

By: Senator(s) Nunnelee

To: Judiciary, Division A

SENATE BILL NO. 2497

1 AN ACT TO AMEND SECTION 43-19-101, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE PERCENTAGE OF ADJUSTED GROSS INCOME THAT IS A
3 REBUTTABLE PRESUMPTION FOR ESTABLISHING CHILD SUPPORT AWARDS; AND
4 FOR RELATED 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:

Number Of Children	Percentage Of Adjusted Gross Income
Due Support	That Should Be Awarded For Support
	<u>From And After July 1, 2005</u>
1	<u>20%</u>
2	<u>22%</u>
3	<u>24%</u>
4	<u>26%</u>
5 or more	<u>28%</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 Child support orders in effect on July 1, 2005, shall, in the
27 discretion of the court, be modified to reflect the new guidelines
28 provided in subsection (1) which shall be prospective in nature.

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

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

47 (b) Subtract the following legally mandated deductions:

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

51 (ii) Social security contributions;

52 (iii) Retirement and disability contributions
53 except any voluntary retirement and disability contributions;

54 (c) If the absent parent is subject to an existing
55 court order for another child or children, subtract the amount of
56 that court-ordered support;

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

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

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

69 (4) In cases in which the adjusted gross income as defined
70 in this section is more than Fifty Thousand Dollars (\$50,000.00)
71 or less than Five Thousand Dollars (\$5,000.00), the court shall
72 make a written finding in the record as to whether or not the
73 application of the guidelines established in this section is
74 reasonable.

75 (5) The Department of Human Services shall review the
76 appropriateness of these guidelines beginning January 1, 1994, and
77 every four (4) years thereafter and report its findings to the
78 Legislature no later than the first day of the regular legislative
79 session of that year. The Legislature shall thereafter amend
80 these guidelines when it finds that amendment is necessary to
81 ensure that equitable support is being awarded in all cases
82 involving the support of minor children.

83 (6) All orders involving support of minor children, as a
84 matter of law, shall include reasonable medical support. Notice
85 to the noncustodial parent's employer that medical support has
86 been ordered shall be on a form as prescribed by the Department of
87 Human Services. In any case in which the support of any child is
88 involved, the court shall make the following findings either on
89 the record or in the judgment:

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

92 (b) The cost of health insurance coverage to all
93 parties.

94 The court shall then make appropriate provisions in the
95 judgment for the provision of health insurance coverage for the
96 child(ren) in the manner that is in the best interests of the
97 child(ren). If the court requires the custodial parent to obtain
98 the coverage then its cost shall be taken into account in
99 establishing the child support award. If the court determines
100 that health insurance coverage is not available to any party or
101 that it is not available to either party at a cost that is
102 reasonable as compared to the income of the parties, then the
103 court shall make specific findings as to such either on the record
104 or in the judgment. In that event, the court shall make
105 appropriate provisions in the judgment for the payment of medical
106 expenses of the child(ren) in the absence of health insurance
107 coverage.

108 **SECTION 2.** This act shall take effect and be in force from
109 and after July 1, 2005.