



MISSISSIPPI DEPARTMENT OF HUMAN SERVICES

Division of Child Support Enforcement

Quadrennial Review of Mississippi's Child Support Guidelines Report

December 2022

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Introduction

Federal Rule 45 CFR 302.56, also known as the Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs Final Rule, created new requirements for States regarding child support. These requirements included a review of the state's child support guidelines, the incorporation of a low-income adjustment to be included in the child support guidelines, that child support orders should be based on the noncustodial parent's ability to pay, the prohibition of treating incarceration as voluntary unemployment, that states must consider economic data on the cost of raising children, labor market data, the impact of guideline policies and amounts on custodial and noncustodial parents who have family incomes below 200% of the Federal poverty level, and factors that influence employment, analyzation of case data gathered through sampling, and that the state must provide an opportunity for public input. Each of these requirements and the measures that Mississippi has taken to remain in compliance are addressed in the report.

Review of the Child Support Guidelines

Section 302.56 (e) of the Final Rule requires that each State review, and revise its guidelines, if appropriate, at least once every 4 years to ensure that their application results in the determination of appropriate child support order amounts. Each state is also required to publish on the Internet and make accessible to the public all reports of the child support guidelines reviewing body, the membership of the reviewing body, the effective date of the guidelines, and the date of the next quadrennial review. This report summarizes the work that MDHS has done in regard to reviewing and analyzing Mississippi's guidelines on child support.

MDHS Advisory Committee on Child Support Guidelines

The Mississippi Department of Human Services (MDHS) created an internal taskforce to review, analyze, and discuss our child support guidelines. This Advisory Committee consisted of members of the Mississippi Legislature, Judiciary, MDHS attorneys, a law school professor, and private practice attorneys:

- Senator Brice Wiggins
- Judge David McCarty
- Judge Troy Odom
- Judge Crystal Wise Martin
- Attorney Chase Morgan
- Attorney Matthew Thompson
- Attorney Michael McCauley (MDHS)
- Attorney Rachel Richardson (MDHS)
- Attorney Reagan Spears (MDHS)
- Dr. Debbie Bell

The committee met monthly July through November. During the course of the Committee's meetings, there were presentations on child support case data, economic data, and public input regarding child support percentages.

Imputation of Income

Under the requirements for the Federal Rule, child support guidelines must provide the child support order is based on the noncustodial parent's earnings, income, and other evidence of ability to pay. Specifically, section 302.56 (c)(1) (iii), includes a requirement regarding imputation of income. If imputation of income is authorized, it should take into consideration the specific circumstances of the noncustodial parent (and at the State's discretion, the custodial parent) to the extent known, including such factors as the noncustodial parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.

During the 2021 Legislative Session, a Domestic Task Force was created to study and provide recommendations on potentially revising Mississippi's domestic relations laws.¹ The Task Force, composed of judges, attorneys, child advocates, and law professors, studied models used by other states for child support, child care, and support expenses, and analyzed current trends of law regarding no-fault divorce, child support payments past the age of majority for disabled children, and costs for guardians ad litem who represent the best interests of children. The Task Force recommended that the Chancery Court shall take into account the basic subsistence needs of the obligated parent who has a limited ability to pay, and that imputation of income shall not be based upon a standard amount in lieu of fact gathering. During the 2022 Legislative Session, MS Code Section 43-19-101 was amended to reflect these revisions.²

Incarceration as Involuntary Unemployment

The Legislative Domestic Task Force mentioned above also recommended the creation of a new code section which would authorize the administrative suspension of child support for noncustodial parents who are incarcerated in jail or prison for more than 180 days: "The Task Force unanimously recommends the creation of a code section to authorize the administrative suspension of child support for non-custodial parents who are incarcerated in jail or prison for more than 180 days. Under the Flexibility, Efficiency and Modernization in Child Support Enforcement Programs final rule, Mississippi may not exclude the consideration of incarceration as a material change in circumstance in establishing and modifying child support obligations. The Task Force finds that non-custodial parents who are incarcerated generally do not have income or an ability to pay court ordered support." The MDHS Advisory Committee discussed and agreed with the Task Force's recommendation and recommends the same.

Legislation was submitted during the 2022 session in order to create a new code section as recommended, but it did not pass. Similar legislation will be resubmitted for the 2023 Legislative

¹ See the Report and Recommendations of the Task Force in Exhibits, pg. 11

² See HB 1067 in Exhibits, pg. 57

Session. ³MDHS requested a guidance letter from OCSE to share with legislators which is included in the exhibits.⁴

Support Past the Age of Majority

The Task Force recommended the creation of a presumption that child support for a child with a disability which renders the child incapable of self-support should continue past the age of majority. They also recommended that the presumption should be rebuttable by the noncustodial parent by proving that the adult child is actually capable of self-support.⁵

Legislation regarding the continuation of child support past the age of majority for an adult child who is incapable of self-support due to a physical or mental disability was also introduced during the 2022 session, but did not pass. This legislation will be resubmitted during the 2023 legislative session.⁶

Quadrennial Review Public Survey on Low Income

The Final Rule, specifically section 302.56(h)(3), includes the requirement that the State's review of the child support guidelines provides a meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives. The State must also obtain the views and advice of the State child support agency funded under title IV–D.

To fulfill this requirement, MDHS promoted a Child Support Enforcement survey, done via Survey Monkey on the agency's social media accounts for 30 days in February of 2022. The survey done by MDHS was modeled on a survey used by Tennessee. The 243 participants included people who receive child support, people who pay child support, who both receive and pay child support, former and current child support employees, an attorney, former child support recipients, people who claim they are supposed to receive support, child support applicants, and one person with an associate's degree in human services. 71.6 percent of the participants were people who receive child support, while 20.58 percent identified as "other." The smaller percentages included 3.70 percent for people who pay child support, 2.06 percent for people who both receive and pay child support, 1.65 percent for child support employee, and 0.41 percent for attorneys.

One question asked participants if they thought the current child support guideline percentage rates are too low, just right, or too high. The current child support percentages are based on the adjusted gross income at the following rates: One child - 14%; Two children - 20%; Three children - 22%; Four children - 24%; Five or more children - 26%. 74.58% of participants voted that the rates are too low, 19.49% voted that they are just right, and 5.93% voted that they are too high. There was clear trend of custodial parents (which made up the largest group of respondents) saying percentages were 'too low' or 'just right'. If an individual was paying support the response was always 'too high'.⁷

³ See HB 592 and SB 2619 in Exhibits, pg. 63

⁴ See OCSE Guidance Letter in Exhibits, pg. 98

⁵ See Report and Recommendations of the Task Force in Exhibits, pg. 11

⁶ See SB 2341 in Exhibits, pg. 101

⁷ See Quadrennial Review Public Survey Report, Question 7, in Exhibits, pg. 108

Quadrennial Review Case Data Analysis

The Final Rule under section 302.56 (h)(2) requires our child support program to analyze case data, gathered through sampling or other methods, on the application of and deviations from the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment. A sample of 18,553 cases⁸ from our quadrennial review showed that 34.18% of cases (6,341 cases) had default orders, 33.53% (6,221 cases) included orders with imputed income, and 9.72% (1803 cases) the obligation amount deviated from the guidelines.

A random sampling⁹ of 100 child support cases with a total amount of \$206,316.23 due showed that \$88,388.02 was collected (a 42.84% rate). There were 46 cases with an amount from imputed income, and out of those cases, with a total of \$68,002 due, only 29.13% was actually paid. A total of \$19,807.40 was collected from the cases with imputed income. There were 38 cases with default orders, and 5 cases with orders that the obligation amount deviated from the guidelines. The amount due from cases without imputed income was \$138,314.23, and 49.58% of this amount was collected, \$68,580.62.

The difference in rates between the larger and smaller sample size is likely due to how the smaller sample size was pulled. It pulled cases with a recent order within the first six months of 2021. The impact of COVID on employment rates would likely result in a higher rate of imputed orders. Additionally, the payment rates may be artificially low due to this sample. There is often a lag time between when a new order starts and an IWO attaches to a case, which may negatively impact collections. Finally, collections were reviewed for all of 2021. Impacts of COVID and what is referred to as the “Great Resignation” may have negatively impacted collections. The analysis supported that we are in compliance with the federal rule by demonstrating that orders that deviate from the guidelines are limited. Only 1,803 cases from the analysis of 18,553 cases included orders that deviate from the guidelines, and only 5 cases from the random smaller analysis of 100 cases included orders that deviate from the guidelines.

Economic Data (Jane’s Report)

Jane Venohr, an economist from the Center for Policy Research, prepared a report reviewing Mississippi child support guidelines. It is important to note this is the first substantial review of the state’s child support guidelines since they were first adopted. Jane’s report is broken down into four sections, the first is an introduction laying the groundwork on the current workings of child support in Mississippi and also discusses the federal rule (45 C.F.R. § 302.56(e)) that requires states to review their guidelines. Section two of her report reviews the economic data on the cost of raising children and uses the data to develop updated child support percentages and a low-income adjustment. The third section analyzes the impact of the existing and updated child support percentages using case scenarios. The fourth and final section explains her conclusions.

The second section of the report reviews current economic studies of child-rearing expenditures and older studies used in state guidelines. The major considerations include:

- What the general findings are;
- How they compare to Mississippi guidelines percentages;
- Which ones are used by states and why; and

⁸ See Quadrennial Review Case Data Analysis in Exhibits, pg. 109

⁹ See Quadrennial Review Public Survey Report in Exhibits, pg. 114

- How they vary with income and number of children.

Further, the second section of the report uses the most common study used by states (i.e., the most current BetsonRothbarth (BR) study) to update the Mississippi guidelines percentages. Since the BR study is based on national data, CPR adjusted it for Mississippi prices. The report uses seven steps to update the guideline percentages: an economic study selected as the basis, subtract out extraordinary expenses and childcare expenses, adjust to net income, adjust for the oblige “picking up” some child-rearing expenditures, adjust for Mississippi prices, identifying an anchor, and developing percentages for four or more children. Exhibit nine in the report shows a comparison of existing Mississippi guideline percentages to proposed updated guideline percentages:

Exhibit 9: Comparison of Existing Mississippi Guidelines Percentages to Proposed, Updated Guidelines Percentages

Number of Children Due Support	Existing Guideline Percentages	BR5 Percentages (fully adjusted using steps #1-#7)	BR% Percentages (fully adjusted except for the primary custodial parent’s share—using all steps except #4)
1	14%	16%	19%
2	20%	24%	27%
3	22%	28%	32%
4	24%	31%	36%
5 or more	26%	34%	39%

Further, the report proposes a low-income adjustment for Mississippi in this section of the report. Mississippi is one of only three states not to provide a formula to adjust for low-income. Mississippi does conform to federal guidelines as state law requires consideration of the basic subsistence needs of the obligated parent who has a limited ability to pay. Additionally, if obligated parent’s whose adjusted gross income is less than \$10,000 annually, the court must make a written finding on the record as to whether the application of the guidelines is reasonable.

Some of the objectives of a low-income adjustment include:

- Remaining in federal compliance by taking into consideration the subsistence needs of low-income, payer-parents with limited ability to pay
- Adopting an appropriate and equitable adjustment for Mississippi;
- Maintaining a simple adjustment; and
- Balancing the immediate needs of low-income, payer-parents while recognizing indirect and long-term impacts on child outcomes, child-parent contact, payer-parent’s employment decisions, recognizing that orders can be modified due to a change in income, and other factors.

The proposed low-income adjustment for Mississippi is modeled after the low-income adjustment in place in Texas. It relies on an income threshold of \$1,500 net per month, which is close to the SNAP income eligibility threshold.

Number of Children Due Support	Percentage of Adjusted Gross Income that Should be Awarded for Support when the Payer-Parent's Adjusted Gross Income is \$1,500 per month or less
1	14%
2	22%
3	26%
4	29%
5 or more	32%

Number of Children Due Support	Percentage of Adjusted Gross Income that Should be Awarded for Support when the Payer-Parent's Adjusted Gross Income is more than \$1,500 per month
1	16%
2	24%
3	28%
4	31%
5 or more	34%

Section three of the report discussed the impact of updated guideline percentages and the low-income adjustment.

In conclusion, Jane stated in her report, "Mississippi has fulfilled the federal requirement to consider economic data on the cost of raising children. Updating the guidelines percentages would produce modest increases for one child and larger increases for two or more children. The increases could make a difference to a child's life. Adopting a low-income adjustment would fulfill the federal requirement for states to consider the subsistence needs of payer-parents with limited ability to pay. It would also be fair."

Changes in Child Support Guideline Percentages

Currently, the child support percentages in Mississippi are as follows (MS Code Annotated §43-19-101):

(1) The following child-support award guidelines shall be a rebuttable presumption in all judicial or administrative proceedings regarding the awarding or modifying of child-support awards in this state:

Number Of Children Due Support	Percentage Of Adjusted Gross Income That Should Be Awarded For Support
1	14%
2	20%
3	22%
4	24%
5 or more	26%

After review of current economic data of the cost to raise children in Mississippi and extensive discussions among the MDHS Advisory Committee, the following are the proposed revised percentages:

(1)

(a) If the obligor's monthly gross income is \$1,500 or above, the following child support award guidelines shall be a rebuttable presumption in all judicial or administrative proceedings regarding the awarding or modifying of child support awards in this state:

<u>Number Of Children Due Support</u>	<u>Percentage Of Adjusted Gross Income That Should Be Awarded For Support</u>
<u>1</u>	<u>16%</u>
<u>2</u>	<u>24%</u>
<u>3</u>	<u>28%</u>
<u>4</u>	<u>31%</u>
<u>5</u>	<u>34%</u>
<u>6 or more</u>	<u>An additional 2% for each additional child</u>

Low-Income Adjustment to Child Support Guidelines

The Final Rule also requires a low-income adjustment and specifically addressed in section 302.56(c)(ii) stating that the child support order should take into consideration the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other method determined by the State.

In addition to the revised guideline percentages, MDHS is also proposing another amendment to MS Code Annotated §43-19-101 in order to create a low-income adjustment to the child support guidelines:

(b)

If the obligor's monthly gross income is less than \$1,500, the following child support award guidelines shall be a rebuttable presumption in all judicial or administrative proceedings regarding the awarding or modifying of child support awards in this state:

Low-income child support guidelines

<u>Number Of Children Due Support</u>	<u>Percentage Of Adjusted Gross Income That Should Be Awarded For Support</u>
<u>1</u>	<u>14%</u>
<u>2</u>	<u>22%</u>
<u>3</u>	<u>26%</u>
<u>4</u>	<u>29%</u>
<u>5</u>	<u>32%</u>
<u>6 or more</u>	<u>An additional 2% for each additional child</u>

Conclusion

Mississippi in the previous two years has discussed, analyzed, and reviewed the child support guidelines as well as a low-income adjustment through a legislative task force, an internal advisory council at MDHS which included a range of child support professionals, an economic study, case data, and considered feedback from a public survey. All of these steps were taken to remain in compliance with the federal final rule and have been completed.

MDHS is proposing new legislation during the 2023 legislative session which would revise the child support guideline percentages, provide a low-income adjustment, and provide that incarceration cannot be considered voluntary unemployment.

The next quadrennial review will be in 2026.

**REPORT AND RECOMMENDATIONS
OF THE**

**TASK FORCE TO STUDY MISSISSIPPI'S LAWS REGARDING THE
AWARDING AND CALCULATING OF CHILD SUPPORT, ALIMONY AND
OTHER RELATED MATTERS IN DOMESTIC LAW**

**CREATED BY SENATE BILL 2621
2021 REGULAR LEGISLATIVE SESSION**

PRESENTED TO

**LIEUTENANT GOVERNOR C. DELBERT HOSEMAN, JR.
AND THE MISSISSIPPI SENATE**

**SPEAKER PHILIP A. GUNN
AND THE MISSISSIPPI HOUSE OF REPRESENTATIVES**

**CHIEF JUSTICE MICHAEL K. RANDOLPH
AND THE MISSISSIPPI SUPREME COURT**

DECEMBER 1, 2021

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SUMMARY

Senate Bill 2621 established the “Task Force to Study Mississippi’s Laws Regarding the Awarding and Calculating of Child Support, Alimony and Other Related Matters in Domestic Law” to develop recommendations for the Legislature and Mississippi Supreme Court relative to revising Mississippi’s domestic relations laws to reflect current jurisprudence in these areas and to propose legislation and rule changes.

Scope of the Task Force’s Review

Senate Bill 2621 specifically identified several areas of law for review and recommendation. Those areas were:

- Review the models used by states to determine the base child support amount due, including the “Income Shares Model,” the “Percentage of Income Model” and the “Melson Formula,” which incorporate a self-support reserve for the obligor and take into consideration the health care expenses of the children;
- Review special provisions for child care expenses, formulas for shared custody, split custody and extraordinary visitation, and deductions for the support of previous and subsequent children;
- Review the current trends of law regarding “No-Fault Divorce” and make recommendation(s) based on said review;
- Review the current trends in the imposition and cost of fees for guardian ad litem and related issues on guardians and make recommendation(s) based on said review;
- Review Senate Bill No. 2220, 2021 Regular Session, and make recommendation(s) based on said review; and
- Review any other matters related to the above issues or related to domestic law.

Members of the Task Force¹

Chair

Chancellor **Troy F. Odom** *Mississippi Chancery Court*

Secretary

Judge **David Neil McCarty** *Court of Appeals for
the State of Mississippi*

Members

Senator **Brice Wiggins** *Chair of Senate Judiciary A*

Representative **Angela Cockerham** *Chair of House Judiciary A*

Justice **T. Kenneth Griffis** *Mississippi Supreme Court*

Chancellor **Jennifer T. Schloegel** *Mississippi Chancery Court*

Attorney **Mark A. Chinn** *Chinn and Associates*

Attorney **Donna S. Smith** *Smith Law, PLLC*

Attorney **A. Regnal Blackledge** *Blackledge Law Office*

Attorney **Melissa B. DiFatta** *DiFatta Law, LLC*

Attorney **Lee Ann Turner** *The Winfield Law Firm, PA*

Attorney **Diandra Hosey** *Law Office of Diandra Hosey, PLLC*

Attorney **J. Michael McCauley** *Mississippi Department of
Human Services*

Professor **Deborah H. Bell** *University of Mississippi
School of Law*

Professor **Shirley Kennedy** *Mississippi College School of Law*

¹ Members are listed in order of appointment under Senate Bill 2621.

The Task Force was staffed by **Gwennetta L. Tatum**, counsel for House Judiciary A Committee and **M. Ethan Samsel**, counsel for Senate Judiciary, Division A Committee. Research and clerical support was provided by **Brittney Batton Davis**, policy advisor with the Office of the Lieutenant Governor, Justice **Randy Grant Pierce**, director of the Mississippi Judicial College, and **Carole E. Murphey**, counsel with the Mississippi Judicial College. Further clerical support was provided by **Pat Trowles**, committee assistant for Senate Judiciary, Division A Committee.

Troy Farrell Odom

CHANCELLOR, PLACE 2

LORI W. HILL
COURT ADMINISTRATOR
601-825-9208

MIRANDA SCHOGGEN
COURT REPORTER
601-825-9227



CHANCERY COURT BUILDING
POST OFFICE BOX 700
BRANDON, MS 39043
601-825-9208

Twentieth Chancery Court District OF THE State of Mississippi

December 1, 2021

Honorable C. Delbert Hosemann, Jr.
Lieutenant Governor
Mississippi State Senate

Honorable Philip A. Gunn
Speaker of the House
Mississippi House of Representatives

Honorable Michael K. Randolph
Chief Justice
Mississippi Supreme Court

Re: Recommendations of the Domestic Law Task Force.

Dear Lieutenant Governor Hosemann, Speaker Gunn, and Chief Justice Randolph:

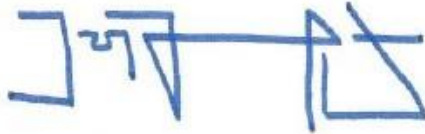
This report and recommendation represents the culmination of the hearings and discussions, both formal and informal, by the Task Force to Study Mississippi's Laws Regarding the Awarding and Calculating of Child Support, Alimony and Other Related Matters in Domestic Law created by the Senate Bill 2621 in the 2021 Regular Session. The Task Force met regularly beginning in August 2021 and in its deliberations developed four recommendations to the Legislature that the Task Force feels are practical and achievable for the 2022 Regular Session.

It was an honor to serve as chair of this Task Force. Early on, I was impressed by the broad array of experience and wisdom that each member brought to the Task Force. And I am grateful to the Legislature for the opportunity and duty afforded to us through Senate Bill 2621.

Also, as a member of the judiciary, I am aware—as I am sure you are as well—of the issues that a number of Mississippians express concerning matters of domestic law. I believe that this Task Force and the recommendations that we developed are a starting point to addressing these issues for all Mississippians.

It is the agreement of the Task Force that this work is not complete. Given the vast scope of the subject matter, the Task Force felt that it could not adequately review and develop recommendations on all of the topics assigned to it within the deadline imposed by Senate Bill 2621. Thus, the Task Force asks to be reconstituted in the 2022 Regular Session.

In closing, this Task Force was a valuable and worthwhile process, and it is our hope that the Legislature will seriously consider the recommendations made to it and enact beneficial legislation for our state.



Troy F. Odom
Chancellor, Place 2
Mississippi Chancery Court | District 20

RECOMMENDATIONS

Current Trends of Law Regarding Divorce

No-fault Divorce

One topic at the outset garnered the Task Force's immediate and pointed interest—no-fault divorce and Mississippi's treatment of same. The issue is complicated by current federal litigation on the constitutionality of the irreconcilable differences divorce statute Section 93-5-2, but the Task Force recommends immediate legislative amendments to Section 93-5-1 to provide relief to Mississippians who are faced with divorce.

Causes for Divorce

Under current Mississippi law, a person may not obtain a divorce without the consent of their spouse or the existence of limited, fault-based grounds for divorce. A person whose spouse refuses to accept that the marriage has ended may be faced with a lengthy separation and uncertainty as to whether they will be able to obtain a divorce. Or, they may sign a grossly unfair agreement in order to end the separation, often at great financial costs and damage to their children.

Mississippi and South Dakota are the only states remaining that have a system this restrictive.

Recommendation No. 1:

It is the overwhelming consensus of the Task Force that legislative action must be taken to amend Mississippi Code Annotated 93-5-1 to provide for an additional fault grounds for divorce based on a finding of an *irretrievable breakdown* of the marriage and/or *complete incompatibility* between spouses. An example of statutory language would be:

The chancery court may divorce persons upon application of either party, when the court finds there has been an irretrievable breakdown of the marriage and that further attempts at reconciliation are impractical or futile and not in the best interests of the parties or family.

AND/OR

The chancery court may divorce persons upon application of either party, when the court is satisfied from all the evidence that there exists such a complete incompatibility of temperament that the parties can no longer live together.

This recommendation still requires a satisfactory showing of irretrievable breakdown and/or incompatibility and is, therefore, not a true “no-fault” divorce statute. The true “no-fault” proposal discussed by the Task Force was to amend the language of Mississippi’s irreconcilable differences statute, Miss. Code Annotated 93-5-2(3) to allow “one or both parties” to consent to a divorce. This proposal is included in this report as an alternative plan for the legislature’s consideration in Appendix C.

The Task Force further finds that the language of the existing fault ground of desertion is too restrictive and should be amended to remove “willful” and “obstinate.” This will allow for the non-deserting party to obtain a divorce from a clearly broken marriage after the continued desertion for the space of one year.

This recommendation is made first since it is so strongly and consensually held among the Task Force members.

Reasoning

These recommendations would bring Mississippi in line with the vast majority of the country, including neighboring states. The reasons for these recommendations are compelling, particularly to those who see firsthand the destruction caused to family units by Mississippi’s restrictive divorce laws.

The current system, perhaps originally designed to preserve marriage, does not accomplish that today. Instead, it damages individuals and families, eats up scarce state resources, and prevents parties from establishing personally and financially secure households.

To be more specific, the current system:

- Does not preserve intact marriages; it merely preserves the formal designation of marriage, forcing some couples into lengthy separation.
- Allows a spouse to blackmail the other by insisting on custody or unfairly lopsided property divisions in exchange for an irreconcilable differences divorce.

- Uses scarce court resources to hear lengthy disputes over divorce grounds rather than focusing on the financial and custody arrangements that will best serve the family.
- Increases the cost of divorce, particularly impacting low- and moderate-income families who lack resources for extended litigation.
- Creates financial problems for separated spouses as it relates to marital property (for example, interests in corporate entities, professional partnerships, investments) and damaged credit.
- Embitters spouses, making future successful co-parenting unlikely, and thereby damaging children.
- Increases the time to divorce (sometimes into years), putting children into anxiety-producing and unhealthy limbo as the result of temporary or non-existent custody arrangements.
- Prevents parties from moving forward to establish stable relationships and two-adult households.
- Reduces both households standard of living (and perhaps pushes one or both below the poverty line).
- Causes parties to delay otherwise smart financial decisions such as saving or purchasing homes during a lengthy separation.
- Negatively impacts victims of domestic violence by causing them to prove abuse and confront their abuser, re-traumatizing them and often, their children.
- Endangers victims of domestic violence by putting them into extended litigation with their abuser.
- Exacerbates the already difficult position of self-represented litigants by forcing them to navigate the proof of grounds and common law defenses and the attending evidentiary issues.

Review of Senate Bill 2220, 2021 Regular Session

Recommendation No. 2:

The Task Force unanimously supports the creation of a presumption that child support for a child with a disability that renders the child incapable of self-support should continue past the age of majority. Under current Mississippi law child support for disabled children terminates upon the age of majority.

The Task Force recommends passage of language substantially similar to that of Senate Bill 2220, 2021 Regular Session to create the presumption that a disabled child who reaches the age of majority is entitled to continued support from the noncustodial parent. The presumption should be rebuttable by the noncustodial parent by proving that the adult child is actually capable of self-support.

Any legislation should include the directive that the court may order support past the anticipated age of majority if the minor child has a disability which was present during the child's minority that prevents the child from living independently unless the child is a long-term patient in a facility owned or operated by the State of Mississippi. The court should also be given the authority to make, modify, or leave in place previous orders regarding custody, visitation, payment of medical expenses or any other matters regarding the health, maintenance, education and welfare of the child with a disability. Legislation should also give the court authority to consider the adult child's receipt of and eligibility for public benefits and community resources in determining the award of support.

Child Support

Recommendation No. 3:

Administrative Suspension of Child Support due to Incarceration

The Task Force unanimously recommends the creation of a code section to authorize the administrative suspension of child support for non-custodial parents who are incarcerated in jail or prison for more than 180 days. Under the Flexibility, Efficiency and Modernization in Child Support Enforcement Programs final rule², Mississippi may not exclude the consideration of incarceration as a material change in circumstance in establishing and modifying child support obligations.

The Task Force finds that non-custodial parents who are incarcerated generally do not have income or an ability to pay court ordered support. As of September 2020, there were over 3,200 child support cases enforced by MDHS in which the noncustodial parent had been identified as being incarcerated. This represented 1.2% of the MDHS caseload at the time.

While incarcerated, the average Mississippi noncustodial parent's child support arrears increase by approximately \$2400 annually. Upon release, this debt can create a barrier to workforce re-entry and the re-establishment of a relationship with the non-custodial parent's children

Imputation of Income

Further, the Task Force unanimously recommends the amendment of Section 43-19-101 to provide that the chancery court shall take into account the basic subsistence needs of the obligated parent who has a limited ability to pay. Also, the amendment should provide that imputation of income shall not be based upon a standard amount in lieu of fact gathering.

This change would increase reliable child support for children by setting orders based on the obligated parent's earnings, income, and other evidence of ability to pay. Research shows that orders set beyond a parent's ability to pay can lead to unintended consequences such as unmanageable debt, reduced employment, participation in the underground economy, and increased criminal activities. Support orders based on the noncustodial parent's ability to pay should result in less conflict between parents, fewer requests for hearings, and less time and resources spent on enforcement.

² Promulgated by the Office of Child Support Enforcement, Administration for Children and Families and the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS) on December 20, 2016.

Review of Mississippi's Child Support Calculation Model

As detailed in the fourth recommendation below, the Task Force unanimously recommends that the Legislature reconstitute the Task Force so that it may further study Mississippi's child support calculation model.

Mississippi is one of six states that uses the "percentage of income model" to calculate child support. Forty-one states use the "income shares model," and only Delaware, Hawaii, and Montana use the "Melson Formula."

The percentage of income model applies a set percentage of the non-custodial parent's income (14% for one child, 20% for two children, and so on) to calculate the payor's base child support obligation. Chancery court judges then have the discretion to add daycare/afterschool care expenses, healthcare costs, school expenses, and extraordinary expenses to that base amount. Deviations may be made at the court's discretion, but particularly if the payor's adjusted gross income is over \$100,000.00 a year, or under \$10,000.00 a year.

The percentage of income model is simple to use, provides relative certainty to litigants, and complies with federal requirements.

Most states have transitioned into the "income shares model" because it takes a more holistic approach to calculating child support. Primarily, the income shares model considers the custodial parent's income/assets (not just the noncustodial parent's income), and automatically includes daycare/afterschool care, and healthcare expenses into the base monthly child support amount.

Most of the time, application of either the percentage of income model or income shares model to a particular situation, will have a similar result. On average, use of the income shares model will result in a slightly higher child support obligation.

The idea of transitioning into an income shares model is attractive since the model takes a more comprehensive approach to calculating child support, and focuses on maintaining the child's standard of living as much as possible. However, the Task Force refrains from making a recommendation without studying the issue further. In the end, the Task Force recommends that the Legislature grant it authority and necessary funding to seek the assistance of the Legislative Budget Office, the State Economist, and other stake holders to commission a study to determine the economic impact of applying the income shares model in Mississippi.

Reconstitution of the Task Force

While enactment of the recommendations in this report will benefit Mississippians, the Task Force does not consider its work to be finished. Many of the issues assigned to its study by Senate Bill 2621 and raised before it by members are vast in breadth and scope. Further study and discussion are needed to develop comprehensive recommendations to the Legislature and the Supreme Court.

Recommendation No. 4:

Therefore, the Task Force unanimously requests that it be reconstituted during the 2022 Regular Session in order to continue its work in addressing domestic law in Mississippi.

If reconstituted by the Legislature, the Task Force would resume its study and make recommendation concerning a number of issues, including:

- The models used by states to determine the base child support amount due. Under this issue, the Task Force requests the assistance of the Legislative Budget Office and the State Economist and other stakeholders in producing a study on the economic impact of transitioning to the income shares model in Mississippi.
- The current trends in the imposition and cost of fees for guardian ad litem and related issues on guardians.
- The feasibility of PERS being divisible in a qualified domestic relations order within a judgment of divorce.
- The current implementation of Mississippi Rule of Civil Procedure 81 and suggested reform of Rule-81 practice.
- Review of the tort of alienation of affection and whether it should be repealed.
- Review of Mississippi Code Annotated 97-29-1 and whether it should be repealed.
- Any other matters related to the above issues or related to domestic law.

APPENDIX A

Senate Bill 2621 | 2021 Regular Session | Enabling Legislation

By: Senator(s) Wiggins, McCaughn, Branning, To: Judiciary, Division A
Suber, Parker, England, Hill

SENATE BILL NO. 2621
(As Sent to Governor)

1 AN ACT TO ESTABLISH A "TASK FORCE TO STUDY MISSISSIPPI'S LAWS
2 REGARDING THE AWARDING AND CALCULATING OF CHILD SUPPORT, ALIMONY
3 AND OTHER RELATED MATTERS IN DOMESTIC LAW"; TO PRESCRIBE THE
4 MEMBERSHIP OF THE TASK FORCE AND PROVIDE FOR ITS ORGANIZATION; TO
5 PROVIDE FOR A REPORT BY THE TASK FORCE; AND FOR RELATED PURPOSES.

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

7 SECTION 1. (1) There is hereby established the "Task Force
8 to Study Mississippi's Laws Regarding the Awarding and Calculating
9 of Child Support, Alimony and Other Related Matters in Domestic
10 Law" to develop a recommendation to the Legislature and the
11 Mississippi Supreme Court relative to revising Mississippi's
12 domestic relations laws to reflect current jurisprudence in these
13 areas and to propose legislation and rule changes based upon its
14 recommendation.

