent living
529 arrangements, obtains full-time employment and discontinues
530 educational endeavors prior to attaining the age of twenty-one
531 (21) years, or

532 (iii) Cohabits with another person without the
533 approval of the parent obligated to pay support; * * *



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

537 (9) A determination of emancipation does not terminate any
538 obligation of the noncustodial parent to satisfy arrearage
539 existing as of the date of emancipation; the total amount of
540 periodic support due prior to the emancipation plus any periodic
541 amounts ordered paid toward the arrearage shall continue to be
542 owed until satisfaction of the arrearage in full, in addition to
543 the right of the person for whom the obligation is owed to execute
544 for collection as may be provided by law.

545 (10) Upon motion of a party requesting temporary child
546 support pending a determination of parentage, temporary support
547 shall be ordered if there is clear and convincing evidence of
548 paternity on the basis of genetic tests or other evidence, unless
549 the court makes written findings of fact on the record that the
550 award of temporary support would be unjust or inappropriate in a
551 particular case.

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

554 **SECTION 12.** Section 93-11-71, Mississippi Code of 1972, is
555 amended as follows:

556 93-11-71. (1) Whenever a court orders any person to make
557 periodic payments of a sum certain for the maintenance or support
558 of a child, or the care and expenses of the mother of an unborn



559 child and whenever such payments as have become due remain unpaid
560 for a period of at least thirty (30) days, a judgment by operation
561 of law shall arise against the obligor in an amount equal to all
562 payments that are then due and owing.

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

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

569 (2) Any judgment arising under the provisions of this
570 section shall operate as a lien upon all the property of the
571 judgment debtor, both real and personal, which lien shall be
572 perfected as to third parties without actual notice thereof only
573 upon enrollment on the judgment roll. The department or attorney
574 representing the party to whom support is owed shall furnish an
575 abstract of the judgment for periodic payments for the maintenance
576 and support of a child, along with sworn documentation of the
577 delinquent child support, to the circuit clerk of the county where
578 the judgment is rendered, and it shall be the duty of the circuit
579 clerk to enroll the judgment on the judgment roll. Liens arising
580 under the provisions of this section may be executed upon and
581 enforced in the same manner and to the same extent as any other
582 judgment.



583 (3) Notwithstanding the provisions in subsection (2) of this
584 section, any judgment arising under the provisions of this section
585 shall subject the following assets to interception or seizure
586 without regard to the entry of the judgment on the judgment roll
587 of the situs district or jurisdiction and such assets shall apply
588 to all child support owed including all arrears:

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

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

595 (c) Assets held in financial institutions;

596 (d) Settlements and awards resulting from civil
597 actions;

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

601 (f) Lump-sum payments as defined in Section 93-11-101;
602 and

603 (g) Unclaimed property as described in Section 89-12-1
604 et seq.

605 (4) Notwithstanding the provisions of subsections (1) and
606 (2) of this section, upon disestablishment of paternity granted
607 pursuant to Section 93-9-10 and a finding of clear and convincing



608 evidence including negative DNA testing that the obligor is not
609 the biological father of the child or children for whom support
610 has been ordered, the court shall disestablish paternity and may
611 forgive any child support arrears of the obligor for the child or
612 children determined by the court not to be the biological child or
613 children of the obligor, if the court makes a written finding
614 that, based on the totality of the circumstances, the forgiveness
615 of the arrears is equitable under the circumstances.

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

621 (6) A parent who receives social security disability
622 insurance payments who is liable for a child support arrearage and
623 whose disability insurance benefits provide for the payment of
624 past due disability insurance benefits for the support of the
625 minor child or children for whom the parent owes a child support
626 arrearage shall receive credit toward the arrearage for the
627 payment or payments for the benefit of the minor child or children
628 if the arrearage accrued after the date of disability onset as
629 determined by the Social Security Administration.

630 **SECTION 13.** Section 93-11-101, Mississippi Code of 1972, is
631 amended as follows:



632 93-11-101. As used in Sections 93-11-101 through 93-11-119,
633 the following words shall have the meaning ascribed to them herein
634 unless the context clearly requires otherwise:

635 (a) "Order for support" means any order of the
636 chancery, circuit, county or family court, which provides for
637 periodic payment of funds for the support of a child, or for
638 periodic payment of funds for the support of the mother of the
639 unborn child, whether temporary or final, and includes any such
640 order which provides for:

641 (i) Modification or resumption of, or payment of
642 arrearage accrued under, a previously existing order; or

643 (ii) Reimbursement of support.

