

By: Senator(s) Huggins

To: Public Health and
Welfare; Judiciary

SENATE BILL NO. 2855

1 AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT; TO AMEND
2 SECTION 93-11-101, MISSISSIPPI CODE OF 1972, TO CLARIFY THE
3 DIFFERENCE BETWEEN THE TERMS "ARREARAGE" AND "DELINQUENCY"; TO
4 AMEND SECTION 93-11-153, MISSISSIPPI CODE OF 1972, TO INCLUDE
5 COUNTIES AND MUNICIPALITIES AS ENTITIES THAT CAN SUSPEND LICENSES
6 OR CERTIFICATIONS FOR NONPAYMENT OF CHILD SUPPORT; TO AMEND
7 SECTIONS 93-9-25 AND 93-9-27, MISSISSIPPI CODE OF 1972, TO CLARIFY
8 REFERENCES IN THE GENETIC TESTING STATUTES; TO AMEND SECTION
9 43-19-101, MISSISSIPPI CODE OF 1972, TO CLARIFY THE APPLICATION OF
10 THE CHILD SUPPORT AWARD MINIMUM GUIDELINES BASED ON THE PERCENTAGE
11 OF ADJUSTED GROSS INCOME, TO AUTHORIZE THE IMPUTATION OF EARNING
12 ABILITY BASED ON THE CURRENT MINIMUM WAGE IF THE ABSENT PARENT
13 DOES NOT APPEAR AT THE CHILD SUPPORT HEARING, AND TO DEFINE
14 REASONABLE MEDICAL SUPPORT; TO AMEND SECTIONS 93-5-23 AND
15 93-11-65, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR AUTOMATIC
16 EMANCIPATION OF A MINOR IN CERTAIN SITUATIONS; TO AMEND SECTION
17 93-9-11, MISSISSIPPI CODE OF 1972, TO DELETE THE ONE-YEAR
18 LIMITATION ON THE RECOVERY OF UNPAID CHILD SUPPORT; TO AMEND
19 SECTION 19-19-5, MISSISSIPPI CODE OF 1972, TO AUTHORIZE CONSTABLES
20 TO SERVE PROCESS FOR ANY COUNTY, CHANCERY OR CIRCUIT COURT; TO
21 AMEND SECTION 43-19-37, MISSISSIPPI CODE OF 1972, TO PROVIDE THE
22 ELEMENTS FOR A PRIMA FACIE CASE AND THE BURDEN OF PROOF FOR
23 CONTEMPT OF COURT FOR FAILURE TO PAY CHILD SUPPORT; AND FOR
24 RELATED PURPOSES.

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

26 SECTION 1. Section 93-11-101, Mississippi Code of 1972, is
27 amended as follows:

28 93-11-101. As used in Sections 93-11-101 through 93-11-119,
29 the following words shall have the meaning ascribed to them herein
30 unless the context clearly requires otherwise:

31 (a) "Order for support" means any order of the
32 chancery, circuit, county or family court, which provides for
33 periodic payment of funds for the support of a child, whether
34 temporary or final, and includes any such order which provides
35 for:

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

38 (ii) Reimbursement of support.

39 "Order for support" shall also mean:

40 (i) An order for support and maintenance of a
41 spouse if a minor child is living with such spouse; or

42 (ii) In actions to which the Department of Human
43 Services is a party, an order for support and maintenance of a
44 spouse if a minor child is living with such spouse and such
45 maintenance is collected in conjunction with child support.

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

48 (c) "Clerk of the court" means the clerk of the court
49 that enters an order for withholding pursuant to Section
50 93-11-103(1).

51 (d) "Arrearage" means the total amount of unpaid
52 support obligations.

53 (e) "Delinquency" means any payments that are ordered
54 by any court to be paid by a noncustodial parent for the support
55 of a child that have remained unpaid for at least thirty (30) days
56 after payment is due. Delinquency shall also include payments
57 that are ordered by any court to be paid for maintenance of a
58 spouse in cases in which the department is collecting such support
59 in conjunction with child support. * * *

60 (f) "Department" means the Mississippi Department of
61 Human Services.

