

By: Smith (35th)

To: Judiciary A

HOUSE BILL NO. 1095

1 AN ACT TO AMEND SECTION 25-43-6, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE STATE AGENCIES, DEPARTMENTS AND BOARDS IN THE EXECUTIVE
3 BRANCH TO CONSIDER THE IMPACT ON FAMILY FORMATION, STABILITY AND
4 AUTONOMY OF ANY POLICIES, RULES OR REGULATIONS THAT THEY PROPOSE
5 FOR ADOPTION UNDER THE ADMINISTRATIVE PROCEDURES ACT; AND FOR
6 RELATED PURPOSES.

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

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

10 25-43-6. (1) Prior to giving the notice required in Section
11 25-43-7, each agency proposing the adoption of a rule or
12 significant amendment of an existing rule imposing a duty,
13 responsibility or requirement on any person shall consider the
14 economic impact the rule will have on the citizens of our state
15 and the benefits the rule will cause to accrue to those citizens.

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

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

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

28 (b) An estimate of the cost to the agency, and to any

29 other state or local government entities, of implementing and
30 enforcing the proposed action, including the estimated amount of
31 paperwork, and any anticipated effect on state or local revenues;

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

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

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

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

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

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

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

62 to the agency regarding specific concerns about the statement, if
63 that failure substantially impairs the fairness of the rule-making
64 proceeding.

65 (4) In addition to the requirements of subsections (1)
66 through (3) of this section, each agency in the executive branch,
67 in the formulation and implementation of any policy, rule or
68 regulation that the agency proposes to adopt, shall consider the
69 impact of that policy, rule or regulation on family formation,
70 stability and autonomy in light of the following questions:

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

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

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

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

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

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

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

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

94 (5) This section does not apply to the adoption or

95 significant amendment of:

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

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

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

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

104 SECTION 2. This act shall take effect and be in force from
105 and after July 1, 2000.