15 (2) The members of the Task Force shall be as follows:

16 (a) The Chairmen of the Judiciary A Committees of the
17 Mississippi Senate and the Mississippi House of Representatives;

18 (b) One (1) designee of the Mississippi Supreme Court
19 to be named by the Chief Justice of the Supreme Court;



20 (c) One (1) designee of the Mississippi Court of
21 Appeals to be named by the Chief Judge of the Court of Appeals;
22 (d) Two (2) sitting Chancellors to be named by the
23 Chief Justice of the Supreme Court;
24 (e) Two (2) practicing attorneys in the State of
25 Mississippi with expertise in the area of domestic relations, one
26 (1) from each of the federal judicial districts to be named by the
27 Mississippi Bar Association;
28 (f) One (1) practicing attorney who is a general
29 practitioner with expertise in the area of domestic relations and
30 who practices in a firm with five (5) or fewer licensed attorneys
31 to be named by the Mississippi Bar Association;
32 (g) Two (2) practicing guardians ad litem to be named
33 by the Mississippi Bar Association;
34 (h) One (1) practicing or retired attorney with
35 expertise in disability law and domestic law to be named by the
36 Mississippi Bar Association;
37 (i) One (1) designee of the Child Support Unit of the
38 Mississippi Department of Human Services to be named by the
39 executive director of the department;
40 (j) One (1) professor of law with expertise in domestic
41 law to be named by the Dean of the University of Mississippi
42 School of Law; and



43 (k) One (1) professor of law with expertise in domestic
44 law to be named by the Dean of the Mississippi College School of
45 Law.

46 (3) The Task Force shall meet within forty-five (45) days of
47 the effective date of this act, upon the call of the Governor, and
48 shall evaluate the current domestic laws and cases in Mississippi.
49 Specifically the Task Force shall:

50 (a) Review the models used by states to determine the
51 base child support amount due, including the "Income Shares
52 Model," the "Percentage of Income Model" and the "Melson Formula,"
53 which incorporate a self-support reserve for the obligor and take
54 into consideration the health care expenses of the children;

55 (b) Review special provisions for child care expenses,
56 formulas for shared custody, split custody and extraordinary
57 visitation, and deductions for the support of previous and
58 subsequent children;

59 (c) Review the current trends of law regarding
60 "No-Fault Divorce" and make recommendation(s) based on said
61 review;

62 (d) Review the current trends in the imposition and
63 cost of fees for guardian ad litem and related issues on guardians
64 and make recommendation(s) based on said review;

65 (e) Review Senate Bill No. 2220, 2021 Regular Session,
66 and make recommendation(s) based on said review; and



67 (f) Review any other matters related to the above
68 issues or related to domestic law.

69 (4) The Task Force may request the assistance of the
70 University of Mississippi School of Law and the Mississippi
71 College School of Law, the Mississippi Judicial College, the
72 Mississippi Administrative Office of Courts and the proper section
73 of the Mississippi Bar Association, or any other related
74 organization with expertise in domestic relations.

75 (5) The members of the Task Force shall elect a Chair from
76 among the members. The Task Force shall develop and report its
77 findings and recommendations for proposed legislation to the
78 Legislature and proposed rule changes to the Mississippi Supreme
79 Court on or before December 1, 2021. A quorum of the membership
80 shall be required to approve any final report and recommendation.
81 Members of the Task Force shall be reimbursed for necessary travel
82 expense in the same manner as public employees are reimbursed for
83 official duties from any available funds and members of the
84 Legislature shall be reimbursed in the same manner as for
85 attending out-of-session committee meetings.

86 (6) The Mississippi Bar Association and the Mississippi
87 Judicial College shall provide necessary clerical support for the
88 meetings of the Task Force and the preparation of the report.
89 Proposed legislation shall be prepared by the Legislative Services
90 Offices of the Senate and House as requested.



91 (7) Upon presentation of its report the Task Force shall be
92 dissolved.

93 **SECTION 2.** This act shall take effect and be in force from
94 and after July 1, 2021.

S. B. No. 2621
21/SS08/R970SG
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~ OFFICIAL ~

ST: Task Force; establish to study domestic law
matters.

APPENDIX B

Meeting Minutes

August 23, 2021

**TASK FORCE TO STUDY MISSISSIPPI'S LAWS
REGARDING THE AWARDING AND CALCULATING OF CHILD SUPPORT, ALIMONY
AND OTHER RELATED MATTERS IN DOMESTIC LAW**

CONVENED PURSUANT TO S.B. 2621

**Minutes of the Task Force
August 23, 2021**

At 1:00 p.m. on the above day in Room 216 of the Mississippi State Capitol the members and associated staff of the S.B. 2621 Task Force met to fulfill the purpose of the Statute.

The following members of the Task Force were present physically or via the Zoom electronic application:

Representative Angela Cockerham, *District 96, Chair of Judiciary A and
Chair of Judiciary En Banc*
Senator Brice Wiggins, *District 52, Chair of Judiciary, Division A*
The Honorable T. Kenneth Griffis, *Mississippi Supreme Court*
The Honorable David Neil McCarty, *Court of Appeals of the State of Mississippi*
The Honorable Troy F. Odom, *Chancellor, District 20*
The Honorable Jennifer T. Schloegel, *Chancellor, District 8*
Professor Deborah H. Bell, *University of Mississippi School of Law*
A. Regnal "Reggie" Blackledge, *Attorney at Law*
Mark A. Chinn, *Chinn and Associates*
Melissa B. DiFatta, *DiFatta Law, LLC*
Daniel Gallarno, *Legislative Liaison, Mississippi Department of Human Services*
Diandra Hosey, *Law Office of Diandra Hosey, PLLC*
Professor Shirley Kennedy, *Director of Child Advocacy and Director of the Family and
Children's Law Center, Mississippi College School of Law*
J. Michael McCauley, *Senior Attorney, Mississippi Department of Human Services*
Donna S. Smith, *Attorney at Law*
Lee Ann Turner, *The Winfield Law Firm, PA*

Also present were the following:

The Honorable Randy Grant Pierce (ret.), *Director, Mississippi Judicial College*
Carole E. Murphey, *Research Counsel II, Mississippi Judicial College*

Brittney Batton Davis, *Policy Advisor, Office of the Lt. Governor*
M. Ethan Samsel, *Staff Attorney, Mississippi Senate*
Gwennetta L. Tatum, *Director of the House Legislative Services Office,*
Mississippi House of Representatives

Agenda

The meeting was **called to order** by Representative Cockerham and Senator Wiggins.

A **roll call** of the Task Force was called and **introductions** made for each member or person present.

Upon motion of Justice Griffis, with second by Mr. Chinn, Judge Troy Odom was selected as **Chair**; the vote was unanimous.

Upon motion of Justice Griffis, with second by Mr. Chinn, Judge David McCarty was selected as **Secretary**; the vote was unanimous.

Representative Cockerham and Senator Wiggins led a **review** of SB 2621. Recommendations from the Task Force are due December 1, 2021.

The Chair, Judge Odom, inquired as to the **interests of the Legislature** regarding domestic law. Senator Wiggins recounted how an effort to include a “no-fault” divorce grounds did not progress in years previous; Representative Cockerham explained how some Members saw such a law as not supporting the institution of marriage.

The **goals** of the Task Force, and how to reach them, were discussed, including whether the Task Force should work as a unified group or further separate into subsections. By tacit agreement the Task Force continued in a unified manner.

Divorce and the Grounds for Divorce

The Task Force discussed **no-fault divorce** in general. A discussion was had on the various ways other Southern States have addressed related issues while not explicitly adopting no-fault itself, such as Alabama’s recognition of “complete incompatibility of temperament” and Georgia, Alabama, and Kentucky’s adoption of a “irretrievable breakdown of the marriage” standard.

Several members weighed in on the matter. Judge Schloegel explained how changing the bilateral consent requirement to irreconcilable divorce could work; Professor Bell opined that the lack of an alternative grounds of divorce did not keep people together, but “forces them to live apart;” Justice Griffis noted rule changes could impact how the grant or denial of divorce was affected; Mr. Chinn believed it was too difficult to obtain a divorce based on the grounds of habitual cruel and inhuman treatment. Note was also made of Louisiana’s “no fault” statute allowing for divorce upon a showing of continuous separation of six months where there are no minor children of the marriage, or one year if there are minor children involved.

A general consensus emerged that the current system could leave Mississippians “locked” into marriages that were not healthy or stable, in addition to creating situations where spouses might be subject to emotional or financial “blackmail” in order to access grounds for divorce.

After a detailed discussion, four general views emerged:

1. While not adopting a pure no-fault ground, the law could provide grounds for a chancellor to grant a divorce on the basis a marriage was irretrievably broken or if there was a complete breakdown of the marriage
2. A “continuous separation” model could provide a “no fault” ground for divorce if the parties had lived apart for a defined period
3. Consent requirements for irreconcilable differences could be changed by removing the requirement for a “joint complaint” or mutual consent
4. The burden of proof for an allegation of habitual cruel and inhuman treatment could be shifted or broadened

In response to a question, Senator Wiggins pointed out the Legislature itself, through counsel, would draft any proposed legislation; the Task Force would provide information and background.

A short break was had.

Child Support

A discussion was had of the **three major approaches to calculation of child support** in the United States—the income shares model, used by the majority of States; the percentage of income of non-custodial parent model, used by Mississippi and a minority of States; and the Melson Formula, a more complex version of income shares used by three States.

Several members weighed in on the various methods. In response to an inquiry from Justice Griffis, Mr. McCauley explained the income shares model by its nature introduces more complexity in the system. Ms. Hosey weighed in on issues she has faced in chancery court cases with child support. Ms. Smith related favorably her experience with the income shares model in Alabama courts. Senator Wiggins related how the mass adoption of the income shares approach across America showed support for a more holistic system than the one currently in place. Representative Cockerham related how constituents have inquired whether Mississippi’s 14% child support rate of noncustodial parent’s AGI could be revised upward. There was a general concern about an upward shift in child support requirements during a time of economic uncertainty due to the COVID-19 pandemic. Judge Schloegel believed the 14% rate, adopted over 30 years ago, was too low. Both Representative Cockerham and Senator Wiggins had constituent requests to look at raising the percentage to 18% or 20%. Judge Odom raised the point, echoed by Mr. McCauley, that the current percentage of income model made determining support streamlined and predictable for courts and litigants. Judge McCarty expressed concerns about the unseen costs of shifting systems in light of the burdens of litigants, the Bar, and the Bench in scaling up to a new system.

There was general consensus that the Task Force needed more information concerning the income shares model to determine its impact, particularly on Mississippi, which may have a lower income and child care costs than other “income share” states.

After this discussion, the Task Force addressed the related issue of **modification of child support**. Professor Bell sees modification as too difficult to obtain. Mr. Chinn saw it as difficult to justify to parents in terms of risk and cost, since it might be too expensive to obtain in terms of recovery. Relatedly, Mr. Chinn explained how a statutory, automatic “escalator,” as is used in cases where the Department of Human Services collects support, could address these issues on the front end.

Age of Majority and Its Impact on Child Support

A discussion was had on Mississippi’s general rule that child support runs until a child reaches the age of 21, and whether the age of emancipation should be lowered in line with the vast majority of states. Judge Odom raised the issue of SB 2220, which would allow chancellors to continue support for disabled adult children. Mr. Chinn saw this as a “no-brainer”—that children with disabilities would obviously need to receive child support to help provide for them. Ms. Hosey explained how federal benefits intersected with this point. Judge Odom expressed concern how this would affect the adult child’s eligibility for state or federal assistance. Justice Pierce offered the research services of the Mississippi Judicial College to examine how other States have addressed child support in the context of adult children with disabilities.

A short break was had.

Guardian Ad Litem Fees

A discussion was had on the fees granted for Guardians Ad Litem. Judge Odom inquired of Representative Cockerham and Senator Wiggins the concerns of the Legislature. Representative Cockerham relayed her constituents’ concerns of the financial burden of GAL fees on top of other expenses of litigation. Lee Ann Turner noted her concern that low (or no) fees for GALs directly impacts the quality of services rendered. Justice Pierce recalled that in his time as chancellor it was difficult to fill GAL positions. Justice Griffis pointed out the statutory requirement for mandatory appointments could result in “over”-appointment of GALs. Both Judge Schloegel and Judge Odom related how they appointed and relied upon the work of GALs. Mr. Chinn saw it as hard to always determine what role a GAL was supposed to undertake if the chancellor’s order was not specific enough. It was explained that Chancery District 13 has a part-time GAL, funded partly by the litigants and the five counties within the district. Other areas of the state require CPS to tender the fees in cases of indigency or financial difficulty of the litigants.

Related Matters

As pointed out by Justice Griffis, the text of SB 2621 empowered the Task Force to “[r]eview any other matters related to the above issues *or* related to domestic law.” SB 2621(3)(f) (emphasis added). Accordingly, he suggested we discuss how the current implementation of

MRCP 81 impacts chancery matters, and how the above discussed issues impact the Rules of Civil Procedure and other Rules. Justice Griffis also expressed concern about the Legislature's current meaning of "joint legal and physical custody" and how that was actually implemented in custody matters.

Mr. Chinn related his belief that collaborative law provided a strong backbone of good faith in settling divorce and custody issues.

Justice Pierce suggested that, in light of the robust discussions and complexity of materials, the Task Force could be re-authorized to continue its deliberations until 2023.

Representative Cockerham proposed the Task Force make three or four concrete recommendations that could be brought to the Legislature for the 2022 session, leaving the areas of recommendation broad so that the Legislators could decide if and how it wished to implement the recommendation.

And at roughly 5:00 p.m. on the above day, the Task Force ADJOURNED, with the understanding it would have a conduct at least one subsequent meeting, at a time to be announced.

Dated: August 27, 2021



JUDGE DAVID NEIL MCCARTY
SECRETARY OF THE TASK FORCE



CHANCELLOR TROY F. ODOM
CHAIR OF THE TASK FORCE

October 1, 2021

**TASK FORCE TO STUDY MISSISSIPPI'S LAWS
REGARDING THE AWARDING AND CALCULATING OF CHILD SUPPORT, ALIMONY
AND OTHER RELATED MATTERS IN DOMESTIC LAW**

CONVENED PURSUANT TO S.B. 2621

**Minutes of the Task Force
October 1, 2021**

At 10:00 a.m. on the above day in Room 216 of the Mississippi State Capitol the members and associated staff of the S.B. 2621 Task Force met to fulfill the purpose of the Statute.

The following members of the Task Force were present physically or via the Zoom electronic application:

Representative Angela Cockerham, *District 96, Chair of Judiciary A and
Chair of Judiciary En Banc*
Senator Brice Wiggins, *District 52, Chair of Judiciary, Division A*
The Honorable David Neil McCarty, *Court of Appeals of the State of Mississippi, Secretary*
The Honorable Troy F. Odom, *Chancellor, District 20, Chair*
The Honorable Jennifer T. Schloegel, *Chancellor, District 8*
Professor Deborah H. Bell, *University of Mississippi School of Law*
A. Regnal "Reggie" Blackledge, *Attorney at Law*
Mark A. Chinn, *Chinn and Associates*
Melissa B. DiFatta, *DiFatta Law, LLC*
Diandra Hosey, *Law Office of Diandra Hosey, PLLC*
Professor Shirley Kennedy, *Director of Child Advocacy and Director of the Family and
Children's Law Center, Mississippi College School of Law*
J. Michael McCauley, *Senior Attorney, Mississippi Department of Human Services*
Donna S. Smith, *Attorney at Law*
Lee Ann Turner, *The Winfield Law Firm, PA*

Also present were the following:

The Honorable Randy Grant Pierce (ret.), *Director, Mississippi Judicial College*
Carole E. Murphey, *Research Counsel II, Mississippi Judicial College*
Brittney Batton Davis, *Policy Advisor, Office of the Lt. Governor*
M. Ethan Samsel, *Staff Attorney, Mississippi Senate*
Gwennetta L. Tatum, *Director of the House Legislative Services Office,
Mississippi House of Representatives*
Kyle Williams, *Director, Opinions and Public Policy Division, Office of the Attorney General*

Agenda

The meeting was called to order by Representative Cockerham and Senator Wiggins and an agenda was circulated.

The first agenda item was the **minutes** from the August 23, 2021 meeting of the Task Force. Upon motion of Mark Chinn, with second by Judge Odom, the minutes were adopted by unanimous consent.

The second agenda item was the **recommendation on the “no fault” divorce issue**. Judge Odom addressed the members and noted that he sought the enthusiastic endorsement of the Task Force for a recommendation. While cognizant that the Legislature itself would draft any legislation, Judge Odom intended to convene a group including himself, Judge Schloegel, and Dean Bell to prepare the written recommendation.

Discussion was had wherein Judge Schloegel and Dean Bell accepted the additional responsibilities. Senator Wiggins motioned for the Task Force to proceed to drafting the recommendation, and Judge McCarty seconded. The motion was passed unanimously.

Third, the Task Force addressed **models of child support**. Mr. McCauley gave a thoughtful presentation on the impact the income shares model might have on Mississippi. He also summarized the videoconference presented by Dr. Venohr.

Discussion was had. Ultimately, Judge Odom proposed that due to time limitations, shifting to a different model—with its attendant complexities and impacts on different socioeconomic levels in Mississippi—was beyond the scope of the Task Force as presently constituted. Judge Odom suggested the Legislature could continue to examine alternate models of child support with the assistance of the Legislative Budget Office and the State Economist, who would be better prepared to ascertain the financial impact of a shift to a different model.

Fourth, the **age of emancipation** was addressed. Mississippi is very nearly unique in that 21 is the age of majority. The Mississippi Judicial College prepared materials to summarize how the other States address this issue. Due to the depth and complexity of the materials, this agenda item was passed to a subsequent meeting. Legislative materials on proposed changes to the age of majority will also be shared.

Fifth, the Task Force reviewed materials related to **continued support for adult children with disabilities**. Due to the depth and complexity of the materials, this agenda item was passed to a subsequent meeting.

In related matters, Dean Bell raised a concern about the complicated nature of dividing PERS benefits and the timing of any disbursements.

Mr. Chinn made a motion to adjourn, seconded by Senator Wiggins, and the Task Force duly dispersed at 11:50 a.m.

Dated: October 20, 2021

A handwritten signature in black ink, appearing to read 'D. McCarty', written over a horizontal line.

JUDGE DAVID NEIL MCCARTY
SECRETARY OF THE TASK FORCE

A handwritten signature in blue ink, appearing to read 'T. Odom', written over a horizontal line.

CHANCELLOR TROY F. ODOM
CHAIR OF THE TASK FORCE

October 22, 2021

**TASK FORCE TO STUDY MISSISSIPPI'S LAWS
REGARDING THE AWARDING AND CALCULATING OF CHILD SUPPORT, ALIMONY
AND OTHER RELATED MATTERS IN DOMESTIC LAW**

CONVENED PURSUANT TO S.B. 2621

**Minutes of the Task Force
October 22, 2021**

At 10:00 a.m. on the above day in Room 216 of the Mississippi State Capitol the members and associated staff of the S.B. 2621 Task Force met to fulfill the purpose of the Statute.

The following members of the Task Force were present physically or via the Zoom electronic application:

Representative Angela Cockerham, *District 96, Chair of Judiciary A and
Chair of Judiciary En Banc*
Senator Brice Wiggins, *District 52, Chair of Judiciary, Division A*
The Honorable T. Kenneth Griffis, *Mississippi Supreme Court*
The Honorable David Neil McCarty, *Court of Appeals of the State of Mississippi, Secretary*
The Honorable Troy F. Odom, *Chancellor, District 20, Chair*
Professor Deborah H. Bell, *University of Mississippi School of Law*
A. Regnal "Reggie" Blackledge, *Attorney at Law*
Mark A. Chinn, *Chinn and Associates*
J. Michael McCauley, *Senior Attorney, Mississippi Department of Human Services*

Also present were the following:

M. Ethan Samsel, *Staff Attorney, Mississippi Senate*
Gwennetta L. Tatum, *Director of the House Legislative Services Office,
Mississippi House of Representatives*

Agenda

The meeting was called to order by Representative Cockerham and Senator Wiggins and an agenda was circulated.

The first agenda item was the **minutes** from the October 1, 2021 meeting of the Task Force. Upon motion of Reggie Blackledge, with second by Justice Griffis, the minutes were adopted by unanimous consent.

The second agenda item was the **written recommendation** to amend Mississippi Code Annotated 93-5-1 to provide for an additional fault grounds for divorce based on a finding of an irretrievable breakdown of the marriage and/or complete incompatibility between spouses. Judge McCarty motioned to approve the written recommendation, with second by Reggie Blackledge. The motion passed by unanimous consent.

Third, the Task Force addressed **the divisibility of PERS benefits**. Dean Bell presented on this issue. There was discussion on whether PERS could be divided via a qualified domestic relation order, or QDRO; there was also an extended discussion of the complication of calculating PERS benefits in general and in specific during a divorce action. Judge McCarty motioned the discussion be tabled pending communication with the Director of PERS regarding a position from that agency, seconded by Dean Bell. The motion passed by unanimous consent.

Fourth, the **age of emancipation** was addressed. The consensus was that the Legislature was interested in changing this age, which would impact the calculation of child support benefits. There was discussion regarding various positions and whether it would benefit or harm children or custodial and non-custodial benefits. Judge Odom noted that he, along with Justice Griffis, Judge McCarty, and Judge Schloegel, would present on the work of the Task Force for the upcoming conference of judges, and would seek input from the assembled chancellors. Given that information, Reggie Blackledge motioned the issue be tabled until after the judges' conference, seconded by Senator Wiggins. The motion passed by unanimous consent.

Fifth, the Task Force reviewed a proposed **written recommendation for continued support for adult children with disabilities**. Dean Bell spoke thoughtfully on this issue, pointing out the Legislature could create a presumption child support for a child with a disability that renders the child incapable of self-support should continue past the age of majority. Under current Mississippi law child support for disabled children terminates upon the age of majority. Senator Wiggins motioned to approve the written recommendation, and Michael McCauley seconded. The motion passed by unanimous consent.

Sixth, the Task Force took up the issue of how to address **child support payments for incarcerated individuals**. Mr. McCauley pointed out that MDHS had drafted and urged passage of a bill which would administratively suspend the payments during incarceration, so long as the incarceration was not as a result of non-payment of child support. Dean Bell weighed in on how continued accrual of child support for those incarcerated can become an insurmountable burden upon release. Dean Bell made a motion to support the MDHS bill on this issue, seconded by Justice Griffis. The motion passed by unanimous consent.

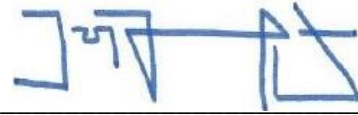
Justice Griffis made a motion that the Task Force continue its efforts if authorized by the Legislature, seconded by Dean Bell. The motion passed by unanimous consent.

Judge Odom made a motion to adjourn, seconded by Justice Griffis, and the Task Force duly dispersed at 11:38 a.m.

Dated: December 1, 2021



JUDGE DAVID NEIL MCCARTY
SECRETARY OF THE TASK FORCE



CHANCELLOR TROY F. ODOM
CHAIR OF THE TASK FORCE

November 30, 2021

**TASK FORCE TO STUDY MISSISSIPPI’S LAWS
REGARDING THE AWARDING AND CALCULATING OF CHILD SUPPORT, ALIMONY
AND OTHER RELATED MATTERS IN DOMESTIC LAW**

CONVENED PURSUANT TO S.B. 2621

**Minutes of the Task Force
Nov. 30, 2021**

At 4:00 p.m. on the above day the members and associated staff of the S.B. 2621 Task Force met via the Zoom electronic application to fulfill the purpose of the Statute.

The following members of the Task Force were present on Zoom:

Representative Angela Cockerham, *District 96, Chair of Judiciary A and
Chair of Judiciary En Banc*

The Honorable T. Kenneth Griffis, *Mississippi Supreme Court*

The Honorable David Neil McCarty, *Court of Appeals of the State of Mississippi, Secretary*

The Honorable Troy F. Odom, *Chancellor, District 20, Chair*

The Honorable Jennifer T. Schloegel, *Chancellor, District 8*

Professor Deborah H. Bell, *University of Mississippi School of Law*

J. Michael McCauley, *Senior Attorney, Mississippi Department of Human Services*

Lee Ann Turner, *The Winfield Law Firm, PA*

Also present were the following:

M. Ethan Samsel, *Staff Attorney, Mississippi Senate*

Gwennetta L. Tatum, *Director of the House Legislative Services Office,
Mississippi House of Representatives*

Agenda

The meeting was called to order by Judge Odom. The core purpose of the meeting was to review the near-final Recommendations of the Task Force.

Regarding the Task Force’s second recommendation, on the **age of emancipation**, Dean Bell motioned we modify language to make it more consistent with other legislation on the same subject. She recommended that the recommendation be modified to say a chancellor “may” order continuing support for an adult child who is incapable of self-support. Judge McCarty seconds. The motion passed by unanimous consent.

Next, both Representative Cockerham and Judge Schloegel expressed concerns about the text of the first recommendation, on an **additional fault ground for divorce based on a finding of an irretrievable breakdown of the marriage and/or complete incompatibility between spouses**.

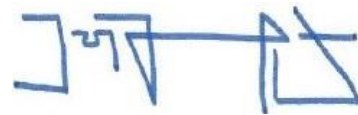
Discussion was had, with Representative Cockerham urging the Task Force to vote on the inclusion of any additional language in accord with prior Task Force practice. Dean Bell motions to adopt the language in the last draft of the Recommendations which provided Judge Schloegel's alternate proposal and included the proposed language as an appendix; Justice Griffis seconds. The motion passed with all in agreement save Judge McCarty.

Justice Griffis made a motion to adjourn, seconded by Judge Schloegel, and the Task Force duly dispersed at 4:34 p.m.

Dated: December 1, 2021



JUDGE DAVID NEIL MCCARTY
SECRETARY OF THE TASK FORCE



CHANCELLOR TROY F. ODOM
CHAIR OF THE TASK FORCE

APPENDIX C

No-Fault Divorce | Demonstrative Legislation

By:

To:

BILL NO. _____

1 AN ACT TO AMEND SECTION 93-5-2, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT A DIVORCE MAY BE GRANTED UPON A COMPLAINT OF ONE
3 PARTY WHERE THE DEFENDANT HAS BEEN PERSONALLY SERVED WITH PROCESS
4 OR WHERE THE DEFENDANT HAS ENTERED AN APPEARANCE BY WRITTEN WAIVER
5 OF PROCESS; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 93-5-2, Mississippi Code of 1972, is
8 amended as follows:

9 93-5-2. (1) Divorce from the bonds of matrimony may be
10 granted on the ground of irreconcilable differences * * *.
11 Divorce may be granted upon the joint complaint of the husband and
12 wife or a complaint where the defendant has been personally served
13 with process or where the defendant has entered an appearance by
14 written waiver of process.

15 (2) If the parties provide by written agreement for the
16 custody and maintenance of any children of that marriage and for
17 the settlement of any property rights between the parties and the
18 court finds that such provisions are adequate and sufficient, the

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19 agreement may be incorporated in the judgment, and such judgment
20 may be modified as other judgments for divorce.

21 (3) If the parties are unable to agree upon adequate and
22 sufficient provisions for the custody and maintenance of any
23 children of that marriage or any property rights between
24 them, * * * one (1) or both parties may consent to a divorce on
25 the ground of irreconcilable differences and permit the court to
26 decide the issues upon which they cannot agree. Such consent must
27 be in writing, signed by one (1) or both parties personally, must
28 state that the party or parties voluntarily consent to permit the
29 court to decide such issues, which shall be specifically set forth
30 in such consent, and that the party or parties understand that the
31 decision of the court shall be a binding and lawful judgment.
32 Such consent may not be withdrawn by a party without leave of the
33 court after the court has commenced any proceeding, including the
34 hearing of any motion or other matter pertaining thereto. The
35 failure or refusal of either party to agree as to adequate and
36 sufficient provisions for the custody and maintenance of any
37 children of that marriage or any property rights between the
38 parties, or any portion of such issues, or the failure or refusal
39 of any party to consent to permit the court to decide such issues,
40 shall not be used as evidence, or in any manner, against such
41 party. No divorce shall be granted pursuant to this subsection
42 until all matters involving custody and maintenance of any child
43 of that marriage and property rights between the parties raised by

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44 the pleadings have been either adjudicated by the court or agreed
45 upon by the parties and found to be adequate and sufficient by the
46 court and included in the judgment of divorce. Appeals from any
47 orders and judgments rendered pursuant to this subsection may be
48 had as in other cases in chancery court only insofar as such
49 orders and judgments relate to issues that the parties consented
50 to have decided by the court.

51 (4) Complaints for divorce on the ground of irreconcilable
52 differences must have been on file for sixty (60) days before
53 being heard. Except as otherwise provided in subsection (3) of
54 this section, a joint complaint of husband and wife or a complaint
55 where the defendant has been personally served with process or
56 where the defendant has entered an appearance by written waiver of
57 process, for divorce solely on the ground of irreconcilable
58 differences, shall be taken as proved and a final judgment entered
59 thereon, as in other cases and without proof or testimony in
60 termtime or vacation, the provisions of Section 93-5-17 to the
61 contrary notwithstanding.

62 * * *

63 (* * *5) Irreconcilable differences may be asserted as a
64 sole ground for divorce or as an alternate ground for divorce with
65 any other cause for divorce set out in Section 93-5-1.

66 (* * *6) For the purposes of orders touching the
67 maintenance and alimony of the wife or husband, "property" and "an
68 asset of a spouse" shall not include any interest a party may have

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69 as an heir at law of a living person or any interest under a
70 third-party will, nor shall any such interest be considered as an
71 economic circumstance or other factor.

72 **SECTION 2.** This act shall take effect and be in force from
73 and after July 1, 2022.

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ST: Divorce; authorize upon the complaint of
one party.

APPENDIX D

Senate Bill 2220 | 2021 Regular Session | Disabled Adult Support

MISSISSIPPI LEGISLATURE

REGULAR SESSION 2021

By: Senator(s) Parker

To: Judiciary, Division A

SENATE BILL NO. 2220

1 AN ACT TO AMEND SECTION 93-11-65, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT CHILD SUPPORT FOR A CHILD WITH A DISABILITY MAY
3 CONTINUE PAST THE AGE OF MAJORITY; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 93-11-65, Mississippi Code of 1972, is
6 amended as follows:

7 93-11-65. (1) (a) In addition to the right to proceed
8 under Section 93-5-23, Mississippi Code of 1972, and in addition
9 to the remedy of habeas corpus in proper cases, and other existing
10 remedies, the chancery court of the proper county shall have
11 jurisdiction to entertain suits for the custody, care, support and
12 maintenance of minor children and to hear and determine all such
13 matters, and shall, if need be, require bond, sureties or other
14 guarantee to secure any order for periodic payments for the
15 maintenance or support of a child. * * * ~~In the event~~ If a
16 legally responsible parent has health insurance available * * * ~~to~~
17 ~~him or her~~ through an employer or organization that may extend
18 benefits to the dependents of * * * ~~such~~ the parent, any order of

S. B. No. 2220
21/SS36/R173
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19 support issued against * * * ~~such~~ the parent may require him or
20 her to exercise the option of additional coverage in favor
21 of * * * ~~such~~ any children * * * ~~as~~ he or she is legally
22 responsible to support. Proceedings may be brought by or against
23 a resident or nonresident of the State of Mississippi, whether or
24 not having the actual custody of minor children, for the purpose
25 of judicially determining the legal custody of a child. All
26 actions herein authorized may be brought in the county where the
27 child is actually residing, or in the county of the residence of
28 the party who has actual custody, or of the residence of the
29 defendant. Process shall be had upon the parties as provided by
30 law for process in person or by publication, if they * * * ~~be~~ are
31 nonresidents of the state or residents of another jurisdiction or
32 are not found therein after diligent search and inquiry or are
33 unknown after diligent search and inquiry; provided that the court
34 or chancellor in vacation may fix a date in termtime or in
35 vacation to which process may be returnable and shall have power
36 to proceed in termtime or vacation. * * * ~~Provided, however, that~~
37 If the court * * * ~~shall~~ finds that both parties are fit and
38 proper persons to have custody of the children, and that either
39 party is able to adequately provide for the care and maintenance
40 of the children, the chancellor may consider the preference of a
41 child of twelve (12) years of age or older as to the parent with
42 whom the child would prefer to live in determining what would be
43 in the best interest and welfare of the child. The chancellor



44 shall place on the record the reason or reasons for which the
45 award of custody was made and explain in detail why the wishes of
46 any child were or were not honored.

47 (b) An order of child support shall specify the sum to
48 be paid weekly or otherwise. In addition to providing for support
49 and education, the order shall also provide for the support of the
50 child prior to the making of the order for child support, and such
51 other expenses as the court may deem proper.

