

By: Senator(s) Wiggins, Thompson

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2262

1 AN ACT TO AMEND SECTION 43-19-34, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A MODIFICATION TO AN ORDER OF SUPPORT FOR MINOR
3 CHILDREN SHALL NOT BE RETROACTIVE EXCEPT FROM THE DATE THAT NOTICE
4 OF SUCH PETITION TO MODIFY HAS BEEN GIVEN, EITHER DIRECTLY OR
5 THROUGH THE APPROPRIATE AGENT, TO THE OBLIGEE OR TO THE OBLIGOR
6 WHERE THE OBLIGEE IS THE PETITIONER TO MIRROR CURRENT AGENCY
7 POLICY AND FEDERAL LAW; AND FOR RELATED PURPOSES.

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

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

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



20 later modification in the same manner as is provided by law for
21 orders of the court in those cases.

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

43 (3) Every three (3) years, the Department of Human Services
44 shall notify both parents of their right to request a review, and



45 upon the request of either parent, or if there is an assignment
46 under Section 43-19-35, the department, after a review and
47 determination of appropriateness, or either parent may seek an
48 adjustment to a support order being enforced under Section
49 43-19-31 in accordance with the guidelines established under
50 Section 43-19-101, if the amount of the child support award under
51 the order differs from the amount that would be awarded in
52 accordance with the guidelines, taking into account the best
53 interests of the child involved. If a recipient of Title IV-D
54 services receives TANF, the Department of Human Services shall
55 conduct a review every three (3) years and, after a determination
56 of appropriateness, shall seek an adjustment to a support order
57 according to the guidelines under Section 43-19-101. No proof of
58 a material change in circumstances is necessary in the three-year
59 review for adjustment under this subsection (3). A preexisting
60 arrearage in support payments shall not serve as a bar to the
61 department's review and adjustment procedure. Proof of a material
62 change in circumstances is necessary for modification outside the
63 three-year cycle.

64 (4) Any order for the support of minor children, whether
65 entered through the judicial system or through an expedited
66 process, shall not be subject to a * * * retroactive modification
67 except from the date that notice of such petition to modify has
68 been given, either directly or through the appropriate agent, to



69 the obligee or to the obligor where the obligee is the
70 petitioner. * * *

71 (5) If a downward modification is determined to be warranted
72 under the guidelines contained in subsection (3), the noncustodial
73 parent's arrearage, if any, shall not be a basis for contesting
74 the downward modification in any later legal proceedings.

75 **SECTION 2.** This act shall take effect and be in force from
76 and after its passage.