644 "Order for support" shall also mean:

645 (i) An order for support and maintenance of a
646 spouse if a minor child is living with such spouse; * * *

647 (ii) In actions to which the Department of Human
648 Services is a party, an order for support and maintenance of a
649 spouse if a minor child is living with such spouse and such
650 maintenance is collected in conjunction with child support * * *;
651 or

652 (iii) An order for support of the mother during
653 and after the pregnancy, which may include mental, physical and
654 dietary health expenses.

655 (b) "Court" means the court that enters an order for
656 withholding pursuant to Section 93-11-103(1).



657 (c) "Clerk of the court" means the clerk of the court
658 that enters an order for withholding pursuant to Section
659 93-11-103(1).

660 (d) "Arrearage" means the total amount of unpaid
661 support obligations.

662 (e) "Delinquency" means any payments that are ordered
663 by any court to be paid by a noncustodial parent for the support
664 of a child that have remained unpaid for at least thirty (30) days
665 after payment is due. Delinquency shall also include payments
666 that are ordered by any court to be paid for maintenance of a
667 spouse in cases in which the department is collecting such support
668 in conjunction with child support. "Delinquency" shall be
669 synonymous with "overdue support."

670 (f) "Department" means the Mississippi Department of
671 Human Services.

672 (g) "Employer" means a person who has control of the
673 payment of income to an individual.

674 (h) "Income" means any form of periodic payment to an
675 individual, regardless of source, including, but not limited to:
676 wages, salary, commission, compensation as an independent
677 contractor, workers' compensation, disability, annuity and
678 retirement benefits, and any other payments made by any person,
679 private entity, federal or state government or any unit of local
680 government, notwithstanding any other provisions of state or local
681 law which limit or exempt income or the amount or percentage of



682 income that can be withheld; provided, however, that income
683 excludes:

684 (i) Any amounts required by law to be withheld,
685 other than creditor claims, including, but not limited to,
686 federal, state and local taxes, social security and other
687 retirement and disability contributions;

688 (ii) Any amounts exempted by federal law;

689 (iii) Public assistance payments; and

690 (iv) Unemployment insurance benefits except as
691 provided by law.

692 (i) "Obligor" means the individual who owes a duty to
693 make payments under an order for support.

694 (j) "Obligee" means:

695 (i) An individual to whom a duty of support is or
696 is alleged to be owed or in whose favor a support order has been
697 issued or a judgment determining parentage has been rendered;

698 (ii) A state or political subdivision to which the
699 rights under a duty of support or support order have been assigned
700 or which independent claims based on financial assistance provided
701 to an individual obligee; or

702 (iii) An individual seeking a judgment determining
703 parentage of the individual's child.

704 (k) "Payor" means any payor of income to an obligor.

705 (l) "Lump-sum payment" means any form of income paid to
706 an individual at other than regular intervals or a payment made



707 upon a particular occasion regardless of frequency that is
708 dependent upon meeting a condition precedent, including, but not
709 limited to, the performance of a contract, commission paid outside
710 of and in addition to a person's regular pay cycle, the
711 satisfaction of a job performance standard or quota, the receipt
712 of a seasonal or occasional bonus or incentive payment, the
713 liquidation of unused sick or vacation pay or leave, the
714 settlement of a claim, an amount paid as severance pay, or an
715 award for length of service. "Lump-sum payment" shall not include
716 liens under Section 71-3-129.

717 **SECTION 14.** Section 93-11-153, Mississippi Code of 1972, is
718 amended as follows:

719 93-11-153. As used in Sections 93-11-151 through 93-11-163,
720 the following words and terms shall have the meanings ascribed
721 herein:

722 (a) "Licensing entity" or "entity" means any entity
723 specified in Title 73, Professions and Vocations, of the
724 Mississippi Code, and includes the Mississippi Department of
725 Public Safety with respect to driver's licenses, the
726 Mississippi * * * Department of Revenue with respect to licenses
727 for the sale of alcoholic beverages and other licenses or
728 registration authorizing a person to engage in a business, the
729 Mississippi Department of Wildlife, Fisheries and Parks with
730 respect to hunting and fishing licenses, and any other state
731 agency that issues a license authorizing a person to engage in a



732 business, occupation or profession. For the purposes of this
733 article, the Supreme Court shall be considered to be the licensing
734 entity for attorneys.

