

By: Representatives Roberson, Ford (73rd)

To: Judiciary B

HOUSE BILL NO. 318

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



35 1972, TO INCLUDE PREGNANT MOTHERS WHO RECEIVE GOVERNMENTAL
36 ASSISTANCE UNDER THE JURISDICTION OF THE CHILD SUPPORT UNIT; TO
37 AMEND SECTION 43-19-101, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
38 THE COURT TO CONSIDER THE EXPENSES TO THE PREGNANT MOTHER FOR
39 CHILD SUPPORT; TO BRING FORWARD SECTION 93-9-15, MISSISSIPPI CODE
40 OF 1972, WHICH PROVIDES FOR THE JURISDICTION OF THE COURTS TO
41 PROVIDE REMEDIES FOR SUPPORT ORDERS INCLUDING PREGNANCY, FOR
42 PURPOSES OF AMENDMENT; TO BRING FORWARD SECTION 93-9-21,
43 MISSISSIPPI CODE OF 1972, WHICH PROVIDES BLOOD TESTS FOR PATERNITY
44 TESTING, FOR PURPOSES OF AMENDMENT; TO BRING FORWARD SECTION
45 93-5-24, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR TYPES OF
46 CUSTODY, FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

48 **SECTION 1.** (1) This act shall be known and cited as "The
49 Fatherhood Begins at Conception Act."

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

61 (3) The guidelines provided for in subsection (1) of this
62 section apply unless the judicial or administrative body awarding
63 the support award makes a written finding or specific finding on
64 the record that the application of the guidelines would be unjust
65 or inappropriate in a particular case.



66 (4) The amount of "adjusted gross income" for any father
67 against whom the support award is ordered shall be calculated as
68 follows:

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

84 (b) Subtract the following legally mandated deductions:

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

88 (ii) Social security contributions;

89 (iii) Retirement and disability contributions

90 except any voluntary retirement and disability contributions;



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

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

98 (e) Compute the total annual amount of adjusted gross
99 income based on paragraphs (a) through (d) of this subsection,
100 then divide this amount by twelve (12) to obtain the monthly
101 amount of adjusted gross income.

102 Upon conclusion of the calculation of paragraphs (a) through
103 (e) of this subsection, multiply the monthly amount of adjusted
104 gross income by the appropriate percentage designated in
105 subsection (1) of this section to arrive at the amount of the
106 monthly child-support award.

107 (5) In cases in which the adjusted gross income as defined
108 in this section is more than One Hundred Thousand Dollars
109 (\$100,000.00) or less than Ten Thousand Dollars (\$10,000.00), the
110 court shall make a written finding in the record as to whether or
111 not the application of the guidelines established in this section
112 is reasonable. The court shall take into account the basic
113 subsistence needs of the father who has a limited ability to pay.

114 (6) Imputation of income shall not be based upon a standard
115 amount in lieu of fact-gathering. In the absence of specific



116 sufficient evidence of past earnings and employment history to use
117 as the measure of a father's ability to pay, the recommended
118 support obligation amount should be based on available information
119 about the specific circumstances of the obligated parent. This
120 can include, but is not limited to, such factors as assets,
121 residence, job skills, educational attainment, literacy, age,
122 health, criminal record and other employment barriers, and record
123 of seeking work, as well as the local job market, the availability
124 of employers willing to hire the obligated parent, prevailing
125 earnings level in the local community, and other relevant factors
126 in the case.

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

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

137 (2) The provisions herein shall be construed to provide
138 authority to the chancery courts of the State of Mississippi to
139 order the father of an unborn child out of lawful matrimony to
140 provide support to the mother of the unborn child out of lawful



141 matrimony who asserts the paternity of a father. For purposes of
142 this chapter, the term "unborn child" means a child in the
143 mother's womb.

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

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

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

158 93-9-9. (1) Paternity may be determined upon the petition
159 of the mother, or father, the child or any public authority
160 chargeable by law with the support of the child or an unborn
161 child; provided that such an adjudication after the death of the
162 defendant must be made only upon clear and convincing evidence.
163 If paternity has been lawfully determined, lawfully asserted by
164 the mother of an unborn child or has been acknowledged in writing
165 according to the laws of this state, the liabilities of the



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



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

210 (3) Upon application of both parents to the State Board of
211 Health and receipt by the State Board of Health of a sworn
212 acknowledgement of paternity executed by both parents subsequent
213 to the birth of a child born out of wedlock, the birth certificate
214 of the child shall be amended to show such paternity if paternity
215 is not shown on the birth certificate. Upon request of the



216 parents for the legitimization of a child under this section, the
217 surname of the child shall be changed on the certificate to that
218 of the father.

