

By: Representative Yates

To: Judiciary A

HOUSE BILL NO. 1438

1 AN ACT TO AMEND SECTION 43-19-101, MISSISSIPPI CODE OF 1972,  
2 TO REVISE CHILD SUPPORT PERCENTAGES; AND FOR RELATED PURPOSES.

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

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

6 43-19-101. (1) (a) If the obligor's monthly gross income  
7 is One Thousand Five Hundred Dollars (\$1,500.00), the following  
8 child-support award guidelines shall be a rebuttable presumption  
9 in all judicial or administrative proceedings regarding the  
10 awarding or modifying of child-support awards in this state:

Number Of Children	Percentage Of Adjusted Gross Income
Due Support	That Should Be Awarded For Support
1	* * * <u>16%</u>
2	* * * <u>24%</u>
3	* * * <u>28%</u>
4	* * * <u>31%</u>
5 * * *	* * * <u>34%</u>



18                   6 or more                                   An additional two  
19 percent (2%) for each additional child.

20                   (b) If the obligor's monthly gross income is less than  
21 One Thousand Five Hundred Dollars (\$1,500.00), the following child  
22 support award guidelines shall be a rebuttable presumption in all  
23 judicial or administrative proceedings regarding the awarding or  
24 modifying of child support awards in this state:

25                   Low-income child support guidelines

26 <u>Number Of Children</u>	27 <u>Percentage Of Adjusted Gross Income</u>
<u>Due Support</u>	<u>That Should Be Awarded For Support</u>
28 <u>1</u>	<u>14%</u>
29 <u>2</u>	<u>22%</u>
30 <u>3</u>	<u>26%</u>
31 <u>4</u>	<u>29%</u>
32 <u>5</u>	<u>32%</u>
33 <u>6 or more</u>	<u>An additional two</u>
34 <u>percent (2%) for each additional child.</u>	

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



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

44           (a) Determine gross income from all potential sources  
45 that may reasonably be expected to be available to the absent  
46 parent including, but not limited to, the following: wages and  
47 salary income; income from self-employment; income from  
48 commissions; income from investments, including dividends,  
49 interest income and income on any trust account or property;  
50 absent parent's portion of any joint income of both parents;  
51 workers' compensation, disability, unemployment, annuity and  
52 retirement benefits, including an Individual Retirement Account  
53 (IRA); any other payments made by any person, private entity,  
54 federal or state government or any unit of local government;  
55 alimony; any income earned from an interest in or from inherited  
56 property; any other form of earned income; and gross income shall  
57 exclude any monetary benefits derived from a second household,  
58 such as income of the absent parent's current spouse;

59           (b) Subtract the following legally mandated deductions:

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

63                   (ii) Social security contributions;

64                   (iii) Retirement and disability contributions

65 except any voluntary retirement and disability contributions;



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

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

73 (e) Compute the total annual amount of adjusted gross  
74 income based on paragraphs (a) through (d) of this subsection,  
75 then divide this amount by twelve (12) to obtain the monthly  
76 amount of adjusted gross income.

77 Upon conclusion of the calculation of paragraphs (a) through  
78 (e) of this subsection, multiply the monthly amount of adjusted  
79 gross income by the appropriate percentage designated in  
80 subsection (1) of this section to arrive at the amount of the  
81 monthly child-support award.

82 (4) In cases in which the adjusted gross income as defined  
83 in this section is more than One Hundred Thousand Dollars  
84 (\$100,000.00) or less than Ten Thousand Dollars (\$10,000.00), the  
85 court shall make a written finding in the record as to whether or  
86 not the application of the guidelines established in this section  
87 is reasonable. The court shall take into account the basic  
88 subsistence needs of the obligated parent who has a limited  
89 ability to pay.



90 (5) Imputation of income shall not be based upon a standard  
91 amount in lieu of fact-gathering. In the absence of specific  
92 sufficient evidence of past earnings and employment history to use  
93 as the measure of an obligated parent's ability to pay, the  
94 recommended child-support obligation amount should be based on  
95 available information about the specific circumstances of the  
96 obligated parent. This can include, but is not limited to, such  
97 factors as assets, residence, job skills, educational attainment,  
98 literacy, age, health, criminal record and other employment  
99 barriers, and record of seeking work, as well as the local job  
100 market, the availability of employers willing to hire the  
101 obligated parent, prevailing earnings level in the local  
102 community, and other relevant factors in the case.

103 (6) Unless extended or waived, the Department of Human  
104 Services shall review the appropriateness of these guidelines  
105 beginning January 1, 1994, and every four (4) years thereafter and  
106 report its findings to the Legislature no later than the first day  
107 of the regular legislative session of that year. The Legislature  
108 shall thereafter amend these guidelines when it finds that  
109 amendment is necessary to ensure that equitable support is being  
110 awarded in all cases involving the support of minor children.

111 (7) All orders involving support of minor children, as a  
112 matter of law, shall include reasonable medical support. Notice  
113 to the obligated parent's employer that medical support has been  
114 ordered shall be on a form as prescribed by the Department of



115 Human Services. In any case in which the support of any child is  
116 involved, the court shall make the following findings either on  
117 the record or in the judgment:

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

120 (b) The cost of health insurance coverage to all  
121 parties.

122 The court shall then make appropriate provisions in the  
123 judgment for the provision of health insurance coverage for the  
124 child(ren) in the manner that is in the best interests of the  
125 child(ren). If the court requires the custodial parent to obtain  
126 the coverage then its cost shall be taken into account in  
127 establishing the child-support award. If the court determines  
128 that health insurance coverage is not available to any party or  
129 that it is not available to either party at a cost that is  
130 reasonable as compared to the income of the parties, then the  
131 court shall make specific findings as to such either on the record  
132 or in the judgment. In that event, the court shall make  
133 appropriate provisions in the judgment for the payment of medical  
134 expenses of the child(ren) in the absence of health insurance  
135 coverage.

136 **SECTION 2.** This act shall take effect and be in force from  
137 and after July 1, 2024.