735 (b) "License" means a license, certificate, permit,
736 credential, registration, or any other authorization issued by a
737 licensing entity that allows a person to engage in a business,
738 occupation or profession, to operate a motor vehicle, to sell
739 alcoholic beverages, or to hunt and fish.

740 (c) "Licensee" means any person holding a license
741 issued by a licensing entity.

742 (d) "Order for support" means any judgment or order
743 that provides for payments of a sum certain for the support of a
744 child, the mother of an unborn child, whether it is temporary or
745 final, and includes, but is not limited to, an order for
746 reimbursement for public assistance or an order for making
747 periodic payments on a support arrearage, or a sum certain due for
748 a support arrearage.

749 (e) "Out of compliance with an order for support" means
750 that the obligor is at least thirty (30) days in arrears or
751 delinquent in making payments in full for current support, or in
752 making periodic payments on a support arrearage.

753 (f) "Department" means the Mississippi Department of
754 Human Services.



755 (g) "Division" means the division within the department
756 that is charged with the state administration of Title IV-D of the
757 Social Security Act.

758 (h) "Delinquency" means any payments of a sum certain
759 ordered by any court to be paid by a noncustodial parent for the
760 support of a child that have remained unpaid for at least thirty
761 (30) days after payment is due. Delinquency shall also include
762 payments of a sum certain ordered by any court to be paid for
763 maintenance of a spouse that have remained unpaid for at least
764 thirty (30) days.

765 **SECTION 15.** Section 43-19-31, Mississippi Code of 1972, is
766 amended as follows:

767 43-19-31. The Department of Human Services is hereby
768 authorized and empowered to establish a single and separate Child
769 Support Unit for the following purposes:

770 (a) To develop and implement a nonsupport and paternity
771 program and institute proceedings in the name of the Department of
772 Human Services or in the name of the recipient in any court of
773 competent jurisdiction in any county where the mother of the child
774 resides or is found, in the county where the father resides or is
775 found, or in the county where the child resides or is found;

776 (b) To secure and collect support by any method
777 authorized under state law and establish paternity for any
778 pregnant woman, a child or children receiving aid from the
779 department any form of public assistance, including, but not



780 limited to, medical assistance, foster care, food stamps, TANF, or
781 any other program under the federal Social Security Act, from a
782 parent or any other person legally liable for such support who has
783 either failed or refused to provide support, deserted, neglected
784 or abandoned the child or children, including cooperating with
785 other states in establishing paternity, locating absent parents
786 and securing compliance with court orders for support of Temporary
787 Assistance for Needy Families (TANF) children; the department may
788 petition the court for the inclusion of health insurance as part
789 of any child support order on behalf of any child receiving aid
790 from the department unless good cause for noncooperation, as
791 defined by the Social Security Act or the Mississippi Department
792 of Human Services, is established. Unless notified to the
793 contrary, whenever a child or children for whom child support
794 services have been provided ceases to receive public assistance,
795 the department will continue to provide services and establish
796 paternity, secure and collect such support payments from a parent
797 or any other person legally liable for such support in accordance
798 with the standards prescribed pursuant to the federal Social
799 Security Act;

800 (c) To accept applications for child support
801 enforcement services to establish paternity, secure and collect
802 support from any proper party or person as defined by Title IV-D
803 of the federal Social Security Act notwithstanding the fact that
804 the child or children do not currently receive or have never



805 received public assistance. The department shall have the
806 authority to secure and collect support by any method authorized
807 under state law and establish paternity for any child or children
808 on behalf of a recipient of child support services, including
809 individuals who do not currently receive or have never received
810 public assistance from a parent or any other person legally liable
811 for such support who has either failed or refused to provide
812 support, deserted, neglected or abandoned the child or children,
813 including cooperating with other states in establishing paternity,
814 locating absent parents and securing compliance with court orders
815 for support; the department may petition the court for the
816 inclusion of health insurance as part of any child support order
817 on behalf of such recipients of child support services. The
818 proceeds of any collections resulting from such application shall
819 be distributed in accordance with the standards prescribed in the
820 federal Social Security Act;

821 (d) The department shall seek to recover from the
822 individual who owes a support obligation to any individual who is
823 a recipient of Title IV-D services as set forth in paragraph (b)
824 or (c) on whose behalf the department is providing services, upon
825 judicial proceedings conducted thereon after advance notice to
826 such obligor, reasonable attorney's fees and court costs, in
827 excess of any administrative fees collected and in excess of
828 amounts of current support owed by the obligor, which the
829 department incurs in recovering and collecting the support



