

House Amendments to Senate Bill No. 2061

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

12 **SECTION 1.** Section 43-19-34, Mississippi Code of 1972, is
13 amended as follows:

14 43-19-34. (1) In lieu of legal proceedings instituted to
15 obtain a modification for an order for support, a written
16 stipulated agreement for modification executed by the responsible
17 parent when acknowledged before a clerk of the court having
18 jurisdiction over those matters or a notary public and filed with
19 and approved by the judge of that court shall have the same force
20 and effect, retroactively and prospectively, in accordance with
21 the terms of the agreement as an order for modification of support
22 entered by the court, and shall be enforceable and subject to
23 later modification in the same manner as is provided by law for
24 orders of the court in those cases.

25 (2) With respect to a child support order in cases initiated
26 or enforced by the Department of Human Services under Title IV-D
27 of the Social Security Act, in which the department has determined
28 that a modification is appropriate, the department shall send a
29 motion and notice of intent to modify the order, together with the
30 proposed modification of the order under this section to the last
31 known mailing address of the defendant. The notice shall specify
32 the date and time certain of the hearing and shall be sent by
33 certified mail, restricted delivery, return receipt requested;
34 notice shall be deemed complete as of the date of delivery as
35 evidenced by the return receipt. The required notice may also be
36 delivered by personal service in accordance with Rule 4 of the
37 Mississippi Rules of Civil Procedure insofar as it may be applied

38 to service of an administrative order or notice. The defendant
39 may accept the proposed modification by signing and returning it
40 to the department before the date of hearing for presentation to
41 the court for approval. If the defendant does not sign and return
42 the proposed modification, the court shall on the date and time
43 previously set for hearing review the proposal and make a
44 determination as to whether it should be approved in whole or in
45 part.

46 (3) Every three (3) years, upon the request of either
47 parent, or if there is an assignment under Section 43-19-35, upon
48 the request of the Department of Human Services or of either
49 parent, the department, after a review and determination of
50 appropriateness, or either parent may seek an adjustment to a
51 support order being enforced under Section 43-19-31 in accordance
52 with the guidelines established under Section 43-19-101, if the
53 amount of the child support award under the order differs from the
54 amount that would be awarded in accordance with the guidelines,
55 taking into account the best interests of the child involved. No
56 proof of a material change in circumstances is necessary in the
57 three-year review for adjustment under this subsection (3). A
58 preexisting arrearage in support payments shall not serve as a bar
59 to the department's review and adjustment procedure. Proof of a
60 material change in circumstances is necessary for modification
61 outside the three-year cycle.

62 (4) Any order for the support of minor children, whether
63 entered through the judicial system or through an expedited
64 process, shall not be subject to a downward retroactive
65 modification. An upward retroactive modification may be ordered
66 back to the date of the event justifying the upward modification.

67 (5) If a downward modification is determined to be warranted
68 under the guidelines contained in subsection (3), the noncustodial
69 parent's arrearage, if any, shall not be a basis for contesting
70 the downward modification in any later legal proceedings.

71 (6) If it is lawfully determined that a person previously
72 ordered to make support payments is, in fact, not the parent of

73 the minor child for whom support has been ordered, the person
74 shall not be liable for any arrearage in support payments.

75 **SECTION 2.** This act shall take effect and be in force from
76 and after July 1, 2007.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 43-19-34, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT AN ARREARAGE IN CHILD SUPPORT PAYMENTS BY A
3 NONCUSTODIAL PARENT SHALL NOT BE A BAR TO A REVIEW OF THE SUPPORT
4 ORDER BY THE DEPARTMENT OF HUMAN SERVICES AND A DOWNWARD
5 MODIFICATION OF SUPPORT PAYMENTS; TO PROVIDE THAT EITHER PARENT OF
6 A CHILD FOR WHOM SUPPORT HAS BEEN ORDERED MAY SEEK AN ADJUSTMENT
7 TO THE SUPPORT ORDER; TO PROVIDE THAT ANY PERSON ORDERED TO MAKE
8 CHILD SUPPORT PAYMENTS WHO IS LATER DETERMINED NOT TO BE THE
9 PARENT OF A CHILD FOR WHOM SUPPORT HAS BEEN ORDERED IS NOT LIABLE
10 FOR ANY ARREARAGE IN SUPPORT PAYMENTS; AND FOR RELATED PURPOSES.

HR07\SB2061A.J

Don Richardson
Clerk of the House of Representatives