62 (g) "Employer" means a person who has control of the
63 payment of wages to an individual.

64 (h) "Income" means any form of periodic payment to an
65 individual, regardless of source, including, but not limited to:
66 wages, salary, commission, compensation as an independent
67 contractor, workers' compensation, disability, annuity and
68 retirement benefits, and any other payments made by any person,

69 private entity, federal or state government or any unit of local
70 government, notwithstanding any other provisions of state or local
71 law which limit or exempt income or the amount or percentage of
72 income that can be withheld; provided, however, that income
73 excludes:

74 (i) Any amounts required by law to be withheld,
75 other than creditor claims, including, but not limited to,
76 federal, state and local taxes, Social Security and other
77 retirement and disability contributions;

78 (ii) Any amounts exempted by federal law;

79 (iii) Public assistance payments; and

80 (iv) Unemployment insurance benefits except as
81 provided by law.

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

84 (j) "Obligee" means:

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

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

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

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

95 SECTION 2. Section 93-11-153, Mississippi Code of 1972, is
96 amended as follows:

97 93-11-153. As used in Sections 93-11-151 through 93-11-163,
98 the following words and terms shall have the meanings ascribed
99 herein:

100 (a) "Licensing entity" or "entity" means any entity
101 specified in Title 73, Professions and Vocations, of the

102 Mississippi Code, and includes the Mississippi Department of
103 Public Safety with respect to driver's licenses, the Mississippi
104 State Tax Commission with respect to licenses for the sale of
105 alcoholic beverages and other licenses or registration authorizing
106 a person to engage in a business, the Mississippi Department of
107 Wildlife, Fisheries and Parks with respect to hunting and fishing
108 licenses, and any other state agency, county or municipality that
109 issues a license authorizing a person to engage in a business,
110 occupation or profession. For the purposes of this article, the
111 Supreme Court shall be considered to be the licensing entity for
112 attorneys.

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

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

120 (d) "Order for support" means any judgment or order
121 that provides for payments of a sum certain for the support of a
122 child, whether it is temporary or final, and includes, but is not
123 limited to, an order for reimbursement for public assistance or an
124 order for making periodic payments on a support arrearage, or a
125 sum certain due for a support arrearage.

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

130 (f) "Department" means the Mississippi Department of
131 Human Services.

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

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

142 SECTION 3. Section 93-9-25, Mississippi Code of 1972, is
143 amended as follows:

144 93-9-25. The costs of the genetic or other tests required by
145 the court and the compensation of each expert witness appointed by
146 the court shall be fixed at a reasonable amount. It shall be paid
147 as the court shall order. The court may order that it be paid by
148 the parties in such proportions and at such times as it shall
149 prescribe, and that, after payment by either of the parties or
150 both, all or part or none of it be taxed as costs in the action.
151 The fee of an expert witness called by a party but not appointed
152 by the court shall be paid by the party calling him but shall not
153 be taxed as costs in the action.

154 SECTION 4. Section 93-9-27, Mississippi Code of 1972, is
155 amended as follows:

156 93-9-27. (1) If the court finds that the conclusions of all
157 the experts, as disclosed by the evidence based upon the tests,
158 are that the alleged father is not the father of the child, the
159 question of paternity shall be resolved accordingly. If an expert
160 concludes that the genetic or other tests show the probability of
161 paternity, such evidence shall be admitted.

162 (2) There shall be rebuttable presumption, affecting the
163 burden of proof, of paternity, if the court finds that the
164 probability of paternity, as calculated by the experts qualified
165 as examiners of genetic tests, is ninety-eight percent (98%) or
166 greater. This presumption may only be rebutted by a preponderance
167 of the evidence.

168 (3) Parties to an action to establish paternity shall not be
169 entitled to a jury trial.