830 obligation, such costs and fees as the department recovers to be
831 deposited in the Special Fund of the Mississippi Department of
832 Human Services which is hereby established for the pursuit and
833 collection of child support;

834 (e) To initiate contempt of court proceedings or any
835 other remedial proceedings necessary to enforce (i) any order or
836 decree of court relating to child support, and (ii) any order or
837 decree of court relating to the maintenance and/or alimony of a
838 parent where support collection services on his or her child's
839 behalf are being provided by the department;

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

847 (g) To obtain restitution of monies expended for public
848 assistance from a parent or any other person legally liable for
849 the support of any child or children receiving aid from the
850 department; said action for restitution shall arise from the
851 payment of public assistance for the dependent child or children
852 and shall be for the amount of the public assistance paid. Said
853 action for restitution shall not arise against the parent or other
854 person legally responsible who receives public assistance for the



855 benefit of any dependent child or children. When a court order of
856 support has been issued, the amount recoverable shall be limited
857 to the amount of the court order;

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

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

867 (j) To enter into contracts for the purpose of
868 performing any test which the department may, from time to time,
869 require;

870 (k) To maintain a Central Receipting and Disbursement
871 Unit to which all payments required by withholding orders and
872 orders for support in all actions to which the Department of Human
873 Services is a party shall be forwarded, and from which child
874 support payments ordered by the court in actions to which the
875 Department of Human Services is a party shall be disbursed to the
876 custodial parent or other such party as may be designated by the
877 court order. The Central Receipting and Disbursement Unit shall
878 be operated by the Department of Human Services or any financial
879 institution having operations and qualified to do business in



880 Mississippi, whose deposits are insured by the Federal Deposit
881 Insurance Corporation. The department shall conduct cost-benefit
882 analyses to determine and utilize the more cost efficient manner
883 of operating the unit;

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

886 (i) Each case in which services are being provided
887 by the department under this section;

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

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

895 1. Information collected from case filing
896 forms shall be furnished to the Mississippi Department of Human
897 Services, Division of Child Support Enforcement, in order that
898 compliance with court-ordered obligations of support may be
899 tracked with specificity throughout the duration of said
900 obligations and any subsequent proceedings.

901 2. Such tracking system shall include: a.
902 the names, residential and mailing addresses, telephone numbers,
903 Social Security numbers, driver's license numbers and dates of
904 birth of each child and parent named in or subject to the court



905 order; b. the court cause number of the action; c. name, address
906 and telephone number of employer; d. any restraining or protective
907 order indicating domestic violence; and e. any other information
908 which may be used for the purpose of identifying any person named
909 in or subject to the order or for the purposes of establishing,
910 enforcing or modifying a child support order;

911 (m) To take administrative actions relating to genetic
912 testing, determine paternity, establish child support orders,
913 modification of child support orders, income withholding, liens
914 and subpoenas without the necessity of obtaining an order from any
915 judicial or other administrative tribunal with respect to cases
916 initiated or enforced by the department pursuant to Title IV-D of
917 the Social Security Act;

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

922 (o) To provide any child support enforcement or other
923 service as may be required by the United States of America,
924 Department of Health and Human Services, Family Support
925 Administration, Office of Child Support Enforcement or their
926 successor pursuant to federal law or regulation; and

927 (p) To collaborate with the Office of the State
928 Treasurer in order to identify persons presumed to have unclaimed



929 property and intercept eligible unclaimed property to satisfy,
930 fully or partially, the person's child support arrearage.

931 **SECTION 16.** Section 43-19-33, Mississippi Code of 1972, is
932 amended as follows:

933 43-19-33. (1) In lieu of legal proceedings instituted to
934 obtain support for a dependent child from the responsible parent,
935 a written stipulated agreement to support * * * the child and/or
936 the pregnant mother of an unborn child by periodic payments
937 executed by the responsible parent when acknowledged before a
938 clerk of the court having jurisdiction over such matters or a
939 notary public and filed with and approved by the judge of the
940 court having jurisdiction over such matters shall have the same
941 force and effect, retroactively and prospectively, in accordance
942 with the terms of said agreement as an order of support entered by
943 the court, and shall be enforceable and subject to modification in
944 the same manner as is provided by law for orders of the court in
945 such cases.

