

By: Representative Boyd (19th)

To: Judiciary A

HOUSE BILL NO. 1046

1 AN ACT TO AMEND SECTION 75-76-3, MISSISSIPPI CODE OF 1972, TO
 2 DECLARE AS PUBLIC POLICY THAT CHILDREN ARE ADVERSELY AFFECTED WHEN
 3 A PARENT WHO HAS AN OUTSTANDING CHILD SUPPORT ARREARAGE DIVERTS
 4 CHILD SUPPORT TO GAMING; TO CODIFY SECTION 75-76-58, MISSISSIPPI
 5 CODE OF 1972, TO PROVIDE PROCEDURES FOR THE MISSISSIPPI GAMING
 6 COMMISSION, THE DEPARTMENT OF HUMAN SERVICES AND LICENSEES UNDER
 7 CHAPTER 76 OF TITLE 75, MISSISSIPPI CODE OF 1972, TO CARRY OUT THE
 8 INTERCEPTION AND SEIZURE OF GAME WINNINGS OF PARENTS WITH A CHILD
 9 SUPPORT ARREARAGE; TO AMEND SECTION 75-76-33, MISSISSIPPI CODE OF
 10 1972, TO REQUIRE THE MISSISSIPPI GAMING COMMISSION TO PRESCRIBE
 11 THE MANNER AND PROCEDURE IN WHICH CHILD SUPPORT ARREARAGES MAY BE
 12 COLLECTED FROM GAMING WINNINGS AND SLOT MACHINE ANNUITIES; TO
 13 AMEND SECTION 93-11-71, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT
 14 CHILD SUPPORT MAY BE COLLECTED FROM ALL GAMING WINNINGS; AND FOR
 15 RELATED PURPOSES.

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

17 **SECTION 1.** Section 75-76-3, Mississippi Code of 1972, is
 18 amended as follows:

19 75-76-3. (1) The provisions of this chapter shall not be
 20 construed to legalize any form of gaming which is prohibited under
 21 the Mississippi Constitution or the laws of this state. All legal
 22 gaming which is conducted in this state and which is otherwise
 23 authorized by law shall be regulated and licensed pursuant to the
 24 provisions of this chapter, unless the Legislature specifically



25 provides otherwise. Nothing in this chapter shall be construed as
26 encouraging the legalization of gambling in this state.

27 (2) The Legislature hereby finds and declares that lotteries
28 and gaming both consist of the material element of chance. * * *
29 The Legislature derives its power to legislate upon gaming or
30 gambling devices from its inherent authority over the morals and
31 policy of the people * * *.

32 (3) The Legislature hereby finds, and declares it to be the
33 public policy of this state, that:

34 (a) Regulation of licensed gaming is important in order
35 that licensed gaming is conducted honestly and competitively, that
36 the rights of the creditors of licensees are protected and that
37 gaming is free from criminal and corruptive elements.

38 (b) Public confidence and trust can only be maintained
39 by strict regulation of all persons, locations, practices,
40 associations and activities related to the operation of licensed
41 gaming establishments and the manufacture or distribution of
42 gambling devices and equipment.

43 (c) All establishments where gaming is conducted and
44 where gambling devices are operated, and manufacturers, sellers
45 and distributors of certain gambling devices and equipment must
46 therefore be licensed, controlled and assisted to protect the
47 public health, safety, morals, good order and general welfare of
48 the inhabitants of the state.



49 (d) Because children are adversely affected when
50 parents who have outstanding child support obligations divert
51 their financial support to gaming, a parent's winnings should be
52 applied to the parent's outstanding child support obligations.

53 (4) It is the intent of the Legislature that gaming
54 licensees, to the extent practicable, employ residents of
55 Mississippi as gaming employees and other employees in the
56 operation of their gaming establishments located in this state.

57 (5) No applicant for a license or other affirmative
58 commission approval has any right to a license or the granting of
59 the approval sought. Any license issued or other commission
60 approval granted pursuant to the provisions of this chapter is a
61 revocable privilege, and no holder acquires any vested right
62 therein or thereunder.