219 (4) (a) A signed voluntary acknowledgment of paternity is
220 subject to the right of any signatory to rescind the
221 acknowledgment within the earlier of:

222 (i) One (1) year; or

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

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

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

238 (d) The one-year time limit, specified in subsection
239 (4) (a) (i) of this section, for the right of the alleged father to
240 rescind the signed voluntary acknowledgement of paternity shall be



241 tolled from the date the alleged father files his formal
242 application for genetic testing with the Department of Human
243 Services until the date the test results are revealed to the
244 alleged father by the department. After the one-year time period
245 has expired, not including any period of time tolled for the
246 purpose of acquiring genetic testing through the department, the
247 provisions of subsection (4)(b) of this section shall apply.

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

250 93-9-11. The father's liabilities for past education and
251 necessary support and maintenance and other expenses are limited
252 to a period of * * * three (3) years preceding the commencement of
253 an action.

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

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

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



265 93-9-19. If the issue of paternity is raised in an action
266 commenced during the pregnancy of the mother, the trial
267 shall * * * be held to determine expense of the mother and father.

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

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



290 Mississippi State Department of Health. The name of the father
291 shall be entered on the certificate of birth upon receipt of the
292 completed voluntary acknowledgement.

293 (2) (a) A signed voluntary acknowledgment of paternity is
294 subject to the right of any signatory to rescind the
295 acknowledgment within the earlier of:

296 (i) One (1) year; or

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

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

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

312 (d) The one-year time limit, specified in subsection
313 (2) (a) (i) of this section, for the right of the alleged father to
314 rescind the signed voluntary acknowledgement of paternity shall be



315 tolled from the date the alleged father files his formal
316 application for genetic testing with the Department of Human
317 Services until the date the test results are revealed to the
318 alleged father by the department. After the one-year time period
319 has expired, not including any period of time tolled for the
320 purpose of acquiring genetic testing through the department, the
321 provisions of subsection (2)(b) of this section shall apply.

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

333 (4) Upon the birth of a child out of wedlock, the hospital,
334 birthing center, midwife or other birth attendant shall provide an
335 opportunity for the child's mother and natural father to complete
336 an acknowledgement of paternity by giving the mother and natural
337 father the appropriate forms and information developed through the
338 procedures established in subsection (3). The hospital, birthing
339 center, midwife or other birth attendant shall be responsible for



340 providing printed information, and audio visual material if
341 available, related to the acknowledgement of paternity, and shall
342 be required to provide notary services needed for the completion
343 of acknowledgements of paternity. The information described above
344 shall be provided to the mother and natural father, if present and
345 identifiable, within twenty-four (24) hours of birth or before the
346 mother is released. Such information, including forms, brochures,
347 pamphlets, video tapes and other media, shall be provided at no
348 cost to the hospital, birthing center or midwife by the
349 Mississippi State Department of Health, the Department of Human
350 Services or other appropriate agency.

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

353 93-9-29. (1) If the finding be against the defendant, the
354 court shall make an order of filiation, declaring paternity and
355 for the support and education of the child, and for the support
356 and expenses of the pregnant mother, if applicable.

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



365 the mother of the unborn child or dependents of such defendant,
366 the order of filiation may require the defendant to exercise the
367 option of additional coverage in favor of the child he is legally
368 responsible to support.

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

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

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



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

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

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

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



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



439 child. The chancellor shall place on the record the reason or
440 reasons for which the award of custody was made and explain in
441 detail why the wishes of any child were or were not honored.

442 (b) An order of child support shall specify the sum to
443 be paid weekly or otherwise. In addition to providing for support
444 and education, the order shall also provide for the support of the
445 child prior to the making of the order for child support, and such
446 other expenses as the court may deem proper.

447 (c) The court may require the payment to be made to the
448 custodial parent, or to some person or corporation to be
449 designated by the court as trustee, but if the child or custodial
450 parent is receiving public assistance, the Department of Human
451 Services shall be made the trustee.

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

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

460 (3) Whenever the court has ordered a party to make periodic
461 payments for the maintenance or support of a child, but no bond,
462 sureties or other guarantee has been required to secure such
463 payments, and whenever such payments as have become due remain



464 unpaid for a period of at least thirty (30) days, the court may,
465 upon petition of the person to whom such payments are owing, or
466 such person's legal representative, enter an order requiring that
467 bond, sureties or other security be given by the person obligated
468 to make such payments, the amount and sufficiency of which shall
469 be approved by the court. The obligor shall, as in other civil
470 actions, be served with process and shall be entitled to a hearing
471 in such case.

