

By: Senator(s) Doxey, Pickering, White, Flowers

To: Public Health and Welfare; Judiciary, Division B

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2692

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; TO
4 PROVIDE THAT THE CHILD SUPPORT GUIDELINES SHALL BE INCREASED BY
5 ONE-HALF THE ANNUAL AMOUNT OF CHILD CARE PAID BY THE CUSTODIAL
6 SPOUSE WHO IS WORKING FULL TIME; AND FOR RELATED PURPOSES.

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

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

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

Table with 2 columns: Number Of Children Due Support, Percentage Of Adjusted Gross Income That Should Be Awarded For Support From And After July 1, 2005. Rows include 1 child (20%), 2 children (22%), 3 children (24%), 4 children (26%), and 5 or more children (28%).

22 The amount of the child support which results from the
23 guidelines provided for in subsection (1) of this section shall be
24 increased by one-half of the annual amount of child care expense
25 which is paid by the custodial spouse in the event the custodial
26 spouse is working full time. Child support orders in effect on
27 July 1, 2005, shall, in the discretion of the court, be modified
28 to reflect the additional amount required for child care expense.

29 (2) The guidelines provided for in subsection (1) of this
30 section apply unless the judicial or administrative body awarding
31 or modifying the child support award makes a written finding or
32 specific finding on the record that the application of the
33 guidelines would be unjust or inappropriate in a particular case
34 as determined under the criteria specified in Section 43-19-103.
35 Child support orders in effect on July 1, 2005, shall, in the
36 discretion of the court, be modified to reflect the new guidelines
37 provided in subsection (1) which shall be prospective in nature.

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

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

56 (b) Subtract the following legally mandated deductions:

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

60 (ii) Social security contributions;

61 (iii) Retirement and disability contributions
62 except any voluntary retirement and disability contributions;

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

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

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

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

78 (4) In cases in which the adjusted gross income as defined
79 in this section is more than Fifty Thousand Dollars (\$50,000.00)
80 or less than Five Thousand Dollars (\$5,000.00), the court shall
81 make a written finding in the record as to whether or not the
82 application of the guidelines established in this section is
83 reasonable.

84 (5) The Department of Human Services shall review the
85 appropriateness of these guidelines beginning January 1, 1994, and
86 every four (4) years thereafter and report its findings to the
87 Legislature no later than the first day of the regular legislative
88 session of that year. The Legislature shall thereafter amend
89 these guidelines when it finds that amendment is necessary to
90 ensure that equitable support is being awarded in all cases
91 involving the support of minor children.

92 (6) All orders involving support of minor children, as a
93 matter of law, shall include reasonable medical support. Notice

94 to the noncustodial parent's employer that medical support has
95 been ordered shall be on a form as prescribed by the Department of
96 Human Services. In any case in which the support of any child is
97 involved, the court shall make the following findings either on
98 the record or in the judgment:

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

101 (b) The cost of health insurance coverage to all
102 parties.

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

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