52 (c) The court may require the payment to be made to the
53 custodial parent, or to some person or corporation to be
54 designated by the court as trustee, but if the child or custodial
55 parent is receiving public assistance, the Department of Human
56 Services shall be made the trustee.

57 (d) The noncustodial parent's liabilities for past
58 education and necessary support and maintenance and other expenses
59 are limited to a period of one (1) year next preceding the
60 commencement of an action.

61 (2) * * * ~~Provided further, that~~ Where the proof shows that
62 both parents have separate incomes or estates, the court may
63 require that each parent contribute to the support and maintenance
64 of the children in proportion to the relative financial ability of
65 each.

66 (3) Whenever the court has ordered a party to make periodic
67 payments for the maintenance or support of a child, but no bond,
68 sureties or other guarantee has been required to secure * * * ~~such~~



69 the payments, and whenever such payments as have become due remain
70 unpaid for a period of at least thirty (30) days, the court may,
71 upon petition of the person to whom such payments are owing, or
72 such person's legal representative, enter an order requiring that
73 bond, sureties or other security be given by the person obligated
74 to make such payments, the amount and sufficiency of which shall
75 be approved by the court. The obligor shall, as in other civil
76 actions, be served with process and shall be entitled to a hearing
77 in such case.

78 (4) When a charge of abuse or neglect of a child first
79 arises in the course of a custody or maintenance action pending in
80 the chancery court pursuant to this section, the chancery court
81 may proceed with the investigation, hearing and determination
82 of * * * ~~such~~ the abuse or neglect charge as a part of its hearing
83 and determination of the custody or maintenance issue as between
84 the parents, as provided in Section 43-21-151, notwithstanding the
85 other provisions of the Youth Court Law. The proceedings in
86 chancery court on the abuse or neglect charge shall be
87 confidential in the same manner as provided in youth court
88 proceedings, and the chancery court shall appoint a guardian ad
89 litem in such cases, as provided under Section 43-21-121 for youth
90 court proceedings, who shall be an attorney. In determining
91 whether any portion of a guardian ad litem's fee shall be assessed
92 against any party or parties as a cost of court for reimbursement
93 to the county, the court shall consider each party's individual



94 ability to pay. Unless the chancery court's jurisdiction has been
95 terminated, all disposition orders in such cases for placement
96 with the Department of Human Services shall be reviewed by the
97 court or designated authority at least annually to determine if
98 continued placement with the department is in the best interest of
99 the child or the public.

100 (5) Each party to a paternity or child support proceeding
101 shall notify the other within five (5) days after any change of
102 address. In addition, the noncustodial and custodial parent shall
103 file and update, with the court and with the state case registry,
104 information on that party's location and identity, including
105 social security number, residential and mailing addresses,
106 telephone numbers, photograph, driver's license number, and name,
107 address and telephone number of the party's employer. This
108 information shall be required upon entry of an order or within
109 five (5) days of a change of address.

110 (6) In any case subsequently enforced by the Department of
111 Human Services pursuant to Title IV-D of the Social Security Act,
112 the court shall have continuing jurisdiction.

113 (7) In any subsequent child support enforcement action
114 between the parties, upon sufficient showing that diligent effort
115 has been made to ascertain the location of a party, due process
116 requirements for notice and service of process shall be deemed to
117 be met with respect to the party upon delivery of written notice



118 to the most recent residential or employer address filed with the
119 state case registry.

120 (8) (a) The duty of support of a child terminates upon the
121 emancipation of the child. Unless otherwise provided for in the
122 underlying child support judgment, emancipation shall occur when
123 the child:

- 124 (i) Attains the age of twenty-one (21) years, or
- 125 (ii) Marries, or
- 126 (iii) Joins the military and serves on a full-time
127 basis, or
- 128 (iv) Is convicted of a felony and is sentenced to
129 incarceration of two (2) or more years for committing such
130 felony; * * *~~ex~~

131 (b) Unless otherwise provided for in the underlying
132 child support judgment, the court may determine that emancipation
133 has occurred and no other support obligation exists when the
134 child:

- 135 (i) Discontinues full-time enrollment in school
136 having attained the age of eighteen (18) years, unless the child
137 is disabled, or
- 138 (ii) Voluntarily moves from the home of the
139 custodial parent or guardian, establishes independent living
140 arrangements, obtains full-time employment and discontinues
141 educational endeavors prior to attaining the age of twenty-one
142 (21) years, or



143 (iii) Cohabits with another person without the
144 approval of the parent obligated to pay support; * * *and
145 (c) The duty of support of a child who is incarcerated
146 but not emancipated shall be suspended for the period of the
147 child's incarceration * * *;
148 (d) The presumption of emancipation under this
149 subsection (8) may be overcome by evidence that an adult child is
150 incapable of self-support by reason of a physical or mental
151 disability if the disability existed during the adult child's
152 minority; and
153 (e) The court may order that the duty to support a
154 child continues past the anticipated age of majority if the minor
155 child has a disability which was present during the child's
156 minority that prevents the child from living independently unless
157 the child is a long-term patient in a facility owned or operated
158 by the State of Mississippi; the court may also make, modify or
159 leave in place previous orders regarding custody, visitation,
160 payment of medical expenses or any other matters regarding the
161 health, maintenance, education and welfare of the child with a
162 disability.
163 (9) A determination of emancipation does not terminate any
164 obligation of the noncustodial parent to satisfy arrearage
165 existing as of the date of emancipation; the total amount of
166 periodic support due prior to the emancipation plus any periodic
167 amounts ordered paid toward the arrearage shall continue to be



168 owed until satisfaction of the arrearage in full, in addition to
169 the right of the person for whom the obligation is owed to execute
170 for collection as may be provided by law.

171 (10) Upon motion of a party requesting temporary child
172 support pending a determination of parentage, temporary support
173 shall be ordered if there is clear and convincing evidence of
174 paternity on the basis of genetic tests or other evidence, unless
175 the court makes written findings of fact on the record that the
176 award of temporary support would be unjust or inappropriate in a
177 particular case.

178 (11) Custody and visitation upon military temporary duty,
179 deployment or mobilization shall be governed by Section 93-5-34.

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



By: Representatives Cockerham, Anthony,
Stamps

To: Judiciary A

HOUSE BILL NO. 1067

1 AN ACT TO AMEND SECTION 43-19-101, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IMPUTATION OF INCOME SHALL NOT BE BASED UPON A
3 STANDARD AMOUNT IN LIEU OF FACT-GATHERING FOR CHILD SUPPORT
4 CALCULATIONS; AND 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:

12	Number Of Children	Percentage Of Adjusted Gross Income
13	Due Support	That Should Be Awarded For Support
14	1	14%
15	2	20%
16	3	22%
17	4	24%
18	5 or more	26%



19 (2) The guidelines provided for in subsection (1) of this
20 section apply unless the judicial or administrative body awarding
21 or modifying the child-support award makes a written finding or
22 specific finding on the record that the application of the
23 guidelines would be unjust or inappropriate in a particular case
24 as determined under the criteria specified in Section 43-19-103.

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

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

43 (b) Subtract the following legally mandated deductions:



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

47 (ii) Social security contributions;

48 (iii) Retirement and disability contributions
49 except any voluntary retirement and disability contributions;

50 (c) If the * * * obligated parent is subject to an
51 existing court order for another child or children, subtract the
52 amount of that court-ordered support;

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

57 (e) Compute the total annual amount of adjusted gross
58 income based on paragraphs (a) through (d) of this subsection,
59 then divide this amount by twelve (12) to obtain the monthly
60 amount of adjusted gross income.

61 Upon conclusion of the calculation of paragraphs (a) through
62 (e) of this subsection, multiply the monthly amount of adjusted
63 gross income by the appropriate percentage designated in
64 subsection (1) of this section to arrive at the amount of the
65 monthly child-support award.

66 (4) In cases in which the adjusted gross income as defined
67 in this section is more than One Hundred Thousand Dollars
68 (\$100,000.00) or less than Ten Thousand Dollars (\$10,000.00), the



69 court shall make a written finding in the record as to whether or
70 not the application of the guidelines established in this section
71 is reasonable. The court shall take into account the basic
72 subsistence needs of the obligated parent who has a limited
73 ability to pay.

74 (5) Imputation of income shall not be based upon a standard
75 amount in lieu of fact-gathering. In the absence of specific
76 sufficient evidence of past earnings and employment history to use
77 as the measure of an obligated parent's ability to pay, the
78 recommended child-support obligation amount should be based on
79 available information about the specific circumstances of the
80 obligated parent. This can include, but is not limited to, such
81 factors as assets, residence, job skills, educational attainment,
82 literacy, age, health, criminal record and other employment
83 barriers, and record of seeking work, as well as the local job
84 market, the availability of employers willing to hire the
85 obligated parent, prevailing earnings level in the local
86 community, and other relevant factors in the case.

87 (* * *6) Unless extended or waived, the Department of Human
88 Services shall review the appropriateness of these guidelines
89 beginning January 1, 1994, and every four (4) years thereafter and
90 report its findings to the Legislature no later than the first day
91 of the regular legislative session of that year. The Legislature
92 shall thereafter amend these guidelines when it finds that



amendment is necessary to ensure that equitable support is being awarded in all cases involving the support of minor children.

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

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

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

The court shall then make appropriate provisions in the judgment for the provision of health insurance coverage for the child(ren) in the manner that is in the best interests of the child(ren). If the court requires the custodial parent to obtain the coverage then its cost shall be taken into account in establishing the child-support award. If the court determines that health insurance coverage is not available to any party or that it is not available to either party at a cost that is reasonable as compared to the income of the parties, then the court shall make specific findings as to such either on the record or in the judgment. In that event, the court shall make appropriate provisions in the judgment for the payment of medical



118 expenses of the child(ren) in the absence of health insurance
119 coverage.

120 **SECTION 2.** This act shall take effect and be in force from
121 and after July 1, 2022.



By: Representatives Cockerham, Anthony,
Stamps, Karriem

To: Judiciary A

HOUSE BILL NO. 592
(As Passed the House)

1 AN ACT TO CREATE NEW SECTION 43-19-36, MISSISSIPPI CODE OF
2 1972, TO PROVIDE THAT CHILD SUPPORT OBLIGATIONS SHALL BE SUSPENDED
3 BY OPERATION OF LAW FOR PERSONS ORDERED TO PAY CHILD SUPPORT WHO
4 ARE INCARCERATED OR INVOLUNTARILY INSTITUTIONALIZED FOR MORE THAN
5 180 DAYS, WITH CERTAIN EXCEPTIONS; TO PROVIDE THAT THE CHILD
6 SUPPORT OBLIGATION WILL RESUME 60 DAYS AFTER THE NONCUSTODIAL
7 PARENT IS RELEASED FROM INCARCERATION, AND THE NONCUSTODIAL
8 PARENT'S CHILD SUPPORT ORDER AND OBLIGATION WILL BECOME
9 ENFORCEABLE ON THAT DATE; TO AUTHORIZE THE DEPARTMENT OF HUMAN
10 SERVICES WHEN ENFORCING A CHILD SUPPORT ORDER TO ADMINISTRATIVELY
11 ADJUST THE ARREARS BALANCE FOR AN ORDER FOR CHILD SUPPORT THAT WAS
12 SUSPENDED BECAUSE OF INCARCERATION OR INSTITUTIONALIZATION UNDER
13 CERTAIN CONDITIONS; TO AMEND SECTIONS 93-11-65, 93-11-71 AND
14 93-5-23, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
15 SECTION; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** The following shall be codified as Section
18 43-19-36, Mississippi Code of 1972:

19 43-19-36. (1) For the purposes of this section, the
20 following terms shall be defined as provided in this subsection:

21 (a) "Incarcerated or involuntarily institutionalized"
22 includes, but is not limited to, involuntary confinement to a
23 federal or state prison or correctional facility, a county jail, a
24 juvenile detention center or a mental health facility. This term



25 does not include probation or work release, and the one hundred
26 and eighty (180) consecutive days excludes credit for time served
27 before sentencing.

28 (b) "Child support obligation" means the payment due on
29 the current child support order, an arrears payment on a
30 preexisting arrears balance, or interest on arrears.

31 (c) "Suspension" means a child support obligation being
32 administratively set to Zero Dollars (\$0.00) for the period in
33 which the person owing support is incarcerated or involuntarily
34 institutionalized, and prevents the accrual of arrears during that
35 period of incarceration.

36 (2) Child support obligations shall be suspended, by
37 operation of law, for any period exceeding one hundred and eighty
38 (180) consecutive days in which the person ordered to pay support
39 is incarcerated or involuntarily institutionalized, unless either
40 of the following conditions exists:

41 (a) The person owing support has the means to pay
42 support in accordance with the guidelines established in 43-19-101
43 and 43-19-103 while incarcerated or involuntarily
44 institutionalized; or

45 (b) The person owing support was incarcerated or
46 involuntarily institutionalized for an offense constituting
47 domestic violence under Section 97-3-7, child abuse under Section
48 97-5-39, or criminal nonpayment of child support under Section
49 97-5-3.



50 (3) (a) The child support obligation will resume the first
51 day of the month following the expiration of sixty (60) days after
52 the date the noncustodial parent is released from incarceration,
53 and the noncustodial parent's child support order and obligation
54 will become enforceable on that date. This section does not
55 preclude a person owing support from seeking a modification of the
56 child support order based on a change in circumstances or other
57 appropriate reason.

58 (b) Every four (4) months within a twenty-four-month
59 period after expiration of the sixty (60) days described in
60 paragraph (a) of this subsection (3), the court, on its own
61 motion, shall assess all factors related to the noncustodial
62 parent's ability to pay in order to determine whether the child
63 support obligations may be increased.

64 (4) (a) The Department of Human Services enforcing a child
65 support order under Title IV-D of the Social Security Act (42 USC
66 Section 651 et seq.) may, upon written notice of the proposed
67 adjustment to the obligor and the obligee, administratively adjust
68 the arrears balance for an order for child support suspended under
69 subsection (2) of this act if all of the following occur:

70 (i) The department verifies that arrears were
71 accrued in violation of this section;

72 (ii) The department verifies that neither of the
73 conditions set forth in paragraph (a) or (b) of subsection (2) of
74 this section exist; and



75 (iii) Neither the support obligor nor obligee
76 objects in writing within thirty (30) days of receipt of the
77 notice of proposed adjustment by the department.

78 (b) If either the support obligor or obligee objects to
79 the administrative adjustment set forth in this subsection, the
80 department shall file a petition with the court for a
81 determination of the arrears balance.

82 (c) The department may perform this adjustment without
83 regard to whether it was enforcing the child support order at the
84 time the parent owing support qualified for relief under this
85 section.

86 (5) This section does not prohibit the department or a party
87 from petitioning a court for a determination of child support or
88 arrears amounts.

89 (6) This section applies to every child support obligation
90 in which the person who is ordered to pay is incarcerated for one
91 hundred and eighty (180) consecutive days after the enactment of
92 this section.

93 (7) The provisions of this section shall only apply to child
94 support obligations for:

95 (a) A child who receives financial or medical benefits
96 from the Department of Human Services or Child Protection
97 Services; or



98 (b) A child whose custodial parent receives financial
99 or medical benefits from the Department of Human Services or Child
100 Protection Services.

101 **SECTION 2.** Section 93-11-65, Mississippi Code of 1972, is
102 amended as follows:

103 93-11-65. (1) (a) In addition to the right to proceed
104 under Section 93-5-23, Mississippi Code of 1972, and in addition
105 to the remedy of habeas corpus in proper cases, and other existing
106 remedies, the chancery court of the proper county shall have
107 jurisdiction to entertain suits for the custody, care, support and
108 maintenance of minor children and to hear and determine all such
109 matters, and shall, if need be, require bond, sureties or other
110 guarantee to secure any order for periodic payments for the
111 maintenance or support of a child. In the event a legally
112 responsible parent has health insurance available to him or her
113 through an employer or organization that may extend benefits to
114 the dependents of such parent, any order of support issued against
115 such parent may require him or her to exercise the option of
116 additional coverage in favor of such children as he or she is
117 legally responsible to support. Proceedings may be brought by or
118 against a resident or nonresident of the State of Mississippi,
119 whether or not having the actual custody of minor children, for
120 the purpose of judicially determining the legal custody of a
121 child. All actions herein authorized may be brought in the county
122 where the child is actually residing, or in the county of the



123 residence of the party who has actual custody, or of the residence
124 of the defendant. Process shall be had upon the parties as
125 provided by law for process in person or by publication, if they
126 be nonresidents of the state or residents of another jurisdiction
127 or are not found therein after diligent search and inquiry or are
128 unknown after diligent search and inquiry; provided that the court
129 or chancellor in vacation may fix a date in termtime or in
130 vacation to which process may be returnable and shall have power
131 to proceed in termtime or vacation. Provided, however, that if
132 the court shall find that both parties are fit and proper persons
133 to have custody of the children, and that either party is able to
134 adequately provide for the care and maintenance of the children,
135 the chancellor may consider the preference of a child of twelve
136 (12) years of age or older as to the parent with whom the child
137 would prefer to live in determining what would be in the best
138 interest and welfare of the child. The chancellor shall place on
139 the record the reason or reasons for which the award of custody
140 was made and explain in detail why the wishes of any child were or
141 were not honored.

142 (b) An order of child support shall specify the sum to
143 be paid weekly or otherwise. In addition to providing for support
144 and education, the order shall also provide for the support of the
145 child prior to the making of the order for child support, and such
146 other expenses as the court may deem proper.



(c) The court may require the payment to be made to the custodial parent, or to some person or corporation to be designated by the court as trustee, but if the child or custodial parent is receiving public assistance, the Department of Human Services shall be made the trustee.

(d) The noncustodial parent's liabilities for past education and necessary support and maintenance and other expenses are limited to a period of one (1) year next preceding the commencement of an action.

(2) Provided further, that where the proof shows that both parents have separate incomes or estates, the court may require that each parent contribute to the support and maintenance of the children in proportion to the relative financial ability of each.

(3) Except as otherwise provided in Section 1 of this act for persons who are incarcerated or involuntarily institutionalized, whenever the court has ordered a party to make periodic payments for the maintenance or support of a child, but no bond, sureties or other guarantee has been required to secure such payments, and whenever such payments as have become due remain unpaid for a period of at least thirty (30) days, the court may, upon petition of the person to whom such payments are owing, or such person's legal representative, enter an order requiring that bond, sureties or other security be given by the person obligated to make such payments, the amount and sufficiency of which shall be approved by the court. The obligor shall, as in



other civil actions, be served with process and shall be entitled to a hearing in such case.

(4) When a charge of abuse or neglect of a child first arises in the course of a custody or maintenance action pending in the chancery court pursuant to this section, the chancery court may proceed with the investigation, hearing and determination of such abuse or neglect charge as a part of its hearing and determination of the custody or maintenance issue as between the parents, as provided in Section 43-21-151, notwithstanding the other provisions of the Youth Court Law. The proceedings in chancery court on the abuse or neglect charge shall be confidential in the same manner as provided in youth court proceedings, and the chancery court shall appoint a guardian ad litem in such cases, as provided under Section 43-21-121 for youth court proceedings, who shall be an attorney. In determining whether any portion of a guardian ad litem's fee shall be assessed against any party or parties as a cost of court for reimbursement to the county, the court shall consider each party's individual ability to pay. Unless the chancery court's jurisdiction has been terminated, all disposition orders in such cases for placement with the Department of Human Services shall be reviewed by the court or designated authority at least annually to determine if continued placement with the department is in the best interest of the child or the public.



196 (5) Each party to a paternity or child support proceeding
197 shall notify the other within five (5) days after any change of
198 address. In addition, the noncustodial and custodial parent shall
199 file and update, with the court and with the state case registry,
200 information on that party's location and identity, including
201 social security number, residential and mailing addresses,
202 telephone numbers, photograph, driver's license number, and name,
203 address and telephone number of the party's employer. This
204 information shall be required upon entry of an order or within
205 five (5) days of a change of address.

206 (6) In any case subsequently enforced by the Department of
207 Human Services pursuant to Title IV-D of the Social Security Act,
208 the court shall have continuing jurisdiction.

209 (7) In any subsequent child support enforcement action
210 between the parties, upon sufficient showing that diligent effort
211 has been made to ascertain the location of a party, due process
212 requirements for notice and service of process shall be deemed to
213 be met with respect to the party upon delivery of written notice
214 to the most recent residential or employer address filed with the
215 state case registry.

216 (8) (a) The duty of support of a child terminates upon the
217 emancipation of the child. Unless otherwise provided for in the
218 underlying child support judgment, emancipation shall occur when
219 the child:

220 (i) Attains the age of twenty-one (21) years, or



221 (ii) Marries, or
222 (iii) Joins the military and serves on a full-time
223 basis, or
224 (iv) Is convicted of a felony and is sentenced to
225 incarceration of two (2) or more years for committing such
226 felony; * * *
227 (b) Unless otherwise provided for in the underlying
228 child support judgment, the court may determine that emancipation
229 has occurred and no other support obligation exists when the
230 child:
231 (i) Discontinues full-time enrollment in school
232 having attained the age of eighteen (18) years, unless the child
233 is disabled, or
234 (ii) Voluntarily moves from the home of the
235 custodial parent or guardian, establishes independent living
236 arrangements, obtains full-time employment and discontinues
237 educational endeavors prior to attaining the age of twenty-one
238 (21) years, or
239 (iii) Cohabits with another person without the
240 approval of the parent obligated to pay support; * * *
241 (c) The duty of support of a child who is incarcerated
242 but not emancipated shall be suspended for the period of the
243 child's incarceration.
244 (9) A determination of emancipation does not terminate any
245 obligation of the noncustodial parent to satisfy arrearage



existing as of the date of emancipation; the total amount of periodic support due prior to the emancipation plus any periodic amounts ordered paid toward the arrearage shall continue to be owed until satisfaction of the arrearage in full, in addition to the right of the person for whom the obligation is owed to execute for collection as may be provided by law.

(10) Upon motion of a party requesting temporary child support pending a determination of parentage, temporary support shall be ordered if there is clear and convincing evidence of paternity on the basis of genetic tests or other evidence, unless the court makes written findings of fact on the record that the award of temporary support would be unjust or inappropriate in a particular case.

(11) Custody and visitation upon military temporary duty, deployment or mobilization shall be governed by Section 93-5-34.

SECTION 3. Section 93-11-71, Mississippi Code of 1972, is amended as follows:

93-11-71. (1) Except as otherwise provided in Section 1 of this act for persons who are incarcerated or involuntarily institutionalized, whenever a court orders any person to make periodic payments of a sum certain for the maintenance or support of a child, and whenever such payments as have become due remain unpaid for a period of at least thirty (30) days, a judgment by operation of law shall arise against the obligor in an amount equal to all payments that are then due and owing.



271 (a) A judgment arising under this section shall have
272 the same effect and be fully enforceable as any other judgment
273 entered in this state. A judicial or administrative action to
274 enforce the judgment may be begun at any time; and

275 (b) Such judgments arising in other states by operation
276 of law shall be given full faith and credit in this state.

277 (2) Any judgment arising under the provisions of this
278 section shall operate as a lien upon all the property of the
279 judgment debtor, both real and personal, which lien shall be
280 perfected as to third parties without actual notice thereof only
281 upon enrollment on the judgment roll. The department or attorney
282 representing the party to whom support is owed shall furnish an
283 abstract of the judgment for periodic payments for the maintenance
284 and support of a child, along with sworn documentation of the
285 delinquent child support, to the circuit clerk of the county where
286 the judgment is rendered, and it shall be the duty of the circuit
287 clerk to enroll the judgment on the judgment roll. Liens arising
288 under the provisions of this section may be executed upon and
289 enforced in the same manner and to the same extent as any other
290 judgment.

291 (3) Notwithstanding the provisions in subsection (2) of this
292 section, any judgment arising under the provisions of this section
293 shall subject the following assets to interception or seizure
294 without regard to the entry of the judgment on the judgment roll



of the situs district or jurisdiction and such assets shall apply to all child support owed including all arrears:

(a) Periodic or lump-sum payments from a federal, state or local agency, including unemployment compensation, workers' compensation and other benefits;

(b) Winnings from lotteries and gaming winnings that are received in periodic payments made over a period in excess of thirty (30) days;

(c) Assets held in financial institutions;

(d) Settlements and awards resulting from civil actions;

(e) Public and private retirement funds, only to the extent that the obligor is qualified to receive and receives a lump-sum or periodic distribution from the funds; and

(f) Lump-sum payments as defined in Section 93-11-101.

(4) Notwithstanding the provisions of subsections (1) and (2) of this section, upon disestablishment of paternity granted pursuant to Section 93-9-10 and a finding of clear and convincing evidence including negative DNA testing that the obligor is not the biological father of the child or children for whom support has been ordered, the court shall disestablish paternity and may forgive any child support arrears of the obligor for the child or children determined by the court not to be the biological child or children of the obligor, if the court makes a written finding



that, based on the totality of the circumstances, the forgiveness of the arrears is equitable under the circumstances.

(5) In any case in which a child receives assistance from block grants for Temporary Assistance for Needy Families (TANF), and the obligor owes past-due child support, the obligor, if not incapacitated, may be required by the court to participate in any work programs offered by any state agency.

(6) A parent who receives social security disability insurance payments who is liable for a child support arrearage and whose disability insurance benefits provide for the payment of past due disability insurance benefits for the support of the minor child or children for whom the parent owes a child support arrearage shall receive credit toward the arrearage for the payment or payments for the benefit of the minor child or children if the arrearage accrued after the date of disability onset as determined by the Social Security Administration.

SECTION 4. Section 93-5-23, Mississippi Code of 1972, is amended as follows:

93-5-23. When a divorce shall be decreed from the bonds of matrimony, the court may, in its discretion, having regard to the circumstances of the parties and the nature of the case, as may seem equitable and just, make all orders touching the care, custody and maintenance of the children of the marriage, and also touching the maintenance and alimony of the wife or the husband, or any allowance to be made to her or him, and shall, if need be,



344 require bond, sureties or other guarantee for the payment of the
345 sum so allowed. Orders touching on the custody of the children of
346 the marriage shall be made in accordance with the provisions of
347 Section 93-5-24. For the purposes of orders touching the
348 maintenance and alimony of the wife or husband, "property" and "an
349 asset of a spouse" shall not include any interest a party may have
350 as an heir at law of a living person or any interest under a
351 third-party will, nor shall any such interest be considered as an
352 economic circumstance or other factor. The court may afterwards,
353 on petition, change the decree, and make from time to time such
354 new decrees as the case may require. However, where proof shows
355 that both parents have separate incomes or estates, the court may
356 require that each parent contribute to the support and maintenance
357 of the children of the marriage in proportion to the relative
358 financial ability of each. In the event a legally responsible
359 parent has health insurance available to him or her through an
360 employer or organization that may extend benefits to the
361 dependents of such parent, any order of support issued against
362 such parent may require him or her to exercise the option of
363 additional coverage in favor of such children as he or she is
364 legally responsible to support.

365 Except as otherwise provided in Section 1 of this act for
366 persons who are incarcerated or involuntarily institutionalized,
367 whenever the court has ordered a party to make periodic payments
368 for the maintenance or support of a child, but no bond, sureties



or other guarantee has been required to secure such payments, and whenever such payments as have become due remain unpaid for a period of at least thirty (30) days, the court may, upon petition of the person to whom such payments are owing, or such person's legal representative, enter an order requiring that bond, sureties or other security be given by the person obligated to make such payments, the amount and sufficiency of which shall be approved by the court. The obligor shall, as in other civil actions, be served with process and shall be entitled to a hearing in such case.

At the discretion of the court, any person found in contempt for failure to pay child support and imprisoned therefor may be referred for placement in a state, county or municipal restitution, house arrest or restorative justice center or program, provided such person meets the qualifications prescribed in Section 99-37-19.

Whenever in any proceeding in the chancery court concerning the custody of a child a party alleges that the child whose custody is at issue has been the victim of sexual or physical abuse by the other party, the court may, on its own motion, grant a continuance in the custody proceeding only until such allegation has been investigated by the Department of Human Services. At the time of ordering such continuance, the court may direct the party and his attorney making such allegation of child abuse to report in writing and provide all evidence touching on the allegation of



abuse to the Department of Human Services. The Department of Human Services shall investigate such allegation and take such action as it deems appropriate and as provided in such cases under the Youth Court Law (being Chapter 21 of Title 43, Mississippi Code of 1972) or under the laws establishing family courts (being Chapter 23 of Title 43, Mississippi Code of 1972).

If after investigation by the Department of Human Services or final disposition by the youth court or family court allegations of child abuse are found to be without foundation, the chancery court shall order the alleging party to pay all court costs and reasonable attorney's fees incurred by the defending party in responding to such allegation.

The court may investigate, hear and make a determination in a custody action when a charge of abuse and/or neglect arises in the course of a custody action as provided in Section 43-21-151, and in such cases the court shall appoint a guardian ad litem for the child as provided under Section 43-21-121, who shall be an attorney. Unless the chancery court's jurisdiction has been terminated, all disposition orders in such cases for placement with the Department of Human Services shall be reviewed by the court or designated authority at least annually to determine if continued placement with the department is in the best interest of the child or public.



417 The duty of support of a child terminates upon the
418 emancipation of the child. The court may determine that
419 emancipation has occurred pursuant to Section 93-11-65.

420 Custody and visitation upon military temporary duty,
421 deployment or mobilization shall be governed by Section 93-5-34.

422 **SECTION 5.** This act shall take effect and be in force from
423 and after July 1, 2022.



By: Senator(s) Wiggins

To: Judiciary, Division A

SENATE BILL NO. 2619

1 AN ACT TO CREATE NEW SECTION 43-19-36, MISSISSIPPI CODE OF
2 1972, TO AID THE DEPARTMENT OF HUMAN SERVICES TO COMPLY WITH
3 FEDERAL LAW; TO PROVIDE THAT CHILD SUPPORT OBLIGATIONS SHALL BE
4 SUSPENDED BY OPERATION OF LAW FOR PERSONS ORDERED TO PAY CHILD
5 SUPPORT WHO ARE INCARCERATED OR INVOLUNTARILY INSTITUTIONALIZED
6 FOR MORE THAN 180 DAYS, WITH CERTAIN EXCEPTIONS; TO PROVIDE THAT
7 THE CHILD SUPPORT OBLIGATION WILL RESUME 60 DAYS AFTER THE
8 NONCUSTODIAL PARENT IS RELEASED FROM INCARCERATION, AND THE
9 NONCUSTODIAL PARENT'S CHILD SUPPORT ORDER AND OBLIGATION WILL
10 BECOME ENFORCEABLE ON THAT DATE; TO AUTHORIZE THE DEPARTMENT OF
11 HUMAN SERVICES WHEN ENFORCING A CHILD SUPPORT ORDER TO
12 ADMINISTRATIVELY ADJUST THE ARREARS BALANCE FOR AN ORDER FOR CHILD
13 SUPPORT THAT WAS SUSPENDED BECAUSE OF INCARCERATION OR
14 INSTITUTIONALIZATION UNDER CERTAIN CONDITIONS; TO AMEND SECTIONS
15 93-11-65, 93-11-71 AND 93-5-23, MISSISSIPPI CODE OF 1972, TO
16 CONFORM TO THE PRECEDING SECTION; AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** The following shall be codified as Section
19 43-19-36, Mississippi Code of 1972:

20 43-19-36. (1) For the purposes of this section, the
21 following terms shall be defined as provided in this subsection:

22 (a) "Incarcerated or involuntarily institutionalized"
23 includes, but is not limited to, involuntary confinement to a
24 federal or state prison or correctional facility, a county jail, a
25 juvenile detention center or a mental health facility. This term



26 does not include probation or work release, and the one hundred
27 and eighty (180) consecutive days excludes credit for time served
28 before sentencing.

29 (b) "Child support obligation" means the payment due on
30 the current child support order, an arrears payment on a
31 preexisting arrears balance, or interest on arrears.

32 (c) "Suspension" means a child support obligation being
33 administratively set to Zero Dollars (\$0.00) for the period in
34 which the person owing support is incarcerated or involuntarily
35 institutionalized, and prevents the accrual of arrears during that
36 period of incarceration.

37 (2) Child support obligations shall be suspended, by
38 operation of law, for any period exceeding one hundred eighty
39 (180) consecutive days in which the person ordered to pay support
40 is incarcerated or involuntarily institutionalized, unless either
41 of the following conditions exists:

42 (a) The person owing support has the means to pay
43 support in accordance with the guidelines established in 43-19-101
44 and 43-19-103 while incarcerated or involuntarily
45 institutionalized; or

46 (b) The person owing support was incarcerated or
47 involuntarily institutionalized for an offense constituting
48 domestic violence under Section 97-3-7, child abuse under Section
49 97-5-39, or criminal nonpayment of child support under Section
50 97-5-3.