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



489 terminated, all disposition orders in such cases for placement
490 with the Department of Human Services shall be reviewed by the
491 court or designated authority at least annually to determine if
492 continued placement with the department is in the best interest of
493 the child or the public.

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

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

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



514 (8) (a) The duty of support of a child terminates upon the
515 emancipation of the child. Unless otherwise provided for in the
516 underlying child support judgment, emancipation shall occur when
517 the child:

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

519 (ii) Marries, or

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

522 (iv) Is convicted of a felony and is sentenced to
523 incarceration of two (2) or more years for committing such
524 felony; * * *

525 (b) Unless otherwise provided for in the underlying
526 child support judgment, the court may determine that emancipation
527 has occurred and no other support obligation exists when the
528 child:

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

532 (ii) Voluntarily moves from the home of the
533 custodial parent or guardian, establishes independent living
534 arrangements, obtains full-time employment and discontinues
535 educational endeavors prior to attaining the age of twenty-one
536 (21) years, or

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



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

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

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

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

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

561 93-11-71. (1) Whenever a court orders any person to make
562 periodic payments of a sum certain for the maintenance or support
563 of a child, or the care and expenses of the mother of an unborn



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

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

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

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



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

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

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

600 (c) Assets held in financial institutions;

601 (d) Settlements and awards resulting from civil
602 actions;

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

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

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

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



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

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

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

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



637 93-11-101. As used in Sections 93-11-101 through 93-11-119,
638 the following words shall have the meaning ascribed to them herein
639 unless the context clearly requires otherwise:

640 (a) "Order for support" means any order of the
641 chancery, circuit, county or family court, which provides for
642 periodic payment of funds for the support of a child, or for
643 periodic payment of funds for the support of the mother of the
644 unborn child, whether temporary or final, and includes any such
645 order which provides for:

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

648 (ii) Reimbursement of support.

649 "Order for support" shall also mean:

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

652 (ii) In actions to which the Department of Human
653 Services is a party, an order for support and maintenance of a
654 spouse if a minor child is living with such spouse and such
655 maintenance is collected in conjunction with child support * * *;
656 or

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

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



662 (c) "Clerk of the court" means the clerk of the court
663 that enters an order for withholding pursuant to Section
664 93-11-103(1).

665 (d) "Arrearage" means the total amount of unpaid
666 support obligations.

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

675 (f) "Department" means the Mississippi Department of
676 Human Services.

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

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



687 income that can be withheld; provided, however, that income
688 excludes:

689 (i) Any amounts required by law to be withheld,
690 other than creditor claims, including, but not limited to,
691 federal, state and local taxes, social security and other
692 retirement and disability contributions;

693 (ii) Any amounts exempted by federal law;

694 (iii) Public assistance payments; and

695 (iv) Unemployment insurance benefits except as
696 provided by law.

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

699 (j) "Obligee" means:

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

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

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

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

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



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

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

724 93-11-153. As used in Sections 93-11-151 through 93-11-163,
725 the following words and terms shall have the meanings ascribed
726 herein:

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



737 business, occupation or profession. For the purposes of this
738 article, the Supreme Court shall be considered to be the licensing
739 entity for attorneys.

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

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

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

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

758 (f) "Department" means the Mississippi Department of
759 Human Services.



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

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

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

772 43-19-31. The Department of Human Services is hereby
773 authorized and empowered to establish a single and separate Child
774 Support Unit for the following purposes:

775 (a) To develop and implement a nonsupport and paternity
776 program and institute proceedings in the name of the Department of
777 Human Services or in the name of the recipient in any court of
778 competent jurisdiction in any county where the mother of the child
779 resides or is found, in the county where the father resides or is
780 found, or in the county where the child resides or is found;

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



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

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



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

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



835 obligation, such costs and fees as the department recovers to be
836 deposited in the Special Fund of the Mississippi Department of
837 Human Services which is hereby established for the pursuit and
838 collection of child support;

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

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

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



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

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

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

872 (j) To enter into contracts for the purpose of
873 performing any test which the department may, from time to time,
874 require;

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



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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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



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

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



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

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

999 (5) In lieu of legal proceedings instituted to enforce an
1000 order for support, a written stipulated agreement for the
1001 provision of periodic payments towards an arrearage executed by
1002 the defendant when acknowledged before a clerk of the court having
1003 jurisdiction over such matters or a notary public and filed with
1004 and approved by the judge of the court having jurisdiction over
1005 such matters shall have the same force and effect, retroactively
1006 and prospectively, in accordance with the terms of said agreement
1007 as a judgment for overdue support entered by the court, and shall



1008 be enforceable and subject to modification in the same manner as
1009 is provided by law for orders of the court in such cases.

