

By: Senator(s) Doxey, Pickering, White,  
Flowers

To: Public Health and  
Welfare; Judiciary, Division  
B

SENATE BILL NO. 2692  
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 43-19-101, MISSISSIPPI CODE OF 1972,  
2 TO INCREASE THE PERCENTAGE OF ADJUSTED GROSS INCOME THAT IS A  
3 REBUTTABLE PRESUMPTION FOR ESTABLISHING CHILD SUPPORT AWARDS; AND  
4 FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 43-19-101, Mississippi Code of 1972, is  
7 amended as follows:

8 43-19-101. (1) The following child support award guidelines  
9 shall be a rebuttable presumption in all judicial or  
10 administrative proceedings regarding the awarding or modifying of  
11 child support awards in this state:

| Number Of Children<br>Due Support | Percentage Of Adjusted Gross Income<br>That Should Be Awarded For Support<br><u>From And After July 1, 2005</u> |
|-----------------------------------|---|
| 1                                 | <u>20%</u>  |
| 2                                 | <u>22%</u>  |
| 3                                 | <u>24%</u>  |
| 4                                 | <u>26%</u>  |
| 5 or more                         | <u>28%</u>  |

20 (2) The guidelines provided for in subsection (1) of this  
21 section apply unless the judicial or administrative body awarding  
22 or modifying the child support award makes a written finding or  
23 specific finding on the record that the application of the  
24 guidelines would be unjust or inappropriate in a particular case  
25 as determined under the criteria specified in Section 43-19-103.  
26 Child support orders in effect on July 1, 2005, shall, in the  
27 discretion of the court, be modified to reflect the new guidelines  
28 provided in subsection (1) which shall be prospective in nature.

29           (3) The amount of "adjusted gross income" as that term is  
30 used in subsection (1) of this section shall be calculated as  
31 follows:

32           (a) Determine gross income from all potential sources  
33 that may reasonably be expected to be available to the absent  
34 parent including, but not limited to, the following: wages and  
35 salary income; income from self employment; income from  
36 commissions; income from investments, including dividends,  
37 interest income and income on any trust account or property;  
38 absent parent's portion of any joint income of both parents;  
39 workers' compensation, disability, unemployment, annuity and  
40 retirement benefits, including an individual retirement account  
41 (IRA); any other payments made by any person, private entity,  
42 federal or state government or any unit of local government;  
43 alimony; any income earned from an interest in or from inherited  
44 property; any other form of earned income; and gross income shall  
45 exclude any monetary benefits derived from a second household,  
46 such as income of the absent parent's current spouse;

47           (b) Subtract the following legally mandated deductions:

48                 (i) Federal, state and local taxes. Contributions  
49 to the payment of taxes over and beyond the actual liability for  
50 the taxable year shall not be considered a mandatory deduction;

51                 (ii) Social security contributions;

52                 (iii) Retirement and disability contributions  
53 except any voluntary retirement and disability contributions;

54           (c) If the absent parent is subject to an existing  
55 court order for another child or children, subtract the amount of  
56 that court-ordered support;

57           (d) If the absent parent is also the parent of another  
58 child or other children residing with him, then the court may  
59 subtract an amount that it deems appropriate to account for the  
60 needs of said child or children;

61           (e) Compute the total annual amount of adjusted gross  
62 income based on paragraphs (a) through (d), then divide this  
63 amount by twelve (12) to obtain the monthly amount of adjusted  
64 gross income.

65           Upon conclusion of the calculation of paragraphs (a) through  
66 (e), multiply the monthly amount of adjusted gross income by the  
67 appropriate percentage designated in subsection (1) to arrive at  
68 the amount of the monthly child support award.

69           (4) In cases in which the adjusted gross income as defined  
70 in this section is more than Fifty Thousand Dollars (\$50,000.00)  
71 or less than Five Thousand Dollars (\$5,000.00), the court shall  
72 make a written finding in the record as to whether or not the  
73 application of the guidelines established in this section is  
74 reasonable.

75           (5) The Department of Human Services shall review the  
76 appropriateness of these guidelines beginning January 1, 1994, and  
77 every four (4) years thereafter and report its findings to the  
78 Legislature no later than the first day of the regular legislative  
79 session of that year. The Legislature shall thereafter amend  
80 these guidelines when it finds that amendment is necessary to  
81 ensure that equitable support is being awarded in all cases  
82 involving the support of minor children.

83           (6) All orders involving support of minor children, as a  
84 matter of law, shall include reasonable medical support. Notice  
85 to the noncustodial parent's employer that medical support has  
86 been ordered shall be on a form as prescribed by the Department of  
87 Human Services. In any case in which the support of any child is  
88 involved, the court shall make the following findings either on  
89 the record or in the judgment:

90           (a) The availability to all parties of health insurance  
91 coverage for the child(ren);

92           (b) The cost of health insurance coverage to all  
93 parties.

94           The court shall then make appropriate provisions in the  
95 judgment for the provision of health insurance coverage for the  
96 child(ren) in the manner that is in the best interests of the  
97 child(ren). If the court requires the custodial parent to obtain  
98 the coverage then its cost shall be taken into account in  
99 establishing the child support award. If the court determines  
100 that health insurance coverage is not available to any party or  
101 that it is not available to either party at a cost that is  
102 reasonable as compared to the income of the parties, then the  
103 court shall make specific findings as to such either on the record  
104 or in the judgment. In that event, the court shall make  
105 appropriate provisions in the judgment for the payment of medical  
106 expenses of the child(ren) in the absence of health insurance  
107 coverage.

108           **SECTION 2.** This act shall take effect and be in force from  
109 and after July 1, 2005.