63 (6) The Legislature recognizes that Section 98 of the
64 Mississippi Constitution of 1890 prohibits the conducting of any
65 lottery in this state and that, while not defining the term
66 "lottery," Section 98 clearly contemplates, as indicated by
67 specific language contained therein, that a lottery involves the
68 sale of tickets and a drawing in order to determine the winner.
69 The Legislature also recognizes that Section 98 of the Mississippi
70 Constitution of 1890 directs the Legislature to provide by law for
71 the enforcement of its provisions. Therefore, in carrying out its
72 duties under the Constitution and effectuating the intent of
73 Section 98, the Legislature hereby finds that a lottery, as



74 prohibited by the Constitution, does not include all forms of
75 gambling but means any activity in which:

76 (a) The player or players pay or agree to pay something
77 of value for chances, represented and differentiated by tickets,
78 slips of paper or other physical and tangible documentation upon
79 which appear numbers, symbols, characters or other distinctive
80 marks used to identify and designate the winner or winners; and

81 (b) The winning chance or chances are to be determined
82 by a drawing or similar selection method based predominately upon
83 the element of chance or random selection rather than upon the
84 skill or judgment of the player or players; and

85 (c) The holder or holders of the winning chance or
86 chances are to receive a prize or something of valuable
87 consideration; and

88 (d) The activity is conducted and participated in
89 without regard to geographical location, with the player or
90 players not being required to be present upon any particular
91 premises or at any particular location in order to participate or
92 to win.

93 **SECTION 2.** The following shall be codified as Section
94 75-76-58, Mississippi Code of 1972:

95 75-76-58. (1) The commission shall promulgate all rules and
96 regulations necessary to carry out the provisions of this section,
97 including, but not limited to, a procedure requiring the
98 withholding of payments of progressive slot machine annuities and



99 cash gaming winnings of persons who have outstanding child support
100 arrearages or owing child support overpayments, prior to the
101 payment of a progressive slot machine annuity, beginning with the
102 second annuity payment, or cash gaming winnings. Progressive slot
103 machine annuities or cash gaming winnings shall only include
104 payments for which the entity licensed or permitted under Chapter
105 76, Title 75, Mississippi Code of 1972, is required to file Form
106 W2-G, or a substantially equivalent form, with the United States
107 Internal Revenue Service.

108 (2) The commission may require the Department of Human
109 Services to provide information relating to child support
110 arrearages in a manner, format, or record approved by the
111 commission that gives the entity licensed or permitted under
112 Chapter 76, Title 75, Mississippi Code of 1972, real-time or
113 immediate electronic database access to the information. If the
114 information relating to such arrearages or overpayments by the
115 Department of Human Services is not available through real-time or
116 immediate electronic database access, the licensee shall not be
117 responsible for withholding cash gaming winnings in accordance
118 with the provisions of this subsection.

119 (3) The commission or any entity licensed or permitted under
120 Chapter 76, Title 75, Mississippi Code of 1972, including any of
121 its officers, employees, attorneys, accountants, or other agents,
122 shall not be civilly or criminally liable to any person, including
123 any customer, for any disclosure of information made in accordance



124 with this section, for encumbering or surrendering assets in
125 response to information provided by the Department of Human
126 Services, or for any claims for damages arising from withholding
127 or failing to withhold any progressive slot machine annuities or
128 cash gaming winnings, based upon information provided to it.

129 (4) If any entity licensed or permitted under Chapter 76,
130 Title 75, Mississippi Code of 1972, determines or is notified by
131 the Department of Human Services that the winner of a progressive
132 slot machine annuity or cash gaming winnings is a person who has
133 outstanding child support arrearages, the entity licensed or
134 permitted under Chapter 76, Title 75, Mississippi Code of 1972,
135 shall deduct the child support arrearage from the payment of the
136 progressive slot machine annuity or cash gaming winnings. The
137 entity licensed or permitted under Chapter 76, Title 75,
138 Mississippi Code of 1972, shall forward the deducted amount to the
139 Department of Human Services, Division of Child Support
140 Enforcement within seven (7) days. The entity licensed or
141 permitted under Chapter 76, Title 75, Mississippi Code of 1972,
142 shall pay the remainder to the person who has outstanding child
143 support arrearages. If the remainder is equal to or less than
144 zero, the person who has an outstanding child support arrearage
145 shall not receive a payment.

146 (5) The Department of Human Services shall release the
147 encumbering game winnings to the obligee after either:



148 (a) A twenty-day period beginning the day the funds are
149 encumbered; or

150 (b) Until such time as the issue of overdue child
151 support is resolved, provided the obligor has filed a petition for
152 hearing with a court of appropriate jurisdiction and served the
153 Department of Human Services through the Attorney General of the
154 State of Mississippi before the end of the twenty-day period.

