

By: Senator(s) Michel, Branning

To: Insurance

SENATE BILL NO. 2319

1 AN ACT TO AMEND SECTION 43-19-31, MISSISSIPPI CODE OF 1972,
 2 TO AUTHORIZE THE DEPARTMENT OF HUMAN SERVICES TO COLLABORATE WITH
 3 THE TREASURER TO INTERCEPT UNCLAIMED PROPERTY TO SATISFY A CHILD
 4 SUPPORT ARREARAGE; TO AMEND SECTION 89-12-39, MISSISSIPPI CODE OF
 5 1972, TO REQUIRE THE TREASURER TO COOPERATE WITH THE DEPARTMENT OF
 6 HUMAN SERVICES TO DETERMINE IF A CLAIMANT OF UNCLAIMED PROPERTY
 7 OWES A CHILD SUPPORT ARREARAGE; TO REQUIRE THE TREASURER TO
 8 TRANSFER TO THE DEPARTMENT OF HUMAN SERVICES ANY PORTION OF A
 9 CLAIM TO SATISFY THE CHILD SUPPORT ARREARAGE; TO AMEND SECTION
 10 93-11-71, MISSISSIPPI CODE OF 1972, TO SUBJECT UNCLAIMED PROPERTY
 11 TO INTERCEPTION OR SEIZURE WITHOUT REGARD TO THE ENTRY OF THE
 12 JUDGMENT ON THE JUDGMENT ROLL OF THE SITUS DISTRICT OR
 13 JURISDICTION TO SATISFY CHILD SUPPORT ARREARAGES; AND FOR RELATED
 14 PURPOSES.

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

16 **SECTION 1.** Section 43-19-31, Mississippi Code of 1972, is
 17 amended as follows:

18 43-19-31. The Department of Human Services is hereby
 19 authorized and empowered to establish a single and separate Child
 20 Support Unit for the following purposes:

21 (a) To develop and implement a nonsupport and paternity
 22 program and institute proceedings in the name of the Department of
 23 Human Services or in the name of the recipient in any court of
 24 competent jurisdiction in any county where the mother of the child



25 resides or is found, in the county where the father resides or is
26 found, or in the county where the child resides or is found;

27 (b) To secure and collect support by any method
28 authorized under state law and establish paternity for any child
29 or children receiving aid from the department any form of public
30 assistance, including, but not limited to, medical assistance,
31 foster care, food stamps, TANF, or any other program under the
32 federal Social Security Act, from a parent or any other person
33 legally liable for such support who has either failed or refused
34 to provide support, deserted, neglected or abandoned the child or
35 children, including cooperating with other states in establishing
36 paternity, locating absent parents and securing compliance with
37 court orders for support of Temporary Assistance for Needy
38 Families (TANF) children; the department may petition the court
39 for the inclusion of health insurance as part of any child support
40 order on behalf of any child receiving aid from the department
41 unless good cause for noncooperation, as defined by the Social
42 Security Act or the Mississippi Department of Human Services, is
43 established. Unless notified to the contrary, whenever a child or
44 children for whom child support services have been provided ceases
45 to receive public assistance, the department will continue to
46 provide services and establish paternity, secure and collect such
47 support payments from a parent or any other person legally liable
48 for such support in accordance with the standards prescribed
49 pursuant to the federal Social Security Act;



50 (c) To accept applications for child support
51 enforcement services to establish paternity, secure and collect
52 support from any proper party or person as defined by Title IV-D
53 of the federal Social Security Act notwithstanding the fact that
54 the child or children do not currently receive or have never
55 received public assistance. The department shall have the
56 authority to secure and collect support by any method authorized
57 under state law and establish paternity for any child or children
58 on behalf of a recipient of child support services, including
59 individuals who do not currently receive or have never received
60 public assistance from a parent or any other person legally liable
61 for such support who has either failed or refused to provide
62 support, deserted, neglected or abandoned the child or children,
63 including cooperating with other states in establishing paternity,
64 locating absent parents and securing compliance with court orders
65 for support; the department may petition the court for the
66 inclusion of health insurance as part of any child support order
67 on behalf of such recipients of child support services. The
68 proceeds of any collections resulting from such application shall
69 be distributed in accordance with the standards prescribed in the
70 federal Social Security Act;

71 (d) The department shall seek to recover from the
72 individual who owes a support obligation to any individual who is
73 a recipient of Title IV-D services as set forth in paragraph (b)
74 or (c) on whose behalf the department is providing services, upon