1010 (6) All agreements entered into under the provisions as set
1011 forth hereinabove shall be filed by the clerk of the court having
1012 jurisdiction over such matters in the county in which they are
1013 entered and filing fees shall be taxed to the responsible parent.

1014 **SECTION 17.** Section 43-19-35, Mississippi Code of 1972, is
1015 amended as follows:

1016 43-19-35. (1) By currently or previously accepting public
1017 assistance or making application for child support services for
1018 and on behalf of a child or children or as a result of being
1019 pregnant with an unborn child, the recipient shall be deemed to
1020 have made an assignment to the State Department of Human Services
1021 of any and all rights and interests in any cause of action, past,
1022 present or future, that said recipient or the children may have
1023 against any parent failing to provide for the support and
1024 maintenance of said minor child or children; said department shall
1025 be subrogated to any and all rights, title and interest the
1026 recipient or the children may have against any and all property
1027 belonging to the absent or nonsupporting parent in the enforcement
1028 of any claim for child or spousal support, whether liquidated
1029 through court order or not. The recipient of Title IV-D services
1030 shall also be deemed, without the necessity of signing any
1031 document, to have appointed the State Department of Human Services
1032 to act in his or her, as well as the children's, name, place, and



1033 stead to perform the specific act of instituting suit to establish
1034 paternity or secure support, collecting any and all amounts due
1035 and owing for child or spousal support or any other service as
1036 required or permitted under Title IV-D of the federal Social
1037 Security Act, and endorsing any and all drafts, checks, money
1038 orders or other negotiable instruments representing child or
1039 spousal support payments which are received on behalf of the
1040 recipient or the children, and retaining any portion thereof
1041 permitted under federal and state statutes as reimbursement for
1042 public assistance monies previously paid to the recipient or
1043 children.

1044 (2) Court orders of support for any child * * *, children or
1045 mother of an unborn child receiving services through Title IV-D of
1046 the federal Social Security Act shall be amended, by operation of
1047 law, and without the necessity of a motion by the Child Support
1048 Unit and a hearing thereon to provide that the payment of support
1049 shall be directed by the absent parent to the Mississippi
1050 Department of Human Services Central Receipting and Disbursement
1051 Unit as provided in Section 43-19-37 and not to the recipient.
1052 The absent parent shall be notified of such amendment prior to it
1053 taking effect.

1054 (3) Any attorney authorized by the state to initiate any
1055 action pursuant to Title IV-D of the federal Social Security Act,
1056 including, but not limited to, any action initiated pursuant to
1057 Sections 43-19-31 et seq. and 93-25-1 et seq. shall be deemed to



1058 represent the interest of the State Department of Human Services
1059 exclusively; no attorney-client relationship shall exist between
1060 said attorney and any recipient of services pursuant to Title IV-D
1061 of the federal Social Security Act for and on behalf of a child or
1062 children, regardless of the name in which the legal proceedings
1063 are initiated. Said attorney representing the state in a Title
1064 IV-D case is only authorized to appear and prosecute and/or defend
1065 issues of support and cannot in a Title IV-D case address or
1066 provide representation to the Title IV-D recipient on any other
1067 ancillary issues raised or presented in that action.

1068 (4) Said assignment to the State Department of Human
1069 Services shall be free of any legal or equitable defense to the
1070 payment of child support that may accrue to any person legally
1071 liable for the support of any child or children receiving aid from
1072 the State Department of Human Services, as a result of the conduct
1073 of the person who is accepting public assistance for and on behalf
1074 of said child or children.

1075 **SECTION 18.** Section 43-19-101, Mississippi Code of 1972, is
1076 amended as follows:

1077 43-19-101. (1) The following child-support award guidelines
1078 shall be a rebuttable presumption in all judicial or
1079 administrative proceedings regarding the awarding or modifying of
1080 child-support awards in this state:

1081	Number Of Children	Percentage Of Adjusted Gross Income
1082	Due Support	That Should Be Awarded For Support



1083	1	14%
1084	2	20%
1085	3	22%
1086	4	24%
1087	5 or more	26%

1088 (2) The guidelines provided for in subsection (1) of this
1089 section apply unless the judicial or administrative body awarding
1090 or modifying the child-support award makes a written finding or
1091 specific finding on the record that the application of the
1092 guidelines would be unjust or inappropriate in a particular case
1093 as determined under the criteria specified in Section 43-19-103.