51 (3) The child support obligation will resume the first day
52 of the month following the expiration of sixty (60) days after the
53 date the noncustodial parent is released from incarceration, and
54 the noncustodial parent's child support order and obligation will
55 become enforceable on that date. This section does not preclude a
56 person owing support from seeking a modification of the child
57 support order based on a change in circumstances or other
58 appropriate reason.

59 (4) (a) The Department of Human Services enforcing a child
60 support order under Title IV-D of the Social Security Act (42 USC
61 Section 651 et seq.) may, upon written notice of the proposed
62 adjustment to the obligor and the obligee, administratively adjust
63 the arrears balance for an order for child support suspended under
64 subsection (2) of this section if all of the following occur:

65 (i) The department verifies that arrears were
66 accrued in violation of this section;

67 (ii) The department verifies that neither of the
68 conditions set forth in paragraph (a) or (b) of subsection (2) of
69 this section exist; and

70 (iii) Neither the support obligor nor obligee
71 objects in writing within thirty (30) days of receipt of the
72 notice of proposed adjustment by the department.

73 (b) If either the support obligor or obligee objects to
74 the administrative adjustment set forth in this subsection, the



department shall file a petition with the court for a determination of the arrears balance.

(c) The department may perform this adjustment without regard to whether it was enforcing the child support order at the time the parent owing support qualified for relief under this section.

(5) This section does not prohibit the department or a party from petitioning a court for a determination of child support or arrears amounts.

(6) This section applies to every child support obligation in which the person who is ordered to pay is incarcerated for one hundred eighty (180) consecutive days after the enactment of this section.

SECTION 2. Section 93-11-65, Mississippi Code of 1972, is amended as follows:

93-11-65. (1) (a) In addition to the right to proceed under Section 93-5-23, Mississippi Code of 1972, and in addition to the remedy of habeas corpus in proper cases, and other existing remedies, the chancery court of the proper county shall have jurisdiction to entertain suits for the custody, care, support and maintenance of minor children and to hear and determine all such matters, and shall, if need be, require bond, sureties or other guarantee to secure any order for periodic payments for the maintenance or support of a child. In the event a legally responsible parent has health insurance available to him or her



100 through an employer or organization that may extend benefits to
101 the dependents of such parent, any order of support issued against
102 such parent may require him or her to exercise the option of
103 additional coverage in favor of such children as he or she is
104 legally responsible to support. Proceedings may be brought by or
105 against a resident or nonresident of the State of Mississippi,
106 whether or not having the actual custody of minor children, for
107 the purpose of judicially determining the legal custody of a
108 child. All actions herein authorized may be brought in the county
109 where the child is actually residing, or in the county of the
110 residence of the party who has actual custody, or of the residence
111 of the defendant. Process shall be had upon the parties as
112 provided by law for process in person or by publication, if they
113 be nonresidents of the state or residents of another jurisdiction
114 or are not found therein after diligent search and inquiry or are
115 unknown after diligent search and inquiry; provided that the court
116 or chancellor in vacation may fix a date in termtime or in
117 vacation to which process may be returnable and shall have power
118 to proceed in termtime or vacation. Provided, however, that if
119 the court shall find that both parties are fit and proper persons
120 to have custody of the children, and that either party is able to
121 adequately provide for the care and maintenance of the children,
122 the chancellor may consider the preference of a child of twelve
123 (12) years of age or older as to the parent with whom the child
124 would prefer to live in determining what would be in the best



125 interest and welfare of the child. The chancellor shall place on
126 the record the reason or reasons for which the award of custody
127 was made and explain in detail why the wishes of any child were or
128 were not honored.

129 (b) An order of child support shall specify the sum to
130 be paid weekly or otherwise. In addition to providing for support
131 and education, the order shall also provide for the support of the
132 child prior to the making of the order for child support, and such
133 other expenses as the court may deem proper.

134 (c) The court may require the payment to be made to the
135 custodial parent, or to some person or corporation to be
136 designated by the court as trustee, but if the child or custodial
137 parent is receiving public assistance, the Department of Human
138 Services shall be made the trustee.

139 (d) The noncustodial parent's liabilities for past
140 education and necessary support and maintenance and other expenses
141 are limited to a period of one (1) year next preceding the
142 commencement of an action.

143 (2) Provided further, that where the proof shows that both
144 parents have separate incomes or estates, the court may require
145 that each parent contribute to the support and maintenance of the
146 children in proportion to the relative financial ability of each.

147 (3) Except as otherwise provided in Section 1 of this act
148 for persons who are incarcerated or involuntarily
149 institutionalized, whenever the court has ordered a party to make



periodic payments for the maintenance or support of a child, but no bond, sureties or other guarantee has been required to secure such payments, and whenever such payments as have become due remain unpaid for a period of at least thirty (30) days, the court may, upon petition of the person to whom such payments are owing, or such person's legal representative, enter an order requiring that bond, sureties or other security be given by the person obligated to make such payments, the amount and sufficiency of which shall be approved by the court. The obligor shall, as in other civil actions, be served with process and shall be entitled to a hearing in such case.

(4) When a charge of abuse or neglect of a child first arises in the course of a custody or maintenance action pending in the chancery court pursuant to this section, the chancery court may proceed with the investigation, hearing and determination of such abuse or neglect charge as a part of its hearing and determination of the custody or maintenance issue as between the parents, as provided in Section 43-21-151, notwithstanding the other provisions of the Youth Court Law. The proceedings in chancery court on the abuse or neglect charge shall be confidential in the same manner as provided in youth court proceedings, and the chancery court shall appoint a guardian ad litem in such cases, as provided under Section 43-21-121 for youth court proceedings, who shall be an attorney. In determining whether any portion of a guardian ad litem's fee shall be assessed



175 against any party or parties as a cost of court for reimbursement
176 to the county, the court shall consider each party's individual
177 ability to pay. Unless the chancery court's jurisdiction has been
178 terminated, all disposition orders in such cases for placement
179 with the Department of Human Services shall be reviewed by the
180 court or designated authority at least annually to determine if
181 continued placement with the department is in the best interest of
182 the child or the public.

183 (5) Each party to a paternity or child support proceeding
184 shall notify the other within five (5) days after any change of
185 address. In addition, the noncustodial and custodial parent shall
186 file and update, with the court and with the state case registry,
187 information on that party's location and identity, including
188 social security number, residential and mailing addresses,
189 telephone numbers, photograph, driver's license number, and name,
190 address and telephone number of the party's employer. This
191 information shall be required upon entry of an order or within
192 five (5) days of a change of address.

193 (6) In any case subsequently enforced by the Department of
194 Human Services pursuant to Title IV-D of the Social Security Act,
195 the court shall have continuing jurisdiction.

196 (7) In any subsequent child support enforcement action
197 between the parties, upon sufficient showing that diligent effort
198 has been made to ascertain the location of a party, due process
199 requirements for notice and service of process shall be deemed to



be met with respect to the party upon delivery of written notice to the most recent residential or employer address filed with the state case registry.

(8) (a) The duty of support of a child terminates upon the emancipation of the child. Unless otherwise provided for in the underlying child support judgment, emancipation shall occur when the child:

(i) Attains the age of twenty-one (21) years, or
(ii) Marries, or
(iii) Joins the military and serves on a full-time basis, or

(iv) Is convicted of a felony and is sentenced to incarceration of two (2) or more years for committing such felony; * * *

(b) Unless otherwise provided for in the underlying child support judgment, the court may determine that emancipation has occurred and no other support obligation exists when the child:

(i) Discontinues full-time enrollment in school having attained the age of eighteen (18) years, unless the child is disabled, or

(ii) Voluntarily moves from the home of the custodial parent or guardian, establishes independent living arrangements, obtains full-time employment and discontinues



educational endeavors prior to attaining the age of twenty-one
(21) years, or

(iii) Cohabits with another person without the
approval of the parent obligated to pay support; * * *

(c) The duty of support of a child who is incarcerated
but not emancipated shall be suspended for the period of the
child's incarceration.

(9) A determination of emancipation does not terminate any
obligation of the noncustodial parent to satisfy arrearage
existing as of the date of emancipation; the total amount of
periodic support due prior to the emancipation plus any periodic
amounts ordered paid toward the arrearage shall continue to be
owed until satisfaction of the arrearage in full, in addition to
the right of the person for whom the obligation is owed to execute
for collection as may be provided by law.

(10) Upon motion of a party requesting temporary child
support pending a determination of parentage, temporary support
shall be ordered if there is clear and convincing evidence of
paternity on the basis of genetic tests or other evidence, unless
the court makes written findings of fact on the record that the
award of temporary support would be unjust or inappropriate in a
particular case.

(11) Custody and visitation upon military temporary duty,
deployment or mobilization shall be governed by Section 93-5-34.



248 **SECTION 3.** Section 93-11-71, Mississippi Code of 1972, is
249 amended as follows:

250 93-11-71. (1) Except as otherwise provided in Section 1 of
251 this act for persons who are incarcerated or involuntarily
252 institutionalized, whenever a court orders any person to make
253 periodic payments of a sum certain for the maintenance or support
254 of a child, and whenever such payments as have become due remain
255 unpaid for a period of at least thirty (30) days, a judgment by
256 operation of law shall arise against the obligor in an amount
257 equal to all payments that are then due and owing.

258 (a) A judgment arising under this section shall have
259 the same effect and be fully enforceable as any other judgment
260 entered in this state. A judicial or administrative action to
261 enforce the judgment may be begun at any time; and

262 (b) Such judgments arising in other states by operation
263 of law shall be given full faith and credit in this state.

264 (2) Any judgment arising under the provisions of this
265 section shall operate as a lien upon all the property of the
266 judgment debtor, both real and personal, which lien shall be
267 perfected as to third parties without actual notice thereof only
268 upon enrollment on the judgment roll. The department or attorney
269 representing the party to whom support is owed shall furnish an
270 abstract of the judgment for periodic payments for the maintenance
271 and support of a child, along with sworn documentation of the
272 delinquent child support, to the circuit clerk of the county where



the judgment is rendered, and it shall be the duty of the circuit clerk to enroll the judgment on the judgment roll. Liens arising under the provisions of this section may be executed upon and enforced in the same manner and to the same extent as any other judgment.

(3) Notwithstanding the provisions in subsection (2) of this section, any judgment arising under the provisions of this section shall subject the following assets to interception or seizure without regard to the entry of the judgment on the judgment roll of the situs district or jurisdiction and such assets shall apply to all child support owed including all arrears:

(a) Periodic or lump-sum payments from a federal, state or local agency, including unemployment compensation, workers' compensation and other benefits;

(b) Winnings from lotteries and gaming winnings that are received in periodic payments made over a period in excess of thirty (30) days;

(c) Assets held in financial institutions;

(d) Settlements and awards resulting from civil actions;

(e) Public and private retirement funds, only to the extent that the obligor is qualified to receive and receives a lump-sum or periodic distribution from the funds; and

(f) Lump-sum payments as defined in Section 93-11-101.



297 (4) Notwithstanding the provisions of subsections (1) and
298 (2) of this section, upon disestablishment of paternity granted
299 pursuant to Section 93-9-10 and a finding of clear and convincing
300 evidence including negative DNA testing that the obligor is not
301 the biological father of the child or children for whom support
302 has been ordered, the court shall disestablish paternity and may
303 forgive any child support arrears of the obligor for the child or
304 children determined by the court not to be the biological child or
305 children of the obligor, if the court makes a written finding
306 that, based on the totality of the circumstances, the forgiveness
307 of the arrears is equitable under the circumstances.

308 (5) In any case in which a child receives assistance from
309 block grants for Temporary Assistance for Needy Families (TANF),
310 and the obligor owes past-due child support, the obligor, if not
311 incapacitated, may be required by the court to participate in any
312 work programs offered by any state agency.

313 (6) A parent who receives social security disability
314 insurance payments who is liable for a child support arrearage and
315 whose disability insurance benefits provide for the payment of
316 past due disability insurance benefits for the support of the
317 minor child or children for whom the parent owes a child support
318 arrearage shall receive credit toward the arrearage for the
319 payment or payments for the benefit of the minor child or children
320 if the arrearage accrued after the date of disability onset as
321 determined by the Social Security Administration.



322 **SECTION 4.** Section 93-5-23, Mississippi Code of 1972, is
323 amended as follows:

324 93-5-23. When a divorce shall be decreed from the bonds of
325 matrimony, the court may, in its discretion, having regard to the
326 circumstances of the parties and the nature of the case, as may
327 seem equitable and just, make all orders touching the care,
328 custody and maintenance of the children of the marriage, and also
329 touching the maintenance and alimony of the wife or the husband,
330 or any allowance to be made to her or him, and shall, if need be,
331 require bond, sureties or other guarantee for the payment of the
332 sum so allowed. Orders touching on the custody of the children of
333 the marriage shall be made in accordance with the provisions of
334 Section 93-5-24. For the purposes of orders touching the
335 maintenance and alimony of the wife or husband, "property" and "an
336 asset of a spouse" shall not include any interest a party may have
337 as an heir at law of a living person or any interest under a
338 third-party will, nor shall any such interest be considered as an
339 economic circumstance or other factor. The court may afterwards,
340 on petition, change the decree, and make from time to time such
341 new decrees as the case may require. However, where proof shows
342 that both parents have separate incomes or estates, the court may
343 require that each parent contribute to the support and maintenance
344 of the children of the marriage in proportion to the relative
345 financial ability of each. In the event a legally responsible
346 parent has health insurance available to him or her through an



347 employer or organization that may extend benefits to the
348 dependents of such parent, any order of support issued against
349 such parent may require him or her to exercise the option of
350 additional coverage in favor of such children as he or she is
351 legally responsible to support.

352 Except as otherwise provided in Section 1 of this act for
353 persons who are incarcerated or involuntarily institutionalized,
354 whenever the court has ordered a party to make periodic payments
355 for the maintenance or support of a child, but no bond, sureties
356 or other guarantee has been required to secure such payments, and
357 whenever such payments as have become due remain unpaid for a
358 period of at least thirty (30) days, the court may, upon petition
359 of the person to whom such payments are owing, or such person's
360 legal representative, enter an order requiring that bond, sureties
361 or other security be given by the person obligated to make such
362 payments, the amount and sufficiency of which shall be approved by
363 the court. The obligor shall, as in other civil actions, be
364 served with process and shall be entitled to a hearing in such
365 case.

366 At the discretion of the court, any person found in contempt
367 for failure to pay child support and imprisoned therefor may be
368 referred for placement in a state, county or municipal
369 restitution, house arrest or restorative justice center or
370 program, provided such person meets the qualifications prescribed
371 in Section 99-37-19.



372 Whenever in any proceeding in the chancery court concerning
373 the custody of a child a party alleges that the child whose
374 custody is at issue has been the victim of sexual or physical
375 abuse by the other party, the court may, on its own motion, grant
376 a continuance in the custody proceeding only until such allegation
377 has been investigated by the Department of Human Services. At the
378 time of ordering such continuance, the court may direct the party
379 and his attorney making such allegation of child abuse to report
380 in writing and provide all evidence touching on the allegation of
381 abuse to the Department of Human Services. The Department of
382 Human Services shall investigate such allegation and take such
383 action as it deems appropriate and as provided in such cases under
384 the Youth Court Law (being Chapter 21 of Title 43, Mississippi
385 Code of 1972) or under the laws establishing family courts (being
386 Chapter 23 of Title 43, Mississippi Code of 1972).

387 If after investigation by the Department of Human Services or
388 final disposition by the youth court or family court allegations
389 of child abuse are found to be without foundation, the chancery
390 court shall order the alleging party to pay all court costs and
391 reasonable attorney's fees incurred by the defending party in
392 responding to such allegation.

393 The court may investigate, hear and make a determination in a
394 custody action when a charge of abuse and/or neglect arises in the
395 course of a custody action as provided in Section 43-21-151, and
396 in such cases the court shall appoint a guardian ad litem for the



397 child as provided under Section 43-21-121, who shall be an
398 attorney. Unless the chancery court's jurisdiction has been
399 terminated, all disposition orders in such cases for placement
400 with the Department of Human Services shall be reviewed by the
401 court or designated authority at least annually to determine if
402 continued placement with the department is in the best interest of
403 the child or public.

404 The duty of support of a child terminates upon the
405 emancipation of the child. The court may determine that
406 emancipation has occurred pursuant to Section 93-11-65.

407 Custody and visitation upon military temporary duty,
408 deployment or mobilization shall be governed by Section 93-5-34.

409 **SECTION 5.** This act shall take effect and be in force from
410 and after July 1, 2022.





ADMINISTRATION FOR
CHILDREN & FAMILIES
Office of Child Support Enforcement | 330 C Street, S.W., 5th Floor
Washington, DC 20201 | www.acf.hhs.gov/css

September 26, 2022

Michael McCauley
Interim IV-D Director
Mississippi Department of Human Services
Division of Child Support Enforcement
200 South Lamar Street, 9th Floor
P.O. Box 352
Jackson, MS 39205

Dear Mr. McCauley:

Thank you for your letter dated August 22, 2022, in which you requested guidance about state plan requirements and the financial implications of failing to comply with the Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs final rule, published on December 20, 2016.

The purpose of this letter is to help the Mississippi Department of Human Services ensure that the state is in compliance with the final rule and associated regulations, particularly with respect to incarcerated obligors.

FEM Final Rule State Plan Compliance

The final rule makes changes to strengthen the child support program. It updates current practices to increase regular on-time payments to families, increase the number of noncustodial parents supporting their children, and improve program operations. Pursuant to 45 CFR 301.13, after the federal Office of Child Support Enforcement (OCSE) approves the original plan, all relevant changes mandated by new statutes, rules, regulations, interpretations, and court decisions must be submitted so we may determine whether the plan continues to meet federal requirements and policies.

In AT-17-03, dated April 10, 2017, OCSE describes the plan pages that states must resubmit to certify compliance with the child support regulations amended by the final rule, including their due dates based on the compliance dates for the requirements. Please note that if state law revisions are needed, the compliance date is the first day of the second calendar quarter beginning after the close of the first regular session of the state legislature that begins after the effective date of the regulation.

A state must have an approved state IV-D plan in order to receive federal funding under title IV-D pursuant to section 455(a)(1)(A) of the Social Security Act (Act). As stated in OCSE-AT-97-05, dated April 28, 1997, a state plan disapproval would result in immediate suspension of all federal payments for the state's child support program. For Federal Fiscal Year (FFY) 2020, Mississippi was awarded federal performance incentive payments totaling \$7,836,375 and their federal share of expenditures was \$23,106,648.

In addition, section 402(a)(2) of the Act provides that the chief executive officer of a state must certify that the state will operate a child support program under an approved IV-D plan as a condition for eligibility for a Temporary Assistance for Needy Families (TANF) block grant under title IV-A of the Act. Therefore, Mississippi should know that TANF funds might also be at risk. For FFY 2020, the TANF block grant to Mississippi was \$86,481,245.

Guidance

In accordance with 45 CFR 302.56(c)(1), state child support guidelines must provide that a child support order be “based on the noncustodial parent’s earnings, income, and other evidence of ability to pay.” This provision codifies OCSE’s longstanding interpretation of statutory guideline requirements (see AT-93-04 and PIQ-00-03) and reflects the basic principle underlying federal child support guidelines statutes – that applying state guidelines should result in income-based orders. Additionally, the regulations at 45 CFR 303.4(b)(3) require state child support agencies to base the support obligation or recommended support obligation amount on the earnings and income of the noncustodial parent whenever available. If evidence of earnings and income are unavailable or insufficient to use as the measure of the parent’s ability to pay, then the recommended support obligation amount should be based on available information about the specific circumstances of the noncustodial parent, including such factors as those listed in section 302.56(c)(1)(iii).

The final rule provides that state guidelines under 45 CFR 302.56(c)(3) may not treat incarceration as voluntary unemployment in establishing or modifying child support orders. The rule prohibits states from legally barring modification of support obligations during incarceration. Exceptions to this prohibition – such as incarceration for crimes against family members or nonpayment of support – are not permitted. The reasonable quantitative standards that the state develops for review and adjustment must not treat incarceration as a legal bar for petitioning for and receiving an adjustment of an order. In response to comment 2 in the Incarceration as Voluntary Unemployment [§ 302.56(c)(3)] section of the final rule, OCSE indicated the following:

Implementation of § 302.56(c)(3) will ensure that states consider incarceration as a substantial change of circumstances that warrants the child support order to be reviewed and, if appropriate, adjusted based on the noncustodial parent’s ability to pay. If an incarcerated parent has income or assets, these can be taken into consideration in reviewing the order. However, states should not assume an ability to earn based on pre-imprisonment wages, particularly since incarceration typically results in a dramatic drop in income and ability to get a job upon release.

Moreover, once released, noncustodial parents tend to view the methods employed to collect support and arrearages as a disincentive to seek legitimate gainful employment. Research suggests that using maximum-level income withholding rates and other enforcement mechanisms tend to discourage employment, particularly among individuals in low socioeconomic communities. When combined with the difficulty faced by formerly incarcerated parents in obtaining employment, there is a strong incentive to seek work in the “underground economy” where it is difficult for authorities and custodial parents to track earnings and collect payments. Research demonstrates that when high support orders continue through a period of incarceration and thus build arrearages, the response by the released obligor is to find more methods of avoiding payment, including a return to crime. It is unrealistic to expect that most formerly incarcerated parents will be able to repay high arrearages upon release. To the extent that an order fails to take into account the real financial capacity of a jailed parent, the system fails the child by making it more likely that the child will be deprived of adequate support over the long term.

If you require additional guidance or clarification, please contact OCSE Acting Regional Program Manager Dana Huckabee at dana.huckabee@acf.hhs.gov

Sincerely,

Tanguler Gray
Commissioner

cc: Yvette Riddick, Director, OCSE Division of Policy and Training
Melissa Johnson, Director, OCSE Division of Regional Operations
Dana Huckabee, OCSE Acting Regional Program Manager, Region 4

By: Senator(s) Parker, Younger

To: Judiciary, Division A

SENATE BILL NO. 2341

1 AN ACT TO AMEND SECTION 93-11-65, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT CHILD SUPPORT FOR A CHILD WITH A DISABILITY MAY
3 CONTINUE PAST THE AGE OF MAJORITY; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 93-11-65, Mississippi Code of 1972, is
6 amended as follows:

7 93-11-65. (1) (a) In addition to the right to proceed
8 under Section 93-5-23, Mississippi Code of 1972, and in addition
9 to the remedy of habeas corpus in proper cases, and other existing
10 remedies, the chancery court of the proper county shall have
11 jurisdiction to entertain suits for the custody, care, support and
12 maintenance of minor children and to hear and determine all such
13 matters, and shall, if need be, require bond, sureties or other
14 guarantee to secure any order for periodic payments for the
15 maintenance or support of a child. * * * If a legally responsible
16 parent has health insurance available * * * through an employer or
17 organization that may extend benefits to the dependents of * * *
18 the parent, any order of support issued against * * * the parent



19 may require him or her to exercise the option of additional
20 coverage in favor of * * * any children * * * he or she is legally
21 responsible to support. Proceedings may be brought by or against
22 a resident or nonresident of the State of Mississippi, whether or
23 not having the actual custody of minor children, for the purpose
24 of judicially determining the legal custody of a child. All
25 actions herein authorized may be brought in the county where the
26 child is actually residing, or in the county of the residence of
27 the party who has actual custody, or of the residence of the
28 defendant. Process shall be had upon the parties as provided by
29 law for process in person or by publication, if they * * * are
30 nonresidents of the state or residents of another jurisdiction or
31 are not found therein after diligent search and inquiry or are
32 unknown after diligent search and inquiry; provided that the court
33 or chancellor in vacation may fix a date in termtime or in
34 vacation to which process may be returnable and shall have power
35 to proceed in termtime or vacation. * * * If the court * * *
36 finds that both parties are fit and proper persons to have custody
37 of the children, and that either party is able to adequately
38 provide for the care and maintenance of the children, the
39 chancellor may consider the preference of a child of twelve (12)
40 years of age or older as to the parent with whom the child would
41 prefer to live in determining what would be in the best interest
42 and welfare of the child. The chancellor shall place on the
43 record the reason or reasons for which the award of custody was



44 made and explain in detail why the wishes of any child were or
45 were not honored.

46 (b) An order of child support shall specify the sum to
47 be paid weekly or otherwise. In addition to providing for support
48 and education, the order shall also provide for the support of the
49 child prior to the making of the order for child support, and such
50 other expenses as the court may deem proper.

51 (c) The court may require the payment to be made to the
52 custodial parent, or to some person or corporation to be
53 designated by the court as trustee, but if the child or custodial
54 parent is receiving public assistance, the Department of Human
55 Services shall be made the trustee.

56 (d) The noncustodial parent's liabilities for past
57 education and necessary support and maintenance and other expenses
58 are limited to a period of one (1) year next preceding the
59 commencement of an action.

60 (2) * * * Where the proof shows that both parents have
61 separate incomes or estates, the court may require that each
62 parent contribute to the support and maintenance of the children
63 in proportion to the relative financial ability of each.

64 (3) Whenever the court has ordered a party to make periodic
65 payments for the maintenance or support of a child, but no bond,
66 sureties or other guarantee has been required to secure * * * the
67 payments, and whenever such payments as have become due remain
68 unpaid for a period of at least thirty (30) days, the court may,



69 upon petition of the person to whom such payments are owing, or
70 such person's legal representative, enter an order requiring that
71 bond, sureties or other security be given by the person obligated
72 to make such payments, the amount and sufficiency of which shall
73 be approved by the court. The obligor shall, as in other civil
74 actions, be served with process and shall be entitled to a hearing
75 in such case.

76 (4) When a charge of abuse or neglect of a child first
77 arises in the course of a custody or maintenance action pending in
78 the chancery court pursuant to this section, the chancery court
79 may proceed with the investigation, hearing and determination
80 of * * * the abuse or neglect charge as a part of its hearing and
81 determination of the custody or maintenance issue as between the
82 parents, as provided in Section 43-21-151, notwithstanding the
83 other provisions of the Youth Court Law. The proceedings in
84 chancery court on the abuse or neglect charge shall be
85 confidential in the same manner as provided in youth court
86 proceedings, and the chancery court shall appoint a guardian ad
87 litem in such cases, as provided under Section 43-21-121 for youth
88 court proceedings, who shall be an attorney. In determining
89 whether any portion of a guardian ad litem's fee shall be assessed
90 against any party or parties as a cost of court for reimbursement
91 to the county, the court shall consider each party's individual
92 ability to pay. Unless the chancery court's jurisdiction has been
93 terminated, all disposition orders in such cases for placement



94 with the Department of Human Services shall be reviewed by the
95 court or designated authority at least annually to determine if
96 continued placement with the department is in the best interest of
97 the child or the public.

98 (5) Each party to a paternity or child support proceeding
99 shall notify the other within five (5) days after any change of
100 address. In addition, the noncustodial and custodial parent shall
101 file and update, with the court and with the state case registry,
102 information on that party's location and identity, including
103 social security number, residential and mailing addresses,
104 telephone numbers, photograph, driver's license number, and name,
105 address and telephone number of the party's employer. This
106 information shall be required upon entry of an order or within
107 five (5) days of a change of address.

108 (6) In any case subsequently enforced by the Department of
109 Human Services pursuant to Title IV-D of the Social Security Act,
110 the court shall have continuing jurisdiction.

111 (7) In any subsequent child support enforcement action
112 between the parties, upon sufficient showing that diligent effort
113 has been made to ascertain the location of a party, due process
114 requirements for notice and service of process shall be deemed to
115 be met with respect to the party upon delivery of written notice
116 to the most recent residential or employer address filed with the
117 state case registry.



118 (8) (a) The duty of support of a child terminates upon the
119 emancipation of the child. Unless otherwise provided for in the
120 underlying child support judgment, emancipation shall occur when
121 the child:

- 122 (i) Attains the age of twenty-one (21) years, or
- 123 (ii) Marries, or
- 124 (iii) Joins the military and serves on a full-time
125 basis, or
- 126 (iv) Is convicted of a felony and is sentenced to
127 incarceration of two (2) or more years for committing such
128 felony; * * *

129 (b) Unless otherwise provided for in the underlying
130 child support judgment, the court may determine that emancipation
131 has occurred and no other support obligation exists when the
132 child:

- 133 (i) Discontinues full-time enrollment in school
134 having attained the age of eighteen (18) years, unless the child
135 is disabled, or
- 136 (ii) Voluntarily moves from the home of the
137 custodial parent or guardian, establishes independent living
138 arrangements, obtains full-time employment and discontinues
139 educational endeavors prior to attaining the age of twenty-one
140 (21) years, or
- 141 (iii) Cohabits with another person without the
142 approval of the parent obligated to pay support; * * *



143 (c) The duty of support of a child who is incarcerated
144 but not emancipated shall be suspended for the period of the
145 child's incarceration.

146 (9) (a) Notwithstanding the presumption of emancipation
147 under subsection (8) of this section, support for an adult child
148 who is incapable of self-support by reason of a physical or mental
149 disability if the disability existed during the adult child's
150 minority shall be presumed to continue past the child's
151 anticipated age of majority;

152 (b) Under this subsection, the court may:

153 (i) Order that the duty to support a child
154 continues past the anticipated age of majority if the minor child
155 has a disability which was present during the child's minority
156 that prevents the child from living independently unless the child
157 is a long-term patient in a facility owned or operated by the
158 State of Mississippi;

159 (ii) Order, modify or leave in place previous
160 orders regarding custody, visitation, payment of medical expenses
161 or any other matters regarding the health, maintenance, education
162 and welfare of the child with a disability; and

163 (iii) Consider the adult child's receipt of and
164 eligibility for public benefits and community services and
165 resources in determining the award of support;



166 (c) The presumption of continued support created by
167 this subsection (9) shall be rebuttable by the introduction of
168 evidence that the adult child is capable of self-support.

169 (* * *10) A determination of emancipation does not
170 terminate any obligation of the noncustodial parent to satisfy
171 arrearage existing as of the date of emancipation; the total
172 amount of periodic support due prior to the emancipation plus any
173 periodic amounts ordered paid toward the arrearage shall continue
174 to be owed until satisfaction of the arrearage in full, in
175 addition to the right of the person for whom the obligation is
176 owed to execute for collection as may be provided by law.

177 (* * *11) Upon motion of a party requesting temporary child
178 support pending a determination of parentage, temporary support
179 shall be ordered if there is clear and convincing evidence of
180 paternity on the basis of genetic tests or other evidence, unless
181 the court makes written findings of fact on the record that the
182 award of temporary support would be unjust or inappropriate in a
183 particular case.

184 (* * *12) Custody and visitation upon military temporary
185 duty, deployment or mobilization shall be governed by Section
186 93-5-34.

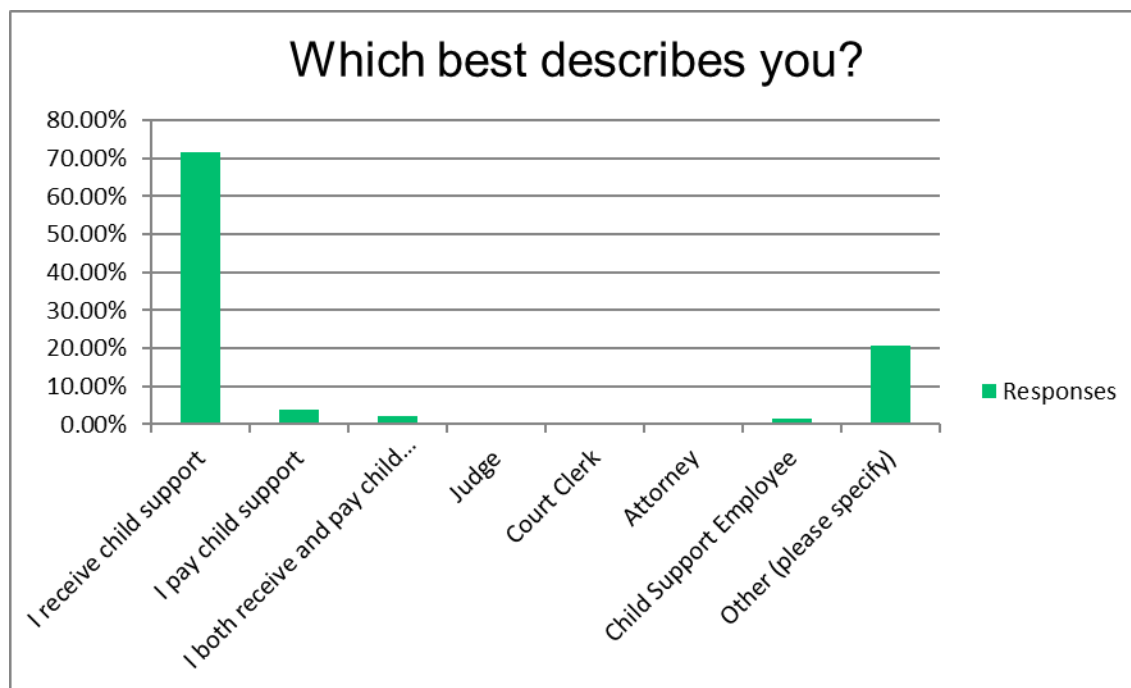
187 **SECTION 2.** This act shall take effect and be in force from
188 and after its passage.