155 (6) Grounds for the petition challenging the encumbrance of
156 game winnings shall be limited to the following:

157 (a) Mistakes of identity; or

158 (b) Mistakes in amount of overdue child support.

159 (7) Any entity licensed or permitted under Chapter 76, Title
160 75, Mississippi Code of 1972, may deduct an administrative fee
161 from each payment of a progressive slot machine annuity, beginning
162 with the second annuity payment, or cash gaming winnings, of
163 persons who have outstanding child support arrearages or owe child
164 support overpayments per singular or periodic payment, not to
165 exceed Thirty-five Dollars (\$35.00).

166 (8) The commission shall also require that the entity
167 licensed or permitted under Chapter 76, Title 75, Mississippi Code
168 of 1972, adopt procedures designed to prevent employees from
169 willfully failing to withhold payments of progressive slot machine
170 annuities or cash gaming winnings from persons who have
171 outstanding child support arrearages or child support
172 overpayments, based upon the information provided by the



173 Department of Human Services that allows the licensee to identify
174 such persons.

175 (9) Not later than September 1, 2023, the commission shall
176 institute rulemaking procedures as necessary to implement the
177 provisions of this section.

178 **SECTION 3.** Section 75-76-33, Mississippi Code of 1972, is
179 amended as follows:

180 75-76-33. (1) The commission shall, from time-to-time,
181 adopt, amend or repeal such regulations, consistent with the
182 policy, objects and purposes of this chapter, as it may deem
183 necessary or desirable in the public interest in carrying out the
184 policy and provisions of this chapter. The commission shall
185 comply with the Mississippi Administrative Procedures Law when
186 adopting, amending or repealing any regulations authorized under
187 this section or under any other provision of this chapter.

188 (2) These regulations shall, without limiting the general
189 powers herein conferred, include the following:

190 (a) Prescribing the method and form of application
191 which any applicant for a license or for a manufacturer's,
192 seller's or distributor's license must follow and complete before
193 consideration of his application by the executive director or the
194 commission.

195 (b) Prescribing the information to be furnished by any
196 applicant or licensee concerning his antecedents, habits,



197 character, associates, criminal record, business activities and
198 financial affairs, past or present.

199 (c) Prescribing the information to be furnished by a
200 licensee relating to his employees.

201 (d) Requiring fingerprinting of an applicant or
202 licensee, and gaming employees of a licensee, or other methods of
203 identification and the forwarding of all fingerprints taken
204 pursuant to regulation of the Federal Bureau of Investigation.

205 (e) Prescribing the manner and procedure of all
206 hearings conducted by the commission or any hearing examiner of
207 the commission, including special rules of evidence applicable
208 thereto and notices thereof.

209 (f) Requiring any applicant to pay all or any part of
210 the fees and costs of investigation of such applicant as may be
211 determined by the commission under paragraph (g) of this
212 subsection (2).

213 (g) Prescribing the amounts of investigative fees only
214 as authorized by regulations of the commission under paragraph (f)
215 of this subsection, and collecting those fees. The commission
216 shall adopt regulations setting the amounts of those fees at
217 levels that will provide the commission with sufficient revenue,
218 when combined with any other monies as may be deposited into the
219 Mississippi Gaming Commission Fund created in Section 75-76-325,
220 to carry out the provisions of this chapter without any state



221 general funds. In calculating the amount of such fees, the
222 commission shall:

223 (i) Attempt to set the fees at levels that will
224 create a balance in the Mississippi Gaming Commission Fund that
225 does not exceed, at the end of any state fiscal year, two percent
226 (2%) of the projected amount of funds that will provide the
227 commission with such sufficient revenue; and

228 (ii) Demonstrate the reasonableness of the
229 relationship between a fee and the actual costs of the
230 investigative activity for which the fee is being prescribed.

231 (h) Prescribing the manner and method of collection and
232 payment of fees and issuance of licenses.

233 (i) Prescribing under what conditions a licensee may be
234 deemed subject to revocation or suspension of his license.

235 (j) Requiring any applicant or licensee to waive any
236 privilege with respect to any testimony at any hearing or meeting
237 of the commission, except any privilege afforded by the
238 Constitution of the United States or this state.

239 (k) Defining and limiting the area, games and devices
240 permitted, and the method of operation of such games and devices,
241 for the purposes of this chapter.