1094 (3) The amount of "adjusted gross income" as that term is
1095 used in subsection (1) of this section shall be calculated as
1096 follows:

1097 (a) Determine gross income from all potential sources
1098 that may reasonably be expected to be available to the absent
1099 parent including, but not limited to, the following: wages and
1100 salary income; income from self-employment; income from
1101 commissions; income from investments, including dividends,
1102 interest income and income on any trust account or property;
1103 absent parent's portion of any joint income of both parents;
1104 workers' compensation, disability, unemployment, annuity and
1105 retirement benefits, including an Individual Retirement Account
1106 (IRA); any other payments made by any person, private entity,
1107 federal or state government or any unit of local government;



1108 alimony; any income earned from an interest in or from inherited
1109 property; any other form of earned income; and gross income shall
1110 exclude any monetary benefits derived from a second household,
1111 such as income of the absent parent's current spouse;

1112 (b) Subtract the following legally mandated deductions:

1113 (i) Federal, state and local taxes. Contributions
1114 to the payment of taxes over and beyond the actual liability for
1115 the taxable year shall not be considered a mandatory deduction;

1116 (ii) Social security contributions;

1117 (iii) Retirement and disability contributions
1118 except any voluntary retirement and disability contributions;

1119 (c) If the obligated parent is subject to an existing
1120 court order for another child or children, subtract the amount of
1121 that court-ordered support;

1122 (d) If the absent parent is also the parent of another
1123 child or other children residing with him, then the court may
1124 subtract an amount that it deems appropriate to account for the
1125 needs of said child or children;

1126 (e) Compute the total annual amount of adjusted gross
1127 income based on paragraphs (a) through (d) of this subsection,
1128 then divide this amount by twelve (12) to obtain the monthly
1129 amount of adjusted gross income.

1130 Upon conclusion of the calculation of paragraphs (a) through
1131 (e) of this subsection, multiply the monthly amount of adjusted
1132 gross income by the appropriate percentage designated in



1133 subsection (1) of this section to arrive at the amount of the
1134 monthly child-support award.

1135 (4) In cases in which the adjusted gross income as defined
1136 in this section is more than One Hundred Thousand Dollars
1137 (\$100,000.00) or less than Ten Thousand Dollars (\$10,000.00), the
1138 court shall make a written finding in the record as to whether or
1139 not the application of the guidelines established in this section
1140 is reasonable. The court shall take into account the basic
1141 subsistence needs of the obligated parent who has a limited
1142 ability to pay.

1143 (5) Imputation of income shall not be based upon a standard
1144 amount in lieu of fact-gathering. In the absence of specific
1145 sufficient evidence of past earnings and employment history to use
1146 as the measure of an obligated parent's ability to pay, the
1147 recommended child-support obligation amount should be based on
1148 available information about the specific circumstances of the
1149 obligated parent. This can include, but is not limited to, such
1150 factors as assets, residence, job skills, educational attainment,
1151 literacy, age, health, criminal record and other employment
1152 barriers, and record of seeking work, as well as the local job
1153 market, the availability of employers willing to hire the
1154 obligated parent, prevailing earnings level in the local
1155 community, and other relevant factors in the case.

1156 (6) Unless extended or waived, the Department of Human
1157 Services shall review the appropriateness of these guidelines



1158 beginning January 1, 1994, and every four (4) years thereafter and
1159 report its findings to the Legislature no later than the first day
1160 of the regular legislative session of that year. The Legislature
1161 shall thereafter amend these guidelines when it finds that
1162 amendment is necessary to ensure that equitable support is being
1163 awarded in all cases involving the support of minor children.

1164 (7) All orders involving support of minor children, as a
1165 matter of law, shall include reasonable medical support. Notice
1166 to the obligated parent's employer that medical support has been
1167 ordered shall be on a form as prescribed by the Department of
1168 Human Services. In any case in which the support of any child is
1169 involved, the court shall make the following findings either on
1170 the record or in the judgment:

1171 (a) The availability to all parties of health insurance
1172 coverage for the child(ren);

1173 (b) The cost of health insurance coverage to all
1174 parties.

1175 The court shall then make appropriate provisions in the
1176 judgment for the provision of health insurance coverage for the
1177 child(ren) and/or the pregnant mother of the unborn child in the
1178 manner that is in the best interests of the child(ren) or unborn
1179 child. If the court requires the custodial parent to obtain the
1180 coverage then its cost shall be taken into account in establishing
1181 the child-support award. If the court determines that health
1182 insurance coverage is not available to any party or that it is not



1183 available to either party at a cost that is reasonable as compared
1184 to the income of the parties, then the court shall make specific
1185 findings as to such either on the record or in the judgment. In
1186 that event, the court shall make appropriate provisions in the
1187 judgment for the payment of medical expenses of the child(ren) in
1188 the absence of health insurance coverage.