Quadrennial Review Public Survey Report

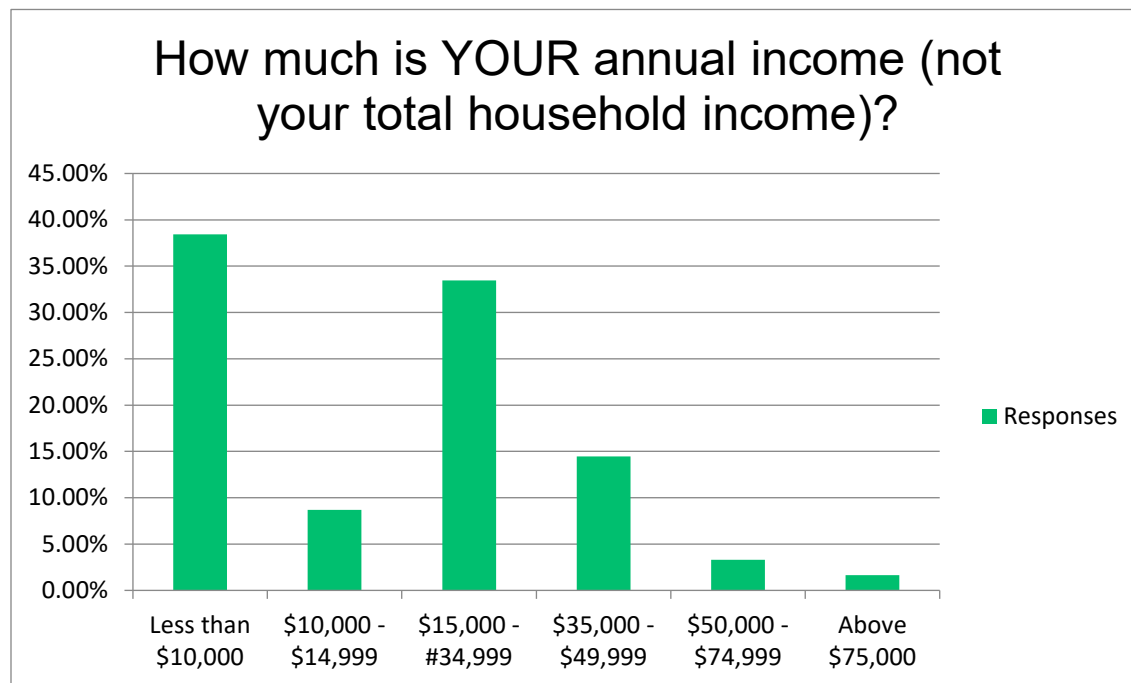
The federal Flexibility, Efficiency, and Modernization in Child Support Enforcement Final Rule requires our child support program to provide a meaningful opportunity for public input in our review of the child support guidelines. This requirement includes obtaining input from low-income custodial and noncustodial parents, their representatives, and should also include the views and advice of the state child support agency funded under title IV–D.

MDHS promoted a Child Support Enforcement survey, done via Survey Monkey on the agency’s social media accounts for 30 days in February of 2022. The survey done by MDHS was modeled on a survey used by Tennessee. The 243 participants included people who receive child support, people who pay child support, who both receive and pay child support, former and current child support employees, an attorney, former child support recipients, people who claim they are supposed to receive support, child support applicants, and one person with an associate’s degree in human services. 71.6 percent of the participants were people who receive child support, while 20.58 percent identified as “other.” The smaller percentages included 3.70 percent for people who pay child support, 2.06 percent for people who both receive and pay child support, 1.65 percent for child support employee, and 0.41 percent for attorneys.



The second question gathered information about annual income (not total house income) in order to meet the requirement of obtaining information from low-income parents. The majority answer was less than \$10,000 at 38.43%. The next was \$15,000-\$34,999 at 33.47%. Coming in third was \$35,000-\$49,999 at 14.46%. Fourth was \$10,000-\$14,999 at 8.68%. Fifth was \$50,000-\$74,999 at 3.31%. Sixth was over

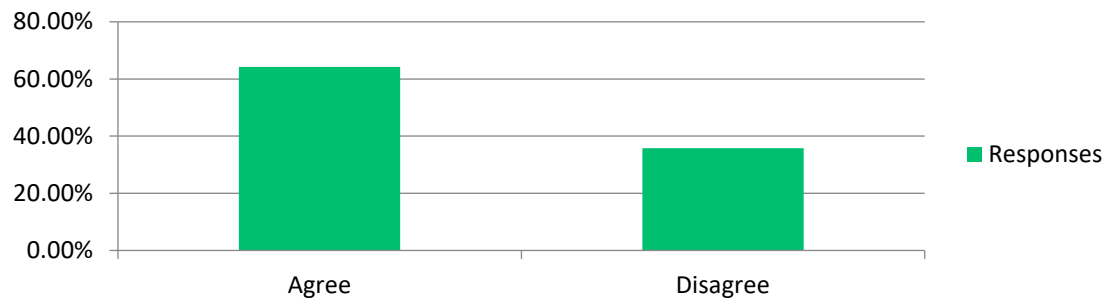
\$75,000 at 1.65% (4 people). Over 86% of respondents reported income of less than \$35,000 per year, which satisfies the requirement of obtaining input from low-income individuals.



The results from question three of the survey are unascertainable due to an issue with survey scoring, and therefore are not included in this report.

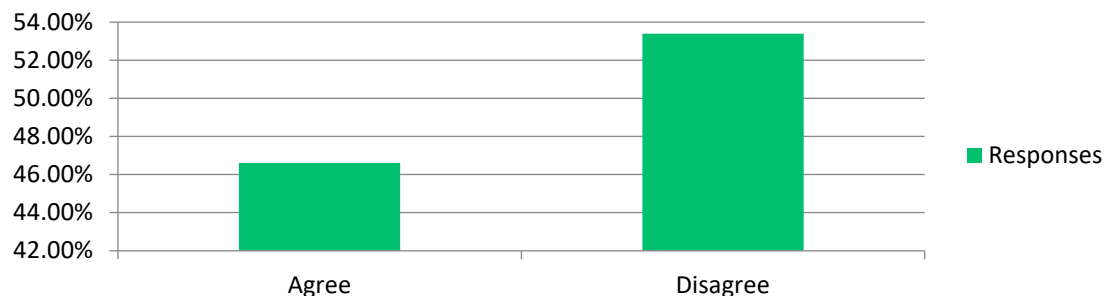
Question four of the survey explained that, currently, imputed (assumed) income may be used when there is no reliable evidence of income and is generally set using 40 hours/week at minimum wage, and that the proposed change is that imputed income may be used if there is no evidence to determine income, an amount is determined based on (including but not limited to): employment and earnings history, education attainment, and criminal record and other employment barriers. Participants were asked if they agreed or disagreed with the proposed change. 64.19% agreed and 35.81% disagreed.

CURRENTLY: Imputed (assumed) income may be used when there is no reliable evidence of income and is generally set using 40 hours/week at minimum wage.**PROPOSED CHANGE:** Imputed (assumed) income may be...

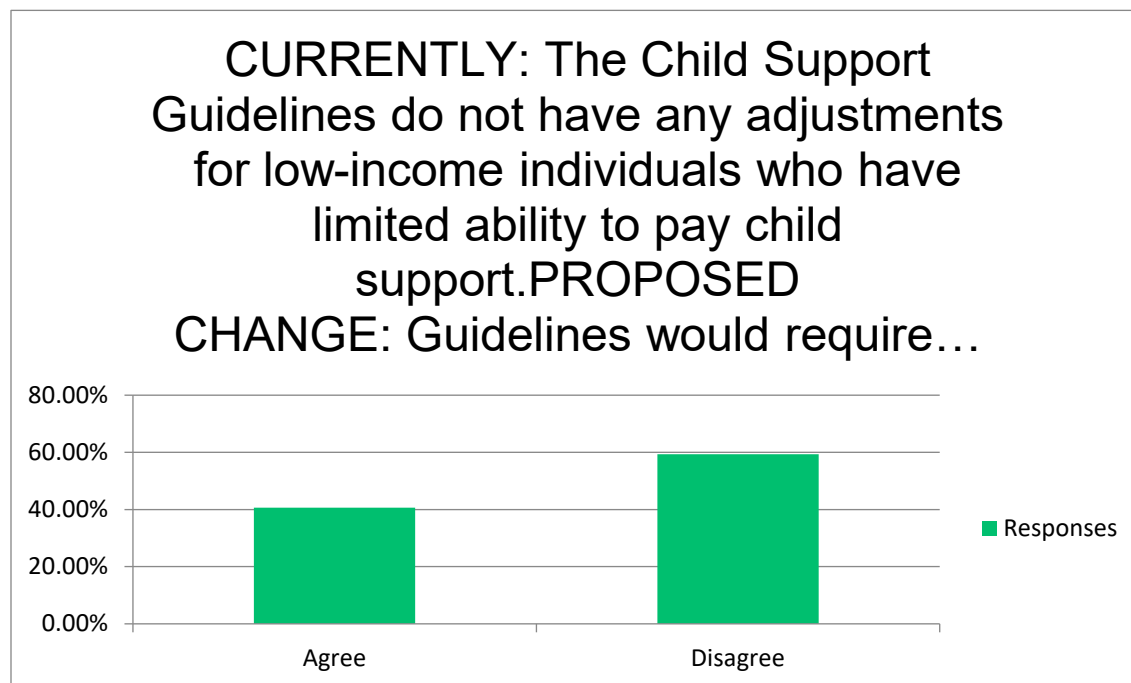


Question five explained that, currently, incarceration is treated as voluntary underemployment or unemployment, and that the proposed change would suspend child support by operation of law when the obligor is incarcerated for more than 180 days, unless the judge determines that the obligor still has the ability to pay. 46.61% of participants agreed with this change and 53.39% disagreed. A few participants included comments suggesting a work program designed specifically for the incarcerated to continue paying child support.

CURRENTLY: Incarceration is treated as voluntary underemployment or unemployment.**PROPOSED CHANGE:** Suspending child support by operation of law when the obligor is incarcerated for more than 180 days, unless the judge...

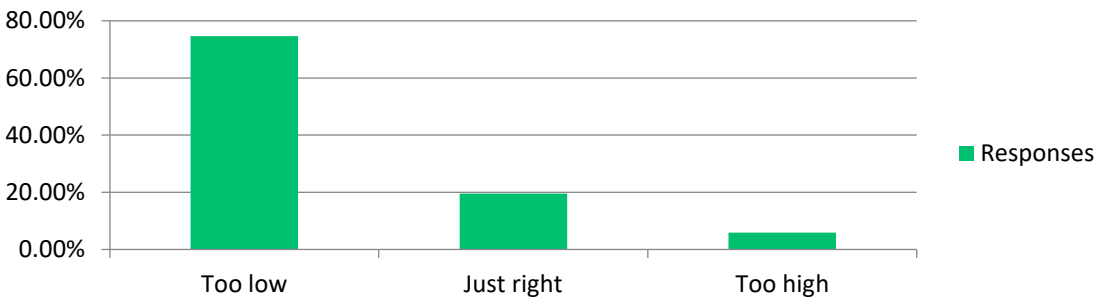


Question six asked participants about the child support guidelines. Currently, the guidelines do not have any adjustments for low-income individuals who have limited ability to pay child support. The survey asked participants if they agreed with the proposed requirement change to take the basic subsistence needs of the obligated parent who has a limited ability to pay into consideration. 40.69% agreed with the proposed change and 59.31% disagreed.



Question seven asked participants if they thought the current child support guideline percentage rates are too low, just right, or too high. The current child support percentages are based on the adjusted gross income at the following rates: One child - 14%; Two children - 20%; Three children - 22%; Four children - 24%; Five or more children - 26%. 74.58% of participants voted that the rates are too low, 19.49% voted that they are just right, and 5.93% voted that they are too high. There was clear trend of custodial parents (which made up the largest group of respondents) saying percentages were 'too low' or 'just right'. If an individual was paying support the response was always 'too high'.

The current child support percentages are based on the adjusted gross income at the following rates: One child - 14% Two children - 20% Three children - 22% Four children - 24% Five or more children - 26% The current child support...



Several participants commented about the increased cost of living, which is why they considered the percentages as too low. More than one participant specifically mentioned that they thought 20% should be the minimum.

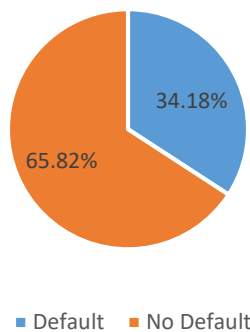
In the additional comments section of the survey, some overlapping comments were made on specific issues such as location services, stricter enforcement methods, the amount of time that it takes to process a child support case, and customer service. Many participants' comments included dissatisfaction and confusion as to why the noncustodial parent was unable to be located to enforce the support obligation. Participants also commented in favor of stricter enforcement methods, specifically that they supported incarceration for nonpaying obligated parents. There were many comments on the timeline between the opening a case is opened and actually receiving child support; many commenters didn't understand why this can take as long as it does. There were also a few comments regarding customer service and caseworkers. It's clear from these comments that participants would prefer a caseworker to be assigned to and have specific knowledge about their case instead of calling the hotline and talking to a different caseworker each time, and that they are unsatisfied with the customer service they've received.

Quadrennial Review Case Data Analysis

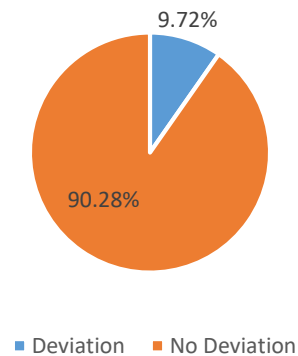
The federal Flexibility, Efficiency, and Modernization in Child Support Enforcement Final Rule requires our child support program to analyze case data, gathered through sampling or other methods, on the application of and deviations from the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment also required by the federal rule. The analysis must include a comparison of payments on child support orders by case characteristics, including whether the order was entered by default, based on imputed income, or determined using the low-income adjustment. According to the federal requirements, the analysis of the data must be used in our review of the child support guidelines to ensure that deviations from the guidelines are limited and guideline amounts are appropriate based on criteria established by the State.

A caseload of 18,553 cases from our quadrennial review showed that 34.18% of cases (6,341 cases) had default orders, 33.53% (6,221 cases) included orders with imputed income, and 9.72% (1803 cases) the obligation amount deviated from the guidelines.

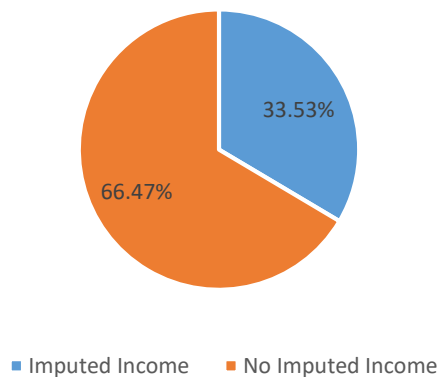
Rate of Default Orders



Rate of Deviation



Rate of Imputation of Income



A random sampling of 100 child support cases with a total amount of \$206,316.23 due showed that \$88,388.02 was collected (a 42.84% rate). There were 46 cases with an amount from imputed income, and out of those cases, with a total of \$68,002 due, only 29.13% was actually paid. A total of \$19,807.40 was collected from the cases with imputed income. There were 38 cases with default orders, and 5 cases with orders that the obligation amount deviated from the guidelines. The amount due from cases without imputed income was \$138,314.23, and 49.58% of this amount was collected, \$68,580.62.

The difference in rates between the larger and smaller sample size is likely due to how the smaller sample size was pulled. It pulled cases with a recent order within the first six months of 2021. The impact of COVID on employment rates would likely result in a higher rate of imputed orders. Additionally, the payment rates may be artificially low due to this sample. There is often a lag time between when a new order starts and an IWO attaches to a case, which may negatively impact collections. Finally, collections were reviewed for all of 2011. Impacts of COVID and what is referred to as the "Great Resignation" may have negatively impacted collections.

The analysis supported that we are in compliance with the federal rule by demonstrating that orders that deviate from the guidelines are limited. Only 1,803 cases from the analysis of 18,553 cases included orders that deviate from the guidelines, and only 5 cases from the random smaller analysis of 100 cases included orders that deviate from the guidelines.

Review of the Mississippi Child Support Guidelines:

Review of Economic Data on the Cost of Raising Children

Submitted to:

Mississippi Department of Human Services

Submitted by:

Jane C. Venohr, Ph.D.



1570 Emerson St., Denver, CO 80218 | Tel: (303) 837-1555 | centerforpolicyresearch.org

(Dec. 29, 2022)

Points of view expressed in this document are those of the author and do not necessarily represent the official position of the committee reviewing the guidelines, Court, or the State. The author is responsible for any errors and omissions.

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SECTION 1: INTRODUCTION

This report will be appended to the findings from the 2022 Mississippi Child Support Guidelines Review. The Mississippi Department of Human Services (DHS) is reviewing the guidelines pursuant federal requirements (45 C.F.R. § 302.56) and state statute (Miss. Code Ann. 43-19-101(5)). DHS has obtained input from the Mississippi Child Support Guidelines Review Committee that comprises a wide range of stakeholders. DHS also sought technical assistance to fulfill two federal requirements.

- The federal requirement (45 C.F.R. § 302.56(h)(1)) for states to consider economic data on the cost of raising children as part of their child support guidelines review. In turn, this is used to update the Mississippi guidelines percentages.
- The federal requirement (45 C.F.R. § 302.56(1)(c)(ii)) for a state's guidelines to consider the subsistence needs of a payer-parent with limited ability to pay through a low-income adjustment such as a self-support reserve (SSR). This requirement is part of the updated Mississippi guidelines percentages.

This report documents the findings from this technical assistance. The Center for Policy Research (CPR) provided technical assistance and prepared this report.¹ CPR shared the preliminary updated percentages based on more current economic evidence with the Committee through a web conference on October 19, 2022. Subsequently, the Committee deliberated, accepted the percentages, and added a low-income adjustment. The basis for both the updated percentages and low-income adjustment are documented in this report.

The intent of the federal requirement to consider economic evidence on child-rearing expenditures is to use the evidence to assess the appropriateness and adequacy of a state's child support guidelines schedule/percentages, then to make changes, if appropriate. The federal Office of Child Support Enforcement (OCSE) added the requirement to consider the subsistence needs of the payer-parent in 2016.² It tied the timeline for meeting the requirement to the state's guidelines review cycle and can span two review cycles. OCSE based the requirement on several research findings indicating that child support policies could better serve families by being more sensitive to low-income payer-parents. In its narrative supporting the rule expansion, OCSE expressed concerns with the overuse of income imputation, particularly to low-income parents with limited ability to pay.³ OCSE's objective is to encourage states to establish child support policies that recognize the actual circumstances of low-income payer-parents in order to increase on-time payment to families, increase the number of payer-

¹ CPR is an independent, non-profit organization that conducts research, evaluation, and technical assistance to government agencies, courts, and foundations on children and poverty issues. It has provided technical assistance to states on the review of their guidelines and development of formulas for base support, parenting time, and the subsistence needs of the payer-parent and additional dependents. More information about CPR can be found at <http://centerforpolicyresearch.org>.

² U.S. Department of Health and Human Services Centers for Medicaid Services. (Dec. 20, 2016). "Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs: Final Rule." 81 *Fed. Reg.* 244. Retrieved from <https://www.gpo.gov/fdsys/pkg/FR-2016-12-20/pdf/2016-29598.pdf>.

³ *Ibid.* at p. 93520.

parents working and supporting their children, and reduce the accumulation of arrears that low-income payer-parents do not have the ability to pay.⁴

CURRENT MISSISSIPPI CHILD SUPPORT PERCENTAGES

Mississippi is one of seven states⁵ to consider the income of the payer-parent only in the calculation of child support. Exhibit 1 shows the current Mississippi percentages. They apply to adjusted gross income, which the guidelines define to exclude federal, state, and local income taxes and other legally mandated deductions.

Exhibit 1: Existing Mississippi Percentages

The following child support award guidelines shall be a rebuttable presumption in all judicial or administrative proceedings regarding the awarding or modifying of child support awards in this state:

Number of Children Due Support	Percentage of Adjusted Gross Income ⁶ that Should Be Awarded for Support
1	14%
2	20%
3	22%
4	24%
5 or more	26%

Most (44) states consider both parents' incomes in the calculation of support. Most of these states (i.e., 42 states including all that border Mississippi) use the income shares model.⁷ In fact, Arkansas switched to the income shares model in 2019. The income shares model was developed through the 1980s National Child Support Guidelines Project to embody the principles of state child support guidelines identified by the Advisory Panel on Child Support Guidelines.⁸ The national panel, which consisted of a wide range of stakeholders, developed recommendations to help states meet the federal requirement for states to have statewide guidelines by 1987.⁹ At the time, most states did not have child support guidelines. Examples of some of the principles are the financial responsibility of the children should be shared by the parents who have legal responsibility for the children; child support guidelines should at least cover a child's basic needs, but the child should also share a higher standard of living enjoyed by a parent; the subsistence needs of each parent should be taken into consideration; and each child of a

⁴ U.S. Department of Health and Human Services. (Nov. 17, 2014). "Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs: Proposed Rulemaking" 79 *Fed. Reg.* 221, p. 68548. Retrieved from <https://www.govinfo.gov/content/pkg/FR-2014-11-17/pdf/2014-26822.pdf>.

⁵ The other states are Alaska, Nevada, New York, North Dakota, Texas, and Wisconsin. New York actually calls its child support guidelines an "income shares guidelines," but child support can be calculated using only the payer-parent's income if there are no adjustments for childcare expenses and the out-of-pocket cost for the child's healthcare.

⁶ The Mississippi guidelines defines "adjusted gross income" to exclude federal, state, and local taxes and other legally mandated deductions. In contrast, other state guidelines use "adjusted gross income" to be gross income before taxes that is adjusted for an existing court order for another child or other permissible deductions besides income taxes.

⁷ National Conference of State Legislatures (Jul. 2020). *Child Support Guidelines Models*. Retrieved from <https://www.ncsl.org/research/human-services/guideline-models-by-state.aspx>.

⁸ National Center for State Courts. (1987). *Development of Guidelines for Child Support Orders, Final Report*. Report to U.S. Department of Health and Human Services, Office of Child Support Enforcement, Williamsburg, VA.

⁹ See the 1984 Amendments of the Social Security Act (Public Law 98-378).

given parent should have a right to that parent's income. One of the major principles is that the child support obligation should allow the children to benefit from the same level of expenditures had the children and both parents lived together. The principle applies to children of divorcing and separating parents, as well as never-married parents. In other words, children are treated the same regardless of their parents' decisions to marry, divorce, separate, or never marry.

Besides the income shares and the percentage-of-obligor income guidelines model, three states (i.e., Delaware, Hawaii, and Montana) use the Melson formula, which is a hybrid of the income shares approach and the percentage-of-obligor income guidelines. Each of these states prorates a basic level of support to meet the primary needs of the child; then, if the payer-parent has any income remaining after meeting their share of the child's primary support, their basic needs, and payroll taxes, an additional percentage of their income is added to their share of the child's primary support. Besides these guidelines models in use, there are several other guidelines models not in use that have been proposed in several states.¹⁰ Each have failed for various reasons. Federal regulation does not require states to adapt a particular guidelines model or format or use a specific economic study.¹¹

The economic basis of the Mississippi percentages is unknown. As discussed in the next section, they do not clearly relate to economic evidence on child-rearing expenditures available in the late 1980s when states were first federally mandated to have statewide child support guidelines. The Mississippi percentages are also significantly lower than other states that provide a percentage-based guidelines. Nonetheless, Mississippi's income and cost of living is lower than the incomes and cost-of-living of these other states.

MISSISSIPPI CHILDREN, THEIR PARENTS, AND CHILD SUPPORT

Child support is an important source of income to many Mississippi children. Based on the U.S. Census American Community Survey, 689,511 children lived in Mississippi in 2021.¹² The 2022 Kids Count reports several statistics that are relevant to child support.¹³

- The percentage of Mississippi children living in poverty is 28%, while it is 17% nationally.
- The percentage of children whose parents lack secure employment is 34% in Mississippi and 27% nationally.
- The percentage of children living in single-parent families is 46% in Mississippi and 34% nationally.

¹⁰ For example, see the Child Outcomes Based Model discussed by the Arizona Child Support Guidelines Review Committee, Interim Report of the Committee, Submitted to Arizona Judicial Council, Phoenix, Arizona on October 21, 2009; the American Law Institute (ALI) model can be found in the 1999 Child Support Symposium published by *Family Law Quarterly* (Spring 1999); and the Cost Shares Model can be found at Foohey, Pamela. "Child Support and (In)ability to Pay: The case for the cost shares model." (2009). *Articles by Maurer Faculty*. 1276. Retrieved from <https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=2271&context=facpub>.

¹¹ The federal requirements are provided in 45 C.F.R. § 302.56, which is shown in Section 1 of this report.

¹² Retrieved from <http://data.census.gov>.

¹³ Most of the statistics are averaged across 2016–2020. Annie E. Casey Foundation. (2022). *2022 Kids Count Data Book: State Trends in Child Well-Being*. Retrieved from <https://assets.aecf.org/m/resourcedoc/aecf-2021kidscountdatabook-2022.pdf>.

- The percentage of Mississippi female-headed families receiving child support is 23%, while it is 26% nationally.

Still, many Mississippi families benefit from child support. In federal fiscal year (FFY) 2021, DHS Division of Child Support Enforcement (DCSE) served 249,127 cases and 270,115 children, established 12,267 support orders, collected and distributed over \$358 million in child support, and received 54% of the current support due.¹⁴ Other than certain types of public assistance cases, use of DCSE services is not mandated. The number of child support cases that are not part of DCSE, and the collections on those cases are unknown. In most states, non-government child support cases tend to be divorcing parents with no history of public assistance.

Low-Income Parents

Although state data are not available, a 2015 national study found that without child support, the child poverty rate would be 7.0 percentage points higher.¹⁵ Nonetheless, other national research finds that almost a quarter of nonresidential parents have no or limited reported earnings.¹⁶ A recent U.S. Congressional Research Service report found that:

- 35% of nonresidential parents not living with one or more of their children under age 21 had incomes below 200% of poverty;
- The highest educational attainment of 60% of low-income, nonresident parents was a high school degree or less; and
- 27% of low-income, nonresidents parents worked full-time year-round, compared to 73% of moderate- and higher-income nonresident parents.¹⁷

Many studies find that payer-parents in government child support caseloads often face many barriers to employment. For example, a multisite national evaluation of payer-parents in a work demonstration program found that 64% of program participants had at least one employment barrier that made it difficult to find or keep a job; common employment barriers consisted of problems getting to work (30%), criminal records (30%) and lack of a steady place to live (20%).¹⁸

¹⁴ Federal Office of Child Support Enforcement. (2022). *Office of Child Support Preliminary Report 2022*. Retrieved from <https://www.acf.hhs.gov/css/policy-guidance/fy-2021-preliminary-data-report-and-tables>.

¹⁵ Sorensen, Elaine. (Dec. 2016). "The Child Support Program Is a Good Investment." *The Story Behind the Numbers*. Federal Office of Child Support Enforcement. p. 8. Retrieved from https://www.acf.hhs.gov/sites/default/files/programs/css/sbtn_csp_is_a_good_investment.pdf.

¹⁶ Sorensen, Elaine. (Feb. 7, 2014). *Employment and Family Structure Changes: Implications for Child Support*. Presentation to the National Child Support Enforcement Association, Washington, D.C.

¹⁷ U.S. Congressional Research Service. (Oct. 2021). *Demographic and Socioeconomic Characteristics of Nonresident Parents*. Retrieved from <https://crsreports.congress.gov/product/pdf/R/R46942>.

¹⁸ Canican, Maria, Meyer, Daniel, & Wood, Robert. (Dec. 2018). *Characteristics of Participants in the Child Support Noncustodial Parent Employment demonstration (CSPED) Evaluation*, at 20. Retrieved from <https://www.irp.wisc.edu/wp/wp-content/uploads/2019/05/CSPED-Final-Characteristics-of-Participants-Report-2019-Compliant.pdf>.

Employment Opportunities for Low-Income Workers

Exacerbating the issue is the labor market for low-income workers. Over half (58%) of workers nationally are paid hourly.¹⁹ The federal minimum wage (\$7.25 per hour) applies to Mississippi workers. A 40-hour work week at minimum wage would yield \$1,257 gross per month (about \$1,140 net per month). As of May 2022, the average entry-level pay for all occupations was \$10.13 per hour in Mississippi. A 40-hour work week at \$10.13 would yield \$1,756 gross per month (about \$1,540 net per month).²⁰ For fast-food and counter workers (which is a low-skilled occupation that employs over 26,000 workers in Mississippi), the entry level pay is \$8.16 per hour. A 40-hour work week at \$8.16 per hour would yield \$1,414 gross per month (about \$1,272 net per month). In 2021, Mississippi workers averaged 34.5 hours per week. Hours worked vary considerably by industry. National data suggests that the average weekly hours vary by employment sector. For example, as of October 2022, employment in the leisure and hospitality industry averages 24.5 hours per week, retail averages 30.3 hours per week, and construction averages 39.7 hours per week.²¹

Besides offering less than 40-hour work weeks, the lack of year-round paid work can depress earnings. Vulnerable workers (which is defined as workers whose pay is less than median earnings and have no healthcare benefits) are concentrated in industry sectors with high turnover.²² For example, the leisure and hospitality industry has an annual quit rate of 55.4% and a 21.5% rate of layoffs and discharges.²³ High levels of turnover contribute to periods of non-work that can depress earnings. Lower-paying jobs are less likely to offer paid sick time or personal leave, which also contribute to periods of non-work that can depress earnings.

Still, Mississippi currently has a low unemployment rate (3.7% as of September 2022). It varies widely by county. Several counties have higher rates (e.g., 6.8% in Holmes County, 7.1% in Wilkinson County, and 13.9% in Jefferson County.)²⁴ The statewide unemployment rate averaged 7.9% in 2020. As of 2021, Mississippi had a civilian labor force of about 1,256,200, of which 1,184,400 were employed.²⁵

In all, these statistics underscore the delicate balance at low incomes where child support can help lift families out of poverty, but must recognize that low-income parents who are not living with the child

¹⁹ Ross, Martha, & Bateman, Nicole. (Nov. 2019). Meet the Low-Wage Workforce. Brookings Institute. Retrieved from https://www.brookings.edu/wp-content/uploads/2019/11/201911_Brookings-Metro_low-wage-workforce_Ross-Bateman.pdf.

²⁰ Mississippi Department of Employment and Security. (May 2022). *Mississippi Occupational Employment and Wage Estimates*. Retrieved from <https://www.mdes.ms.gov/media/126875/msoes.pdf>.

²¹ U.S. Bureau of Labor Statistics. (Nov. 2022). Table B-7. Average weekly hours and overtime of production and nonsupervisory employees on private nonfarm payrolls by industry sector, seasonally adjusted. Retrieved from <https://www.bls.gov/news.release/empsit.t23.htm>.

²² Jund-Mejean, Martina, & Escobari, Marcela. (Apr. 2020). Our employment system has failed low-wage workers. How can we rebuild. Brookings Institute. Retrieved from <https://www.brookings.edu/blog/up-front/2020/04/28/our-employment-system-is-failing-low-wage-workers-how-do-we-make-it-more-resilient/>.

²³ Bahn, Kate, & Sanchez Cumming, Carmen. (Dec. 31, 2020). Improving U.S. Labor Standards and the Quality of Jobs to Reduce the Costs of Employee Turnover to U.S. Companies. Retrieved from <https://equitablegrowth.org/improving-u-s-labor-standards-and-the-quality-of-jobs-to-reduce-the-costs-of-employee-turnover-to-u-s-companies>.

