

By: False

To: Judiciary A

HOUSE BILL NO. 951

1 AN ACT TO AMEND SECTION 43-19-48, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF HUMAN SERVICES TO USE
 3 ADDITIONAL METHODS OF COMMUNICATION TO SEND NOTICES RELATING TO
 4 ENCUMBRANCES OF ASSETS FOR CHILD SUPPORT TO FINANCIAL INSTITUTIONS
 5 IF ALLOWED BY THE FINANCIAL INSTITUTIONS; TO REVISE THE DEFINITION
 6 OF THE TERM "ACCOUNT" AS USED IN PROVISIONS RELATING TO THE
 7 ENCUMBERING OF ASSETS HELD BY A FINANCIAL INSTITUTION FOR PAST-DUE
 8 CHILD SUPPORT; AND FOR RELATED PURPOSES.

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

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

12 43-19-48. (1) The Department of Human Services and
 13 financial institutions doing business in the state are required to
 14 enter into agreements:

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



22 Services by name and social security number or other taxpayer
23 identification number;

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

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

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

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

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

45 (b) Until such time as the issue of overdue support is
46 resolved, provided the obligor has filed a petition for hearing



47 with a court of appropriate jurisdiction and the financial
48 institution receives written notice thereof from the department
49 before the end of the * * * forty-five-day period.

50 (4) Notice of such encumbrance initiated by the department
51 shall be provided to the financial institution and to the
52 obligor * * *.

53 (a) The department shall send, by certified mail or
54 other approved types of communication allowed by the financial
55 institution, notice to the financial institution with which the
56 account is placed, directing that the financial institution shall:

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

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

64 (iii) In the event the obligor prevails before the
65 court, immediately release * * * the funds to the obligor.

66 (b) Notice shall be delivered to the obligor at the
67 current mailing address as recorded by the department. Such
68 notice shall be sent by regular mail at the commencement of the
69 action described * * * in this section.

70 (c) The financial institution shall not disclose to an
71 account holder or the depositor that the name of such person has



72 been received from or furnished to the department. The financial
73 institution shall disclose to its account holders or its
74 depositors that under the data match system, the department has
75 the authority to request certain identifying information on the
76 account holders' or the depositor's accounts.

77 (5) **Challenges to encumbrance of an account * * *.**

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

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

86 (c) Grounds for the petition challenging the
87 encumbrance shall be limited to:

88 (i) Mistakes of identity; or

89 (ii) Mistakes in amount of overdue support.

90 (6) **Liability of the financial institution and the**
91 **department * * *.**

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

95 (b) A financial institution shall be absolutely immune
96 from any civil liability under any law or regulation to any person



97 for the disclosure of or failure to disclose any information
98 pursuant to this chapter or for the escrow, encumbrance, seizure
99 or surrender of any assets held by the financial institution in
100 response to any notice issued by the Department of Human Services,
101 the Child Support Unit or any contractors or agents thereof unless
102 the disclosure or failure to disclose was willful or intentional,
103 or for any other action taken in good faith to comply with the
104 requirements of this chapter.

105 (7) Any amount encumbered and forwarded by the financial
106 institution under this section shall not exceed the arrearage owed
107 by the obligor.

108 (8) The provisions * * * in this section and any other
109 relevant sections shall be employed equally by authorized
110 contractors of the department to collect delinquent support
111 payments.

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

114 (a) For any disclosure of information to the Department
115 of Human Services;

116 (b) For encumbering or forwarding any assets held by
117 such financial institution in response to a notice of lien or
118 levy;

119 (c) For any other action taken in good faith to comply
120 with the requirements of subsection (1) (a) or (b) * * * of this
121 section.



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

123 (a) The term "financial institution" has the meaning
124 given to such by Section 81-12-3 * * * and shall include, but not
125 be limited to, credit unions, stock brokerages, public or private
126 entities administering retirement, savings, annuities, life
127 insurance and/or pension funds * * *.

128 (b) The term "account" means any money held in the name
129 of the account owner individually or jointly with another,
130 including, but not limited to, a * * * deposit account, demand
131 account, member account, time certificate of deposit, share
132 account, checking or negotiable withdrawal order account, savings
133 account, time deposit account or money-market mutual fund account.

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

138 **SECTION 2.** This act shall take effect and be in force from
139 and after July 1, 2021.

