

By: Senator(s) McCaughn

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2037

1 AN ACT TO AMEND SECTION 43-19-101, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IF THE COURT ORDERS THE NONCUSTODIAL PARENT TO
3 OBTAIN HEALTH INSURANCE COVERAGE FOR THE CHILD OR CHILDREN THEN
4 THE COURT SHALL TAKE INTO ACCOUNT THE COST OF THE COVERAGE IN
5 ESTABLISHING THE CHILD SUPPORT AWARD; AND FOR RELATED PURPOSES.

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

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

9 43-19-101. (1) The following child support award guidelines
10 shall be a rebuttable presumption in all judicial or
11 administrative proceedings regarding the awarding or modifying of
12 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% |



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 health insurance coverage, then its cost shall be taken into
112 account in establishing the child support award. In the event
113 that the noncustodial parent obtains the health insurance
114 coverage, the cost of such coverage may be considered as an
115 adjustment to the noncustodial parent's adjusted gross income. If
116 the court determines that health insurance coverage is not
117 available to any party or that it is not available to either party
118 at a cost that is reasonable as compared to the income of the



119 parties, then the court shall make specific findings as to such
120 either on the record or in the judgment. In that event, the court
121 shall make appropriate provisions in the judgment for the payment
122 of medical expenses of the child(ren) in the absence of health
123 insurance coverage.

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

