

By: Representative Smith (35th)

To: Judiciary A

HOUSE BILL NO. 94

1 AN ACT TO AMEND SECTION 25-43-6, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THAT DEPARTMENTS AND DIVISIONS OF THE EXECUTIVE BRANCH AND
3 THOSE BOARDS AFFILIATED WITH A STATE AGENCY WITHIN THE EXECUTIVE
4 BRANCH SHALL CONSIDER THE IMPACT ON FAMILY FORMATION, STABILITY
5 AND AUTONOMY BY ANY POLICIES OR REGULATIONS THEY PROPOSE FOR
6 ADOPTION UNDER THE ADMINISTRATIVE PROCEDURES ACT; AND FOR RELATED
7 PURPOSES.

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

9 SECTION 1. Section 25-43-6, Mississippi Code of 1972, is
10 amended as follows:

11 25-43-6. (1) Prior to giving the notice required in Section
12 25-43-7, each agency proposing the adoption of a rule or
13 significant amendment of an existing rule imposing a duty,
14 responsibility or requirement on any person shall consider the
15 economic impact the rule will have on the citizens of our state
16 and the benefits the rule will cause to accrue to those citizens.

17 For purposes of this section, a "significant amendment" means any
18 amendment to a rule for which the total aggregate cost to all
19 persons required to comply with that rule exceeds One Hundred
20 Thousand Dollars (\$100,000.00).

21 (2) Each agency shall prepare a written report providing an
22 economic impact statement for the adoption of a rule or
23 significant amendment to an existing rule imposing a duty,
24 responsibility or requirement on any person, except as provided in
25 subsection (5) of this section. The economic impact statement
26 shall include the following:

27 (a) A description of the need for and the benefits
28 which will likely accrue as the result of the proposed action;

29 (b) An estimate of the cost to the agency, and to any
30 other state or local government entities, of implementing and
31 enforcing the proposed action, including the estimated amount of
32 paperwork, and any anticipated effect on state or local revenues;

33 (c) An estimate of the cost or economic benefit to all
34 persons directly affected by the proposed action;

35 (d) An analysis of the impact of the rule on small
36 business;

37 (e) A comparison of the costs and benefits of the
38 proposed rule to the probable costs and benefits of not adopting
39 the proposed rule or significantly amending an existing rule;

40 (f) A determination of whether less costly methods or
41 less intrusive methods exist for achieving the purpose of the
42 proposed rule where reasonable alternative methods exist which are
43 not precluded by law;

44 (g) A description of reasonable alternative methods,
45 where applicable, for achieving the purpose of the proposed action
46 which were considered by the agency and a statement of reasons for
47 rejecting those alternatives in favor of the proposed rule; and

48 (h) A detailed statement of the data and methodology
49 used in making estimates required by this subsection.

50 (3) No rule or regulation shall be declared invalid based on
51 a challenge to the economic impact statement for the rule unless
52 the issue is raised in administrative proceedings before the
53 agency. No person shall have standing to challenge a rule, based
54 upon the economic impact statement or lack thereof, unless that
55 person provided the agency with information sufficient to make the
56 agency aware of specific concerns regarding the statement in a
57 public meeting or hearing held by the agency or in written
58 comments regarding the rule. The grounds for invalidation of an
59 agency action, based upon the economic impact statement, are
60 limited to the agency's failure to adhere to the procedure for
61 preparation of the economic impact statement as provided in this

62 section, or the agency's failure to consider information submitted
63 to the agency regarding specific concerns about the statement, if
64 that failure substantially impairs the fairness of the rule-making
65 proceeding.

66 (4) In the formulation and implementation of policies and
67 regulations, each department and division of the executive branch
68 and those boards affiliated with a state agency within the
69 executive branch shall consider the impact of such policies and
70 regulations on family formation, stability and autonomy in light
71 of the following questions:

72 (a) Does this action by government strengthen or erode
73 the stability of the family and, particularly, the marital
74 commitment?

75 (b) Does this action strengthen or erode the authority
76 and rights of parents in the education, nurture and supervision of
77 their children?

78 (c) Does this action help the family perform its
79 functions or does it substitute governmental activity for the
80 function?

81 (d) Does this action by government increase or decrease
82 family earnings? Do the proposed benefits of this action justify
83 the impact on the family budget?

84 (e) Can this activity be carried out by a lower level
85 of government or by the family itself?

86 (f) What message, intended or otherwise, does this
87 program send to the public concerning the status of the family?

88 (g) What message does it send to young people
89 concerning the relationship between their behavior, their personal
90 responsibility and the norms of our society?

91 This subsection shall not be construed to confer a right or
92 benefit, substantive or procedural, enforceable at law by any
93 party against the state, its agencies, officers or any other
94 person.

95 (5) This section does not apply to the adoption or
96 significant amendment of:

97 (a) Any rule which is required by the federal
98 government pursuant to a state/federal program delegation
99 agreement or contract;

100 (b) Any rule which is expressly required by state law;

101 (c) An emergency rule adopted pursuant to Section
102 25-43-7(2); and

103 (d) Any rule for which the notice required in Section
104 25-43-7 has been given prior to the effective date of this act.

105 SECTION 2. This act shall take effect and be in force from
106 and after July 1, 1999.