170 SECTION 5. Section 43-19-101, Mississippi Code of 1972, is
171 amended as follows:

172 43-19-101. (1) The following child support award guidelines
173 shall be a rebuttable presumption in all judicial or
174 administrative proceedings regarding the awarding or modifying of
175 child support awards in this state:

176	Number Of Children	Percentage Of Adjusted Gross Income
177	Due Support	That Should Be Awarded For Support
178	1	14%
179	2	20%
180	3	22%
181	4	24%
182	5 or more	26%

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

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

192 (a) Determine gross income from all potential sources
193 that may reasonably be expected to be available to the absent
194 parent including, but not limited to, the following: wages and
195 salary income; income from self employment; income from
196 commissions; income from investments, including dividends,
197 interest income and income on any trust account or property;
198 absent parent's portion of any joint income of both parents;
199 workers' compensation, disability, unemployment, annuity and
200 retirement benefits, including an individual retirement account

201 (IRA); any other payments made by any person, private entity,
202 federal or state government or any unit of local government;
203 alimony; any income earned from an interest in or from inherited
204 property; any other form of earned income; and gross income shall
205 exclude any monetary benefits derived from a second household,
206 such as income of the absent parent's current spouse;

207 (b) Subtract the following legally mandated deductions:

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

211 (ii) Social security contributions;

212 (iii) Retirement and disability contributions
213 except any voluntary retirement and disability contributions;

214 (c) If the absent parent is subject to an existing
215 court order for another child or children, subtract the amount of
216 that court-ordered support;

217 (d) Compute the total annual amount of adjusted gross
218 income based on paragraphs (a) through (d), then divide this
219 amount by twelve (12) to obtain the monthly amount of adjusted
220 gross income.

221 (e) If the absent parent is also the legal parent of
222 another child(ren) * * * residing with him, then the court may
223 subtract five percent (5%) from his adjusted gross income per
224 child not to exceed fifteen percent (15%) for three (3) or more
225 children;

226 Upon conclusion of the calculation of paragraphs (a) through
227 (e), multiply the monthly amount of adjusted gross income by the
228 appropriate percentage designated in subsection (1) to arrive at
229 the amount of the monthly child support award; however, where
230 multiple obligations are to be established or modified, this
231 percentage shall apply to each case and shall not be divided
232 between the households of multiple custodial parents.

233 (4) Should the absent parent not appear at either an
234 administrative or judicial hearing for the determination of child
235 support, after being properly served, or income information is
236 otherwise unavailable, the court may impute earning ability and
237 may award support based on current minimum wage for full time
238 employment or the defendant's prior earning capacity or
239 capability.

240 (5) In cases in which the adjusted gross income as defined
241 in this section is more than One Hundred Thousand Dollars
242 (\$100,000.00) or less than Six Thousand Dollars (\$6,000.00), the
243 court shall make a written finding in the record as to whether or
244 not the application of the guidelines established in this section
245 is reasonable.

246 (6) The Department of Human Services shall review the
247 appropriateness of these guidelines beginning January 1, 1994,
248 and, at least every four (4) years thereafter and report its
249 findings to the Legislature no later than the first day of the
250 regular legislative session of that year. The Legislature shall
251 thereafter amend these guidelines when it finds that amendment is
252 necessary to ensure that equitable support is being awarded in all
253 cases involving the support of minor children.

254 (7) All orders involving support of minor children, as a
255 matter of law, shall include reasonable medical support. Notice
256 to the noncustodial parent's employer that medical support has
257 been ordered shall be on a form as prescribed by the Department of
258 Human Services.

259 (8) For the purpose of determining the reasonableness of
260 medical insurance, the court may find that medical insurance which
261 costs more than fifty percent (50%) of the child support
262 obligation is unreasonable. In the case of multiple orders, fifty
263 percent (50%) of the highest order shall be used to determine
264 reasonableness. The cost of medical insurance shall not be

265 included in determining the amount of child support under these
266 guidelines.

