

By: Senator(s) Huggins

To: Public Health and Welfare

SENATE BILL NO. 2998

1 AN ACT TO AMEND SECTION 93-11-159, MISSISSIPPI CODE OF 1972,
 2 TO REQUIRE EVERY LICENSING ENTITY SUBJECT TO SECTIONS 93-11-151
 3 THROUGH 93-11-161 TO ASSESS A FEE FOR REISSUANCE OF LICENSES
 4 SUSPENDED FOR FAILURE TO PAY CHILD SUPPORT AND TO PROVIDE THAT
 5 SUCH FUNDS BE USED FOR PROSECUTION OF CHILD SUPPORT CASES BY THE
 6 OFFICE OF THE ATTORNEY GENERAL AND THE SUPPORT OF THE LEGAL
 7 DIVISION OF THE CHILD SUPPORT UNIT OF THE DEPARTMENT OF HUMAN
 8 SERVICES; TO CREATE A SPECIAL FUND FOR SUCH FEES; TO AMEND
 9 93-11-157, MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION
 10 99-19-73, MISSISSIPPI CODE OF 1972, TO INCREASE THE STANDARD STATE
 11 ASSESSMENT FOR TRAFFIC VIOLATIONS AND OTHER MISDEMEANORS FOR SUCH
 12 FUND; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 93-11-159, Mississippi Code of 1972, is
 15 amended as follows:

16 93-11-159. (1) The licensing entities subject to Sections
 17 93-11-151 through 93-11-161 may establish an additional
 18 administrative fee not to exceed Twenty-five Dollars (\$25.00) to
 19 be paid by licensees who are out of compliance with an order of
 20 support and who are subject to the provisions of Sections
 21 93-11-151 through 93-11-161 for the purpose of recovering costs of
 22 the licensing entities associated with the implementation of
 23 Sections 93-11-151 through 93-11-161.

24 (2) In addition to the fee that may be assessed in
 25 subsection (1), every licensing entity subject to Sections
 26 93-11-151 through 93-11-161 shall assess an administrative fee of
 27 Twenty-five Dollars (\$25.00) to be paid by licensees whose
 28 licenses are reinstated and such funds shall be transferred to the
 29 Child Support Prosecution Fund. There is created in the State
 30 Treasury a special trust fund to be designated as the "Child
 31 Support Prosecution Trust Fund." The fund shall be used by the
 32 Office of the Attorney General for the prosecution of delinquent

33 child support cases and may also be used to draw down the
34 sixty-six percent (66%) federal reimbursement IV-D funds for
35 support of the Legal Division of the Child Support Unit of the
36 Mississippi Department of Human Services.

37 **SECTION 2.** Section 93-11-157, Mississippi Code of 1972, is
38 amended as follows:

39 93-11-157. (1) The division shall review the information
40 received under Section 93-11-155 and any other information
41 available to the division, and shall determine if a licensee is
42 out of compliance with an order for support. If a licensee is out
43 of compliance with the order for support, the division shall
44 notify the licensee by first class mail that ninety (90) days
45 after the licensee receives the notice of being out of compliance
46 with the order, the licensing entity will be notified to
47 immediately suspend the licensee's license unless the licensee
48 pays the arrearage owing, according to the accounting records of
49 the Mississippi Department of Human Services or the attorney
50 representing the party to whom support is due, as the case may be,
51 or enters into a stipulated agreement and agreed judgment
52 establishing a schedule for the payment of the arrearage. The
53 licensee shall be presumed to have received the notice five (5)
54 days after it is deposited in the mail.

55 (2) Upon receiving the notice provided in subsection (1) of
56 this section the licensee may:

57 (a) Request a review with the division; however, the
58 issues the licensee may raise at the review are limited to whether
59 the licensee is the person required to pay under the order for
60 support and whether the licensee is out of compliance with the
61 order for support; or

62 (b) Request to participate in negotiations with the
63 division for the purpose of establishing a payment schedule for
64 the arrearage.

