

By: Representatives Cockerham, Anthony

To: Banking and Financial Services

HOUSE BILL NO. 1102

1 AN ACT TO AMEND SECTION 43-19-48, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE DEPARTMENT OF HUMAN SERVICES TO USE A FINANCIAL
3 INSTITUTION'S APPROVED METHODS OF COMMUNICATION TO SEND NOTICE OF
4 ENCUMBRANCES; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-19-48, Mississippi Code of 1972, is
7 amended as follows:

8 43-19-48. (1) The Department of Human Services and
9 financial institutions doing business in the state are required to
10 enter into agreements:

11 (a) To develop and operate a data match system, using
12 automated data exchanges, in which each such financial institution
13 is required to provide for each calendar quarter the name, record
14 address, social security number or other taxpayer identification
15 number, and other identifying information for each noncustodial
16 parent who maintains an account at such institution and who owes
17 past-due support, as identified by the Department of Human
18 Services by name and social security number or other taxpayer
19 identification number;



20 (b) To encumber or surrender, as the case may be,
21 assets held by such institution on behalf of any noncustodial
22 parent who is subject to a child support lien; and

23 (c) To provide for payment of reasonable fees to
24 financial institutions for conducting data matches, and for
25 responding to other requests made pursuant to this section, with
26 such fees not to exceed the actual costs incurred by such
27 financial institutions.

28 (2) When the operation of such data match system results in
29 the location of an account of a noncustodial parent who owes
30 past-due support, or when such account is located through any
31 means, the department may request and shall receive additional
32 financial or other information including account numbers, names
33 and social security numbers on record for accounts, and account
34 balances, from any financial institution needed to establish,
35 modify or enforce a support order.

36 (3) The department shall have the authority to encumber and
37 seize assets held by an obligor in a financial institution doing
38 business in Mississippi. Such assets shall be encumbered for
39 either:

40 (a) A forty-five-day period; or

41 (b) Until such time as the issue of overdue support is
42 resolved, provided the obligor has filed a petition for hearing
43 with a court of appropriate jurisdiction and the financial



44 institution receives written notice thereof from the department
45 before the end of the said forty-five-day period.

46 (4) Notice of such encumbrance initiated by the department
47 shall be provided to the financial institution and to the obligor:

48 (a) The department shall send, by certified mail or
49 other approved types of communication allowed by the financial
50 institution, notice to the financial institution with which the
51 account is placed, directing that the financial institution shall:

52 (i) Immediately encumber funds in any account(s)
53 in which the obligor has an interest, and to the extent of the
54 debt indicated in the notice from the department;

55 (ii) Forward the encumbered funds to the
56 department after either the forty-five-day period stated in
57 subsection (3)(a) of this section, or a determination favorable to
58 the department by a court of appropriate jurisdiction; or

59 (iii) In the event the obligor prevails before the
60 court, immediately release said funds to the obligor.

61 (b) Notice shall be delivered to the obligor at the
62 current mailing address as recorded by the department. Such
63 notice shall be sent by regular mail at the commencement of the
64 action described herein.

65 (c) The financial institution shall not disclose to an
66 account holder or the depositor that the name of such person has
67 been received from or furnished to the department. The financial
68 institution shall disclose to its account holders or its



69 depositors that under the data match system the department has the
70 authority to request certain identifying information on the
71 account holders' or the depositor's accounts.

72 (5) Challenges to encumbrance of an account:

73 (a) Challenges to such levy for child support arrearage
74 may be initiated only by the obligor or by an account holder of
75 interest.

76 (b) Challenges shall be made by the filing of a
77 petition for hearing by the obligor in a court of appropriate
78 jurisdiction under Rule 81(d)(2) of the Mississippi Rules of Civil
79 Procedure. Service upon the department shall be as prescribed by
80 Rule 4(d)(5) of the Mississippi Rules of Civil Procedure.

81 (c) Grounds for the petition challenging the
82 encumbrance shall be limited to:

83 (i) Mistakes of identity; or

84 (ii) Mistakes in amount of overdue support.

85 (6) Liability of the financial institution and the
86 department:

87 (a) Neither the department nor the financial
88 institution shall be liable for any applicable early withdrawal
89 penalties on the obligor's account(s).

90 (b) A financial institution shall be absolutely immune
91 from any civil liability under any law or regulation to any person
92 for the disclosure of or failure to disclose any information
93 pursuant to this chapter or for the escrow, encumbrance, seizure



94 or surrender of any assets held by the financial institution in
95 response to any notice issued by the Department of Human Services,
96 the Child Support Unit or any contractors or agents thereof unless
97 the disclosure or failure to disclose was willful or intentional,
98 or for any other action taken in good faith to comply with the
99 requirements of this chapter.

100 (7) Any amount encumbered and forwarded by the financial
101 institution under this section shall not exceed the arrearage owed
102 by the obligor.

103 (8) The provisions herein and any other relevant sections
104 shall be employed equally by authorized contractors of the
105 department to collect delinquent support payments.

106 (9) A financial institution shall not be liable under
107 federal or state law to any person:

108 (a) For any disclosure of information to the Department
109 of Human Services;

110 (b) For encumbering or forwarding any assets held by
111 such financial institution in response to a notice of lien or
112 levy;

113 (c) For any other action taken in good faith to comply
114 with the requirements of subsection (1)(a) or (b) above.

115 (10) **Definitions.** For purposes of this section:

116 (a) The term "financial institution" has the meaning
117 given to such by Section 81-12-3, Mississippi Code of 1972, and
118 shall include, but not be limited to, credit unions, stock



119 brokerages, public or private entities administering retirement,
120 savings, annuities, life insurance and/or pension funds;

121 (b) The term "account" means a demand deposit account,
122 checking or negotiable withdrawal order account, savings account,
123 time deposit account or money-market mutual fund account.

124 (11) Failure to comply with the provisions of this section
125 or the willful rendering of false information shall subject the
126 financial institution to a fine of not less than One Thousand
127 Dollars (\$1,000.00).

128 **SECTION 2.** This act shall take effect and be in force from
129 and after July 1, 2024.