267 SECTION 6. Section 93-5-23, Mississippi Code of 1972, is
268 amended as follows:

269 93-5-23. (1) When a divorce shall be decreed from the bonds
270 of matrimony, the court may, in its discretion, having regard to
271 the circumstances of the parties and the nature of the case, as
272 may seem equitable and just, make all orders touching the care,
273 custody and maintenance of the children of the marriage, and also
274 touching the maintenance and alimony of the wife or the husband,
275 or any allowance to be made to her or him, and shall, if need be,
276 require bond, sureties or other guarantee for the payment of the
277 sum so allowed. Orders touching on the custody of the children of
278 the marriage shall be made in accordance with the provisions of
279 Section 93-5-24. The court may afterwards, on petition, change
280 the decree, and make from time to time such new decrees as the
281 case may require. However, where proof shows that both parents
282 have separate incomes or estates, the court may require that each
283 parent contribute to the support and maintenance of the children
284 of the marriage in proportion to the relative financial ability of
285 each. In the event a legally responsible parent has health
286 insurance available to him or her through an employer or
287 organization that may extend benefits to the dependents of such
288 parent, any order of support issued against such parent may
289 require him or her to exercise the option of additional coverage
290 in favor of such children as he or she is legally responsible to
291 support.

292 (2) Whenever the court has ordered a party to make periodic
293 payments for the maintenance or support of a child, but no bond,
294 sureties or other guarantee has been required to secure such
295 payments, and whenever such payments as have become due remain
296 unpaid for a period of at least thirty (30) days, the court may,
297 upon petition of the person to whom such payments are owing, or

298 such person's legal representative, enter an order requiring that
299 bond, sureties or other security be given by the person obligated
300 to make such payments, the amount and sufficiency of which shall
301 be approved by the court. The obligor shall, as in other civil
302 actions, be served with process and shall be entitled to a hearing
303 in such case.

304 (3) Whenever in any proceeding in the chancery court
305 concerning the custody of a child a party alleges that the child
306 whose custody is at issue has been the victim of sexual or
307 physical abuse by the other party, the court may, on its own
308 motion, grant a continuance in the custody proceeding only until
309 such allegation has been investigated by the Department of Human
310 Services. At the time of ordering such continuance the court may
311 direct the party, and his attorney, making such allegation of
312 child abuse to report in writing and provide all evidence touching
313 on the allegation of abuse to the Department of Human Services.
314 The Department of Human Services shall investigate such allegation
315 and take such action as it deems appropriate and as provided in
316 such cases under the Youth Court Law (being Chapter 21 of Title
317 43, Mississippi Code of 1972) or under the laws establishing
318 family courts (being Chapter 23 of Title 43, Mississippi Code of
319 1972).

320 (4) If after investigation by the Department of Human
321 Services or final disposition by the youth court or family court
322 allegations of child abuse are found to be without foundation, the
323 chancery court shall order the alleging party to pay all court
324 costs and reasonable attorney's fees incurred by the defending
325 party in responding to such allegation.

326 (5) The court may investigate, hear and make a determination
327 in a custody action when a charge of abuse and/or neglect arises
328 in the course of a custody action as provided in Section
329 43-21-151, and in such cases the court shall appoint a guardian ad
330 litem for the child as provided under Section 43-21-121, who shall

331 be an attorney. Unless the chancery court's jurisdiction has been
332 terminated, all disposition orders in such cases for placement
333 with the Department of Human Services shall be reviewed by the
334 court or designated authority at least annually to determine if
335 continued placement with the department is in the best interest of
336 the child or public.

337 (6) (a) The duty of support of a child terminates upon the
338 emancipation of the child. Emancipation shall be effective upon
339 the occurrence of one (1) of the following:

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

341 (ii) Marries, or

342 (iii) Enlists in the military and enters active
343 duty with the U.S. Armed Forces or full-time employment with the
344 National Guard or Reserve, or

345 (iv) Is convicted as an adult of a felony and
346 sentenced to an adult correctional facility.