65 (3) The division director or the designees of the division
66 director may and, upon request of a licensee, shall negotiate with
67 a licensee to establish a payment schedule for the arrearage.
68 Payments made under the payment schedule shall be in addition to
69 the licensee's ongoing obligation under the latest entered
70 periodic order for support.

71 (4) Should the division and the licensee reach an agreement
72 on a payment schedule for the arrearage, the division director
73 shall submit to the court the stipulated agreement and agreed
74 judgment containing the payment schedule which, upon the court's
75 approval, is enforceable as any order of the court. If the court
76 does not approve the stipulated agreement and agreed judgment, the
77 court may require a hearing on a case-by-case basis for the
78 judicial review of the payment schedule agreement.

79 (5) If the licensee and the division do not reach an
80 agreement on a payment schedule for the arrearage, the licensee
81 may move the court to establish a payment schedule. However, this
82 action does not stay the license suspension.

83 (6) The notice given to a licensee that the licensee's
84 license will be suspended in ninety (90) days must clearly state
85 the remedies and procedures that are available to a licensee under
86 this section.

87 (7) If at the end of the ninety (90) days the licensee has
88 an arrearage according to the accounting records of the
89 Mississippi Department of Human Services or the attorney
90 representing the party to whom support is due, as the case may be,
91 and the licensee has not entered into a stipulated agreement and
92 agreed judgment establishing a payment schedule for the arrearage,
93 the division shall immediately notify all applicable licensing
94 entities in writing to suspend the licensee's license, and the
95 licensing entities shall immediately suspend the license and shall
96 within three (3) business days notify the licensee and the
97 licensee's employer, where known, of the license suspension and

98 the date of such suspension by certified mail return receipt
99 requested. Within forty-eight (48) hours of receipt of a request
100 in writing delivered personally, by mail or by electronic means,
101 the department shall furnish to the licensee, licensee's attorney
102 or other authorized representative a copy of the department's
103 accounting records of the licensee's payment history. A licensing
104 entity shall immediately reinstate the suspended license upon the
105 division's notification of the licensing entities in writing that
106 the licensee no longer has an arrearage or that the licensee has
107 entered into a stipulated agreement and agreed judgment.

108 (8) Within thirty (30) days after a licensing entity
109 suspends the licensee's license at the direction of the division
110 under subsection (7) of this section, the licensee may appeal the
111 license suspension to the chancery court of the county in which
112 the licensee resides or to the Chancery Court of the First
113 Judicial District of Hinds County, Mississippi, upon giving bond
114 with sufficient sureties in the amount of Two Hundred Dollars
115 (\$200.00), approved by the clerk of the chancery court and
116 conditioned to pay any costs that may be adjudged against the
117 licensee. Notice of appeal shall be filed in the office of the
118 clerk of the chancery court. If there is an appeal, the appeal
119 may, in the discretion of and on motion to the chancery court, act
120 as a supersedeas of the license suspension. The department shall
121 be the appellee in the appeal, and the licensing entity shall not
122 be a party in the appeal. The chancery court shall dispose of the
123 appeal and enter its decision within thirty (30) days of the
124 filing of the appeal. The hearing on the appeal may, in the
125 discretion of the chancellor, be tried in vacation. The decision
126 of the chancery court may be appealed to the Supreme Court in the
127 manner provided by the rules of the Supreme Court. In the
128 discretion of and on motion to the chancery court, no person shall
129 be allowed to practice any business, occupation or profession or
130 take any other action under the authority of any license the

131 suspension of which has been affirmed by the chancery court while
132 an appeal to the Supreme Court from the decision of the chancery
133 court is pending.

134 (9) If a licensee who has entered a stipulated agreement and
135 agreed judgment for the payment of an arrearage under this section
136 subsequently is out of compliance with an order for support, the
137 division shall immediately notify the licensing entity to suspend
138 the licensee's license, and the licensing entity shall immediately
139 suspend the license without a hearing and shall within three (3)
140 business days notify the licensee in writing of the license
141 suspension. In the case of a license suspension under the
142 provisions of this subsection, the procedures provided for under
143 subsections (1) and (2) of this section are not required; however,
144 the appeal provisions of subsection (8) of this section still
145 apply. After suspension of the license, if the licensee
146 subsequently enters into a stipulated agreement and agreed
147 judgment or the licensee otherwise informs the division of
148 compliance with the order for support, the division shall within
149 seven (7) days notify in writing the licensing entity that the
150 licensee is in compliance. Upon receipt of that notice from the
151 division, a licensing entity shall immediately reinstate the
152 license of the licensee and shall within three (3) business days
153 notify the licensee of the reinstatement.

