

By: Senator(s) Wiggins

To: Judiciary, Division A

SENATE BILL NO. 2611

1 AN ACT TO AMEND SECTION 43-19-101, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IMPUTATION OF INCOME SHALL NOT BE BASED UPON A
3 STANDARD AMOUNT IN LIEU OF FACT-GATHERING; AND FOR RELATED
4 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	Percentage Of Adjusted Gross Income
Due Support	That Should Be Awarded For Support
1	14%
2	20%
3	22%
4	24%
5 or more	26%



19 (2) The guidelines provided for in subsection (1) of this
20 section apply unless the judicial or administrative body awarding
21 or modifying the child-support award makes a written finding or
22 specific finding on the record that the application of the
23 guidelines would be unjust or inappropriate in a particular case
24 as determined under the criteria specified in Section 43-19-103.

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

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

43 (b) Subtract the following legally mandated deductions:



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

47 (ii) Social security contributions;

48 (iii) Retirement and disability contributions
49 except any voluntary retirement and disability contributions;

50 (c) If the * * * obligated parent is subject to an
51 existing court order for another child or children, subtract the
52 amount of that court-ordered support;

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

57 (e) Compute the total annual amount of adjusted gross
58 income based on paragraphs (a) through (d) of this subsection,
59 then divide this amount by twelve (12) to obtain the monthly
60 amount of adjusted gross income.

61 Upon conclusion of the calculation of paragraphs (a) through
62 (e) of this subsection, multiply the monthly amount of adjusted
63 gross income by the appropriate percentage designated in
64 subsection (1) of this section to arrive at the amount of the
65 monthly child-support award.

66 (4) In cases in which the adjusted gross income as defined
67 in this section is more than One Hundred Thousand Dollars
68 (\$100,000.00) or less than Ten Thousand Dollars (\$10,000.00), the



69 court shall make a written finding in the record as to whether or
70 not the application of the guidelines established in this section
71 is reasonable. The court shall take into account the basic
72 subsistence needs of the obligated parent who has a limited
73 ability to pay.

74 (5) Imputation of income shall not be based upon a standard
75 amount in lieu of fact-gathering. In the absence of specific
76 sufficient evidence of past earnings and employment history to use
77 as the measure of an obligated parent's ability to pay, the
78 recommended child-support obligation amount should be based on
79 available information about the specific circumstances of the
80 obligated parent. This can include, but is not limited to, such
81 factors as assets, residence, job skills, educational attainment,
82 literacy, age, health, criminal record and other employment
83 barriers, and record of seeking work, as well as the local job
84 market, the availability of employers willing to hire the
85 obligated parent, prevailing earnings level in the local
86 community, and other relevant factors in the case.

87 (* * *6) Unless extended or waived, the Department of Human
88 Services shall review the appropriateness of these guidelines
89 beginning January 1, 1994, and every four (4) years thereafter and
90 report its findings to the Legislature no later than the first day
91 of the regular legislative session of that year. The Legislature
92 shall thereafter amend these guidelines when it finds that



93 amendment is necessary to ensure that equitable support is being
94 awarded in all cases involving the support of minor children.

95 (* * *7) All orders involving support of minor children, as
96 a matter of law, shall include reasonable medical support. Notice
97 to the obligated parent's employer that medical support has been
98 ordered shall be on a form as prescribed by the Department of
99 Human Services. In any case in which the support of any child is
100 involved, the court shall make the following findings either on
101 the record or in the judgment:

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

104 (b) The cost of health insurance coverage to all
105 parties.

106 The court shall then make appropriate provisions in the
107 judgment for the provision of health insurance coverage for the
108 child(ren) in the manner that is in the best interests of the
109 child(ren). If the court requires the custodial parent to obtain
110 the coverage then its cost shall be taken into account in
111 establishing the child-support award. If the court determines
112 that health insurance coverage is not available to any party or
113 that it is not available to either party at a cost that is
114 reasonable as compared to the income of the parties, then the
115 court shall make specific findings as to such either on the record
116 or in the judgment. In that event, the court shall make
117 appropriate provisions in the judgment for the payment of medical



118 expenses of the child(ren) in the absence of health insurance
119 coverage.

120 **SECTION 2.** This act shall take effect and be in force from
121 and after July 1, 2022.