946 (2) In lieu of legal proceedings instituted to establish
947 paternity, a written admission of paternity containing a
948 stipulated agreement of support executed by the putative father of
949 the dependent child, when accompanied by a written declaration in
950 support of establishing paternity provided under penalty of
951 perjury to the best of her knowledge, information and belief by
952 the mother of the dependent child, when acknowledged by the
953 putative father before a clerk of the court having jurisdiction



954 over such matters or a notary public and filed with and approved
955 by the judge of the court having jurisdiction over such matters,
956 shall have the same force and effect, retroactively and
957 prospectively, in accordance with the terms of said agreement, as
958 an order of filiation and support entered by the court, and shall
959 be enforceable and subject to modification in the same manner as
960 is provided by law for orders of the court in such cases.

961 (3) At any time after filing with the court having
962 continuing jurisdiction of such matters of an acknowledgment of
963 paternity in which a provision of support has not been entered,
964 upon notice the defendant shall be required to appear in court at
965 any time and place named therein, to show cause, if any he can,
966 why the court should not enter an order for the support of the
967 child by periodic payments. The order may include provisions for
968 reimbursement for medical expenses incident to the pregnancy and
969 the birth of the child, accrued maintenance and reasonable
970 expenses of the action under this subsection on the acknowledgment
971 of paternity previously filed with said court. Notice by the
972 department to the defendant shall be given by certified mail,
973 restricted delivery, return receipt requested at his last known
974 mailing address and without the requirement of a summons being
975 issued, and shall be deemed complete as of the date of delivery as
976 evidenced by the return receipt. The required notice may also be
977 delivered by personal service in accordance with Rule 4 of the
978 Mississippi Rules of Civil Procedure insofar as service of an



979 administrative order or notice is concerned. Provided, that in
980 the case of a child who, upon reaching the age of twenty-one (21)
981 years, is mentally or physically incapable of self-support, the
982 putative father shall not be relieved of the duty of support
983 unless said child is a long-term patient in a facility owned or
984 operated by the State of Mississippi. The prior judgment as to
985 paternity shall be res judicata as to that issue and shall not be
986 reconsidered by the court.

987 (4) Such agreements of support, acknowledgments,
988 declarations and affirmations of paternity and support shall be
989 binding on the person executing the same whether he be an adult or
990 a minor and may include provisions for the reimbursement of
991 medical expenses incident to the pregnancy and birth of the child,
992 accrued maintenance and reasonable expenses of any action
993 previously filed before the court.

994 (5) In lieu of legal proceedings instituted to enforce an
995 order for support, a written stipulated agreement for the
996 provision of periodic payments towards an arrearage executed by
997 the defendant when acknowledged before a clerk of the court having
998 jurisdiction over such matters or a notary public and filed with
999 and approved by the judge of the court having jurisdiction over
1000 such matters shall have the same force and effect, retroactively
1001 and prospectively, in accordance with the terms of said agreement
1002 as a judgment for overdue support entered by the court, and shall



1003 be enforceable and subject to modification in the same manner as
1004 is provided by law for orders of the court in such cases.

1005 (6) All agreements entered into under the provisions as set
1006 forth hereinabove shall be filed by the clerk of the court having
1007 jurisdiction over such matters in the county in which they are
1008 entered and filing fees shall be taxed to the responsible parent.

1009 **SECTION 17.** Section 43-19-35, Mississippi Code of 1972, is
1010 amended as follows:

1011 43-19-35. (1) By currently or previously accepting public
1012 assistance or making application for child support services for
1013 and on behalf of a child or children or as a result of being
1014 pregnant with an unborn child, the recipient shall be deemed to
1015 have made an assignment to the State Department of Human Services
1016 of any and all rights and interests in any cause of action, past,
1017 present or future, that said recipient or the children may have
1018 against any parent failing to provide for the support and
1019 maintenance of said minor child or children; said department shall
1020 be subrogated to any and all rights, title and interest the
1021 recipient or the children may have against any and all property
1022 belonging to the absent or nonsupporting parent in the enforcement
1023 of any claim for child or spousal support, whether liquidated
1024 through court order or not. The recipient of Title IV-D services
1025 shall also be deemed, without the necessity of signing any
1026 document, to have appointed the State Department of Human Services
1027 to act in his or her, as well as the children's, name, place, and



1028 stead to perform the specific act of instituting suit to establish
1029 paternity or secure support, collecting any and all amounts due
1030 and owing for child or spousal support or any other service as
1031 required or permitted under Title IV-D of the federal Social
1032 Security Act, and endorsing any and all drafts, checks, money
1033 orders or other negotiable instruments representing child or
1034 spousal support payments which are received on behalf of the
1035 recipient or the children, and retaining any portion thereof
1036 permitted under federal and state statutes as reimbursement for
1037 public assistance monies previously paid to the recipient or
1038 children.

