

By: Representatives Owen, Felsher, McCarty,
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To: Judiciary A

HOUSE BILL NO. 1117

1 AN ACT TO AMEND SECTION 93-9-29, MISSISSIPPI CODE OF 1972, TO
 2 AUTHORIZE THE COURT, ONCE PATERNITY IS ESTABLISHED, TO ORDER
 3 SUPPORT FOR EXPENSES RETROACTIVE TO THE FIRST DATE ON WHICH THE
 4 MOTHER WAS DETERMINED TO BE PREGNANT; TO AMEND SECTION 93-9-3,
 5 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CHANCERY COURT TO
 6 INCLUDE PRE-NATAL AND POST-NATAL EXPENSES OF THE MOTHER IN A COURT
 7 ORDER; TO AMEND SECTIONS 93-9-7, 93-9-9, 93-9-35, 93-11-65,
 8 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; TO
 9 AMEND SECTION 93-11-71, MISSISSIPPI CODE OF 1972, TO INCLUDE THE
 10 FINANCIAL SUPPORT OF THE MOTHER WHICH MAY INCLUDE EXPENSES OF THE
 11 MOTHER RETROACTIVE TO THE FIRST DATE OF PREGNANCY IN AN ORDER FOR
 12 SUPPORT; TO AMEND SECTION 93-11-101, MISSISSIPPI CODE OF 1972, TO
 13 DEFINE ORDER OF SUPPORT TO INCLUDE RETROACTIVE EXPENSES OF THE
 14 MOTHER WHILE PREGNANT AND AFTER PREGNANCY; TO BRING FORWARD
 15 SECTION 43-19-101, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR
 16 CHILD SUPPORT GUIDELINES; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 93-9-29, Mississippi Code of 1972, is
 19 amended as follows:

20 93-9-29. (1) If the finding be against the defendant, the
 21 court shall make an order of filiation, declaring paternity and
 22 for the support and education of the child and for support and
 23 pregnancy expenses, including pre-natal and post-natal care,
 24 retroactive to the first date on which the mother was determined
 25 to be pregnant.



26 (2) The order of filiation shall specify the sum to be paid
27 weekly or otherwise. In addition to providing for the support and
28 education, the order shall also provide for the funeral expenses
29 if the child has died; for the support of the child prior to the
30 making of the order of filiation; and such other expenses as the
31 court may deem proper, which shall include expenses related to the
32 support of the mother, including pre-natal and post-natal care,
33 retroactive to the first date on which the mother was determined
34 to be pregnant. In the event the defendant has health insurance
35 available to him through an employer or organization that may
36 extend benefits to the dependents of such defendant, the order of
37 filiation may require the defendant to exercise the option of
38 additional coverage in favor of the child he is legally
39 responsible to support.

40 (3) The court may require the payment to be made to the
41 mother, or to some person or corporation to be designated by the
42 court as trustee, but if the child is or is likely to become a
43 public charge on a county or the state, the public welfare agent
44 of that county shall be made the trustee. The payment shall be
45 directed to be made to a trustee if the mother does not reside
46 within the jurisdiction of the court. The trustee shall report to
47 the court annually, or oftener as directed by the court, the
48 amounts received and paid over.

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



51 93-9-3. (1) Nothing herein contained shall be construed as
52 abridging the power and jurisdiction of the chancery courts of the
53 State of Mississippi, exercised over the estates of minors, nor as
54 an abridgment of the power and authority of said chancery courts
55 or the chancellor in vacation or chancery clerk in vacation to
56 appoint guardians for minors. The Uniform Law on Paternity shall
57 be so interpreted and construed as to effectuate its general
58 purpose to make uniform the laws of those states which enact it.

59 (2) The provisions of this section shall be construed to
60 provide authority to the chancery courts of the State of
61 Mississippi the authority to order a father of a child out of
62 lawful matrimony to provide financial support retroactively to the
63 first date of pregnancy of the mother of the child once paternity
64 is established.