75 judicial proceedings conducted thereon after advance notice to
76 such obligor, reasonable attorney's fees and court costs, in
77 excess of any administrative fees collected and in excess of
78 amounts of current support owed by the obligor, which the
79 department incurs in recovering and collecting the support
80 obligation, such costs and fees as the department recovers to be
81 deposited in the Special Fund of the Mississippi Department of
82 Human Services which is hereby established for the pursuit and
83 collection of child support;

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

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

97 (g) To obtain restitution of monies expended for public
98 assistance from a parent or any other person legally liable for
99 the support of any child or children receiving aid from the



100 department; said action for restitution shall arise from the
101 payment of public assistance for the dependent child or children
102 and shall be for the amount of the public assistance paid. Said
103 action for restitution shall not arise against the parent or other
104 person legally responsible who receives public assistance for the
105 benefit of any dependent child or children. When a court order of
106 support has been issued, the amount recoverable shall be limited
107 to the amount of the court order;

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

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

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

120 (k) To maintain a Central Receipting and Disbursement
121 Unit to which all payments required by withholding orders and
122 orders for support in all actions to which the Department of Human
123 Services is a party shall be forwarded, and from which child
124 support payments ordered by the court in actions to which the



125 Department of Human Services is a party shall be disbursed to the
126 custodial parent or other such party as may be designated by the
127 court order. The Central Receipting and Disbursement Unit shall
128 be operated by the Department of Human Services or any financial
129 institution having operations and qualified to do business in
130 Mississippi, whose deposits are insured by the Federal Deposit
131 Insurance Corporation. The department shall conduct cost-benefit
132 analyses to determine and utilize the more cost efficient manner
133 of operating the unit;

134 (1) To maintain a Mississippi Department of Human
135 Services Case Registry containing records with respect to:

136 (i) Each case in which services are being provided
137 by the department under this section; * * *

138 (ii) Each support order established or modified in
139 Mississippi on or after October 1, 1998; and

140 (iii) The Administrative Office of Courts, as
141 established by Section 9-21-1, Mississippi Code of 1972, in
142 consultation with the Mississippi Department of Human Services,
143 shall devise, promulgate and require the use of a Uniform Child
144 Support Order Tracking System.

145 1. Information collected from case filing
146 forms shall be furnished to the Mississippi Department of Human
147 Services, Division of Child Support Enforcement, in order that
148 compliance with court-ordered obligations of support may be



149 tracked with specificity throughout the duration of said
150 obligations and any subsequent proceedings.

151 2. Such tracking system shall include: * * *

152 a. the names, residential and mailing addresses, telephone
153 numbers, Social Security numbers, driver's license numbers and
154 dates of birth of each child and parent named in or subject to the
155 court order; * * * b. the court cause number of the action; * * *
156 c. name, address and telephone number of employer; * * * d. any
157 restraining or protective order indicating domestic violence;
158 and * * * e. any other information which may be used for the
159 purpose of identifying any person named in or subject to the order
160 or for the purposes of establishing, enforcing or modifying a
161 child support order;

162 (m) To take administrative actions relating to genetic
163 testing, determine paternity, establish child support orders,
164 modification of child support orders, income withholding, liens
165 and subpoenas without the necessity of obtaining an order from any
166 judicial or other administrative tribunal with respect to cases
167 initiated or enforced by the department pursuant to Title IV-D of
168 the Social Security Act;

169 (n) To have the authority to use high-volume automated
170 administrative enforcement in interstate cases to the same extent
171 as used for intrastate cases, in response to a request made by
172 another state to enforce support orders; * * *



173 (o) To provide any child support enforcement or other
174 service as may be required by the United States of America,
175 Department of Health and Human Services, Family Support
176 Administration, Office of Child Support Enforcement or their
177 successor pursuant to federal law or regulation * * *;

178 (p) To collaborate with the Office of the State
179 Treasurer in order to identify persons presumed to have unclaimed
180 property and intercept eligible unclaimed property to satisfy,
181 fully or partially, the person's child support arrearage.

182 **SECTION 2.** Section 89-12-39, Mississippi Code of 1972, is
183 amended as follows:

184 89-12-39. (1) Any person claiming an interest in any
185 property delivered to the state under the provisions of this
186 chapter may file a claim on the form prescribed by the Treasurer.

187 (2) The Treasurer shall consider any claim filed under the
188 provisions of subsection (1) of this section, and may hold a
189 hearing and receive evidence concerning it. If a hearing is
190 held, * * * the Treasurer shall prepare a finding and a decision
191 in writing on each claim filed, stating the substance of any
192 evidence heard by * * * the Treasurer and the reasons for * * *
193 the Treasurer's decision. The decision shall be a public record.

