

## Senate Amendments to House Bill No. 839

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE 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:

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

9           43-19-34. (1) In lieu of legal proceedings instituted to  
10 obtain a modification for an order for support, a written  
11 stipulated agreement for modification executed by the responsible  
12 parent when acknowledged before a clerk of the court having  
13 jurisdiction over such matters or a notary public and filed with  
14 and approved by the judge of said court shall have the same force  
15 and effect, retroactively and prospectively, in accordance with  
16 the terms of said agreement as an order for modification of  
17 support entered by the court, and shall be enforceable and subject  
18 to subsequent modification in the same manner as is provided by  
19 law for orders of the court in such cases.

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

33 it may be applied to service of an administrative order or notice.  
34 The defendant may accept the proposed modification by signing and  
35 returning it to the department prior to the date of hearing for  
36 presentation to the court for approval. In the event that the  
37 defendant does not sign and return the proposed modification, the  
38 court shall on the date and time previously set for hearing review  
39 the proposal and make a determination as to whether it should be  
40 approved in whole or in part.

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

56 (4) Any order for the support of minor children, whether  
57 entered through the judicial system or through an expedited  
58 process, shall not be subject to a downward retroactive  
59 modification. An upward retroactive modification may be ordered  
60 back to the date of the event justifying the upward modification.

61 (5) In the event that a downward modification is determined  
62 to be warranted pursuant to the guidelines contained in subsection  
63 (3), the noncustodial parent's arrearage, if any, shall not be a  
64 basis for contesting the downward modification in any subsequent  
65 legal proceedings.

66 **SECTION 2.** This act shall take effect and be in force from  
67 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; AND FOR RELATED PURPOSES.

SS26\HB839A.J

John O. Gilbert  
Secretary of the Senate