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

67 93-9-7. The father of a child which is or may be born out of
68 lawful matrimony is liable to the same extent as the father of a
69 child born of lawful matrimony, whether or not the child is born
70 alive, for the reasonable expense of the mother's pregnancy,
71 including pre-natal and post-natal expenses and confinement, and
72 for the education, necessary support and maintenance, and medical
73 and funeral expenses of the child. A child born out of lawful
74 matrimony also includes a child born to a married woman by a man
75 other than her lawful husband.



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

78 93-9-9. (1) Paternity may be determined upon the petition
79 of the mother, or father, the child or any public authority
80 chargeable by law with the support of the child; provided that
81 such an adjudication after the death of the defendant must be made
82 only upon clear and convincing evidence. If paternity has been
83 lawfully determined, or has been acknowledged in writing according
84 to the laws of this state, the liabilities of the noncustodial
85 parent may be enforced in the same or other proceedings by the
86 custodial parent, the child, or any public authority which has
87 furnished or may furnish the reasonable expenses of pregnancy,
88 including pre-natal and post-natal expenses, confinement,
89 education, necessary support and maintenance, and medical or
90 funeral expenses for the custodial parent or the child. The trier
91 of fact shall receive without the need for third-party foundation
92 testimony certified, attested or sworn documentation as evidence
93 of (a) childbirth records; (b) cost of filing fees; (c) court
94 costs; (d) services of process fees; (e) mailing cost; (f) genetic
95 tests and testing fees; (g) the department's attorney's fees; (h)
96 in cases where the state or any of its entities or divisions have
97 provided medical services to the child or the child's mother, all
98 costs of prenatal care, birthing, postnatal care and any other
99 medical expenses incurred by the child or by the mother as a
100 consequence of the mother's pregnancy or delivery; and (i) funeral



101 expenses. All costs and fees shall be ordered paid to the
102 Department of Human Services in all cases successfully prosecuted
103 with a minimum of Two Hundred Fifty Dollars (\$250.00) in
104 attorney's fees or an amount determined by the court without
105 submitting an affidavit. Proceedings may be instituted at any
106 time until such child attains the age of twenty-one (21) years
107 unless the child has been emancipated as provided in Section
108 93-5-23 and Section 93-11-65. In the event of court-determined
109 paternity, the surname of the child shall be that of the father,
110 unless the judgment specifies otherwise.

111 (2) If the alleged father in an action to determine
112 paternity to which the Department of Human Services is a party
113 fails to appear for a scheduled hearing after having been served
114 with process or subsequent notice consistent with the Rules of
115 Civil Procedure, his paternity of the child(ren) shall be
116 established by the court if a written declaration in support of
117 establishing paternity made under penalty of perjury to the best
118 of her knowledge, information and belief by the mother averring
119 the alleged father's paternity of the child has accompanied the
120 complaint to determine paternity. The written declaration shall
121 constitute sufficient grounds for the court's finding of the
122 alleged father's paternity without the necessity of the presence
123 or testimony of the mother at the said hearing. The court shall,
124 upon motion by the Department of Human Services, enter a judgment
125 of paternity. Any person who shall willfully and knowingly file a



126 false affidavit or who shall willfully, intentionally and
127 knowingly file a false written declaration under penalty of
128 perjury shall be subject to a fine of not more than One Thousand
129 Dollars (\$1,000.00).

130 (3) Upon application of both parents to the State Board of
131 Health and receipt by the State Board of Health of a sworn
132 acknowledgement of paternity executed by both parents subsequent
133 to the birth of a child born out of wedlock, the birth certificate
134 of the child shall be amended to show such paternity if paternity
135 is not shown on the birth certificate. Upon request of the
136 parents for the legitimization of a child under this section, the
137 surname of the child shall be changed on the certificate to that
138 of the father.