154 (10) Nothing in this section prohibits a licensee from
155 filing a motion for the modification of an order for support or
156 for any other applicable relief. However, no such action shall
157 stay the license suspension procedure, except as may be allowed
158 under subsection (8) of this section.

159 (11) If a license is suspended under the provisions of this
160 section, the licensing entity is not required to refund any fees
161 paid by a licensee in connection with obtaining or renewing a
162 license.

163 (12) The requirement of a licensing entity to suspend a
164 license under this section does not affect the power of the
165 licensing entity to deny, suspend, revoke or terminate a license
166 for any other reason.

167 (13) The procedure for suspension of a license for being out
168 of compliance with an order for support, and the procedure for the
169 reissuance or reinstatement of a license suspended for that
170 purpose, shall be governed by this section and not by the general
171 licensing and disciplinary provisions applicable to a licensing
172 entity. Actions taken by a licensing entity in suspending a
173 license when required by this section are not actions from which
174 an appeal may be taken under the general licensing and
175 disciplinary provisions applicable to the licensing entity. Any
176 appeal of a license suspension that is required by this section
177 shall be taken in accordance with the appeal procedure specified
178 in subsection (8) of this section rather than any procedure
179 specified in the general licensing and disciplinary provisions
180 applicable to the licensing entity. If there is any conflict
181 between any provision of this section and any provision of the
182 general licensing and disciplinary provisions applicable to a
183 licensing entity, the provisions of this section shall control.

184 (14) No license shall be suspended under this section until
185 ninety (90) days after July 1, 1996. This ninety-day period shall
186 be a one-time amnesty period in which any person who may be
187 subject to license suspension under this article may comply with
188 an order of support in order to avoid the suspension of any
189 license.

190 (15) Any individual who fails to comply with a subpoena or
191 warrant relating to paternity or child support proceedings after
192 receiving appropriate notice may be subject to suspension or
193 withholding of issuance of a license under this section.

194 (16) Any person whose license is suspended under this
 195 section shall be subject to the administrative fees established
 196 for reinstatement under Section 93-11-159.

197 **SECTION 3.** Section 99-19-73, Mississippi Code of 1972, is
 198 amended as follows:

199 99-19-73. (1) **Traffic Violations.** In addition to any
 200 monetary penalties and any other penalties imposed by law, there
 201 shall be imposed and collected the following state assessment from
 202 each person upon whom a court imposes a fine or other penalty for
 203 any violation in Title 63, Mississippi Code of 1972, except
 204 offenses relating to the Mississippi Implied Consent Law (Section
 205 63-11-1 et seq.) and offenses relating to vehicular parking or
 206 registration:

FUND	AMOUNT
State Court Education Fund.....	\$ 1.50
State Prosecutor Education Fund.....	1.00
Driver Training Penalty Assessment Fund.....	7.00
Law Enforcement Officers Training Fund.....	5.00
Spinal Cord and Head Injury Trust Fund (for all moving violations).....	4.00
Emergency Medical Services Operating Fund.....	10.00
Mississippi Leadership Council on Aging Fund.....	1.00
Law Enforcement Officers and Fire Fighters Death Benefits Trust Fund.....	.50
State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal assistants to district attorneys.....	1.00
Crisis Intervention Mental Health Fund.....	10.00
Drug Court Fund.....	10.00
<u>Child Support Prosecution Fund.....</u>	<u>.50</u>
TOTAL STATE ASSESSMENT.....	\$ <u>51.50</u>

225 (2) **Implied Consent Law Violations.** In addition to any
 226 monetary penalties and any other penalties imposed by law, there