242 (l) Prescribing under what conditions the nonpayment of
243 a gambling debt by a licensee shall be deemed grounds for
244 revocation or suspension of his license.



245 (m) Governing the use and approval of gambling devices
246 and equipment.

247 (n) Prescribing the qualifications of, and the
248 conditions under which, attorneys, accountants and others are
249 permitted to practice before the commission.

250 (o) Restricting access to confidential information
251 obtained under this chapter and ensuring that the confidentiality
252 of such information is maintained and protected.

253 (p) Prescribing the manner and procedure by which the
254 executive director on behalf of the commission shall notify a
255 county or a municipality wherein an applicant for a license
256 desires to locate.

257 (q) Prescribing the manner and procedure for an
258 objection to be filed with the commission and the executive
259 director by a county or municipality wherein an applicant for a
260 license desires to locate.

261 (r) Prescribing the manner and procedure in which child
262 support or child support arrearages may be collected from gaming
263 winnings and slot machine annuities.

264 (3) Notwithstanding any other provision of law, each
265 licensee shall be required to comply with the regulation that no
266 wager may be placed by, or on behalf of, any individual or entity
267 or group, not present on a licensed vessel or cruise vessel.

268 (4) From and after July 1, 2016, the expenses of this agency
269 shall be defrayed by appropriation from the State General Fund and



270 all user charges and fees authorized under this section shall be
271 deposited into the State General Fund as authorized by law.

272 (5) From and after July 1, 2016, no state agency shall
273 charge another state agency a fee, assessment, rent or other
274 charge for services or resources received by authority of this
275 section.

276 **SECTION 4.** Section 93-11-71, Mississippi Code of 1972, is
277 amended as follows:

278 93-11-71. (1) Whenever a court orders any person to make
279 periodic payments of a sum certain for the maintenance or support
280 of a child, and whenever such payments as have become due remain
281 unpaid for a period of at least thirty (30) days, a judgment by
282 operation of law shall arise against the obligor in an amount
283 equal to all payments that are then due and owing.

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

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

290 (2) Any judgment arising under the provisions of this
291 section shall operate as a lien upon all the property of the
292 judgment debtor, both real and personal, which lien shall be
293 perfected as to third parties without actual notice thereof only
294 upon enrollment on the judgment roll. The department or attorney



295 representing the party to whom support is owed shall furnish an
296 abstract of the judgment for periodic payments for the maintenance
297 and support of a child, along with sworn documentation of the
298 delinquent child support, to the circuit clerk of the county where
299 the judgment is rendered, and it shall be the duty of the circuit
300 clerk to enroll the judgment on the judgment roll. Liens arising
301 under the provisions of this section may be executed upon and
302 enforced in the same manner and to the same extent as any other
303 judgment.

304 (3) Notwithstanding the provisions in subsection (2) of this
305 section, any judgment arising under the provisions of this section
306 shall subject the following assets to interception or seizure
307 without regard to the entry of the judgment on the judgment roll
308 of the situs district or jurisdiction and such assets shall apply
309 to all child support owed including all arrears:

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

313 (b) Winnings from lotteries * * *, gaming
314 winnings * * * and slot machine annuities;

315 (c) Assets held in financial institutions;

316 (d) Settlements and awards resulting from civil
317 actions;



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

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

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

325 (4) Notwithstanding the provisions of subsections (1) and
326 (2) of this section, upon disestablishment of paternity granted
327 pursuant to Section 93-9-10 and a finding of clear and convincing
328 evidence including negative DNA testing that the obligor is not
329 the biological father of the child or children for whom support
330 has been ordered, the court shall disestablish paternity and may
331 forgive any child support arrears of the obligor for the child or
332 children determined by the court not to be the biological child or
333 children of the obligor, if the court makes a written finding
334 that, based on the totality of the circumstances, the forgiveness
335 of the arrears is equitable under the circumstances.

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

341 (6) A parent who receives social security disability
342 insurance payments who is liable for a child support arrearage and



343 whose disability insurance benefits provide for the payment of
344 past due disability insurance benefits for the support of the
345 minor child or children for whom the parent owes a child support
346 arrearage shall receive credit toward the arrearage for the
347 payment or payments for the benefit of the minor child or children
348 if the arrearage accrued after the date of disability onset as
349 determined by the Social Security Administration.

350 **SECTION 5.** This act shall take effect and be in force from
351 and after July 1, 2023.