139 (4) (a) A signed voluntary acknowledgment of paternity is
140 subject to the right of any signatory to rescind the
141 acknowledgment within the earlier of:

142 (i) One (1) year; or

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

146 (b) After the expiration of the one-year period
147 specified in subsection (4) (a) (i) of this section, a signed
148 voluntary acknowledgment of paternity may be challenged in court
149 only on the basis of fraud, duress or material mistake of fact,
150 with the burden of proof upon the challenger; the legal



151 responsibilities, including child support obligations, of any
152 signatory arising from the acknowledgment may not be suspended
153 during the pendency of the challenge, except for good cause shown.

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

158 (d) The one-year time limit, specified in subsection
159 (4) (a) (i) of this section, for the right of the alleged father to
160 rescind the signed voluntary acknowledgement of paternity shall be
161 tolled from the date the alleged father files his formal
162 application for genetic testing with the Department of Human
163 Services until the date the test results are revealed to the
164 alleged father by the department. After the one-year time period
165 has expired, not including any period of time tolled for the
166 purpose of acquiring genetic testing through the department, the
167 provisions of subsection (4) (b) of this section shall apply.

168 **SECTION 5.** Section 93-9-35, Mississippi Code of 1972, is
169 amended as follows:

170 93-9-35. (1) If a mother of a natural child be possessed of
171 property and shall fail to support and educate her child, the
172 court having jurisdiction, on the application of the guardian or
173 next friend of the child or, if the child shall receive Temporary
174 Assistance for Needy Families (TANF) benefits or other financial
175 assistance, of the county human services agent or youth counselor,



176 may examine into the matter and after a hearing may make an order
177 charging the mother with the payment of money weekly or otherwise
178 for the support and education of the child.

179 (2) The court may require the mother to give security, by
180 bond or other security, with sufficient sureties approved by the
181 court, for the payment of the order. In default of such security,
182 when required, the court may commit her to jail, or put her on
183 probation. At any time within one (1) year she may be discharged
184 from jail, but her liability to pay the judgment shall not be
185 thereby affected.

186 (3) Nothing in this section shall be deemed to relieve the
187 father from liability for support and education of the child, and
188 the pregnancy expenses of the mother, including pre-natal and
189 post-natal expenses, in accordance with the provisions of Sections
190 93-9-1 through 93-9-49.

191 **SECTION 6.** Section 93-11-65, Mississippi Code of 1972, is
192 amended as follows:

193 93-11-65. (1) (a) In addition to the right to proceed
194 under Section 93-5-23, Mississippi Code of 1972, and in addition
195 to the remedy of habeas corpus in proper cases, and other existing
196 remedies, the chancery court of the proper county shall have
197 jurisdiction to entertain suits for the custody, care, support and
198 maintenance of minor children, the support and pregnancy expenses
199 of the mother, including pre-natal and post-natal expenses
200 retroactive to the first date that pregnancy was established, and



201 to hear and determine all such matters, and shall, if need be,
202 require bond, sureties or other guarantee to secure any order for
203 periodic payments for the maintenance or support of a child. In
204 the event a legally responsible parent has health insurance
205 available to him or her through an employer or organization that
206 may extend benefits to the dependents of such parent, any order of
207 support issued against such parent may require him or her to
208 exercise the option of additional coverage in favor of such
209 children as he or she is legally responsible to support.
210 Proceedings may be brought by or against a resident or nonresident
211 of the State of Mississippi, whether or not having the actual
212 custody of minor children, for the purpose of judicially
213 determining the legal custody of a child. All actions herein
214 authorized may be brought in the county where the child is
215 actually residing, or in the county of the residence of the party
216 who has actual custody, or of the residence of the defendant.
217 Process shall be had upon the parties as provided by law for
218 process in person or by publication, if they be nonresidents of
219 the state or residents of another jurisdiction or are not found
220 therein after diligent search and inquiry or are unknown after
221 diligent search and inquiry; provided that the court or chancellor
222 in vacation may fix a date in termtime or in vacation to which
223 process may be returnable and shall have power to proceed in
224 termtime or vacation. Provided, however, that if the court shall
225 find that both parties are fit and proper persons to have custody



