

By: Representative Roberson

To: Judiciary B

## HOUSE BILL NO. 880

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



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

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

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

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

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



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

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

(b) Subtract the following legally mandated deductions:

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

(ii) Social security contributions;

(iii) Retirement and disability contributions 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



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

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

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

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



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

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

93-9-7. \* \* \* Any father of a child \* \* \* born out of lawful matrimony and any father of an unborn child out of lawful matrimony shall be liable to the same extent as the father of a child born \* \* \* in lawful matrimony, whether or not the child is born alive, for the reasonable expenses of the mother's physical and mental prenatal care, pregnancy and confinement, and for the education, necessary support and maintenance, and medical and funeral expenses of the child. A child born out of lawful matrimony also includes a child born to a married woman by a man other than her lawful husband.

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

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



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





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

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

(i) One (1) year; or

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

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

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

(d) The one-year time limit, specified in subsection (4)(a)(i) of this section, for the right of the alleged father to 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:



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

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

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



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

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

(i) One (1) year; or

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

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

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

(d) The one-year time limit, specified in subsection (2)(a)(i) of this section, for the right of the alleged father to 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



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

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

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

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



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

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

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

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



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

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

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

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



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

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

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

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

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

(3) Whenever the court has ordered a party to make periodic payments for the maintenance or support of a child, but no bond, sureties or other guarantee has been required to secure such 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



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

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

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

(7) In any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of a party, due process requirements for notice and service of process shall be deemed to be met with respect to the party upon delivery of written notice to the most recent residential or employer address filed with the 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; \* \* \*



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

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

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

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

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

93-11-71. (1) Whenever a court orders any person to make periodic payments of a sum certain for the maintenance or support 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.



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

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

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

(c) Assets held in financial institutions;

(d) Settlements and awards resulting from civil actions;

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

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

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

(4) Notwithstanding the provisions of subsections (1) and (2) of this section, upon disestablishment of paternity granted 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



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

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

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

(a) "Licensing entity" or "entity" means any entity specified in Title 73, Professions and Vocations, of the Mississippi Code, and includes the Mississippi Department of Public Safety with respect to driver's licenses, the Mississippi \* \* \* Department of Revenue with respect to licenses for the sale of alcoholic beverages and other licenses or registration authorizing a person to engage in a business, the Mississippi Department of Wildlife, Fisheries and Parks with respect to hunting and fishing licenses, and any other state 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.



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

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

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

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

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

(b) To secure and collect support by any method authorized under state law and establish paternity for any pregnant woman, a child or children receiving aid from the 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



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

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

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

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



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

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

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

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

(k) To maintain a Central Receipting and Disbursement Unit to which all payments required by withholding orders and orders for support in all actions to which the Department of Human Services is a party shall be forwarded, and from which child support payments ordered by the court in actions to which the Department of Human Services is a party shall be disbursed to the custodial parent or other such party as may be designated by the court order. The Central Receipting and Disbursement Unit shall be operated by the Department of Human Services or any financial 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



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

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

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

(2) In lieu of legal proceedings instituted to establish  
paternity, a written admission of paternity containing a  
stipulated agreement of support executed by the putative father of  
the dependent child, when accompanied by a written declaration in  
support of establishing paternity provided under penalty of  
perjury to the best of her knowledge, information and belief by  
the mother of the dependent child, when acknowledged by the  
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



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

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

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





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

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

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

43-19-35. (1) By currently or previously accepting public assistance or making application for child support services for and on behalf of a child or children or as a result of being pregnant with an unborn child, the recipient shall be deemed to have made an assignment to the State Department of Human Services of any and all rights and interests in any cause of action, past, present or future, that said recipient or the children may have against any parent failing to provide for the support and maintenance of said minor child or children; said department shall be subrogated to any and all rights, title and interest the recipient or the children may have against any and all property belonging to the absent or nonsupporting parent in the enforcement of any claim for child or spousal support, whether liquidated through court order or not. The recipient of Title IV-D services shall also be deemed, without the necessity of signing any document, to have appointed the State Department of Human Services 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



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

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

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

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

The court shall then make appropriate provisions in the judgment for the provision of health insurance coverage for the child(ren) and/or the pregnant mother of the unborn child in the manner that is in the best interests of the child(ren) or unborn child. If the court requires the custodial parent to obtain the coverage then its cost shall be taken into account in establishing the child-support award. If the court determines that health 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, 2025.