347 (b) However, the court may determine that emancipation
348 has occurred and no prospective support obligation exists when the
349 child:

350 (i) Discontinues full-time enrollment in school
351 and obtains full-time employment prior to attaining the age of
352 twenty-one (21) years, or

353 (ii) Voluntarily moves from the home of the
354 custodial parent or guardian and establishes independent living
355 arrangements and obtains full-time employment prior to attaining
356 the age of twenty-one (21) years.

357 Such a determination shall not be made retroactive prior to
358 the date of the hearing.

359 SECTION 7. Section 93-11-65, Mississippi Code of 1972, is
360 amended as follows:

361 93-11-65. (1) (a) In addition to the right to proceed
362 under Section 93-5-23, Mississippi Code of 1972, and in addition
363 to the remedy of habeas corpus in proper cases, and other existing

364 remedies, the chancery court of the proper county shall have
365 jurisdiction to entertain suits for the custody, care, support and
366 maintenance of minor children and to hear and determine all such
367 matters, and shall, if need be, require bond, sureties or other
368 guarantee to secure any order for periodic payments for the
369 maintenance or support of a child. In the event a legally
370 responsible parent has health insurance available to him or her
371 through an employer or organization that may extend benefits to
372 the dependents of such parent, any order of support issued against
373 such parent may require him or her to exercise the option of
374 additional coverage in favor of such children as he or she is
375 legally responsible to support. Proceedings may be brought by or
376 against a resident or nonresident of the State of Mississippi,
377 whether or not having the actual custody of minor children, for
378 the purpose of judicially determining the legal custody of a
379 child. All actions herein authorized may be brought in the county
380 where the child is actually residing, or in the county of the
381 residence of the party who has actual custody, or of the residence
382 of the defendant. Process shall be had upon the parties as
383 provided by law for process in person or by publication, if they
384 be nonresidents of the state or residents of another jurisdiction
385 or are not found therein after diligent search and inquiry or are
386 unknown after diligent search and inquiry; provided that the court
387 or chancellor in vacation may fix a date in termtime or in
388 vacation to which process may be returnable and shall have power
389 to proceed in termtime or vacation. Provided, however, that if
390 the court shall find that both parties are fit and proper persons
391 to have custody of the children, and that either party is able to
392 adequately provide for the care and maintenance of the children,
393 and that it would be to the best interest and welfare of the
394 children, then any such child who shall have reached his twelfth
395 birthday shall have the privilege of choosing the parent with whom
396 he shall live.

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

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

407 (d) The noncustodial parent's liabilities for past
408 education and necessary support and maintenance and other expenses
409 may be calculated from the date of the child's birth or such time
410 as the court deems appropriate.

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

415 (3) Whenever the court has ordered a party to make periodic
416 payments for the maintenance or support of a child, but no bond,
417 sureties or other guarantee has been required to secure such
418 payments, and whenever such payments as have become due remain
419 unpaid for a period of at least thirty (30) days, the court may,
420 upon petition of the person to whom such payments are owing, or
421 such person's legal representative, enter an order requiring that
422 bond, sureties or other security be given by the person obligated
423 to make such payments, the amount and sufficiency of which shall
424 be approved by the court. The obligor shall, as in other civil
425 actions, be served with process and shall be entitled to a hearing
426 in such case.

427 (4) When a charge of abuse or neglect of a child first
428 arises in the course of a custody or maintenance action pending in
429 the chancery court pursuant to this section, the chancery court

430 may proceed with the investigation, hearing and determination of
431 such abuse or neglect charge as a part of its hearing and
432 determination of the custody or maintenance issue as between the
433 parents, as provided in Section 43-21-151, notwithstanding the
434 other provisions of the Youth Court Law. The proceedings in
435 chancery court on the abuse or neglect charge shall be
436 confidential in the same manner as provided in youth court
437 proceedings, and the chancery court shall appoint a guardian ad
438 litem in such cases, as provided under Section 43-21-121 for youth
439 court proceedings, who shall be an attorney. Unless the chancery
440 court's jurisdiction has been terminated, all disposition orders
441 in such cases for placement with the Department of Human Services
442 shall be reviewed by the court or designated authority at least
443 annually to determine if continued placement with the department
444 is in the best interest of the child or the public.