227 shall be imposed and collected the following state assessment from
 228 each person upon whom a court imposes a fine or any other penalty
 229 for any violation of the Mississippi Implied Consent Law (Section
 230 63-11-1 et seq.):

231 FUND	AMOUNT
232 Crime Victims' Compensation Fund.....	\$ 10.00
233 State Court Education Fund.....	1.50
234 State Prosecutor Education Fund.....	1.00
235 Driver Training Penalty Assessment Fund.....	22.00
236 Law Enforcement Officers Training Fund.....	11.00
237 Emergency Medical Services Operating Fund.....	10.00
238 Mississippi Alcohol Safety Education Program Fund....	5.00
239 Federal-State Alcohol Program Fund.....	10.00
240 Mississippi Crime Laboratory	
241 Implied Consent Law Fund.....	25.00
242 Spinal Cord and Head Injury Trust Fund.....	25.00
243 Capital Defense Counsel Special Fund.....	1.00
244 State General Fund.....	35.00
245 Law Enforcement Officers and Fire Fighters Death	
246 Benefits Trust Fund.....	.50
247 State Prosecutor Compensation Fund for the purpose	
248 of providing additional compensation for legal	
249 assistants to district attorneys.....	1.00
250 Crisis Intervention Mental Health Fund.....	10.00
251 Drug Court Fund.....	10.00
252 TOTAL STATE ASSESSMENT.....	\$178.00

253 (3) **Game and Fish Law Violations.** In addition to any
 254 monetary penalties and any other penalties imposed by law, there
 255 shall be imposed and collected the following state assessment from
 256 each person upon whom a court imposes a fine or other penalty for
 257 any violation of the game and fish statutes or regulations of this
 258 state:

259 FUND	AMOUNT
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260	State Court Education Fund.....	\$ 1.50
261	State Prosecutor Education Fund.....	1.00
262	Law Enforcement Officers Training Fund.....	5.00
263	Hunter Education and Training Program Fund.....	5.00
264	State General Fund.....	30.00
265	Law Enforcement Officers and Fire Fighters Death	
266	Benefits Trust Fund.....	.50
267	State Prosecutor Compensation Fund for the purpose	
268	of providing additional compensation for legal	
269	assistants to district attorneys.....	1.00
270	Crisis Intervention Mental Health Fund.....	10.00
271	Drug Court Fund.....	10.00
272	TOTAL STATE ASSESSMENT.....	\$ 64.00

273 (4) **Litter Law Violations.** In addition to any monetary
274 penalties and any other penalties imposed by law, there shall be
275 imposed and collected the following state assessment from each
276 person upon whom a court imposes a fine or other penalty for any
277 violation of Section 97-15-29 or 97-15-30:

278	FUND	AMOUNT
279	Statewide Litter Prevention Fund.....	\$ 25.00
280	State Prosecutor Compensation Fund for the purpose	
281	of providing additional compensation for legal	
282	assistants to district attorneys.....	1.00
283	Crisis Intervention Mental Health Fund.....	10.00
284	Drug Court Fund.....	10.00
285	TOTAL STATE ASSESSMENT.....	\$ 46.00

286 (5) **Other Misdemeanors.** In addition to any monetary
287 penalties and any other penalties imposed by law, there shall be
288 imposed and collected the following state assessment from each
289 person upon whom a court imposes a fine or other penalty for any
290 misdemeanor violation not specified in subsection (1), (2) or (3)
291 of this section, except offenses relating to vehicular parking or
292 registration:

293	FUND	AMOUNT
294	Crime Victims' Compensation Fund.....	\$ 10.00
295	State Court Education Fund.....	1.50
296	State Prosecutor Education Fund.....	1.00
297	Law Enforcement Officers Training Fund.....	5.00
298	Capital Defense Counsel Special Fund.....	1.00
299	State General Fund.....	30.00
300	State Crime Stoppers Fund.....	1.50
301	Law Enforcement Officers and Fire Fighters Death	
302	Benefits Trust Fund.....	.50
303	State Prosecutor Compensation Fund for the purpose	
304	of providing additional compensation for legal	
305	assistants to district attorneys.....	1.00
306	Crisis Intervention Mental Health Fund.....	10.00
307	Drug Court Fund.....	8.00
308	Judicial Performance Fund.....	2.00
309	<u>Child Support Prosecution Fund.....</u>	<u>.50</u>
310	TOTAL STATE ASSESSMENT.....	\$ <u>72.00</u>