1189 **SECTION 19.** Section 93-9-15, Mississippi Code of 1972, is
1190 brought forward as follows:

1191 93-9-15. The county court, the circuit court, or the
1192 chancery court has jurisdiction of an action under Sections 93-9-1
1193 through 93-9-49, and all remedies for the enforcement of orders
1194 awarding custody or for expenses of pregnancy and confinement for
1195 a wife, or for education, necessary support and maintenance, or
1196 funeral expenses for legitimate children shall apply. The
1197 defendant must defend the cause in whichever court the action is
1198 commenced. The court has continuing jurisdiction to modify or
1199 revoke an order and to increase or decrease amounts fixed by order
1200 for future education and necessary support and maintenance. All
1201 remedies under the Uniform Interstate Family Support Act, and
1202 amendments thereto, are available for enforcement of duties of
1203 support and maintenance under Sections 93-9-1 through 93-9-49.
1204 Parties to an action to establish paternity shall not be entitled
1205 to a jury trial. The court may also order the father to reimburse
1206 Medicaid for expenses of the pregnancy and confinement of the
1207 mother.



1208 **SECTION 20.** Section 93-9-21, Mississippi Code of 1972, is
1209 brought forward as follows:

1210 93-9-21. (1) (a) In all cases brought pursuant to Title
1211 IV-D of the Social Security Act, upon written declarations of the
1212 mother, putative father, or the Department of Human Services made
1213 under penalty of perjury to the best of his or her knowledge,
1214 information and belief alleging paternity, the department may
1215 issue an administrative order for paternity testing which requires
1216 the mother, putative father and minor child to submit themselves
1217 for paternity testing. The department shall send the putative
1218 father a copy of the Administrative Order and a Notice for Genetic
1219 Testing which shall include the date, time and place for
1220 collection of the putative father's genetic sample. The
1221 department shall also send the putative father a Notice and
1222 Complaint to Establish Paternity which shall specify the date and
1223 time certain of the court hearing by certified mail, restricted
1224 delivery, return receipt requested. Notice shall be deemed
1225 complete as of the date of delivery as evidenced by the return
1226 receipt. The required notice may also be delivered by personal
1227 service upon the putative father in accordance with Rule 4 of the
1228 Mississippi Rules of Civil Procedure insofar as service of an
1229 administrative order or notice is concerned.

1230 (b) If the putative father does not submit to genetic
1231 testing, the court shall, without further notice, on the date and
1232 time previously set through the notice for hearing, review the



1233 documentation of the refusal to submit to genetic testing and make
1234 a determination as to whether the complaint to establish paternity
1235 should be granted. The refusal to submit to such testing shall
1236 create a rebuttable presumption of an admission to paternity by
1237 the putative father.

1238 (c) In any case in which the Department of Human
1239 Services orders genetic testing, the department is required to
1240 advance costs of such tests subject to recoupment from the alleged
1241 father if paternity is established. If either party challenges
1242 the original test results, the department shall order additional
1243 testing at the expense of the challenging party.

1244 (2) In any case in which paternity has not been established,
1245 the court, on its own motion or on motion of the plaintiff or the
1246 defendant, shall order the mother, the alleged father and the
1247 child or children to submit to genetic tests and any other tests
1248 which reasonably prove or disprove the probability of paternity.
1249 If paternity has been previously established, the court shall only
1250 order genetic testing pursuant to Section 93-9-10.

1251 If any party refuses to submit to such tests, the court may
1252 resolve the question of paternity against such party or enforce
1253 its order for genetic testing as the rights of others and the
1254 interest of justice require.

1255 (3) Any party calling a witness or witnesses for the purpose
1256 of testifying that they had sexual intercourse with the mother at
1257 any possible time of conception of the child whose paternity is in



1258 question shall provide all other parties with the name and address
1259 of the witness at least twenty (20) days before the trial. If a
1260 witness is produced at the hearing for the purpose provided in
1261 this subsection but the party calling the witness failed to
1262 provide the twenty-day notice, the court may adjourn the
1263 proceeding for the purpose of taking a genetic test of the witness
1264 before hearing the testimony of the witness if the court finds
1265 that the party calling the witness acted in good faith.

1266 (4) The court shall ensure that all parties are aware of
1267 their right to request genetic tests under this section.

1268 (5) (a) Genetic tests shall be performed by a laboratory
1269 selected from the approved list as prepared and maintained by the
1270 Department of Human Services.