226 of the children, and that either party is able to adequately
227 provide for the care and maintenance of the children, the
228 chancellor may consider the preference of a child of twelve (12)
229 years of age or older as to the parent with whom the child would
230 prefer to live in determining what would be in the best interest
231 and welfare of the child. The chancellor shall place on the
232 record the reason or reasons for which the award of custody was
233 made and explain in detail why the wishes of any child were or
234 were not honored.

235 (b) An order of child support shall specify the sum to
236 be paid weekly or otherwise. In addition to providing for support
237 and education, the order shall also provide for the support of the
238 child prior to the making of the order for child support, and such
239 other expenses as the court may deem proper.

240 (c) The court may require the payment to be made to the
241 custodial parent, or to some person or corporation to be
242 designated by the court as trustee, but if the child or custodial
243 parent is receiving public assistance, the Department of Human
244 Services shall be made the trustee.

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

249 (2) Provided further, that where the proof shows that both
250 parents have separate incomes or estates, the court may require



251 that each parent contribute to the support and maintenance of the
252 children in proportion to the relative financial ability of each.

253 (3) Whenever the court has ordered a party to make periodic
254 payments for the maintenance or support of a child, but no bond,
255 sureties or other guarantee has been required to secure such
256 payments, and whenever such payments as have become due remain
257 unpaid for a period of at least thirty (30) days, the court may,
258 upon petition of the person to whom such payments are owing, or
259 such person's legal representative, enter an order requiring that
260 bond, sureties or other security be given by the person obligated
261 to make such payments, the amount and sufficiency of which shall
262 be approved by the court. The obligor shall, as in other civil
263 actions, be served with process and shall be entitled to a hearing
264 in such case.

265 (4) When a charge of abuse or neglect of a child first
266 arises in the course of a custody or maintenance action pending in
267 the chancery court pursuant to this section, the chancery court
268 may proceed with the investigation, hearing and determination of
269 such abuse or neglect charge as a part of its hearing and
270 determination of the custody or maintenance issue as between the
271 parents, as provided in Section 43-21-151, notwithstanding the
272 other provisions of the Youth Court Law. The proceedings in
273 chancery court on the abuse or neglect charge shall be
274 confidential in the same manner as provided in youth court
275 proceedings, and the chancery court shall appoint a guardian ad



276 litem in such cases, as provided under Section 43-21-121 for youth
277 court proceedings, who shall be an attorney. In determining
278 whether any portion of a guardian ad litem's fee shall be assessed
279 against any party or parties as a cost of court for reimbursement
280 to the county, the court shall consider each party's individual
281 ability to pay. Unless the chancery court's jurisdiction has been
282 terminated, all disposition orders in such cases for placement
283 with the Department of Human Services shall be reviewed by the
284 court or designated authority at least annually to determine if
285 continued placement with the department is in the best interest of
286 the child or the public.

287 (5) Each party to a paternity or child support proceeding
288 shall notify the other within five (5) days after any change of
289 address. In addition, the noncustodial and custodial parent shall
290 file and update, with the court and with the state case registry,
291 information on that party's location and identity, including
292 social security number, residential and mailing addresses,
293 telephone numbers, photograph, driver's license number, and name,
294 address and telephone number of the party's employer. This
295 information shall be required upon entry of an order or within
296 five (5) days of a change of address.

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



300 (7) In any subsequent child support enforcement action
301 between the parties, upon sufficient showing that diligent effort
302 has been made to ascertain the location of a party, due process
303 requirements for notice and service of process shall be deemed to
304 be met with respect to the party upon delivery of written notice
305 to the most recent residential or employer address filed with the
306 state case registry.