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

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

458 (7) In any subsequent child support enforcement action
459 between the parties, upon sufficient showing that diligent effort
460 has been made to ascertain the location of a party, due process
461 requirements for notice and service of process shall be deemed to
462 be met with respect to the party upon delivery of written notice

463 to the most recent residential or employer address filed with the
464 state case registry.

465 (8) (a) The duty of support of a child terminates upon the
466 emancipation of the child. Emancipation shall be effective upon
467 the occurrence of one (1) of the following:

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

469 (ii) Marries, or

470 (iii) Enlists in the military and enters active
471 duty with the U.S. Armed Forces or full-time employment with the
472 National Guard or Reserve, or

473 (iv) Is convicted as an adult of a felony and
474 sentenced to an adult correctional facility.

475 (b) However, the court may determine that emancipation
476 has occurred and no prospective support obligation exists when the
477 child:

478 (i) Discontinues full-time enrollment in school
479 and obtains full-time employment prior to attaining the age of
480 twenty-one (21) years, or

481 (ii) Voluntarily moves from the home of the
482 custodial parent or guardian and establishes independent living
483 arrangements and obtains full-time employment prior to attaining
484 the age of twenty-one (21) years.

485 Such a determination shall not be made retroactive prior to
486 the date of the hearing.

487 (9) In child support orders where the current child support
488 obligation has terminated and there exists an arrearage for unpaid
489 child support, then the amount that is currently ordered to be
490 paid (current and arrearage obligation) shall continue to be paid
491 by the obligor or withheld by the obligor's employer. Said
492 payments shall be applied to the child support arrearage until
493 paid in full without further order of the court.

494 SECTION 8. Section 93-9-11, Mississippi Code of 1972, is
495 amended as follows:

496 93-9-11. The father's liabilities for a child born out of
497 wedlock for past education and necessary support and maintenance
498 and other expenses may be calculated from the date of the child's
499 birth or as the court deems appropriate.

500 SECTION 9. Section 19-19-5, Mississippi Code of 1972, is
501 amended as follows:

502 19-19-5. (1) It shall be the duty of every constable to
503 keep and preserve the peace within his county, by faithfully
504 aiding and assisting in executing the criminal laws of the state;
505 to give information, without delay, to some justice court judge or
506 other proper officer, of all riots, routs and unlawful assemblies,
507 and of every violation of the penal laws which may come to his
508 knowledge in any manner whatsoever; to execute and return all
509 process, civil and criminal, lawfully directed to him, according
510 to the command thereof; and to pay over all monies, when collected
511 by him to the person lawfully authorized to receive the same. In
512 addition, the constable shall also be authorized to serve process
513 as directed to him by any county, chancery or circuit court. No
514 constable shall receive any fee provided by law for making an
515 arrest, or attending any trial, wherein the defendant has been
516 arrested, or is being tried for any violation of the motor vehicle
517 laws committed on any designated United States highway located
518 within the district or county of the constable.

519 (2) (a) During a constable's term of office, each constable
520 shall attend and, to the extent to which he is physically able,
521 participate in a curriculum having a duration of two (2) weeks
522 which addresses the nature and scope of specific duties and
523 responsibilities of a constable and which includes firearm use and
524 safety training, to be established by the Board on Law Enforcement
525 Officers Standards and Training in the field of law enforcement at
526 the Mississippi Law Enforcement Officers' Training Academy or such
527 other training programs that are approved by the Board on Law
528 Enforcement Officers Standards and Training pursuant to Section