²⁴ Mississippi Department of Employment and Security. (Oct. 2022). *Unemployment Rates by County: September 2022*. <https://mdes.ms.gov/media/8651/uratesmap.pdf>.

²⁵ Mississippi Department of Employment and Security. (May 2022). *Mississippi Annual Averages*. Retrieved from https://mdes.ms.gov/media/362385/annlavage2020_29.pdf.

may have a limited ability to pay. Nonetheless, even if a low-income adjustment is applied at one point of time, the review and modification process allows for an order to change when the payer-parent's income changes.

TANF, SNAP and Medicaid and Child Support Cooperation

Families enrolled in the Temporary Assistance to Needy Families (TANF) program, the Supplemental Nutrition Assistance Program (SNAP), or Medicaid must cooperate with the establishment and enforcement of child support and/or medical child support orders in Mississippi.²⁶ For TANF families, child support collections are retained by the federal and state government to offset TANF costs except the first \$100 of child support received per month is passed through to the custodial family.²⁷ Various studies have found payments are higher when child support is distributed to the family rather than the state.²⁸

Seven states including Mississippi exercise the option to require child support cooperation requirements of households enrolled SNAP.²⁹ There were 208,245 Mississippi households (413,886 individuals) enrolled in SNAP in federal fiscal year 2022.³⁰ The average cost per household was \$355 per month and \$199 per month per individual. About half (48%) of Mississippi households enrolled in SNAP in 2018 included children, which is more than the national average (41%).³¹ In 2018, almost one-third of SNAP cases with one-parent families received child support.³² Child support income reduces the income used to determine the amount of the SNAP benefit. Payor-parents may also be eligible for SNAP benefits if their household income (before taxes) is less than \$1,472 gross per month in 2022. The threshold increases each year and is keyed to the federal poverty guidelines (FPG), which is \$1,133 per month for one person in 2022. SNAP eligibility is 130% of FPG.

For Medicaid cases, cooperation with the establishment and enforcement of medical child support order is required, but establishing/enforcing a financial order using the services of the child support agency requires at least one party to pursue the order. Federal regulation provides that Medicaid (and other

²⁶ Medical child support orders typically consist of an order requiring a parent to provide health insurance coverage for their child. They are often ordered if the parent has employer-sponsored insurance and it is accessible to the child and reasonable in cost. Families receiving Medicaid must cooperate with the establishment of medical child support orders but not financial child support orders.

²⁷ U.S. Office of Child Support Enforcement. (Sept. 2022). *Intergovernmental Reference Guide*. Retrieved from <https://ocsp.acf.hhs.gov/irg/profile.html>.

²⁸ For example, see Colorado Department of Human Services. (n.d.). *Evaluating the Effects of Colorado's Full Child Support Pass-Through*. Retrieved from <https://drive.google.com/file/d/1lh2NsnwZP27eoZEjOPpHtUKMs2qOUW65/view>.

²⁹ The other six states are Florida, Idaho, Kansas, Maine, Michigan, and South Dakota. See Antelo, Lauren, & Eric Meade. (July 2018). *How Many Families Might Be Newly Reached by Child Support Cooperation Requirements in SNAP?* U.S. DHSS. Office of the Assistant Secretary for Planning and Evaluation. Retrieved from <https://aspe.hhs.gov/pdf-report/how-many-families-might-be-newly-reached-child-support-cooperation-requirements-snap-and-subsidized-child-care-and-what-are-their-characteristics>.

³⁰ USDA. (Nov. 2022). *National and/or State Level Monthly and/or Annual Data*. Retrieved from <https://www.fns.usda.gov/pd/supplemental-nutrition-assistance-program-snap>.

³¹ USDA. (n.d.). *Percentage of Participating SNAP Households with Children (FY2018)*. Retrieved from <https://www.fns.usda.gov/SNAP-State-characteristics#>.

³² Calculated from the Fiscal Year 2018 Supplemental Nutrition Assistance Program Quality Control Database. See Coronquist, Kathryn, et al. (Oct. 2019). *Final Report: Technical Documentation for the Fiscal Year 2018 Supplemental Nutrition Assistance Program Quality Control Database and the QC Minimodel*. Submitted to U.S. Department of Agriculture Food and Nutrition Service by Mathematica. Retrieved from <https://host76.mathematica-mpr.com/fns/register.aspx>.

public coverage) is healthcare coverage.³³ Private health insurance can be ordered if accessible to the children and reasonable in cost.

Most (65%) of child support collected by DCSE in 2019 is distributed to families who were current or former recipients of TANF, foster care, or Medicaid benefits.³⁴ The remaining distributions are mostly to families with no history of assistance.

FEDERAL REQUIREMENTS

Federal regulation (45 C.F.R. § 302.56(e)) requires states to review their guidelines at least once every four years. As shown in Exhibit 2, federal regulation imposes many other requirements of state child support guidelines and state guidelines review processes. Federal regulation expanded state requirements in 2016 through the Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs rule.³⁵ The deadline for meeting these federal requirements depends on a state's guidelines review cycle. It typically spans two review cycles and longer for some states that were granted a pandemic-based extension from the federal OCSE. For example, some states have until 2025 to meet the federal requirements.

Since 2016 federal regulation (45 C.F.R. § 302.56(1)(c)(ii), as shown below), Mississippi is one of three states that does not have a rebuttal presumptive, low-income adjustment formula.³⁶

(ii) Takes into consideration the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self- support reserve or some other method determined by the State; and . . .

This 2016-added requirement is a federal policy shift from viewing state child support programs as a welfare cost-recovery programs for state and federal expenditures for public assistance to a child support program that “has emerged as a family support program providing significant income for vulnerable families.”³⁷ The federal child support program of today recognizes that often the payer-parent to children enrolled in public assistance programs is also low income, unpayable arrears accumulate among very low-income parents, vulnerable families could be better served if the actual income of parents was used to calculate child support orders, and payment of the guidelines amount did not impoverish the payer-parent. This includes not imputing income beyond what a parent can reasonably earn given the parent's capacity to work, the parent's employment qualifications, and local

³³ Department of Health and Human Services Centers for Medicaid Services. (Dec. 20, 2016). “Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs: Final Rule.” 81 Fed. Reg. 244, p. 93547. Retrieved from <https://www.gpo.gov/fdsys/pkg/FR-2016-12-20/pdf/2016-29598.pdf>.

³⁴ Mississippi Joint Legislative Committee on Performance and Expenditure Review (PEER). (Oct. 2021). *An Evaluation of the Privatization of Child Support Enforcement by the Mississippi Department of Human Services*, p. 8. Retrieved from <https://www.peer.ms.gov/Reports/reports/rpt661.pdf>.

³⁵ See Federal Office of Child Support Enforcement. (Dec. 20, 2016). Actional Transmittal (AT-16-06) *Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs*. Retrieved from <https://www.acf.hhs.gov/css/policy-guidance/final-rule-flexibility-efficiency-and-modernization-child-support-enforcement>.

³⁶ The other states are Alaska and Georgia.

³⁷ Mississippi Joint Legislative Committee on Performance and Expenditure Review (PEER). (Oct. 2021.) *An Evaluation of the Privatization of Child Support Enforcement by the Mississippi Department of Human Services*, p. 3. Retrieved from <https://www.peer.ms.gov/Reports/reports/rpt661.pdf>.

employment opportunities available to that parent. In addition, there is evidence that payments are more when child support is passed through to the family rather than retained by government.³⁸

This is a policy shift from 1975, when Congress established state child support programs through Title IV-D of the Social Security Act, with the primary purpose of welfare-cost recovery—that is, reducing public expenditures for Aid to Families of Dependent Children (AFDC, which was the predecessor of Temporary Assistance to Needy Families (TANF) by requiring AFDC (TANF) recipients to cooperate with the establishment and enforcement of child support orders. Most collections on those cases would be retained by state and federal government to offset AFDC (TANF) benefits paid.

ORGANIZATION OF REPORT

Section 2 reviews the economic data on the cost of raising children and uses the data to develop updated percentages and a low-income adjustment.

Section 3 analyzes the impact of the existing and updated percentages using case scenarios.

Section 4 provides conclusions.

Appendix A provides more detailed technical documentation of the data and steps used to develop the updated percentages.

³⁸ This was the finding from demonstrations conducted in the District of Columbia and Wisconsin, as well as Colorado's evaluation of its full pass-through. Lippold, Kyle, et al. (Nov. 2010). *Evaluation of the \$150 Child Support Pass-Through and Disregard Policy in the District of Columbia*. Urban Institute, DC: Washington; Cancian, Maria, Meyer, Daniel, & Caspar, Emma. (2008). "Welfare and Child Support: Complements, Not Substitutes." *Journal of Public Policy Analysis and Management*. Vol. 27, No. 2, pp. 354–75; Meyer, Daniel R., & Cancian, Maria. (2001.) W-2 Child Support Demonstration Evaluation, Phase 1: Final Report, Volume I: Effects of the Experiment. Report to the Wisconsin Department of Workforce Development. University of Wisconsin–Madison, Institute for Research on Poverty; and Zoloff, Tom. (May 2019). *Pass-Through Direct Support for Children*. Colorado Department of Human Services Webinar. Retrieved from <https://www.youtube.com/watch?v=uBEIXaOKXZs>.

Exhibit 2: Federal Regulations Pertaining to State Child Support Guidelines

45 C.F.R. § 302.56 Guidelines for setting child support orders

- (a) Within 1 year after completion of the State's next quadrennial review of its child support guidelines, that commences more than 1 year after publication of the final rule, in accordance with § 302.56(e), as a condition of approval of its State plan, the State must establish one set of child support guidelines by law or by judicial or administrative action for setting and modifying child support order amounts within the State that meet the requirements in this section.
- (b) The State must have procedures for making the guidelines available to all persons in the State.
- (c) The child support guidelines established under paragraph (a) of this section must at a minimum:
 - (1) Provide that the child support order is based on the noncustodial parent's earnings, income, and other evidence of ability to pay that:
 - (i) Takes into consideration all earnings and income of the noncustodial parent (and at the State's discretion, the custodial parent);
 - (ii) Takes into consideration the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other method determined by the State; and
 - (iii) If imputation of income is authorized, takes into consideration the specific circumstances of the noncustodial parent (and at the State's discretion, the custodial parent) to the extent known, including such factors as the noncustodial parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.
 - (2) Address how the parents will provide for the child's health care needs through private or public health care coverage and/or through cash medical support;
 - (3) Provide that incarceration may not be treated as voluntary unemployment in establishing or modifying support orders; and
 - (4) Be based on specific descriptive and numeric criteria and result in a computation of the child support obligation.
- (d) The State must include a copy of the child support guidelines in its State plan.
- (e) The State must review, and revise, if appropriate, the child support guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support order amounts. The State shall publish on the internet and make accessible to the public all reports of the guidelines reviewing body, the membership of the reviewing body, the effective date of the guidelines, and the date of the next quadrennial review.
- (f) The State must provide that there will be a rebuttable presumption, in any judicial or administrative proceeding for the establishment and modification of a child support order, that the amount of the order which would result from the application of the child support guidelines established under paragraph (a) of this section is the correct amount of child support to be ordered.
- (g) A written finding or specific finding on the record of a judicial or administrative proceeding for the establishment or modification of a child support order that the application of the child support guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case will be sufficient to rebut the presumption in that case, as determined under criteria established by the State. Such criteria must take into consideration the best interests of the child. Findings that rebut the child support guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.
- (h) As part of the review of a State's child support guidelines required under paragraph (e) of this section, a State must:
 - (1) Consider economic data on the cost of raising children, labor market data (such as unemployment rates, employment rates, hours worked, and earnings) by occupation and skill-level for the State and local job markets, the impact of guidelines policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the Federal poverty level, and factors that influence employment rates among noncustodial parents and compliance with child support orders;
 - (2) Analyze case data, gathered through sampling or other methods, on the application of and deviations from the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment required under paragraph (c)(1)(ii) of this section. The analysis must also include a comparison of payments on child support orders by case characteristics, including whether the order was entered by default, based on imputed income, or determined using the low-income adjustment required under paragraph (c)(1)(ii). The analysis of the data must be used in the State's review of the child support guidelines to ensure that deviations from the guidelines are limited and guideline amounts are appropriate based on criteria established by the State under paragraph (g); and
 - (3) Provide a meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives. The State must also obtain the views and advice of the State child support agency funded under title IV-D of the Act.

SECTION 2: COST OF RAISING CHILDREN AND UPDATE PERCENTAGES

Child support schedules/percentages are part policy and part economic data. Most state guidelines rely on a study of child-rearing expenditures as the underlying basis of their child support schedule or formula. CPR could not detect whether the current Mississippi percentages relate to an economic study of child-rearing expenditures.

This section first reviews current economic studies of child-rearing expenditures and older studies used in state guidelines. The major considerations are:

- What the general findings are;
- How they compare to Mississippi guidelines percentages;
- Which ones are used by states and why; and
- How they vary with income and number of children.

The second section uses the most common study used by states (i.e., the most current Betson-Rothbarth (BR) study) to update the Mississippi guidelines percentages. Since the BR study is based on national data, CPR adjusted it for Mississippi prices. It is also adjusted to exclude childcare expenses and extraordinary medical expenses since the Mississippi guidelines provides these as deviation factors. Finally, this section reviews the low-income adjustment proposed for Mississippi.

OVERVIEW OF ECONOMIC STUDIES

Several different methodologies are used to estimate the cost of raising children. A methodology is necessary because the cost of raising children must be separated from other expenditures in the household, particularly since many items (e.g., a loaf a bread, electricity for the house) may be consumed by all residents in the household and not just the children. Further, there are two major types of studies on the economic cost of children: the cost of providing the basic or minimum needs of households with children,³⁹ and studies that try to estimate what families across a range of incomes (including middle- and higher-income families) actually spend on children. Most state guidelines rely on studies estimating child-rearing expenditures for a range of incomes. This is because the premise of most state guidelines is that children should share in the lifestyle afforded by their parents—that is, if the payer-parent’s income affords the obligated parent a higher standard of living, the support order

³⁹ Several different economic indicators are used to gauge basic (minimum) needs. Even the federal poverty guidelines (FPG) is used. The 2022 federal poverty guidelines for one person is \$1,133 per month; each additional person in the household is \$393 per month (U.S. Health and Human Services Office of the Assistant Secretary for Planning and Evaluation (Jan. 12, 2022)). HHS Poverty guidelines for 2022. <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>. Other commonly used economic indicators is the “living wage” or the “self-sufficiency standard.” More information about the Mississippi living wage can be found at Massachusetts Institute of Technology (MIT). (n.d.). *Living Wage Calculation for Mississippi*. Retrieved from <https://livingwage.mit.edu/states/28>. The MIT study found that one adult needs to make \$15.66 per hour (\$2,714 per month assuming a 40-hour work week), one adult and a preschooler needs \$30.06 per hour (\$5,210 per month assuming a 40-hour work week. The difference between the one adult and one adult and a preschooler is \$2,496 per month. The difference is less when considering two adults with no children and two adults with one child (\$1,938 per month). The Mississippi self-sufficiency standard was last published in 2009. Pearce, Diane. (2009). *The Self-Sufficiency Standard for Mississippi*. Retrieved from <http://www.selfsufficiencystandard.org/mississippi>.

should also be more for that higher-income parent. Basing a child support schedule/percentage on the cost of the basic needs of the child would be inadequate for figuring out what a payer-parent who can afford a lifestyle above subsistence can afford in child support.

Exhibit 3 compares the findings from studies of child-rearing expenditures that were conducted in the last five years and findings from studies underlying state guidelines. Most studies underlying state guidelines measure what is spent on children by intact families rather than measure the cost of the minimum or basic needs of children.

The results from each study examined in Exhibit 3 are shown as an average percentage of total expenditures, which is how most researchers report their findings. The difference between expenditures and gross income generally covers taxes, savings, and gifts and charitable contributions outside the home. A notable exception is the van der Gaag (1981) study,⁴⁰ where his estimates relate to income, but he does not specify whether income is gross or net (i.e., after-tax income).⁴¹ The USDA study relates to gross income, but also reports its estimates as percentages of total expenditures in order to compare them to the results from other studies. Exhibit 3 shows the USDA results as percentages of total expenditures. The economic study underlying the Kansas child support guidelines⁴² is not included in Exhibit 3 because it does not provide average percentages. Kansas is the only state to rely on that study.

Exhibit 3 shows the average percentages for one, two, and three children. Most economists limit their estimates to these family sizes because there are few families with four or more children in the Consumer Expenditure Survey (CE), which is the source of expenditures data for all of the studies shown in Exhibit 3 except the van der Gaag study.⁴³ Most child support orders cover one or two children.

Economic Studies and Basis of State Guidelines

Exhibit 3 shows the findings from 18 different studies of child-rearing expenditures that vary in methodology and data years for one, two, and three children. Most economists do not produce measurements for four or more children because there are too few families with four or more children in the underlying dataset. The percentages are expressed as a percentage of total household expenditures, not net income or gross income. (The Mississippi guidelines percentages are applied to “adjusted gross income,” which is actually after-tax (net) income).

⁴⁰ ⁴⁰van der Gaag, Jacques. (1981). *On Measuring the Cost of Children*. Discussion Paper 663-81. University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin.

⁴¹ Ibid.

⁴² Terrell, W. T., & Pelkowski, J. M. (2010). XII. *Determining the 2010 Child Support Schedules*. Retrieved from www.kscourts.org/Rules-procedures-forms/Child-Support-Guidelines/PDF/Child%20Support%20Determination%20Economist%20FINAL%20REPORT.pdf.

⁴³ Since van der Gaag’s study is a literature review rather than an empirical study, it cannot be attributed to a specific data set.

Exhibit 3: Comparison of Findings from Recent Studies of Child-Rearing Expenditures and Studies Underlying State Guidelines⁴⁴

Economic Methodology	Economist and Data Years	Average Child-rearing Expenditures as a Percentage of Total Expenditures		
		1 Child	2 Children	3 Children
Point estimate from literature review	van der Gaag (no year specified)	25.0%	37.5%	50.0%
Rothbarth	Betson ⁴⁵ 2013–2019	24.9%	38.4%	47.0%
	2004–2009	23.5%	36.5%	44.9%
	1998–2004	25.2%	36.8%	43.8%
	1996–1998	25.6%	35.9%	41.6%
	1980–1986	24.2%	34.2%	39.2%
	Rodgers/Replication of Betson ⁴⁶ 2004–2009	22.2%	34.8%	43.2%
	Rodgers ⁴⁷ 2000–2015	19.2%	24.1%	30.8%
	2004–2009	21.5%	24.4%	33.4%
	2000–2011	21.0%	25.0%	31.0%
	Florida State University ⁴⁸ 2013–2019	21.3%	33.4%	41.4%
	2009–2015	24.9%	38.3%	46.9%
	Florida State University ⁴⁹ 2013–2019	21.5%	33.6%	41.6%
Engel	2009–2015	20.3%	32.6%	41.4%
	Betson ⁵⁰ 1996–1998	32.0%	39.0%	49.0%
	1980–1986	33.0%	46.0%	58.0%
	Espenshade ⁵¹ 1972–73	24.0%	41.0%	51.0%
USDA ⁵²	2011–2015	26.0%	39.0%	49.0%

⁴⁴ Adapted from Judicial Council of California, *Review of Statewide Uniform Child Support Guideline 2022*. San Francisco, CA. Exhibit 9, p. 52. Retrieved from <https://www.courts.ca.gov/documents/Review-of-Uniform-Child-Support-Guideline-2021.pdf>.

⁴⁵ Betson, David M. (2021). “Appendix A: Parental Expenditures on Children: Rothbarth Estimates.” Review of the Arizona Child Support Guidelines: Findings from the Analysis of Case File Data and Updating the Child Support Schedule. Report to the Arizona Supreme Court Administrative Office of the Courts. Retrieved from <https://www.azcourts.gov/Portals/74/FCIC-CSGR/SupplementalPacket-030121-FCIC-CSGRS.pdf?ver=2021-02-26-161844-187>.

⁴⁶ Rodgers, William M. (2017). “Comparative Economic Analysis of Current Economic Research on Child-rearing Expenditures.” In Judicial Council of California, *Review of Statewide Uniform Child Support Guideline 2017*. San Francisco, CA. Retrieved from <http://www.courts.ca.gov/documents/lr-2018-JC-review-of-statewide-CS-guideline-2017-Fam-4054a.pdf>.

⁴⁷ Ibid.

⁴⁸ Norribin, Stefan C., et al. (Nov. 2021). Review and Update of Florida’s Child Support Guidelines. Retrieved from <http://edr.state.fl.us/Content/special-research-projects/child-support/ChildSupportGuidelinesFinalReport2021.pdf>. The third quintile is used for the average in the Florida studies because they do not report an average. Rather, they report quintiles. The third is the midpoint.

⁴⁹ Ibid.

⁵⁰ Betson (2021).

⁵¹ Espenshade, Thomas. (1984). *Investing in Children: New Estimates of Parental Expenditures*. Urban Institute Press: Wash. D.C.

⁵² Lino, Mark, et al. (2017). *Expenditures on Children by Families, 2015*. Misc. Pub. No. 1528-2015. U.S. Dept. of Agriculture, Center for Nutrition & Policy Promotion, Washington, D.C. Retrieved from https://cdn2.hubspot.net/hubfs/10700/blog-files/USDA_Expenditures%20on%20children%20by%20family.pdf?t=1520090048492.

Mississippi Guidelines Percentages and Findings from Economic Studies

The percentages in Exhibit 3 can only be compared to current Mississippi guidelines percentages for net incomes of about \$3,000 to \$5,000 per month. Families of this net income range spend all their income on average, and not more or less. (Differences across income ranges are addressed later.) Exhibit 3 shows that the percentage of total expenditures devoted to one child ranges from 19.2%–33%, depending on the study. This is before excluding childcare expenses and extraordinary medical expenses and adjusting for Mississippi’s below-average price levels, so it is not comparable to the current Mississippi guidelines percentage for one child, which is 14%. The percentage of total expenditures devoted to two children ranges from 29.1%–46.0%, and the percentage devoted to three children ranges from 30.8%–58.0%. None of the extreme values are used by any state guidelines.

Economic Studies and Basis of State Guidelines

Exhibit 3 shows the three major economic methods for measuring child-rearing expenditures: Rothbarth, Engel, and USDA. Most states rely on one of the five studies of child-rearing expenditures developed by Professor David Betson using the Rothbarth estimator. They are called Betson-Rothbarth (BR) throughout this report, with the first BR study (that used expenditure data collected in 1980–86)⁵³ noted as BR1 and the second BR study (that used expenditure data collected in 1996–1999) as BR2 and so forth, up to the most current BR study that used expenditure data collected in 2013–2019),⁵⁴ which is the fifth BR study and so noted as BR5.

Besides the 33 states that rely on BR measurements, New Jersey relies on a Rothbarth estimate developed by Professor William Rodgers of Rutgers University. All states bordering Mississippi rely on a BR study. About a half a dozen of states rely on Engel estimates. Apart from Georgia, which uses the average of an Engel estimate and a BR estimate, all states relying on the Engel estimate use the 1984 Espenshade study.

Most states that rely on a percentage-of-obligor income guidelines model rely on an older study: the 1984 Espenshade study or the 1981 van der Gaag study. Minnesota and Maryland are the only states to use the USDA study. (Maryland uses a BR study for lower incomes and the USDA study for higher incomes.) As shown in Exhibit 3, the USDA amounts are typically the highest.

States rarely adapt study results verbatim. They tend to adjust a study’s estimate of child-rearing expenditures to exclude childcare expenses and out-of-pocket healthcare expenses for the child as described previously, account for the state’s cost-of-living and income, consider the obligor-parent’s direct cost of the child during parenting time, consider another factor, or consider a combination of factors. A few states combine study results to form their guidelines schedule/percentages.

⁵³ Betson, David M. (1990). *Alternative Estimates of the Cost of Children from the 1980–86 Consumer Expenditure Survey*. Report to U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin.

⁵⁴ Betson, David M. (2000). *Parental Spending on Children: A Preliminary Report*. Memo, Univ. of Notre Dame. Funded by a grant from the Inst. for Research on Poverty, Madison, Wisconsin. This is study initially included data from 1994–98 but was expanded to include 1994–99 in Jane C. Venohr & Tracy E. Griffith, *Report on the Michigan Child Support Formula* (April 2002), Report to the Michigan Supreme Court, Policy Studies Inc., Denver, Colorado.

Economic Methodologies

The requirement for presumptive state child support guidelines was passed by Congress through the Family Support Act of 1988. The Act also mandated the U.S. Department of Health and Human Services to develop a report analyzing expenditures on children and explain how the analysis could be used to help states develop child support guidelines. This was completed by two reports that were both released in 1990. One was by Professor David Betson of the University of Notre Dame.⁵⁵ Using five different economic methodologies to measure child-rearing expenditures, he concluded that the Rothbarth methodology was the most robust and recommended that it be used for state guidelines.

At the time of Betson's 1990 study, most states were using Engel estimates developed in 1984 by Dr. Thomas Espenshade, referenced in Exhibit 3. The Espenshade study formed the basis of the prototype income shares model developed through the National Child Support Guidelines project published in 1987 that was developed by Alabama and Louisiana and eventually Tennessee. Betson also estimated child-rearing expenditures using the Engel methodology for his 1990 study.

The Engel and Rothbarth methodologies are considered marginal cost approaches: they consider the expenditure differences between a couple with children and a couple of child-rearing age without children where the two types of couples are equally well off. The difference in expenditures is deemed to be child-rearing expenditures. The Engel and Rothbarth methodologies use different indicators of equally well-off families. The Engel methodology uses expenditures on food, while the Rothbarth methodology relies on expenditures for adult goods to determine equally well-off families.

The USDA methodology is considered a direct approach to measuring child-rearing expenditures, while both the Rothbarth and Engel methodologies are considered indirect approaches. Direct approaches attempt to enumerate expenditures for major categories of expenses (e.g., housing, food, transportation, clothing, healthcare, childcare and education, and miscellaneous expenses), then add them together to estimate the total cost of raising children. The major limitation to a direct approach is that there is still a need for a methodology to separate the child's share from the household total, such as the situation for the child's housing expenses.

Exhibit 3 also shows that application of one methodology can produce different results depending on the economist applying it and the data years. For example, Rodgers' attempt to replicate the BR results applied to 2004–2009 expenditure data are about one to two percentage points different. This may result from Betson and Rodgers using different functional forms when estimating child-rearing expenditures. Data years can also make a difference whether there are actual changes in child-rearing expenditures over time or the result of improvements to the CE over time.

Most conventional economists believe that the Rothbarth methodology understates actual child-rearing expenditures. Until recently, it was believed that the USDA and Engel methodologies overstated actual child-rearing expenditures. Recent research conducted for the Georgia child support guidelines review found that the Engel methodology no longer overstates child-rearing expenditures and attributes the

⁵⁵ Betson, David M. (1990). *Alternative Estimates of the Cost of Children from the 1980–86 Consumer Expenditure Survey*. Report to U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. University of Wisconsin Institute for Research on Poverty, Madison, Wisconsin.

decline to a technical issue concerning changes in how food is measured over time, as well as more variation in the food consumed rather than food being strictly a necessity item. Most importantly, many economists and policy makers agree that any guidelines amount between the lowest and highest of credible measurements of child-rearing expenditures are appropriate guidelines amounts. Guidelines amounts below the lower bound are generally deemed to be inadequate for the support of children. Through a contract with the U.S. Department of Health and Human Services, Lewin/ICF (1990) developed this approach for assessing state guidelines.⁵⁶ Since then, several states have used it and continue to use it.

The Consumer Expenditure (CE) Survey

All of the studies shown in Exhibit 3 (except van der Gaag because it is a literature review) rely on expenditure data collected from households participating in the Consumer Expenditure Survey (CE).⁵⁷ Conducted by the U.S. Bureau of Labor Statistics (BLS), the CE is the most comprehensive and detailed survey of household expenditures. The CE surveys households on hundreds of items. The CE surveys about 5,500 households per quarter on expenditures, income, and household characteristics (e.g., family size). Households remain in the survey for four consecutive quarters, with households rotating in and out each quarter.⁵⁸ Households are selected to represent the entire U.S. civilian noninstitutional population. Until recently, the CE surveys are designed to be nationally representative surveys with sufficient sampling to detect regional differences but not state differences. In 2017, the BLS began statewide sampling for five large states. Most economists estimating child-rearing expenditures combine data for about several years to achieve a sufficient sample size. Most of these economists also used three or four quarters of expenditures data for a surveyed family.

Like most surveys, the BLS has made several improvements to the data it captures over time. Some of these improvements may contribute to differences in study results over time. In 2004, BLS improved its income measurement to address a perceived anomaly occurring at low incomes where average expenditures exceeded average income. This improvement may have affected measurements of expenditures at low incomes for studies relying on data beginning in 2004. In 2010 and after, all economists used “outlays,” while older studies used “expenditures.” The BLS added outlays to its dataset at about this time. Both outlays and expenditures measure the cost of economic goods and services, including the sales tax on these items. They differ in their treatment of purchases of homes, vehicles, and other items procured through installment payments. Expenditures track more closely to how gross domestic product is measured by considering home purchases to be an investment in physical capital, so expenditures consider only the payment of mortgage interest, while outlays consider payments of both mortgage interest and principal, even if it is a second mortgage or home equity loan. (To be clear, the CE also captures rents for non-homeowners and other housing expenses such as utilities and HOA fees.) Expenditures data captures the full purchase price of any vehicle purchased during the survey period, whereas outlays consider only the monthly installment payments for vehicles that are financed during the survey period. In 2013, the BLS improved how it measured taxes. This is

⁵⁶ Lewin/ICF. (1990). *Estimates of Expenditures on Children and Child Support Guidelines*. Report to U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. Fairfax, VA.

⁵⁷ More information about the CE can be found at <https://www.bls.gov/cex/>.

⁵⁸ Until recently, households remained in the survey for five consecutive quarters, so some of the earlier studies benefited from more data.

important to using the data to form child support guidelines because most households base expenditure decisions on their after-tax income, which is the amount available for expenditures, rather than their gross income. In turn, this also affects expenditures to after-tax income ratios that are often used to convert measurements of child-rearing expenditures to child support schedules and formulas.

The COVID-19 Pandemic and the CE Survey

The most current studies of child-rearing expenditures consider expenditure data from 2013–2019, which is before the COVID-19 pandemic began in 2020. The pandemic impacts the economy and expenditures in many ways. The ideal would be to have more current measurements of child-rearing expenditures, but there are several problems with that. One is that the economy and consumption are still changing. Another problem concerns the underlying data source, the Consumer Expenditure (CE) survey. The CE response rate in 2020, the year the pandemic began, declined.⁵⁹ The impact of this decline on survey results is still being assessed.

Using basic economic theory, almost every factor known to affect supply and demand level has changed significantly since the pandemic began, which, in turn, affect prices and the amount consumed. At the microeconomic level (which considers individual goods and services), these factors include changes in all the factors identified in classical economic theory that affect how much a household demands (or consumes) and how much firms supply. This includes price levels, income (including changes caused by government stimulus payments and the temporary increase in the child tax credit),⁶⁰ prices of related goods and services, and taste and preferences (e.g., increased demand for at-home entertainment at the beginning of the pandemic); consumers' expectations about the future; the number of buyers; changes in input prices (e.g., availability of semi-conductor chips) and technology (e.g., technology that affects ability to work remotely); suppliers' expectations about the future prices; and the number of sellers.

Another concern about using 2013–2019 CE data is inflation. From March 2020 through November 2022, prices increased by 15%.⁶¹ In the last year, prices have increased 7.1% alone.⁶² Price changes have not been uniform across all goods and services. For example, although the all-items price index increased 7.1% in the last year, the food price index increased 10.6% and the energy price index rose 13.1% over the same time period.⁶³ Lower income families devote a higher percentage of their budget share to necessities (such as food) than higher-income families, who can afford more luxury items. When prices increase, higher-income families can cut back on luxury items to offset the increased cost

⁵⁹ U.S. Bureau of Labor Statistics Office of Survey Methods Research. (n.d.). *Household and Establishment Survey Response Rates*. Retrieved from <https://www.bls.gov/osmr/response-rates/>.

⁶⁰ Both the Coronavirus Aid, Relief and Economic Security Act (CARES Act) of 2020 and the American Rescue Plan Act of 2021 affected consumer income.