307 (8) (a) The duty of support of a child terminates upon the
308 emancipation of the child. Unless otherwise provided for in the
309 underlying child support judgment, emancipation shall occur when
310 the child:

- 311 (i) Attains the age of twenty-one (21) years, or
- 312 (ii) Marries, or
- 313 (iii) Joins the military and serves on a full-time
314 basis, or
- 315 (iv) Is convicted of a felony and is sentenced to
316 incarceration of two (2) or more years for committing such
317 felony; * * *

318 (b) Unless otherwise provided for in the underlying
319 child support judgment, the court may determine that emancipation
320 has occurred and no other support obligation exists when the
321 child:

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



325 (ii) Voluntarily moves from the home of the
326 custodial parent or guardian, establishes independent living
327 arrangements, obtains full-time employment and discontinues
328 educational endeavors prior to attaining the age of twenty-one
329 (21) years, or

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

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

335 (9) A determination of emancipation does not terminate any
336 obligation of the noncustodial parent to satisfy arrearage
337 existing as of the date of emancipation; the total amount of
338 periodic support due prior to the emancipation plus any periodic
339 amounts ordered paid toward the arrearage shall continue to be
340 owed until satisfaction of the arrearage in full, in addition to
341 the right of the person for whom the obligation is owed to execute
342 for collection as may be provided by law.

343 (10) Upon motion of a party requesting temporary child
344 support pending a determination of parentage, temporary support
345 shall be ordered if there is clear and convincing evidence of
346 paternity on the basis of genetic tests or other evidence, unless
347 the court makes written findings of fact on the record that the
348 award of temporary support would be unjust or inappropriate in a
349 particular case.



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

352 **SECTION 7.** Section 93-11-71, Mississippi Code of 1972, is
353 amended as follows:

354 93-11-71. (1) Whenever a court orders any person to make
355 periodic payments of a sum certain for the maintenance or support
356 of a child, the financial support of the mother which may include
357 expenses of the mother retroactive to the first date of pregnancy
358 of the mother of the child once paternity is established and
359 whenever such payments as have become due remain unpaid for a
360 period of at least thirty (30) days, a judgment by operation of
361 law shall arise against the obligor in an amount equal to all
362 payments that are then due and owing.

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

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

369 (2) Any judgment arising under the provisions of this
370 section shall operate as a lien upon all the property of the
371 judgment debtor, both real and personal, which lien shall be
372 perfected as to third parties without actual notice thereof only
373 upon enrollment on the judgment roll. The department or attorney
374 representing the party to whom support is owed shall furnish an



375 abstract of the judgment for periodic payments for the maintenance
376 and support of a child, along with sworn documentation of the
377 delinquent child support, to the circuit clerk of the county where
378 the judgment is rendered, and it shall be the duty of the circuit
379 clerk to enroll the judgment on the judgment roll. Liens arising
380 under the provisions of this section may be executed upon and
381 enforced in the same manner and to the same extent as any other
382 judgment.

383 (3) Notwithstanding the provisions in subsection (2) of this
384 section, any judgment arising under the provisions of this section
385 shall subject the following assets to interception or seizure
386 without regard to the entry of the judgment on the judgment roll
387 of the situs district or jurisdiction and such assets shall apply
388 to all child support owed including all arrears:

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

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

395 (c) Assets held in financial institutions;

396 (d) Settlements and awards resulting from civil
397 actions;



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

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

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

405 (4) Notwithstanding the provisions of subsections (1) and
406 (2) of this section, upon disestablishment of paternity granted
407 pursuant to Section 93-9-10 and a finding of clear and convincing
408 evidence including negative DNA testing that the obligor is not
409 the biological father of the child or children for whom support
410 has been ordered, the court shall disestablish paternity and may
411 forgive any child support arrears of the obligor for the child or
412 children determined by the court not to be the biological child or
413 children of the obligor, if the court makes a written finding
414 that, based on the totality of the circumstances, the forgiveness
415 of the arrears is equitable under the circumstances.