1039 (2) Court orders of support for any child * * *, children or
1040 mother of an unborn child receiving services through Title IV-D of
1041 the federal Social Security Act shall be amended, by operation of
1042 law, and without the necessity of a motion by the Child Support
1043 Unit and a hearing thereon to provide that the payment of support
1044 shall be directed by the absent parent to the Mississippi
1045 Department of Human Services Central Receipting and Disbursement
1046 Unit as provided in Section 43-19-37 and not to the recipient.
1047 The absent parent shall be notified of such amendment prior to it
1048 taking effect.

1049 (3) Any attorney authorized by the state to initiate any
1050 action pursuant to Title IV-D of the federal Social Security Act,
1051 including, but not limited to, any action initiated pursuant to
1052 Sections 43-19-31 et seq. and 93-25-1 et seq. shall be deemed to



1053 represent the interest of the State Department of Human Services
1054 exclusively; no attorney-client relationship shall exist between
1055 said attorney and any recipient of services pursuant to Title IV-D
1056 of the federal Social Security Act for and on behalf of a child or
1057 children, regardless of the name in which the legal proceedings
1058 are initiated. Said attorney representing the state in a Title
1059 IV-D case is only authorized to appear and prosecute and/or defend
1060 issues of support and cannot in a Title IV-D case address or
1061 provide representation to the Title IV-D recipient on any other
1062 ancillary issues raised or presented in that action.

1063 (4) Said assignment to the State Department of Human
1064 Services shall be free of any legal or equitable defense to the
1065 payment of child support that may accrue to any person legally
1066 liable for the support of any child or children receiving aid from
1067 the State Department of Human Services, as a result of the conduct
1068 of the person who is accepting public assistance for and on behalf
1069 of said child or children.

1070 **SECTION 18.** Section 43-19-101, Mississippi Code of 1972, is
1071 amended as follows:

1072 43-19-101. (1) The following child-support award guidelines
1073 shall be a rebuttable presumption in all judicial or
1074 administrative proceedings regarding the awarding or modifying of
1075 child-support awards in this state:

1076	Number Of Children	Percentage Of Adjusted Gross Income
1077	Due Support	That Should Be Awarded For Support



1078	1	14%
1079	2	20%
1080	3	22%
1081	4	24%
1082	5 or more	26%

1083 (2) The guidelines provided for in subsection (1) of this
1084 section apply unless the judicial or administrative body awarding
1085 or modifying the child-support award makes a written finding or
1086 specific finding on the record that the application of the
1087 guidelines would be unjust or inappropriate in a particular case
1088 as determined under the criteria specified in Section 43-19-103.

1089 (3) The amount of "adjusted gross income" as that term is
1090 used in subsection (1) of this section shall be calculated as
1091 follows:

1092 (a) Determine gross income from all potential sources
1093 that may reasonably be expected to be available to the absent
1094 parent including, but not limited to, the following: wages and
1095 salary income; income from self-employment; income from
1096 commissions; income from investments, including dividends,
1097 interest income and income on any trust account or property;
1098 absent parent's portion of any joint income of both parents;
1099 workers' compensation, disability, unemployment, annuity and
1100 retirement benefits, including an Individual Retirement Account
1101 (IRA); any other payments made by any person, private entity,
1102 federal or state government or any unit of local government;



1103 alimony; any income earned from an interest in or from inherited
1104 property; any other form of earned income; and gross income shall
1105 exclude any monetary benefits derived from a second household,
1106 such as income of the absent parent's current spouse;

1107 (b) Subtract the following legally mandated deductions:

1108 (i) Federal, state and local taxes. Contributions
1109 to the payment of taxes over and beyond the actual liability for
1110 the taxable year shall not be considered a mandatory deduction;

1111 (ii) Social security contributions;

1112 (iii) Retirement and disability contributions
1113 except any voluntary retirement and disability contributions;

1114 (c) If the obligated parent is subject to an existing
1115 court order for another child or children, subtract the amount of
1116 that court-ordered support;

1117 (d) If the absent parent is also the parent of another
1118 child or other children residing with him, then the court may
1119 subtract an amount that it deems appropriate to account for the
1120 needs of said child or children;

1121 (e) Compute the total annual amount of adjusted gross
1122 income based on paragraphs (a) through (d) of this subsection,
1123 then divide this amount by twelve (12) to obtain the monthly
1124 amount of adjusted gross income.