⁶¹ Calculated from the U.S. Bureau of Labor Statistics. (n.d.). *Consumer Price Index Historical Tables for U.S. City Average*. Retrieved from https://www.bls.gov/regions/mid-atlantic/data/consumerpriceindexhistorical_us_table.htm.

⁶² U.S. Bureau of Labor Statistics. (Dec. 13, 2022.) *Consumer Price Index – November 2022*. <https://www.bls.gov/news.release/pdf/cpi.pdf>.

⁶³ U.S. Bureau of Labor Statistics. (Jun. 10, 2022). *Consumer Price Index – May 2022*. Retrieved from <https://www.bls.gov/news.release/pdf/cpi.pdf>.

of necessities. In all, the impact on child-rearing expenditures is unknown. It is anticipated the changes will not be uniform across all incomes and family sizes.

Summaries of Selected Economic Studies of Child-Rearing Expenditures

This subsection summarizes some of the economic studies shown in Exhibit 3. The summaries are organized by author since some authors used more than one methodology to estimate child-rearing expenditures. The most current Rothbarth study is also discussed in more detail because it relies on the most current CE survey data, is already in use by six states, and is the basis of the updated Mississippi percentages.

Overview of Betson-Rothbarth Measurements

The first BR estimate of child-rearing expenditures used for state guidelines was from Betson's 1990 study.⁶⁴ Since 1990, Betson has updated his study for more current expenditures data four times. His most recent study was funded by the State of Arizona and published in 2021.⁶⁵ Besides the Florida State study, the 2021 Betson study is the most current study of child-rearing expenditures. It has been recently used to update the child support schedules of Alabama, Arizona, Iowa, Missouri, Pennsylvania, and South Dakota. It is also the basis of proposed updates in West Virginia and Maine. In fact, all states that have recently updated their child support schedule have relied on the 2021 Betson-Rothbarth (BR) measurements as the basis of their update. The only exception is Massachusetts, where its task force considered the 2021 BR study, but also considered "a range of legal, policy and practical considerations" when recommending changes to its chart⁶⁶ that were eventually adapted. In other words, the Massachusetts schedule does not strictly relate to economic data.

USDA Study

The USDA first measures expenditures for seven different categories (i.e., housing, food, transportation, clothing, healthcare, childcare and education, and miscellaneous), then sums them to arrive at a total measurement of child-rearing expenditures. Some of the methodologies use a pro rata approach, which is believed to overstate child-rearing expenditures. The USDA reports its estimates on an annual basis for one child in a two-child household. The USDA provides measurements for the United States as a whole and as four regions: the South, Midwest, Mid-Atlantic, and West. The USDA also produces measurements for rural areas and single-parent families. These measurements are for the nation as whole and not provided individually by region.

⁶⁴ Betson, David M. (1990). *Alternative Estimates of the Cost of Children from the 1980–86 Consumer Expenditure Survey*. Report to U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. University of Wisconsin Institute for Research on Poverty, Madison, WI.

⁶⁵ Betson, David M. (2021). "Appendix A: Parental Expenditures on Children: Rothbarth Estimates" In Venohr, Jane, & Matyasik, Savannah. (Feb. 23, 2021). *Review of the Arizona Child Support Guidelines: Findings from the Analysis of Case File Data and Updating the Child Support Schedule*. Report to the Arizona Supreme Court Administrative Office of the Courts. Retrieved from <https://www.azcourts.gov/Portals/74/FCIC-CSGR/SupplementalPacket-030121-FCIC-CSGRS.pdf?ver=2021-02-26-161844-187>.

⁶⁶ Sarro, Mark, Polek, Christine, & Sandy, Shastri. (Jul. 23, 2021). *Economic Review of the Massachusetts Child Support Guidelines 2020–2021*. Prepared for Commonwealth of Massachusetts Executive Office of the Trial Court 2020–2021 Child Support Guidelines Task Force. Page 2. Retrieved from <https://www.mass.gov/doc/economic-review-of-the-massachusetts-child-support-guidelines-2020-2021/download>.

The USDA amounts also vary by age of the child and household income. The most recent USDA measurements are from expenditures data collected in 2011 through 2015. They are shown in Exhibit 4. This is the amount for one child in two-child households. If there is only one child in the household, the USDA found the amounts should be increased by 27%. If there are three or more children in the household, the amounts should be adjusted by the number of children multiplied by 76%. The amounts include expenditures for the child's healthcare and childcare expenses.

Exhibit 4: Summary of Findings from 2017 USDA Study

		Married-Couple Families		Single-Parent Families (overall US)
		Urban (overall U.S.)	Rural Areas (overall U.S.)	
Low Income (less than \$59,200 gross per year)	Child-rearing \$	\$9,330–\$9,980/year	\$7,650–\$8,630/year	\$8,800–\$10,540/year
	Average Gross Income	\$36,300	\$36,100	\$24,400
Middle Income (more than \$59,200 per year and less than \$107,400 for Urban and Rural Only)	Child-rearing \$	\$12,350–\$13,900/year	\$10,090–\$11,590/year	\$16,370–\$20,190/year
	Average Gross Income	\$81,700	\$79,500	\$99,000
High Income (more than \$107,400 for Urban and Rural only)	Child-rearing \$	\$19,380–\$23,380/year	\$14,600–\$17,000/year	
	Average Gross Income	\$185,400	\$156,800	

One salient finding (as shown in Exhibit 4) that is pertinent to addressing concerns about using expenditures data from intact families as the basis of state child support guidelines is that single-parent families with low income and married-couple families with low income devote about the same amount to child-rearing expenditures. It should also be noted that the amounts for middle incomes and high incomes for single-parent families are not separated because they are too few high income, single-parent families from which to produce measurements. More single-parent families with children live in poverty than married-couple families with children.

Florida State University Study

The Florida researchers estimated child-rearing expenditures using both the Rothbarth and Engel methodology to the same data years for the BR5 study.⁶⁷ Betson and the Florida researchers differ in their sample selections and methodological interpretation. This may contribute to their differences despite using the same data years and general methodology. approach and another marginal cost approach developed by Ernest Engel from 2013–2019 CE data.⁶⁸ Neither Florida nor any other state rely on these measurements as the basis of their guidelines table or formula.

⁶⁷ Norribin, Stefan C., et al. (Nov. 2021). Review and Update of Florida's Child Support Guidelines. Retrieved from <http://edr.state.fl.us/Content/special-research-projects/child-support/ChildSupportGuidelinesFinalReport2021.pdf>.

⁶⁸ Ibid.

Comanor, et al. (2015)

Parent advocacy groups have encouraged several states⁶⁹ to consider a 2015 study led by Professor William Comanor of the University of California at Santa Barbara.⁷⁰ It was not funded by any state and does not form the basis of any state guidelines. Professor Comanor developed his own methodology for measuring child-rearing expenditures. It also compares expenditures between families with and without children. Gross income is used to equate equally well-off families. The difference in their expenditures is attributed to children. Comanor's measurements rely on the 2004–2009 CE. In 2018, Comanor reported child-rearing costs of \$3,421 per year for one child and \$4,291 per year for two children in low-income households.⁷¹ For middle incomes (i.e., married couples with an average income of \$76,207 per year), Comanor reported child-rearing costs of \$4,749 per year for one child and \$6,633 per year for two children. The amounts for low-income households are below poverty, and the amounts for middle incomes are just above poverty. The 2022 federal poverty guidelines were \$13,590 per year for one person and an additional \$4,720 per year for each additional person. The Comanor study found negative expenditures for the child's healthcare expenses and did not estimate child-rearing expenditures for entertainment and miscellaneous goods.

Increase for More Children

The existing Mississippi guidelines percentages recognize that there are some economies of scale to having more children—that is, the expense of the second child is not the same amount as the first. At a practical level, there may be some sharing of living space, such as bedrooms, or hand-me-down clothes. If it were the same, the guidelines percentage for two children would be twice that of one child. Since the guidelines percentage for one child is 14%, twice that would be 28%, but it is 20%. This suggests that the amount expended for two children is 143% more than what is expended on the first child (i.e., 20% divided 14% is 143%). The same math applied to the existing Mississippi guidelines percentages for three and more children suggests that the Mississippi guidelines implies that expenditures for three children are 157% more than expenditures for one child, expenditures for four children are 171% more than expenditures for one child, and expenditures for five children are 186% more than expenditures for one child.

In contrast, Exhibit 5 shows that the percentage increases for more children are larger under BR5 (and most studies of child-rearing expenditures) than the implied percentages under the existing Mississippi guidelines.

⁶⁹ For example, Colorado, Minnesota, and Nebraska have heard presentations from Comanor and considered his study as the basis of a schedule update.

⁷⁰ Comanor, William, Sarro, Mark, & Rogers, Mark. (2015). "The Monetary Cost of Raising Children." In (ed.) *Economic and Legal Issues in Competition, Intellectual Property, Bankruptcy, and the Cost of Raising Children (Research in Law and Economics)*, Vol. 27). Emerald Group Publishing Limited, pp. 209–51.

⁷¹ Comanor, William. (Nov. 8, 2018). Presentation to Nebraska Child Support Advisory Commission. Lincoln, NE.

Exhibit 5: Comparisons of Multipliers for More Children

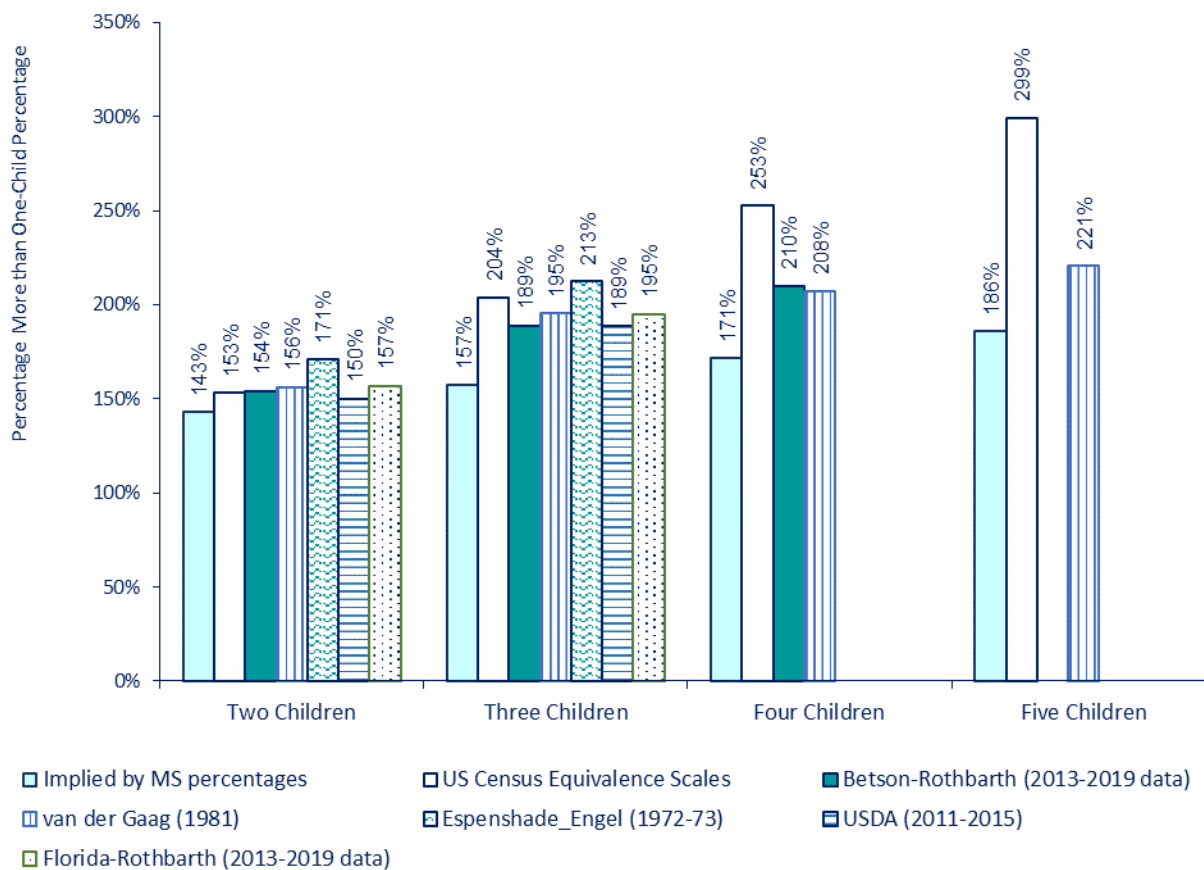
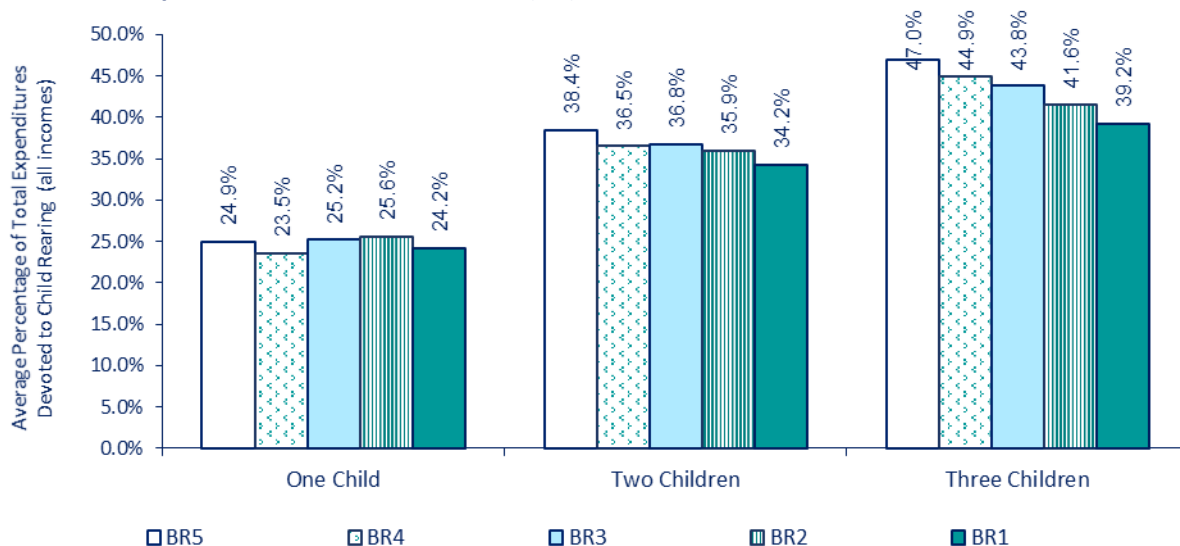


Exhibit 6 shows that the percentage of total expenditures devoted to raising two and three children has been increasing over time by comparing the findings from the five BR studies. This means the economies of scale from having more children has been decreasing. In other words, there may be less sharing of bedrooms and clothing being handed down over time. In contrast, there is little difference in the one-child percentages over time. The differences may just be attributed to sampling error—that is, random samples from the same population will not always equal each other because each sample is unique.

The consequence of this to the update of the Mississippi guidelines percentages is that there will be more increase for two and more children than there will be more one child.

Exhibit 6: Comparisons of Betson-Rothbarth (BR) Measurements over Time



Variation in Child-Rearing Expenditure across Income Ranges

Child-rearing expenditures as a percentage of total expenditures is generally consistent across all levels of total expenditures, but total expenditures as a percentage of net income generally decline as net income increases. Exhibit 5 illustrates families may spend less, all, or more than their after-tax income. For those who spend less than their after-tax income, that circumstance reduces the percentage. Those who spend all—and not more and not less—of their income, there is no adjustment. To transform the percentages related to expenditures to after-tax, CPR uses the average ratio of expenditures to income for each income range from the same subset of families Betson uses to measure child-rearing expenditures. However, as shown in Exhibit 5, on average, low-income families spend more than their income. Since most states do not want to require parents to spend more than their income, CPR caps expenditures at after-tax income for most states.

Exhibit 7: Relationship between Expenditures and Income

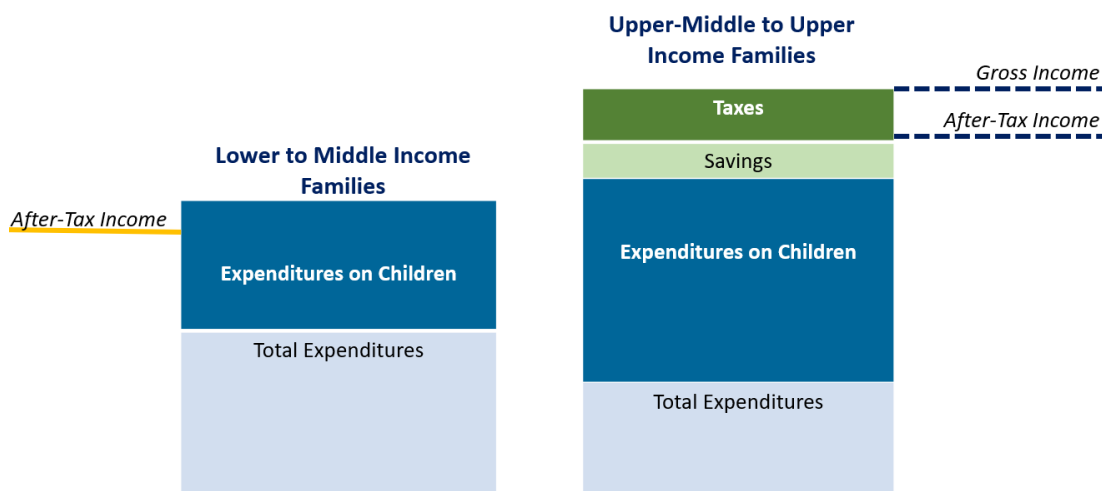
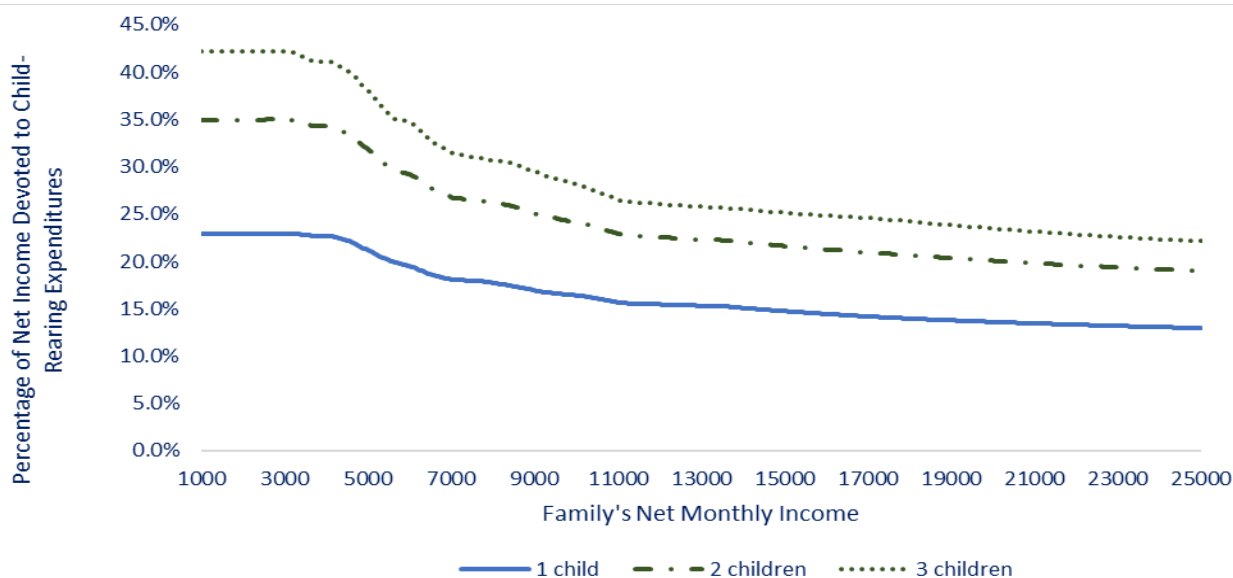


Exhibit 8 shows child-rearing expenditures as a percentage of the family's net monthly income based on BR5 estimates. It generally shows that child-rearing expenditures as a percentage of net income decrease as net income increases. The declining percentages would occur with other estimates as well. The percentages include all child-rearing expenditures. Later they will be adjusted to exclude childcare expenses and extraordinary medical expenses to make them consistent with the Mississippi guidelines and for Mississippi prices.

Exhibit 8: Child-Rearing Expenditures as a Percentage of the Family's Net Monthly Income



UPDATING THE GUIDELINES PERCENTAGES

Seven steps are taken to use an estimate of child-rearing expenditures to update the Mississippi guidelines percentages. Assumptions are embedded in each step.

1. **An economic study is selected as the basis.** As shown earlier, there are several studies of child-rearing expenditures. Which one to use is a policy decision. The BR5 study was selected because it is the most current and used by other states including Alabama, one of Mississippi's neighboring states. Only the Florida study is as current as the BR5 study, but no state uses it. Most states rely on an earlier BR study. BR5 was released in 2021.
2. **Subtract out extraordinary medical expenses and childcare expenses.** This is done because the Mississippi child support guidelines provides for the that extraordinary medical expenses and work-related childcare expenses are deviation criteria.⁷² In updating the guidelines percentages,

⁷² Most other states subtract these expenses from the estimates of child-rearing expenditures when developing a child support guidelines schedule/percentages. However, instead of treating these expenses as deviations, most states provide that each parent is responsible for their prorated share of the expense. If the payer-parent incurs the expense, the payer-parent receives a credit for the other parent's prorated share. If the primary custodial person incurs the expense, the payer-parent's prorated share is added to base support.

these expenses are subtracted using the average amount expended for these items from the total BR5 estimate. The average is calculated from the same subset of families in the Consumer Expenditure (CE) survey data that Betson uses to measure child-rearing expenditures. Appendix A provides more technical details on these expenses that are subtracted. A nominal amount of out-of-pocket healthcare expenses (\$250 per child per year) is retained in the percentages to cover a typical level of out-of-pocket healthcare expenses for the children since some out-of-pocket expenses for cough medicines and co-pays are incurred for most children. The advantage of leaving in some out-of-pocket healthcare expenses in the guidelines percentages is that a deviation will not be necessary for a nominal amount of out-of-pocket healthcare expenses. Instead, the deviation provision for the child's extraordinary healthcare expenses can be reserved for cases where the healthcare expense is truly extraordinary and not incurred by most children (e.g., the child is asthmatic, which is not the average situation, and requires nebulizers and other asthmatic treatments that have copays that exceed \$250 per child per year).

3. **Adjust to net income.** As described earlier, estimates of child-rearing expenditures are expressed as a percentage of total expenditures. They are converted to a net-income basis (which is called adjusted gross income in the Mississippi guidelines) by multiplying the percentage by the average expenditures to net income ratio for a range of incomes. Net incomes are also adjusted to 2022 price levels. In all, this results in the percentage of net income devoted to child-rearing expenditures to decrease as net income increases. Appendix A provides more detail about this conversion.
4. **Adjust for the obligee “picking up” some child-rearing expenditures.** Mississippi is one of seven states that does not factor the actual income of the primary custodial parent in the guidelines calculation. Child support guidelines that do not factor in the other parent's income are called “percentage-of-obligor income” guidelines models. Most percentage-of-obligor income guidelines assume that the primary custodial parent provides an equal dollar amount of support or devotes an equal percentage of income to child-rearing expenditures. For the purposes of updating the Mississippi guidelines percentages, it is assumed that the primary custodial parent devotes an equal amount. If the primary custodial parent's actual income was less, the percentage required from the payer-parent should be increased. If the primary custodial parent's actual income is more, the percentage required from the payer-parent should be decreased.
5. **Adjust for Mississippi prices.** According to the U.S. Bureau of Economic Analysis (BEA), Mississippi had the lowest price parity of the nation: 87.8.⁷³ A price parity below 100 indicates that a state has below-average price levels. A price parity above 100 indicates a state has above-average price levels. The average national price level is represented by a value of 100. The BR5 measurements reflect national averages. They are multiplied by 87.8% to adjust for

⁷³ U.S. Bureau of Economic Analysis. (Dec. 2021). *2020 Regional Price Parities by State (US = 100)*. Retrieved from <https://www.bea.gov/data/prices-inflation/regional-price-parities-state-and-metro-area>.

Mississippi prices. Several states (i.e., Arkansas, Kentucky, Maryland, Nebraska, and New Mexico) use their price parity to adjust BR measurements for their state.

6. **Identifying an “anchor.”** To retain one percentage for a range of incomes for each number of children, an anchor income is identified. This is instead of a sliding-scale percentage that would address the fact that child-rearing expenditures vary with income. The targeted income range is all incomes between \$10,000–\$100,000 per year because the Mississippi guidelines provides that net incomes outside this range are grounds for a deviation.⁷⁴ The percentage of income devoted to child-rearing expenditures at median income is used as the anchor. According to the 2019 U.S. Census American Community Survey, the median income of Mississippi husband–wife families with minor children was \$82,328 per year (which is about \$6,800 per month).⁷⁵ As shown in Appendix A, for incomes below this level, a higher percentage may be appropriate. For incomes above this level, a lower percentage may be appropriate.
7. **Developing percentages for four and more children.** The National Research Council’s (NRC) equivalence scale is used to extend the three-child estimate to four and more children.⁷⁶ Appendix A provides more detail about the equivalence scale. The NRC equivalence scale is used by other states for the same purpose.

Exhibit 9 compares the existing guidelines percentages to the proposed, updated guidelines percentages (which are shown in the middle columns). The proposed, updated guidelines percentages are based on all seven steps described above. The last column shows what the percentages would be assuming that the primary custodial parent had no income and could not contribute to the child-rearing expenditures. In other words, it includes all the seven steps except Step #4.

Exhibit 9: Comparison of Existing Mississippi Guidelines Percentages to Proposed, Updated Guidelines Percentages

Number of Children Due Support	Existing Guidelines Percentages	BR5 Percentages (fully adjusted using steps #1-#7)	BR5 Percentages (fully adjusted except for the primary custodial parent’s share– using all steps except #4)
1	14%	16%	19%
2	20%	24%	27%
3	22%	28%	32%
4	24%	31%	36%
5 or more	26%	34%	39%

⁷⁴ The current Mississippi guidelines provides that the court shall make a written finding in the record as to whether the guidelines percentages are reasonable for incomes below \$10,000 per year and incomes above \$100,000 per year. In other words, the guidelines percentages are to be applied presumptively for incomes in between.

⁷⁵ Retrieved from data.census.gov. Since the guidelines percentages were updated, more current census data is available. In 2021, the median income of a Mississippi husband–wife couple with minor children is \$90,542 per year. This increase in median income would not affect the percentages significantly.

⁷⁶ Citro, Constance F., & Robert T. Michael (eds.). (1995). *Measuring Poverty: A New Approach*. National Academy Press. Washington, D.C.

DEVELOP A LOW-INCOME ADJUSTMENT

Mississippi is one of three states not to provide a formula to adjust for low-income.⁷⁷ Some of the stated and tacit policy objectives of a low-income adjustment are to:

- Meet the federal requirement to consider the subsistence needs of low-income, payer-parents with limited ability to pay (see federal requirement in Exhibit 2);
- Adopt an appropriate and equitable adjustment for Mississippi;
- Keep the adjustment simple; and
- Balance the immediate needs of with low-income, payer-parents while recognizing indirect and long-term impacts on child outcomes, child-parent contact, payer-parent's employment decisions, orders can be modified due to a change in income, and other factors.

Of particular interest was a simple approach that complemented the format of the Mississippi child support guidelines. This imposed a limitation since there are only two states that have a similar guidelines percentage format (i.e., Texas and Alaska). The Texas low-income adjustment is simple. Alaska does not provide a low-income adjustment formula.

Exhibit 10 shows the Texas guidelines percentages (the top cluster) and the low-income adjustment (bottom cluster). The Texas guideline provides that if the payer-parent's net income (called an obligor in Texas) is below \$1,000 net per month, a lower percentage is applied. The percentage is exactly five percentage points less than the guidelines percentage for each number of children.

Exhibit 10: Excerpt of Texas Percentage Formula and Low-Income Adjustment

CHILD SUPPORT GUIDELINES BASED ON THE MONTHLY NET RESOURCES OF THE OBLIGOR	
1 child	20% of Obligor's Net Resources
2 children	25% of Obligor's Net Resources
3 children	30% of Obligor's Net Resources
4 children	35% of Obligor's Net Resources
5 children	40% of Obligor's Net Resources
6+ children	Not less than the amount for 5 children
(c) If the obligor's monthly net resources are less than \$1,000, the court shall presumptively apply the following schedule in rendering the child support order:	
LOW-INCOME CHILD SUPPORT GUIDELINES BASED ON THE MONTHLY NET RESOURCES OF THE OBLIGOR	
1 child	15% of Obligor's Net Resources
2 children	20% of Obligor's Net Resources
3 children	25% of Obligor's Net Resources
4 children	30% of Obligor's Net Resources
5 children	35% of Obligor's Net Resources
6+ children	Not less than the amount for 5 children

⁷⁷ The other states are Alaska and Georgia.

The major strength of the Texas approach is its simplicity. The major limitation is that it produces a precipitous increase in the support amount at the income threshold. For example, a payer-parent with a net income of \$999 per month would have an order of \$150 per month (which is 15% of the obligor's income), while a payer-parent with a net income of \$1,000 per month would have an order of \$200 per month (which is 20% of the obligor's income). In other words, a dollar increase in income yields a \$50 increase in child support in this example. The reality, however, is that this situation is unlikely. Most obligors will have incomes above that since earnings from full-time, minimum wage employment is \$1,257 per month before taxes. Texas could eliminate the precipitous increase by using more of tax-like formula. For example, the formula for one child could be 15% for the first \$1,000 in income and an additional 20% for incomes above \$1,000 per month. This tax-like formula, however, complicates the low-income adjustment and the guidelines.

The Income Threshold for Applying the Low-Income Threshold

It is not clear why Texas set the threshold at \$1,000, particularly since the 2022 federal poverty guidelines (FPG) for one person is \$1,133 per month. The income threshold is a policy decision. Nevada and Wisconsin both apply their low-income adjustment to incomes below 150% of the FPG. There are several reasons for setting the threshold above poverty. One reason is the overwhelming research finding that the official poverty measure understates actual poverty. Another reason is that most public assistance programs set their income threshold above poverty (e.g., the Supplemental Nutrition Assistance Program (SNAP) uses 130% of FPG and Medicaid uses 133% FPG for older children.) The sentiment is that the low-income adjustment for payer-parents should be on par with income thresholds for assistance available to custodial families. Using the 2022 FPG, the SNAP income threshold is \$1,473 per month and the Medicaid income threshold is \$1,507. Some states believe it is important to establish a threshold above full-time, minimum wage earnings.

Proposed Low-Income Adjustment for Mississippi

Exhibit 11 shows the proposed low-income adjustment for Mississippi. It is modeled after the Texas adjustment. It relies on an income threshold of \$1,500 net per month. This is close to the SNAP income eligibility threshold. It lowers the guidelines percentages by two percentage points. Using a smaller reduction than the Texas low-income adjustment alleviates some of the precipitous increase caused by the Texas low-income adjustment. Still, as shown later, the lowered percentages yield amounts significantly lower than neighboring states' low-income adjustments. The percentages are also consistent with research cited in the narrative of the 2016 federal rule finding that arrears accumulate when support exceeds a certain percentage of gross income.⁷⁸

⁷⁸ The low-income percentages are also consistent with the Orange County study cited in the narrative supporting the federal rule change. That study found that child support goes unpaid when it is set at 20% or more of the obligor's gross income for one child and 28% or more for two or more children. Subsequent research, however, has challenged these percentages thresholds and suggest that other factors such as income imputation and default matter more than percentage of income assigned to support. More information about the original study and subsequent studies and OCSE's narrative can be found at Judicial Council of California. (May 2022). Review of Statewide Uniform Child Support Guideline. San Francisco, CA. Retrieved from <https://www.courts.ca.gov/documents/Review-of-Uniform-Child-Support-Guideline-2021.pdf>.

Exhibit 11: Proposed Mississippi Percentages

The following child support award guidelines shall be a rebuttable presumption in all judicial or administrative proceedings regarding the awarding or modifying of child support awards in this state:	
Number of Children Due Support	Percentage of Adjusted Gross Income* that Should Be Awarded for Support when the Payer-Parent's Adjusted Gross Income** is \$1,500 per month or less
1	14%
2	22%
3	26%
4	29%
5 or more	32%
Number of Children Due Support	Percentage of Adjusted Gross Income* that Should Be Awarded for Support when the Payer-Parent's** Adjusted Gross Income is more than \$1,500 per month
1	16%
2	24%
3	28%
4	31%
5 or more	34%

* The Mississippi guidelines defines "adjusted gross income" to exclude federal, state, and local taxes and other legally mandated deductions. In contrast, other state guidelines use "adjusted gross income" to be gross income before taxes that is adjusted for an existing court order for another child or other permissible deductions besides income taxes.