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

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



423 whose disability insurance benefits provide for the payment of
424 past due disability insurance benefits for the support of the
425 minor child or children for whom the parent owes a child support
426 arrearage shall receive credit toward the arrearage for the
427 payment or payments for the benefit of the minor child or children
428 if the arrearage accrued after the date of disability onset as
429 determined by the Social Security Administration.

430 **SECTION 8.** Section 93-11-101, Mississippi Code of 1972, is
431 amended as follows:

432 93-11-101. As used in Sections 93-11-101 through 93-11-119,
433 the following words shall have the meaning ascribed to them herein
434 unless the context clearly requires otherwise:

435 (a) "Order for support" means any order of the
436 chancery, circuit, county or family court, which provides for
437 periodic payment of funds for the support of a child, or for
438 periodic payment of funds for the support of the mother of the
439 child, whether temporary or final, and includes any such order
440 which provides for:

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

443 (ii) Reimbursement of support.

444 "Order for support" shall also mean:

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



447 (ii) In actions to which the Department of Human
448 Services is a party, an order for support and maintenance of a
449 spouse if a minor child is living with such spouse and such
450 maintenance is collected in conjunction with child support * * *;
451 or

452 (iii) An retroactive order for support and
453 expenses of the mother of the child which may begin on the first
454 date that the pregnancy was established.

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

457 (c) "Clerk of the court" means the clerk of the court
458 that enters an order for withholding pursuant to Section
459 93-11-103(1).

460 (d) "Arrearage" means the total amount of unpaid
461 support obligations.

462 (e) "Delinquency" means any payments that are ordered
463 by any court to be paid by a noncustodial parent for the support
464 of a child that have remained unpaid for at least thirty (30) days
465 after payment is due. Delinquency shall also include payments
466 that are ordered by any court to be paid for maintenance of a
467 spouse in cases in which the department is collecting such support
468 in conjunction with child support. "Delinquency" shall be
469 synonymous with "overdue support."

470 (f) "Department" means the Mississippi Department of
471 Human Services.



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

474 (h) "Income" means any form of periodic payment to an
475 individual, regardless of source, including, but not limited to:
476 wages, salary, commission, compensation as an independent
477 contractor, workers' compensation, disability, annuity and
478 retirement benefits, and any other payments made by any person,
479 private entity, federal or state government or any unit of local
480 government, notwithstanding any other provisions of state or local
481 law which limit or exempt income or the amount or percentage of
482 income that can be withheld; provided, however, that income
483 excludes:

484 (i) Any amounts required by law to be withheld,
485 other than creditor claims, including, but not limited to,
486 federal, state and local taxes, social security and other
487 retirement and disability contributions;

488 (ii) Any amounts exempted by federal law;

489 (iii) Public assistance payments; and

490 (iv) Unemployment insurance benefits except as
491 provided by law.

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

494 (j) "Obligee" means:



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

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

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

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

505 (l) "Lump-sum payment" means any form of income paid to
506 an individual at other than regular intervals or a payment made
507 upon a particular occasion regardless of frequency that is
508 dependent upon meeting a condition precedent, including, but not
509 limited to, the performance of a contract, commission paid outside
510 of and in addition to a person's regular pay cycle, the
511 satisfaction of a job performance standard or quota, the receipt
512 of a seasonal or occasional bonus or incentive payment, the
513 liquidation of unused sick or vacation pay or leave, the
514 settlement of a claim, an amount paid as severance pay, or an
515 award for length of service. "Lump-sum payment" shall not include
516 liens under Section 71-3-129.