529 45-6-9. No physical fitness test shall be required to be
530 successfully completed in order to complete the training program.
531 The board of supervisors of the county shall be responsible for
532 paying, only one (1) time, the tuition, living and travel expenses
533 incurred by any constable of that county in attendance at such
534 training program or curriculum. If such constable does not attend
535 and, to the extent to which he is physically able, participate in
536 the entirety of the required program or curriculum, any further
537 training which may be required by this section shall be completed
538 at the expense of such constable. No constable shall be entitled
539 to the receipt of any fees, costs or compensation authorized by
540 law after the first twenty-four (24) months in office if he fails
541 to attend the required training and, to the extent to which he is
542 physically able, participate in the entirety of the appropriate
543 program or curriculum. Any constable who does not complete the
544 required training when required may execute and return civil
545 process but thereafter shall not be paid any fees, costs or
546 compensation for executing such process and shall not be allowed
547 to exercise any law enforcement functions or to carry a firearm in
548 the performance of his duties until he has completed such
549 training.

550 (b) (i) The Board of Law Enforcement Officers
551 Standards and Training shall develop a program of continuing
552 education training for constables to attend consisting of eight
553 (8) hours annually. The program shall be divided equally between
554 firearms training and safety and instruction in both substantive
555 and procedural law. The training program shall be conducted by
556 the Mississippi Constables Association, and appropriate parts of
557 the program may be conducted by members who have been certified by
558 the board to conduct the training program. The cost of travel,
559 tuition and living expenses in attending the continuing training
560 shall be paid out of the Law Enforcement Officers Training Fund
561 created in Section 45-6-15.

562 (ii) No constable elected prior to January 1,
563 2000, shall be required to comply with the continuing education
564 requirements of this paragraph (b); however, any constable may
565 elect to attend the annual training and shall be reimbursed
566 therefor as provided in this paragraph (b).

567 (c) The provisions of this subsection shall not apply
568 to a constable who has received a certificate from the Board on
569 Law Enforcement Officers Standards and Training evidencing
570 satisfaction of subsections (2) and (3) of Section 45-6-11, or who
571 is exempt from the requirements of subsections (2) and (3) of
572 Section 45-6-11 by the provisions of subsection (1) of Section
573 45-6-11.

574 SECTION 10. Section 43-19-37, Mississippi Code of 1972, is
575 amended as follows:

576 43-19-37. (1) Failure of the absent parent to comply with
577 an order of support for a period of thirty (30) days shall be
578 directed to the court having jurisdiction of the matter for
579 contempt proceedings or execution issued in the manner and form
580 prescribed by statute.

581 (a) A prima facie case for contempt is established when
582 a party authorized to receive support introduces evidence that an
583 absent parent, who is or was required to pay support, has failed
584 to do so. Upon this showing, the burden of proof shifts to the
585 absent parent to show, in particular, an inability to pay or other
586 defense by clear and convincing evidence.

587 (b) Any payments made by the absent parent directly to
588 the recipient or applicant in violation of the court order shall
589 not be deemed to be a support payment and shall not be credited to
590 the court-ordered obligation of said absent parent.

591 (c) Should civil proceedings become ineffective in
592 producing support in any case involving a legitimate child or a
593 child wherein paternity has been established by law or
594 acknowledged in writing, the case shall promptly be referred to

595 the district attorney for prosecution as a violation of Section
596 97-5-3.

597 (2) Court orders of support in all cases brought under the
598 provisions of Sections 43-19-31 through 43-19-53 shall specify
599 that the payment of court costs shall be directed by the absent
600 parent to the Mississippi Department of Human Services Central
601 Receipting and Disbursement Unit for further disbursement in the
602 manner as prescribed by Title IV-D of the federal Social Security
603 Act. Attorney's fees * * * shall be paid directly to the
604 Mississippi Department of Human Services Central Receipting and
605 Disbursement Unit in cases instituted by the department, in a
606 manner separate and distinct from the payment of child
607 support. * * *

608 (3) Each application, petition, order or filing made under
609 this section shall include the Social Security number(s) of the
610 applicant or father, mother and child(ren), as applicable, in
611 accordance with Section 93-11-64, Mississippi Code of 1972.

612 SECTION 11. This act shall take effect and be in force from
613 and after July 1, 2001.