194 (3) If the validity of a claim shall be determined in favor
195 of the claimant, the Treasurer shall collaborate with the
196 Department of Human Services to determine if the claimant owes a
197 child support arrearage. If the claimant owes an arrearage, the



198 Treasurer shall transfer to the Department of Human Services any
199 portion of the claim, including any interest as described in
200 subsection (4) of this section, necessary to satisfy, fully or
201 partially, the person's child support arrearage.

202 (4) If the validity of a claim shall be determined in favor
203 of the claimant and the claimant does not owe a child support
204 arrearage or there is a remaining amount of the claim after
205 satisfaction of the arrearage under subsection (3) of this
206 section, the Treasurer shall pay over to the claimant only that
207 amount which the Treasurer actually received, without deduction
208 for costs of notices or for service charges, together with
209 interest at the rate of one-twelfth of one percent (1/12 of 1%)
210 per month from the time when it was received by the Treasurer to
211 the time when it was paid by him or her to the claimant. However,
212 if the property claimed was interest bearing to the owner on the
213 date of surrender by the holder, then the Treasurer shall instead
214 add interest at a rate not to exceed five-twelfths of one percent
215 (5/12 of 1%) per month or the lesser current market rate. The
216 interest on interest-bearing property shall begin to accumulate on
217 the date that the property is delivered to the Treasurer and shall
218 cease on the earlier of the expiration of fifteen (15) years
219 following delivery or the date on which payment is made to the
220 owner. No interest on the interest-bearing property shall be
221 payable for any period prior to July 1, 1982. Any holder who pays
222 to the owner property which has been delivered to the state and



223 which, if claimed from the Treasurer, would be subject to the
224 provisions of this section as interest-bearing property, shall add
225 interest as provided in this section. The added interest shall be
226 repaid to the holder by the Treasurer in the same manner as the
227 principal.

228 **SECTION 3.** Section 93-11-71, Mississippi Code of 1972, is
229 amended as follows:

230 93-11-71. (1) Whenever a court orders any person to make
231 periodic payments of a sum certain for the maintenance or support
232 of a child, and whenever such payments as have become due remain
233 unpaid for a period of at least thirty (30) days, a judgment by
234 operation of law shall arise against the obligor in an amount
235 equal to all payments that are then due and owing.

236 (a) A judgment arising under this section shall have
237 the same effect and be fully enforceable as any other judgment
238 entered in this state. A judicial or administrative action to
239 enforce the judgment may be begun at any time; and

240 (b) Such judgments arising in other states by operation
241 of law shall be given full faith and credit in this state.

242 (2) Any judgment arising under the provisions of this
243 section shall operate as a lien upon all the property of the
244 judgment debtor, both real and personal, which lien shall be
245 perfected as to third parties without actual notice thereof only
246 upon enrollment on the judgment roll. The department or attorney
247 representing the party to whom support is owed shall furnish an



248 abstract of the judgment for periodic payments for the maintenance
249 and support of a child, along with sworn documentation of the
250 delinquent child support, to the circuit clerk of the county where
251 the judgment is rendered, and it shall be the duty of the circuit
252 clerk to enroll the judgment on the judgment roll. Liens arising
253 under the provisions of this section may be executed upon and
254 enforced in the same manner and to the same extent as any other
255 judgment.

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

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

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

268 (c) Assets held in financial institutions;

269 (d) Settlements and awards resulting from civil
270 actions;



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

274 (f) Lump-sum payments as defined in Section
275 93-11-101 * * *; and

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

278 (4) Notwithstanding the provisions of subsections (1) and
279 (2) of this section, upon disestablishment of paternity granted
280 pursuant to Section 93-9-10 and a finding of clear and convincing
281 evidence including negative DNA testing that the obligor is not
282 the biological father of the child or children for whom support
283 has been ordered, the court shall disestablish paternity and may
284 forgive any child support arrears of the obligor for the child or
285 children determined by the court not to be the biological child or
286 children of the obligor, if the court makes a written finding
287 that, based on the totality of the circumstances, the forgiveness
288 of the arrears is equitable under the circumstances.

289 (5) In any case in which a child receives assistance from
290 block grants for Temporary Assistance for Needy Families (TANF),
291 and the obligor owes past-due child support, the obligor, if not
292 incapacitated, may be required by the court to participate in any
293 work programs offered by any state agency.

294 (6) A parent who receives social security disability
295 insurance payments who is liable for a child support arrearage and



296 whose disability insurance benefits provide for the payment of
297 past due disability insurance benefits for the support of the
298 minor child or children for whom the parent owes a child support
299 arrearage shall receive credit toward the arrearage for the
300 payment or payments for the benefit of the minor child or children
301 if the arrearage accrued after the date of disability onset as
302 determined by the Social Security Administration.

303 **SECTION 4.** This act shall take effect and be in force from
304 and after July 1, 2022.