1125 Upon conclusion of the calculation of paragraphs (a) through
1126 (e) of this subsection, multiply the monthly amount of adjusted
1127 gross income by the appropriate percentage designated in



1128 subsection (1) of this section to arrive at the amount of the
1129 monthly child-support award.

1130 (4) In cases in which the adjusted gross income as defined
1131 in this section is more than One Hundred Thousand Dollars
1132 (\$100,000.00) or less than Ten Thousand Dollars (\$10,000.00), the
1133 court shall make a written finding in the record as to whether or
1134 not the application of the guidelines established in this section
1135 is reasonable. The court shall take into account the basic
1136 subsistence needs of the obligated parent who has a limited
1137 ability to pay.

1138 (5) Imputation of income shall not be based upon a standard
1139 amount in lieu of fact-gathering. In the absence of specific
1140 sufficient evidence of past earnings and employment history to use
1141 as the measure of an obligated parent's ability to pay, the
1142 recommended child-support obligation amount should be based on
1143 available information about the specific circumstances of the
1144 obligated parent. This can include, but is not limited to, such
1145 factors as assets, residence, job skills, educational attainment,
1146 literacy, age, health, criminal record and other employment
1147 barriers, and record of seeking work, as well as the local job
1148 market, the availability of employers willing to hire the
1149 obligated parent, prevailing earnings level in the local
1150 community, and other relevant factors in the case.

1151 (6) Unless extended or waived, the Department of Human
1152 Services shall review the appropriateness of these guidelines



1153 beginning January 1, 1994, and every four (4) years thereafter and
1154 report its findings to the Legislature no later than the first day
1155 of the regular legislative session of that year. The Legislature
1156 shall thereafter amend these guidelines when it finds that
1157 amendment is necessary to ensure that equitable support is being
1158 awarded in all cases involving the support of minor children.

1159 (7) All orders involving support of minor children, as a
1160 matter of law, shall include reasonable medical support. Notice
1161 to the obligated parent's employer that medical support has been
1162 ordered shall be on a form as prescribed by the Department of
1163 Human Services. In any case in which the support of any child is
1164 involved, the court shall make the following findings either on
1165 the record or in the judgment:

1166 (a) The availability to all parties of health insurance
1167 coverage for the child(ren);

1168 (b) The cost of health insurance coverage to all
1169 parties.

1170 The court shall then make appropriate provisions in the
1171 judgment for the provision of health insurance coverage for the
1172 child(ren) and/or the pregnant mother of the unborn child in the
1173 manner that is in the best interests of the child(ren) or unborn
1174 child. If the court requires the custodial parent to obtain the
1175 coverage then its cost shall be taken into account in establishing
1176 the child-support award. If the court determines that health
1177 insurance coverage is not available to any party or that it is not



1178 available to either party at a cost that is reasonable as compared
1179 to the income of the parties, then the court shall make specific
1180 findings as to such either on the record or in the judgment. In
1181 that event, the court shall make appropriate provisions in the
1182 judgment for the payment of medical expenses of the child(ren) in
1183 the absence of health insurance coverage.

1184 **SECTION 19.** Section 93-9-15, Mississippi Code of 1972, is
1185 brought forward as follows:

1186 93-9-15. The county court, the circuit court, or the
1187 chancery court has jurisdiction of an action under Sections 93-9-1
1188 through 93-9-49, and all remedies for the enforcement of orders
1189 awarding custody or for expenses of pregnancy and confinement for
1190 a wife, or for education, necessary support and maintenance, or
1191 funeral expenses for legitimate children shall apply. The
1192 defendant must defend the cause in whichever court the action is
1193 commenced. The court has continuing jurisdiction to modify or
1194 revoke an order and to increase or decrease amounts fixed by order
1195 for future education and necessary support and maintenance. All
1196 remedies under the Uniform Interstate Family Support Act, and
1197 amendments thereto, are available for enforcement of duties of
1198 support and maintenance under Sections 93-9-1 through 93-9-49.
1199 Parties to an action to establish paternity shall not be entitled
1200 to a jury trial. The court may also order the father to reimburse
1201 Medicaid for expenses of the pregnancy and confinement of the
1202 mother.



