

By: Representative Cockerham

To: Judiciary A

HOUSE BILL NO. 1520

1 AN ACT TO AMEND SECTION 43-19-34, MISSISSIPPI CODE OF 1972,
2 TO REGULATE RETROACTIVE CHILD SUPPORT PAYMENTS; AND FOR RELATED
3 PURPOSES.

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

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

7 43-19-34. (1) In lieu of legal proceedings instituted to
8 obtain a modification for an order for support, a written
9 stipulated agreement for modification executed by the responsible
10 parent when acknowledged before a clerk of the court having
11 jurisdiction over those matters or a notary public and filed with
12 and approved by the judge of that court shall have the same force
13 and effect, retroactively and prospectively, in accordance with
14 the terms of the agreement as an order for modification of support
15 entered by the court, and shall be enforceable and subject to
16 later modification in the same manner as is provided by law for
17 orders of the court in those cases.



18 (2) With respect to a child support order in cases initiated
19 or enforced by the Department of Human Services under Title IV-D
20 of the Social Security Act, in which the department has determined
21 that a modification is appropriate, the department shall send a
22 motion and notice of intent to modify the order, together with the
23 proposed modification of the order under this section to the last
24 known mailing address of the defendant. The notice shall specify
25 the date and time certain of the hearing and shall be sent by
26 certified mail, restricted delivery, return receipt requested;
27 notice shall be deemed complete as of the date of delivery as
28 evidenced by the return receipt. The required notice may also be
29 delivered by personal service in accordance with Rule 4 of the
30 Mississippi Rules of Civil Procedure insofar as it may be applied
31 to service of an administrative order or notice. The defendant
32 may accept the proposed modification by signing and returning it
33 to the department before the date of hearing for presentation to
34 the court for approval. If the defendant does not sign and return
35 the proposed modification, the court shall on the date and time
36 previously set for hearing review the proposal and make a
37 determination as to whether it should be approved, in whole or in
38 part.

39 (3) Every three (3) years, the Department of Human Services
40 shall notify both parents of their right to request a review, and
41 upon the request of either parent, or if there is an assignment
42 under Section 43-19-35, the department, after a review and



43 determination of appropriateness, or either parent may seek an
44 adjustment to a support order being enforced under Section
45 43-19-31 in accordance with the guidelines established under
46 Section 43-19-101, if the amount of the child support award under
47 the order differs from the amount that would be awarded in
48 accordance with the guidelines, taking into account the best
49 interests of the child involved. If a recipient of Title IV-D
50 services receives TANF, the Department of Human Services shall
51 conduct a review every three (3) years and, after a determination
52 of appropriateness, shall seek an adjustment to a support order
53 according to the guidelines under Section 43-19-101. No proof of
54 a material change in circumstances is necessary in the three-year
55 review for adjustment under this subsection (3). A preexisting
56 arrearage in support payments shall not serve as a bar to the
57 department's review and adjustment procedure. Proof of a material
58 change in circumstances is necessary for modification outside the
59 three-year cycle.

60 (4) Any order for the support of minor children, whether
61 entered through the judicial system or through an expedited
62 process, shall not be subject to * * * retroactive modification
63 except from the date that notice of such petition to modify has
64 been given, either directly or through the appropriate agent, to
65 the obligee or where the obligee is the petitioner to the
66 obligor. * * *



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