1271 (b) The Department of Human Services shall publicly
1272 issue a request for proposals, and such requests for proposals
1273 when issued shall contain terms and conditions relating to price,
1274 technology and such other matters as are determined by the
1275 department to be appropriate for inclusion or required by law.
1276 After responses to the request for proposals have been duly
1277 received, the department shall select the lowest and best bid(s)
1278 on the basis of price, technology and other relevant factors and
1279 from such proposals, but not limited to the terms thereof,
1280 negotiate and enter into contract(s) with one or more of the
1281 laboratories submitting proposals. The department shall prepare a
1282 list of all laboratories with which it has contracted on these



1283 terms. The list and any updates thereto shall be distributed to
1284 all chancery clerks. To be eligible to appear on the list, a
1285 laboratory must meet the following requirements:

1286 (i) The laboratory is qualified to do business
1287 within the State of Mississippi;

1288 (ii) The laboratory can provide test results in
1289 less than fourteen (14) days; and

1290 (iii) The laboratory must have participated in the
1291 competitive procurement process.

1292 **SECTION 21.** Section 93-5-24, Mississippi Code of 1972, is
1293 brought forward as follows:

1294 93-5-24. (1) Custody shall be awarded as follows according
1295 to the best interests of the child:

1296 (a) Physical and legal custody to both parents jointly
1297 pursuant to subsections (2) through (7).

1298 (b) Physical custody to both parents jointly pursuant
1299 to subsections (2) through (7) and legal custody to either parent.

1300 (c) Legal custody to both parents jointly pursuant to
1301 subsections (2) through (7) and physical custody to either parent.

1302 (d) Physical and legal custody to either parent.

1303 (e) Upon a finding by the court that both of the
1304 parents of the child have abandoned or deserted such child or that
1305 both such parents are mentally, morally or otherwise unfit to rear
1306 and train the child the court may award physical and legal custody
1307 to:



1308 (i) The person in whose home the child has been
1309 living in a wholesome and stable environment; or

1310 (ii) Physical and legal custody to any other
1311 person deemed by the court to be suitable and able to provide
1312 adequate and proper care and guidance for the child.

1313 In making an order for custody to either parent or to both
1314 parents jointly, the court, in its discretion, may require the
1315 parents to submit to the court a plan for the implementation of
1316 the custody order.

1317 (2) Joint custody may be awarded where irreconcilable
1318 differences is the ground for divorce, in the discretion of the
1319 court, upon application of both parents.

1320 (3) In other cases, joint custody may be awarded, in the
1321 discretion of the court, upon application of one or both parents.

1322 (4) There shall be a presumption that joint custody is in
1323 the best interest of a minor child where both parents have agreed
1324 to an award of joint custody.

1325 (5) (a) For the purposes of this section, "joint custody"
1326 means joint physical and legal custody.

1327 (b) For the purposes of this section, "physical
1328 custody" means those periods of time in which a child resides with
1329 or is under the care and supervision of one (1) of the parents.

1330 (c) For the purposes of this section, "joint physical
1331 custody" means that each of the parents shall have significant
1332 periods of physical custody. Joint physical custody shall be



1333 shared by the parents in such a way so as to assure a child of
1334 frequent and continuing contact with both parents.

1335 (d) For the purposes of this section, "legal custody"
1336 means the decision-making rights, the responsibilities and the
1337 authority relating to the health, education and welfare of a
1338 child.

1339 (e) For the purposes of this section, "joint legal
1340 custody" means that the parents or parties share the
1341 decision-making rights, the responsibilities and the authority
1342 relating to the health, education and welfare of a child. An
1343 award of joint legal custody obligates the parties to exchange
1344 information concerning the health, education and welfare of the
1345 minor child, and to confer with one another in the exercise of
1346 decision-making rights, responsibilities and authority.

1347 An award of joint physical and legal custody obligates the
1348 parties to exchange information concerning the health, education
1349 and welfare of the minor child, and unless allocated, apportioned
1350 or decreed, the parents or parties shall confer with one another
1351 in the exercise of decision-making rights, responsibilities and
1352 authority.

1353 (6) Any order for joint custody may be modified or
1354 terminated upon the petition of both parents or upon the petition
1355 of one (1) parent showing that a material change in circumstances
1356 has occurred.



1357 (7) There shall be no presumption that it is in the best
1358 interest of a child that a mother be awarded either legal or
1359 physical custody.

1360 (8) Notwithstanding any other provision of law, access to
1361 records and information pertaining to a minor child, including,
1362 but not limited to, medical, dental and school records, shall not
1363 be denied to a parent because the parent is not the child's
1364 custodial parent.