1203 **SECTION 20.** Section 93-9-21, Mississippi Code of 1972, is
1204 brought forward as follows:

1205 93-9-21. (1) (a) In all cases brought pursuant to Title
1206 IV-D of the Social Security Act, upon written declarations of the
1207 mother, putative father, or the Department of Human Services made
1208 under penalty of perjury to the best of his or her knowledge,
1209 information and belief alleging paternity, the department may
1210 issue an administrative order for paternity testing which requires
1211 the mother, putative father and minor child to submit themselves
1212 for paternity testing. The department shall send the putative
1213 father a copy of the Administrative Order and a Notice for Genetic
1214 Testing which shall include the date, time and place for
1215 collection of the putative father's genetic sample. The
1216 department shall also send the putative father a Notice and
1217 Complaint to Establish Paternity which shall specify the date and
1218 time certain of the court hearing by certified mail, restricted
1219 delivery, return receipt requested. Notice shall be deemed
1220 complete as of the date of delivery as evidenced by the return
1221 receipt. The required notice may also be delivered by personal
1222 service upon the putative father in accordance with Rule 4 of the
1223 Mississippi Rules of Civil Procedure insofar as service of an
1224 administrative order or notice is concerned.

1225 (b) If the putative father does not submit to genetic
1226 testing, the court shall, without further notice, on the date and
1227 time previously set through the notice for hearing, review the



1228 documentation of the refusal to submit to genetic testing and make
1229 a determination as to whether the complaint to establish paternity
1230 should be granted. The refusal to submit to such testing shall
1231 create a rebuttable presumption of an admission to paternity by
1232 the putative father.

1233 (c) In any case in which the Department of Human
1234 Services orders genetic testing, the department is required to
1235 advance costs of such tests subject to recoupment from the alleged
1236 father if paternity is established. If either party challenges
1237 the original test results, the department shall order additional
1238 testing at the expense of the challenging party.

1239 (2) In any case in which paternity has not been established,
1240 the court, on its own motion or on motion of the plaintiff or the
1241 defendant, shall order the mother, the alleged father and the
1242 child or children to submit to genetic tests and any other tests
1243 which reasonably prove or disprove the probability of paternity.
1244 If paternity has been previously established, the court shall only
1245 order genetic testing pursuant to Section 93-9-10.

1246 If any party refuses to submit to such tests, the court may
1247 resolve the question of paternity against such party or enforce
1248 its order for genetic testing as the rights of others and the
1249 interest of justice require.

1250 (3) Any party calling a witness or witnesses for the purpose
1251 of testifying that they had sexual intercourse with the mother at
1252 any possible time of conception of the child whose paternity is in



1253 question shall provide all other parties with the name and address
1254 of the witness at least twenty (20) days before the trial. If a
1255 witness is produced at the hearing for the purpose provided in
1256 this subsection but the party calling the witness failed to
1257 provide the twenty-day notice, the court may adjourn the
1258 proceeding for the purpose of taking a genetic test of the witness
1259 before hearing the testimony of the witness if the court finds
1260 that the party calling the witness acted in good faith.

1261 (4) The court shall ensure that all parties are aware of
1262 their right to request genetic tests under this section.

1263 (5) (a) Genetic tests shall be performed by a laboratory
1264 selected from the approved list as prepared and maintained by the
1265 Department of Human Services.

1266 (b) The Department of Human Services shall publicly
1267 issue a request for proposals, and such requests for proposals
1268 when issued shall contain terms and conditions relating to price,
1269 technology and such other matters as are determined by the
1270 department to be appropriate for inclusion or required by law.
1271 After responses to the request for proposals have been duly
1272 received, the department shall select the lowest and best bid(s)
1273 on the basis of price, technology and other relevant factors and
1274 from such proposals, but not limited to the terms thereof,
1275 negotiate and enter into contract(s) with one or more of the
1276 laboratories submitting proposals. The department shall prepare a
1277 list of all laboratories with which it has contracted on these



1278 terms. The list and any updates thereto shall be distributed to
1279 all chancery clerks. To be eligible to appear on the list, a
1280 laboratory must meet the following requirements:

1281 (i) The laboratory is qualified to do business
1282 within the State of Mississippi;

1283 (ii) The laboratory can provide test results in
1284 less than fourteen (14) days; and

1285 (iii) The laboratory must have participated in the
1286 competitive procurement process.

1287 **SECTION 21.** This act shall take effect and be in force from
1288 and after July 1, 2023.

