

By: Representative Owen

To: Judiciary A

## HOUSE BILL NO. 1114

1 AN ACT TO AMEND SECTION 43-19-101, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE A CHILD SUPPORT AWARD PERCENTAGE FOR SIX OR MORE  
3 CHILDREN IN GUIDELINES FOR CHILD SUPPORT AWARDS; 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:

12	Number Of Children	Percentage Of Adjusted Gross Income
13	Due Support	That Should Be Awarded For Support
14	1	14%
15	2	20%
16	3	22%
17	4	24%
18	5 * * *	26%
19	<u>6 or more</u>	<u>30%</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           (3) The amount of "adjusted gross income" as that term is  
27 used in subsection (1) of this section shall be calculated as  
28 follows:

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

44           (b) Subtract the following legally mandated deductions:



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

48 (ii) Social security contributions;

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

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

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

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

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

67 (4) In cases in which the adjusted gross income as defined  
68 in this section is more than One Hundred Thousand Dollars  
69 (\$100,000.00) or less than Ten Thousand Dollars (\$10,000.00), the



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

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

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



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

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

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

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

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



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

121       **SECTION 2.** This act shall take effect and be in force from  
122 and after July 1, 2023.