311 (6) **Other Felonies.** In addition to any monetary penalties
312 and any other penalties imposed by law, there shall be imposed and
313 collected the following state assessment from each person upon
314 whom a court imposes a fine or other penalty for any felony
315 violation not specified in subsection (1), (2) or (3) of this
316 section:

317	FUND	AMOUNT
318	Crime Victims' Compensation Fund.....	\$ 10.00
319	State Court Education Fund.....	1.50
320	State Prosecutor Education Fund.....	1.00
321	Law Enforcement Officers Training Fund.....	5.00
322	Capital Defense Counsel Special Fund.....	1.00
323	State General Fund.....	60.00
324	Criminal Justice Fund.....	50.00
325	Law Enforcement Officers and Fire Fighters Death	

326	Benefits Trust Fund.....	.50
327	State Prosecutor Compensation Fund for the purpose	
328	of providing additional compensation for legal	
329	assistants to district attorneys.....	1.00
330	Crisis Intervention Mental Health Fund.....	10.00
331	Drug Court Fund.....	10.00
332	TOTAL STATE ASSESSMENT.....	\$150.00

333 (7) If a fine or other penalty imposed is suspended, in
334 whole or in part, such suspension shall not affect the state
335 assessment under this section. No state assessment imposed under
336 the provisions of this section may be suspended or reduced by the
337 court.

338 (8) After a determination by the court of the amount due, it
339 shall be the duty of the clerk of the court to promptly collect
340 all state assessments imposed under the provisions of this
341 section. The state assessments imposed under the provisions of
342 this section may not be paid by personal check. It shall be the
343 duty of the chancery clerk of each county to deposit all such
344 state assessments collected in the circuit, county and justice
345 courts in such county on a monthly basis with the State Treasurer
346 pursuant to appropriate procedures established by the State
347 Auditor. The chancery clerk shall make a monthly lump-sum deposit
348 of the total state assessments collected in the circuit, county
349 and justice courts in such county under this section, and shall
350 report to the Department of Finance and Administration the total
351 number of violations under each subsection for which state
352 assessments were collected in the circuit, county and justice
353 courts in such county during such month. It shall be the duty of
354 the municipal clerk of each municipality to deposit all such state
355 assessments collected in the municipal court in such municipality
356 on a monthly basis with the State Treasurer pursuant to
357 appropriate procedures established by the State Auditor. The
358 municipal clerk shall make a monthly lump-sum deposit of the total

359 state assessments collected in the municipal court in such
360 municipality under this section, and shall report to the
361 Department of Finance and Administration the total number of
362 violations under each subsection for which state assessments were
363 collected in the municipal court in such municipality during such
364 month.

365 (9) It shall be the duty of the Department of Finance and
366 Administration to deposit on a monthly basis all such state
367 assessments into the proper special fund in the State Treasury.
368 The monthly deposit shall be based upon the number of violations
369 reported under each subsection and the pro rata amount of such
370 assessment due to the appropriate special fund. The Department of
371 Finance and Administration shall issue regulations providing for
372 the proper allocation of these special funds.

373 (10) The State Auditor shall establish by regulation
374 procedures for refunds of state assessments, including refunds
375 associated with assessments imposed before July 1, 1990, and
376 refunds after appeals in which the defendant's conviction is
377 reversed. The Auditor shall provide in such regulations for
378 certification of eligibility for refunds and may require the
379 defendant seeking a refund to submit a verified copy of a court
380 order or abstract by which such defendant is entitled to a refund.
381 All refunds of state assessments shall be made in accordance with
382 the procedures established by the Auditor.

383 **SECTION 4.** This act shall take effect and be in force from
384 and after July 1, 2005.