517 **SECTION 9.** Section 43-19-101, Mississippi Code of 1972, is
518 brought forward as follows:



519 43-19-101. (1) The following child-support award guidelines
520 shall be a rebuttable presumption in all judicial or
521 administrative proceedings regarding the awarding or modifying of
522 child-support awards in this state:

523	Number Of Children	Percentage Of Adjusted Gross Income
524	Due Support	That Should Be Awarded For Support
525	1	14%
526	2	20%
527	3	22%
528	4	24%
529	5 or more	26%

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

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

539 (a) Determine gross income from all potential sources
540 that may reasonably be expected to be available to the absent
541 parent including, but not limited to, the following: wages and
542 salary income; income from self-employment; income from
543 commissions; income from investments, including dividends,



544 interest income and income on any trust account or property;
545 absent parent's portion of any joint income of both parents;
546 workers' compensation, disability, unemployment, annuity and
547 retirement benefits, including an Individual Retirement Account
548 (IRA); any other payments made by any person, private entity,
549 federal or state government or any unit of local government;
550 alimony; any income earned from an interest in or from inherited
551 property; any other form of earned income; and gross income shall
552 exclude any monetary benefits derived from a second household,
553 such as income of the absent parent's current spouse;

554 (b) Subtract the following legally mandated deductions:

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

558 (ii) Social security contributions;

559 (iii) Retirement and disability contributions
560 except any voluntary retirement and disability contributions;

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

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



568 (e) Compute the total annual amount of adjusted gross
569 income based on paragraphs (a) through (d) of this subsection,
570 then divide this amount by twelve (12) to obtain the monthly
571 amount of adjusted gross income.

572 Upon conclusion of the calculation of paragraphs (a) through
573 (e) of this subsection, multiply the monthly amount of adjusted
574 gross income by the appropriate percentage designated in
575 subsection (1) of this section to arrive at the amount of the
576 monthly child-support award.

577 (4) In cases in which the adjusted gross income as defined
578 in this section is more than One Hundred Thousand Dollars
579 (\$100,000.00) or less than Ten Thousand Dollars (\$10,000.00), the
580 court shall make a written finding in the record as to whether or
581 not the application of the guidelines established in this section
582 is reasonable. The court shall take into account the basic
583 subsistence needs of the obligated parent who has a limited
584 ability to pay.

585 (5) Imputation of income shall not be based upon a standard
586 amount in lieu of fact-gathering. In the absence of specific
587 sufficient evidence of past earnings and employment history to use
588 as the measure of an obligated parent's ability to pay, the
589 recommended child-support obligation amount should be based on
590 available information about the specific circumstances of the
591 obligated parent. This can include, but is not limited to, such
592 factors as assets, residence, job skills, educational attainment,



593 literacy, age, health, criminal record and other employment
594 barriers, and record of seeking work, as well as the local job
595 market, the availability of employers willing to hire the
596 obligated parent, prevailing earnings level in the local
597 community, and other relevant factors in the case.

598 (6) Unless extended or waived, the Department of Human
599 Services shall review the appropriateness of these guidelines
600 beginning January 1, 1994, and every four (4) years thereafter and
601 report its findings to the Legislature no later than the first day
602 of the regular legislative session of that year. The Legislature
603 shall thereafter amend these guidelines when it finds that
604 amendment is necessary to ensure that equitable support is being
605 awarded in all cases involving the support of minor children.

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

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

615 (b) The cost of health insurance coverage to all
616 parties.



617 The court shall then make appropriate provisions in the
618 judgment for the provision of health insurance coverage for the
619 child(ren) in the manner that is in the best interests of the
620 child(ren). If the court requires the custodial parent to obtain
621 the coverage then its cost shall be taken into account in
622 establishing the child-support award. If the court determines
623 that health insurance coverage is not available to any party or
624 that it is not available to either party at a cost that is
625 reasonable as compared to the income of the parties, then the
626 court shall make specific findings as to such either on the record
627 or in the judgment. In that event, the court shall make
628 appropriate provisions in the judgment for the payment of medical
629 expenses of the child(ren) in the absence of health insurance
630 coverage.

631 **SECTION 10.** This act shall take effect and be in force from
632 and after July 1, 2023.