1365 (9) (a) (i) In every proceeding where the custody of a
1366 child is in dispute, there shall be a rebuttable presumption that
1367 it is detrimental to the child and not in the best interest of the
1368 child to be placed in sole custody, joint legal custody or joint
1369 physical custody of a parent who has a history of perpetrating
1370 family violence. The court may find a history of perpetrating
1371 family violence if the court finds, by a preponderance of the
1372 evidence, one (1) incident of family violence that has resulted in
1373 serious bodily injury to, or a pattern of family violence against,
1374 the party making the allegation or a family household member of
1375 either party. The court shall make written findings to document
1376 how and why the presumption was or was not triggered.

1377 (ii) This presumption may only be rebutted by a
1378 preponderance of the evidence.

1379 (iii) In determining whether the presumption set
1380 forth in subsection (9) has been overcome, the court shall
1381 consider all of the following factors:



1382 1. Whether the perpetrator of family violence
1383 has demonstrated that giving sole or joint physical or legal
1384 custody of a child to the perpetrator is in the best interest of
1385 the child because of the other parent's absence, mental illness,
1386 substance abuse or such other circumstances which affect the best
1387 interest of the child or children;

1388 2. Whether the perpetrator has successfully
1389 completed a batterer's treatment program;

1390 3. Whether the perpetrator has successfully
1391 completed a program of alcohol or drug abuse counseling if the
1392 court determines that counseling is appropriate;

1393 4. Whether the perpetrator has successfully
1394 completed a parenting class if the court determines the class to
1395 be appropriate;

1396 5. If the perpetrator is on probation or
1397 parole, whether he or she is restrained by a protective order
1398 granted after a hearing, and whether he or she has complied with
1399 its terms and conditions; and

1400 6. Whether the perpetrator of domestic
1401 violence has committed any further acts of domestic violence.

1402 (iv) The court shall make written findings to
1403 document how and why the presumption was or was not rebutted.

1404 (b) (i) If custody is awarded to a suitable third
1405 person, it shall not be until the natural grandparents of the



1406 child have been excluded and such person shall not allow access to
1407 a violent parent except as ordered by the court.

1408 (ii) If the court finds that both parents have a
1409 history of perpetrating family violence, but the court finds that
1410 parental custody would be in the best interest of the child,
1411 custody may be awarded solely to the parent less likely to
1412 continue to perpetrate family violence. In such a case, the court
1413 may mandate completion of a treatment program by the custodial
1414 parent.

1415 (c) If the court finds that the allegations of domestic
1416 violence are completely unfounded, the chancery court shall order
1417 the alleging party to pay all court costs and reasonable
1418 attorney's fees incurred by the defending party in responding to
1419 such allegations.

1420 (d) (i) A court may award visitation by a parent who
1421 committed domestic or family violence only if the court finds that
1422 adequate provision for the safety of the child and the parent who
1423 is a victim of domestic or family violence can be made.

1424 (ii) In a visitation order, a court may take any
1425 of the following actions:

1426 1. Order an exchange of the child to occur in
1427 a protected setting;

1428 2. Order visitation supervised in a manner to
1429 be determined by the court;



1430 3. Order the perpetrator of domestic or
1431 family violence to attend and complete to the satisfaction of the
1432 court a program of intervention for perpetrators or other
1433 designated counseling as a condition of visitation;

1434 4. Order the perpetrator of domestic or
1435 family violence to abstain from possession or consumption of
1436 alcohol or controlled substances during the visitation and for
1437 twenty-four (24) hours preceding the visitation;

1438 5. Order the perpetrator of domestic or
1439 family violence to pay a fee to defray the cost of supervised
1440 visitation;

1441 6. Prohibit overnight visitation;

1442 7. Require a bond from the perpetrator of
1443 domestic or family violence for the return and safety of the
1444 child; or

1445 8. Impose any other condition that is deemed
1446 necessary to provide for the safety of the child, the victim of
1447 family or domestic violence, or other family or household member.

1448 (iii) Whether or not visitation is allowed, the
1449 court may order the address of the child or the victim of family
1450 or domestic violence to be kept confidential.

1451 (e) The court may refer but shall not order an adult
1452 who is a victim of family or domestic violence to attend
1453 counseling relating to the victim's status or behavior as a
1454 victim, individually or with the perpetrator of domestic or family



1455 violence, as a condition of receiving custody of a child or as a
1456 condition of visitation.

1457 (f) If a court allows a family or household member to
1458 supervise visitation, the court shall establish conditions to be
1459 followed during visitation.

1460 **SECTION 22.** This act shall take effect and be in force from
1461 and after July 1, 2024.