** Mississippi uses the term "absent parent" in its guidelines.

Other State Approaches to Low-Income Adjustments

There are generally three approaches to low-income adjustments:

- Self-support reserve (SSR) adjustment;
- Lowered percentages usually supplied in a separate table; and
- Proportional reduction formula below a certain income.

Most states use the SSR adjustment. It works best with a child support guidelines worksheet or table. The Mississippi guidelines have neither.⁷⁹ Several states (i.e., North Dakota, Texas, Nevada, Utah, and Wisconsin) provide lowered percentages. Exhibit 10 shows how Texas lowered its percentages. Exhibit 12 shows how North Dakota lowered its percentages. It provides a table. So does Nevada and Utah. The advantage of this approach is it can produce more granular percentages that do not produce a precipitous increase between income ranges. The disadvantage is it is more complicated. California and Michigan use a proportional reduction formula. The proportional reduction formula is more

⁷⁹ Mississippi and Wisconsin may be the only states not to have a worksheet. CPR is still researching the issue.

complicated than the SSR. It also requires a guidelines worksheet. Due to its complexity, it is not considered in this analysis.

Exhibit 12: Excerpt of North Dakota’s Lower Percentages at Low Income

Obligor’s Net Monthly Income	One Child		Two Children		Three Children		Four Children		Five Children		Six or More Children	
\$800 or less	0	0%	\$0	0%	\$0	0%	\$0	0%	\$0	0%	\$0	0%
\$900	90	10%	\$126	14%	\$171	19%	\$198	22%	\$234	26%	\$261	29%
\$1,000	140	14%	\$183	18%	\$232	23%	\$265	27%	\$305	31%	\$337	34%
\$1,100	190	17%	\$240	22%	\$293	27%	\$332	30%	\$375	34%	\$414	38%
\$1,200	240	20%	\$296	25%	\$355	30%	\$399	33%	\$446	37%	\$490	41%
\$1,300	290	22%	\$353	27%	\$416	32%	\$466	36%	\$516	40%	\$566	44%
\$1,400	316	23%	\$385	27%	\$453	32%	\$508	36%	\$563	40%	\$617	44%
\$1,500	342	23%	\$416	28%	\$491	33%	\$550	37%	\$609	41%	\$669	45%
\$1,600	368	23%	\$448	28%	\$528	33%	\$592	37%	\$656	41%	\$720	45%
\$1,700	384	23%	\$476	28%	\$562	33%	\$630	37%	\$696	41%	\$761	45%
\$1,800	400	22%	\$505	28%	\$596	33%	\$668	37%	\$736	41%	\$803	45%
\$1,900	416	22%	\$533	28%	\$631	33%	\$706	37%	\$776	41%	\$844	44%
\$2,000	431	22%	\$562	28%	\$665	33%	\$744	37%	\$816	41%	\$885	44%
\$2,100	447	21%	\$590	28%	\$699	33%	\$781	37%	\$856	41%	\$926	44%
\$2,200	463	21%	\$619	28%	\$733	33%	\$819	37%	\$896	41%	\$968	44%
\$2,300	479	21%	\$647	28%	\$767	33%	\$857	37%	\$936	41%	\$1,009	44%
\$2,400	495	21%	\$676	28%	\$802	33%	\$895	37%	\$976	41%	\$1,050	44%
\$2,500	511	20%	\$704	28%	\$836	33%	\$933	37%	\$1,017	41%	\$1,091	44%
\$2,600	527	20%	\$733	28%	\$870	33%	\$971	37%	\$1,057	41%	\$1,133	44%

Self-Support Reserve Adjustment

In 2016, there were 37 state guidelines that provided a self-support reserve.⁸⁰ The count would be higher today since some states recently adapted a SSR (e.g., Arkansas and Wyoming) to conform to the 2016-added requirement. Exhibit 13 shows how Alabama’s SSR works. It is incorporated as a line item to Alabama’s child support guidelines worksheet. Mississippi is one of a couple states that do not have a child support guidelines worksheet.

Alabama sets its SSR at \$981, which was the 2021 federal poverty guidelines (FPG) level for one person adjusted for Alabama’s below-average income. Most states set their SSR at a higher amount. Most states rely on the FPG in the year of the guidelines review, but some states index so it is updated every year when the federal government releases the FPG around February of each year. If the obligor’s income is below the SSR, Alabama applies a minimum order of \$50 per month. If the obligor’s income is above the SSR, Alabama applies the lower of the regular guidelines calculation and the difference between the obligor’s adjusted gross income and the SSR. The amounts of the SSR and the minimum order are policy decisions, as well whether to have a minimum order. Some states leave it to court

⁸⁰ Venohr, Jane. (2016). *Review of the Nevada Child Support Guidelines*. Retrieved from <https://www.leg.state.nv.us/Session/79th2017/Exhibits/Senate/JUD/SJUD144D.pdf>.

discretion. Some states also specify circumstances in which the order should be set at zero (e.g., payer-parent is incarcerated or payer-parent's disability limits employment).

Exhibit 13: Alabama's SSR Adjustment⁸¹

	Plaintiff	Defendant	Combined
Line 1: Monthly gross income	\$1,200	\$1,000	\$2,200
Line 2: Monthly adjusted gross income	\$1,200	\$1,000	\$2,200
Line 3: Percentage share of income (each parent's income on Line 2 divided by Combined Income)	55%	45%	100%
Line 4: Basic child support obligation			\$414
Line 5: Preliminary child support obligation (Multiple Line 3 by Line 4)	\$228	\$186	
Self-Support Reserve Test			
Line 6: Income available after Self-support reserve (Line 2 minus \$981, if less than \$0, enter \$0)	\$219		
Line 7: Income available for support (85% of Line 6, if less than \$50, enter \$50 minimum order)	\$ 186		
Line 8: Recommended child support order (Lessor Lines 5 and 7)	\$186		

Most states with SSRs rely on the income shares model, which considers both parents' incomes in the calculation of support. In the income shares model, each parent is responsible for their share of the child support obligation, which is based on economic data on what intact families actually spend on their children. The payer-parent's prorated share forms the basis of the child support order. Most income shares states have a lookup table of child support obligations that vary with the number of children and the combined incomes of the parents. Many income shares states incorporate their low-income adjustment into the lookup table (e.g., see North Carolina's SSR that is incorporated into its child support table, as shown in Exhibit 14).

SSR Amount

Like the income threshold for applying the reduced percentages, the amount of the SSR is a policy decision. Many states use more than the federal poverty guidelines for the same reasons that states use a higher income threshold for applying the reduced percentages.

Minimum Order

If the difference between the obligated parent's adjusted gross income and the SSR is less than \$50, many states provide for a minimum order of \$50 per month. Some states provide for other amounts. More states are providing for zero orders for certain circumstances such as incarceration or a disability that impedes employment.

⁸¹ This is an abbreviated version of the Alabama child support guidelines worksheet (CS-42 revised 5/2022) provided by the State of Alabama Unified Judicial System. Retrieved from <https://eforms.alacourt.gov/media/c5vl4eht/revised-child-support-worksheet-5-22.pdf>.

Exhibit 14: North Carolina's Self-Support Reserve Is Incorporated into the Table

Self-Support Reserve: Supporting Parents with Low Incomes	Combined Adjusted Gross Income	One Child	Two Children	Three Children	Four Children	Five Children	Six Children
<p>The guidelines include a self-support reserve that ensures that obligors have sufficient income to maintain a minimum standard of living based on the 2018 federal poverty level for one person (\$1,012.00 per month) for obligors with an adjustment gross income of less than \$1,108 the Guidelines require, absent a deviation, the establishment of a minimum support order (\$50). For obligors with adjusted gross incomes above \$1,097, the Schedule of Basic Support Obligations incorporates a further adjustment to maintain the self-support reserve for the obligor.</p> <p>If the obligor's adjusted gross income falls within the shaded area of the Schedule and Worksheet A is used, the basic child support obligation and the obligor's total child support obligation are computed using only the obligor's income. In these cases, childcare and health insurance premiums should not be used to calculate the child support obligation. However, payment of these costs or other extraordinary expenses by either parent may be a basis for deviation. This approach prevents disproportionate increases in the child support obligation with moderate increases in income and protects the integrity of the self-support reserve. In all other cases, the basic child support obligation is computed using the combined adjusted gross incomes of both parents.</p>	1150	50	50	50	50	50	50
	1200	66	67	68	68	69	70
	1250	101	102	103	104	105	106
	1300	135	137	138	140	141	143
	1350	170	172	173	175	177	179
	1400	204	207	209	211	213	216
	1450	239	241	244	247	249	252
	1500	273	276	279	282	285	289
	1550	295	311	315	318	322	325
	1600	304	346	350	354	358	361
	1650	313	381	385	390	394	398
	1700	321	416	421	425	430	434
	1750	330	451	456	461	466	471
	1800	338	486	491	496	502	507
	1850	347	520	526	531	537	543
	1900	355	549	560	566	572	578
	1950	364	562	594	601	607	614
	2000	372	575	629	636	642	649
	2050	381	588	663	670	677	685
	2100	389	601	697	705	713	720
	2150	398	614	732	740	748	756
	2200	406	627	766	775	783	791
	2250	415	641	784	809	818	827
	2300	423	654	800	844	853	862
	2350	432	667	816	879	888	898
	2400	440	680	831	914	923	933
	2450	449	693	847	947	959	969
	2500	457	706	863	964	994	1004
	2550	466	719	879	982	1029	1040
	2600	474	732	895	1000	1064	1075
	2650	483	745	911	1018	1099	1111
	2700	491	758	927	1036	1134	1146
	2750	500	771	943	1054	1159	1182
	2800	508	785	959	1071	1178	1217
	2850	517	798	975	1089	1198	1253
	2900	525	811	991	1107	1218	1288
	2950	534	824	1007	1125	1237	1324
	3000	542	837	1023	1142	1257	1359
	3050	551	850	1039	1160	1276	1387
	3100	560	863	1055	1178	1296	1409

Consideration of the Subsistence Needs of the Custodial Parent and Children

With regard to exercising the federal option to also consider the subsistence needs of the custodial parent and children, most states agree with the concept, but in practice the concept does not affect the order amount, nor does it achieve its intent to treat the parents equitably. For example, the Alabama SSR provides a line item on its worksheet for the primary custodial parent's SSR, but mathematically it does not affect the child support calculation (see Exhibit 13). New Jersey is an example of a state that strives for equity but does not achieve it largely because payer status and recipient status are not on equal footing. New Jersey does not allow its low-income adjustment to be applied if the custodial family's income is below poverty. This means it is not applied when the custodial family is enrolled in TANF; even though child support is set at the higher amount, collections are retained by the state.

SECTION 3: IMPACT OF UPDATED GUIDELINES PERCENTAGES AND LOW-INCOME ADJUSTMENT

Two sets of case comparisons are used to assess the impact of updating the guidelines percentages and low-income adjustment. The first set uses a wide range of incomes. The second set focuses on low income. The comparisons consider one, two, and three children. The impact differs by the number of children. Although Mississippi data are not readily available, other states find that most child support cases involve one or two children; about less than 10% involve three children. Alabama actually found it had a higher percentage of one-child orders in its state caseload: 92% of its orders were for one child.⁸²

COMPARISONS OF CASE SCENARIOS ACROSS A WIDE RANGE OF INCOMES

Exhibit 15 shows the eight case scenarios examined in this section.

Exhibit 15: Summary of Case Scenarios Used to Compare Impact of Updated Guidelines Percentages

Case Scenario	Gross Monthly Income of Payer-Parent	Gross Monthly Income of Receiving Party
1. Minimum wage earner (\$7.25 per hour) at 30 hours per week	\$1,257	\$0
2. Minimum wage earner (\$7.25 per hour) at 40 hours per week	\$1,257	\$0
3. Parent's earnings are equivalent to median earnings of Mississippi workers with less than a high school education	\$2,825	\$1,775
4. Parent's earnings are equivalent to median earnings of Mississippi workers whose highest educational attainment is a high school degree or GED	\$3,569	\$2,585
5. Parent's earnings are equivalent to median earnings of Mississippi workers whose highest educational attainment is some college or an associate's degree	\$4,466	\$3,290
6. Parent's earnings are equivalent to median earnings of Mississippi workers whose highest educational attainment is a college degree	\$6,482	\$4,661
7. Parent's earnings are equivalent to median earnings of Mississippi workers whose highest educational attainment is a graduate degree	\$8,925	\$6,402
8. High-income earners (parents have equal incomes, combined income = \$25,000 gross per month)	\$12,500	\$12,500

The first two scenarios assume earnings at minimum wage of \$7.25 per hour. The first scenario considers 30 hours per week, and the second scenario considers 40 hours per week. Many low-wage jobs do not offer 40-hour work weeks. Further, they may not offer work every week of the year or may not offer paid time off (which exacerbates reduced earnings if the parent is not working every week of the year, and often have high turnover rates). The median earnings of Mississippi workers by highest

⁸² Center for Policy Research. (Sept. 2020.) Findings from the Analysis of Case File Data and Labor Market Data. Retrieved from <https://www.alacourt.gov/docs/AL%20prelim%20findings%20case%20file%20and%20labor%20Sept%2014.pdf>.

educational attainment and gender are the basis of Case Scenarios 4–8. Earnings are reported for five levels of educational attainment for Mississippi workers by the U.S. Census 2020 American Community Survey.⁸³ Male median earnings are used as the incomes of the obligated parent in the scenarios, and female median earnings are used for the receiving party's income.⁸⁴ The last scenario consider high incomes. There are no adjustments to base support or deductions from income for special factors such as the cost of the child's health insurance premium or substantial shared physical custody.

The comparisons also consider the guidelines of neighboring states. Exhibit 16 compares the guidelines basis of Mississippi to that of bordering states as well as West Virginia and Kentucky because these states have similar socio-economic characteristics to Mississippi. All these states rely on the income shares guidelines model and use a self-support reserve (SSR) adjustment for their low-income adjustment. Arkansas adopted the income shares model and an SSR in 2019. Alabama just adopted its self-support reserve in 2022.

The major findings from the comparisons shown in Exhibit 17 through Exhibit 22 are:

- In general, the updated guidelines percentages would produce small increases for one child and more significant increases for two and more children;
- The Mississippi guidelines yields amounts lower than other states for Scenarios 1–4, which generally involve lower income cases, because of its flat percentage of guidelines yields lower amounts than the income shares model that is based on estimates of child-rearing expenditures that indicate families devote a higher share of income to child-rearing expenditures at low incomes;
- The Mississippi guidelines yields amounts higher than other states for Scenarios 5–8 that involve higher income cases because of its flat percentage of guidelines yields higher amounts than the income shares model when the custodial parent has income as well as the income shares model being based on estimates of child-rearing expenditures that indicate high-income families devote a smaller share of income to child-rearing expenditures;
- The Louisiana guidelines produces generally higher amounts because it is the only state compared that does not adjust for the state's below-average cost of living; and
- The West Virginia child support guidelines does not provide an amount for Scenario 8 because it only considers combined adjusted gross income up to \$15,000 per month.

Exhibit 23 illustrates how the income shares model produces different amount when the receiving parent has income. This is a key factor to explaining some of the differences in the state comparisons.

⁸³ U.S. Census data is retrieved from <https://www.census.gov/data/tables.html>.

⁸⁴ According to national data, over 80% of custodial parents are females.

Exhibit 16: Comparison of Selected Factors among Neighboring States and Similar States

	US	MS	AL	AR	KY	LA	TN	WV
Income Shares Guidelines	NA	No	Yes	Yes	Yes	Yes	Yes	Yes
Last Major Update of Core Table/Percentages	NA	Unknown	2021	2019	2019	2021	2006	1990 (Currently an update is being proposed in legislation)
Low-Income Adjustment/Self-Support Reserve (SSR)	NA	Deviation for income below \$10,000/year	SSR = \$981 gross	SSR = \$900 net	SSR = \$915	75% of poverty	SSR = \$957	SSR = \$500 net
Monthly Minimum Order	NA	None	\$50	\$125	\$60	\$100	\$100	\$50
Low-income Adjustment Applies to Minimum Wage Earners^a for 1 and 2 Children?	NA	NA	Yes	Yes	Yes	No	Yes	No
2020 Price Parity^b	100.0	87.8	89.3	89.2	89.8	92.7	92.2	88.0
2019 Median Income of Husband-Wife Couples with Children^c	\$103,978	\$82,328	\$90,308	\$78,508	\$89,790	\$98,499	90,783	\$82,161
2019 Median Income of Female-Headed Families with Children^c	\$31,305	\$23,151	\$24,499	\$26,445	\$24,459	\$22,205	\$30,285	\$22,584
2021 Median Gross Rent^c	\$1,191	\$831	\$861	\$820	\$830	\$924	\$981	\$767
2022 Hourly Minimum Wage^d	\$7.25	\$7.25	\$7.25	\$11.00	\$7.25	\$7.25	\$7.25	\$8.75
IV-D Child Support Caseload^e	12,665,871	249,127	189,781	151,665	249,907	247,103	318,254	90,094
IV-D Orders Established per Year^e	610,743	12,267	10,596	3,613	8,664	10,224	62,945 ^f	3,656
Average Percentage of Current Support Paid^e	66.9%	53.9%	52.0%	62.2%	57.2%	50.5%	56.4%	68.3%

^a Minimum wage at a 40-hour work week equals \$1,257 gross per month (about \$1,143 net per month). 2022 Federal poverty guidelines for one person is \$1,133 per month.

^b U.S. Bureau of Economic Analysis. (Dec. 2021.) *2020 Regional Price Parities by State (US = 100)*. Retrieved from <https://www.bea.gov/data/prices-inflation/regional-price-parities-state-and-metro-area>

^c U.S. Census data is retrieved from <https://www.census.gov/data/tables.html>.

^d U.S. Department of Labor. (Oct. 2022.) *Consolidated Minimum Wage Table*. Retrieved from <https://www.dol.gov/agencies/whd/mw-consolidated>

^e Federal Office of Child Support Enforcement. (2022). Office of Child Support Preliminary Report 2022. Retrieved <https://www.acf.hhs.gov/css/policy-guidance/fy-2021-preliminary-data-report-and-tables>.

^f This appears to be a typographical error in the preliminary data.

Exhibit 17: Comparisons of Case Scenarios 1–4 for One Child

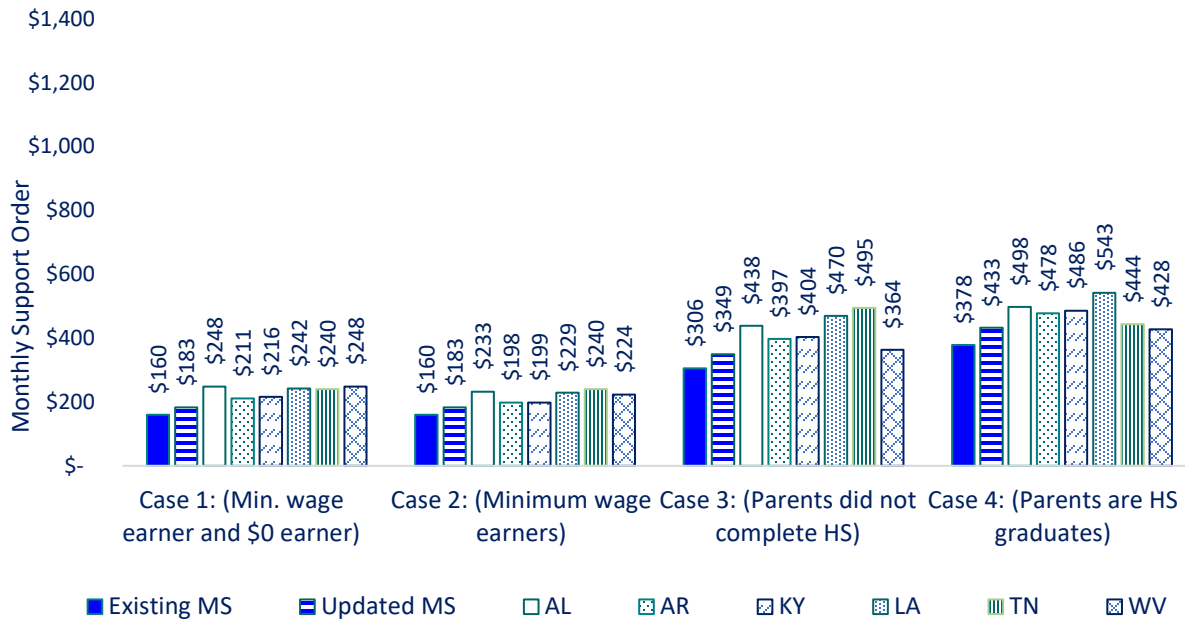


Exhibit 18: Comparisons of Case Scenarios 1–4 for Two Children

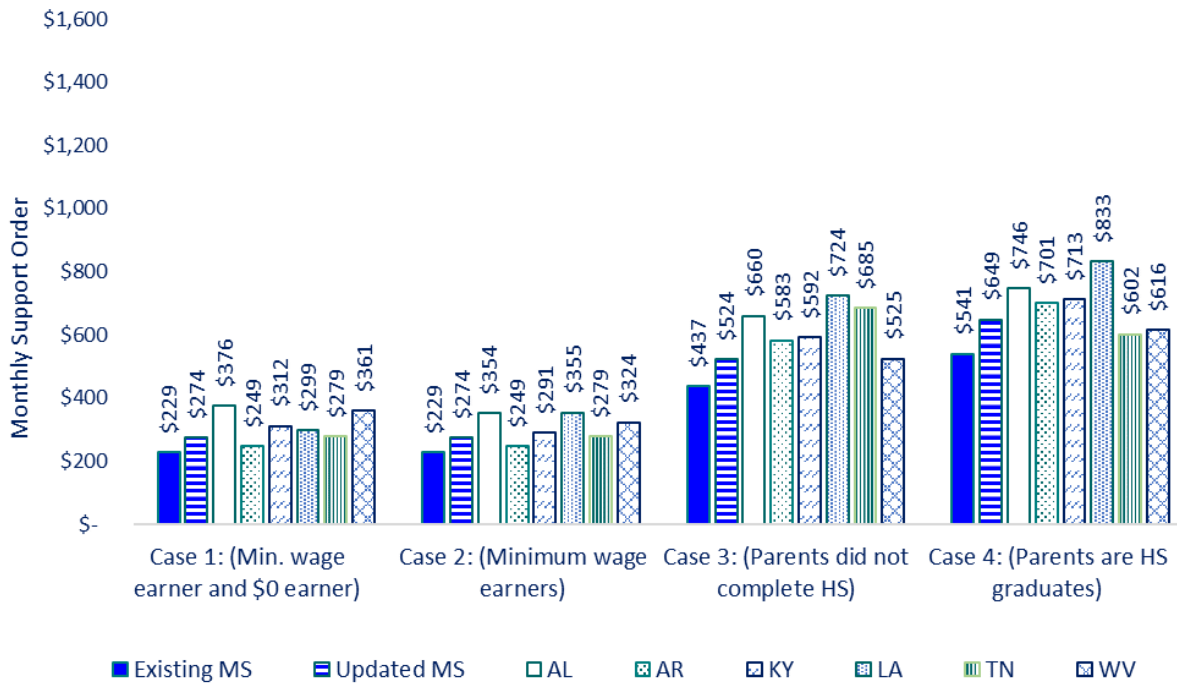


Exhibit 19: Comparisons of Case Scenarios 1–4 for Three Children

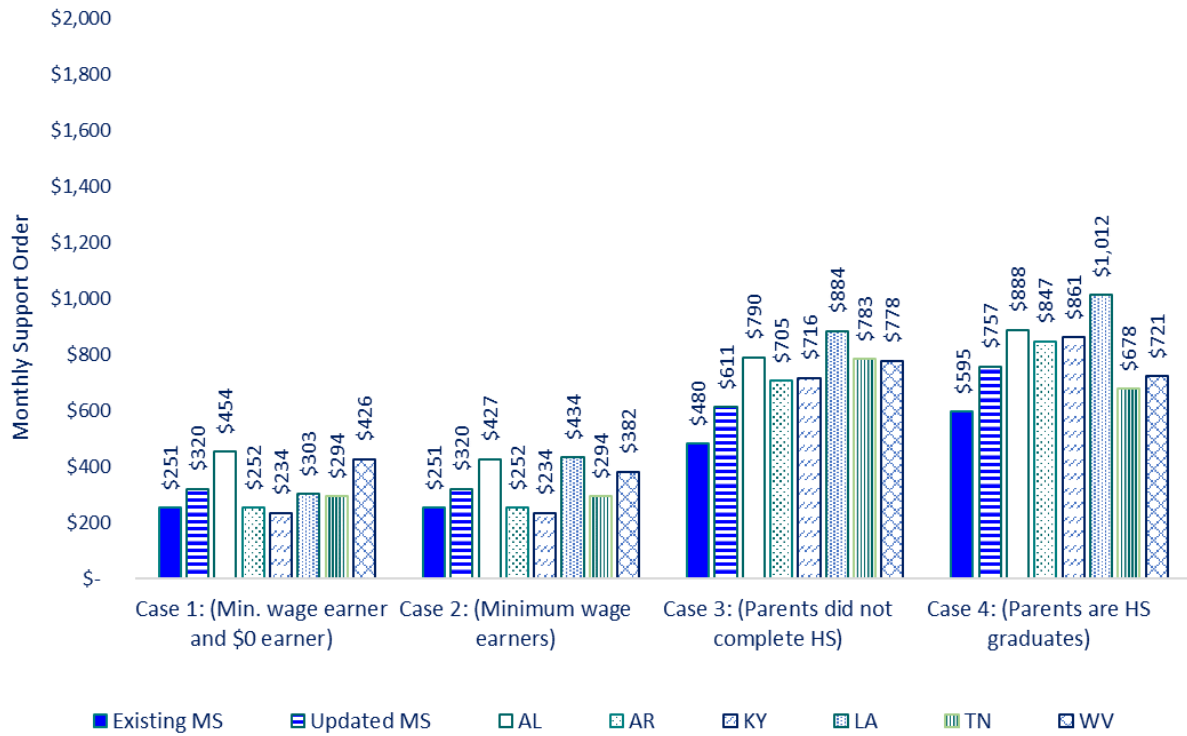


Exhibit 20: Comparisons of Case Scenarios 5–8 for One Child

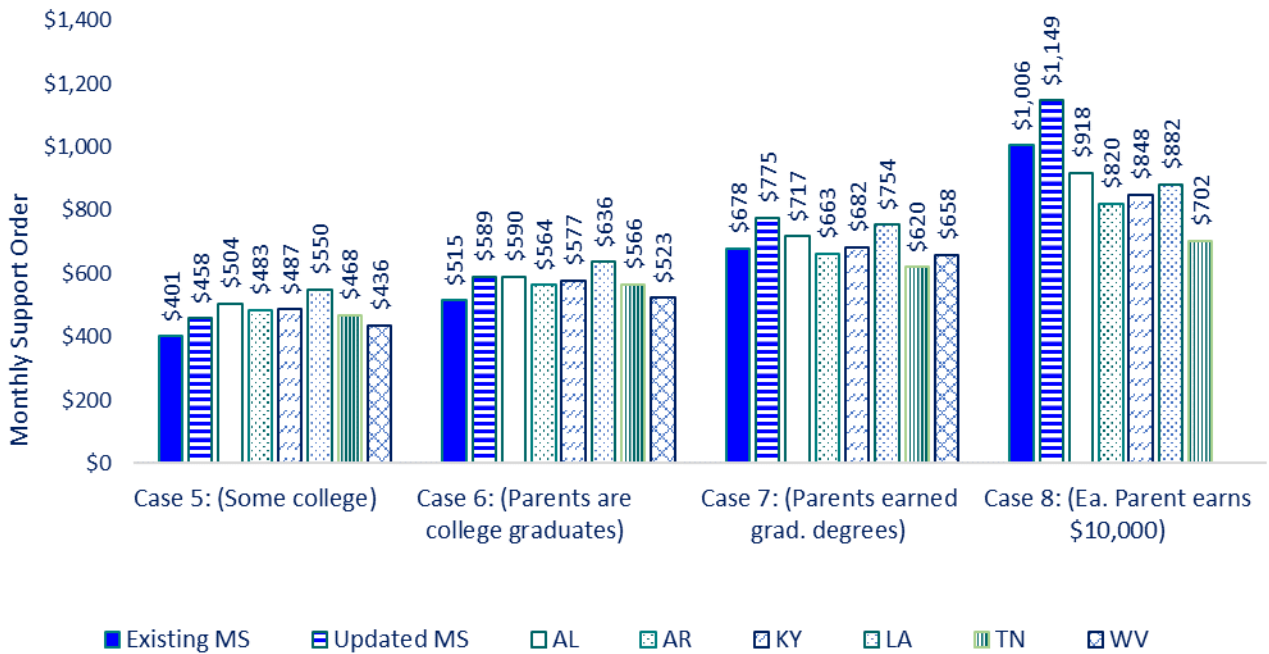


Exhibit 21: Comparisons of Case Scenarios 5–8 for Two Children

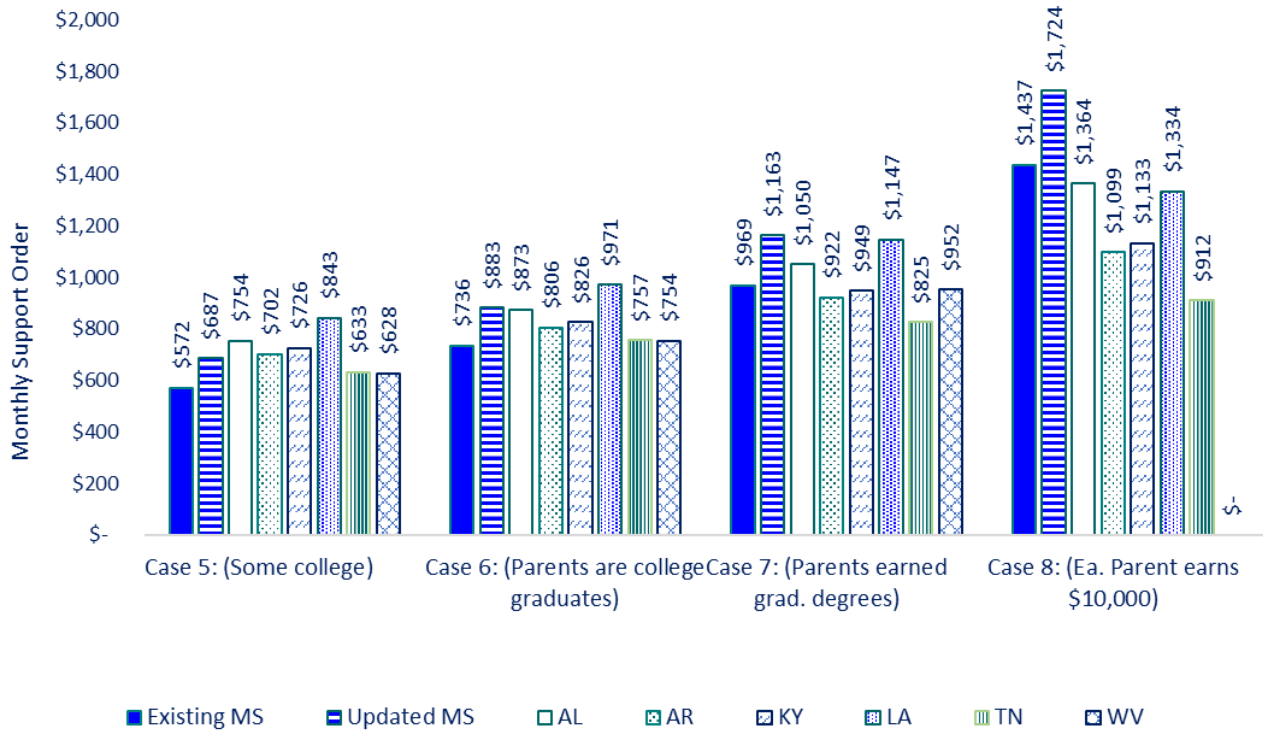


Exhibit 22: Comparisons of Case Scenarios 5–8 for Three Children

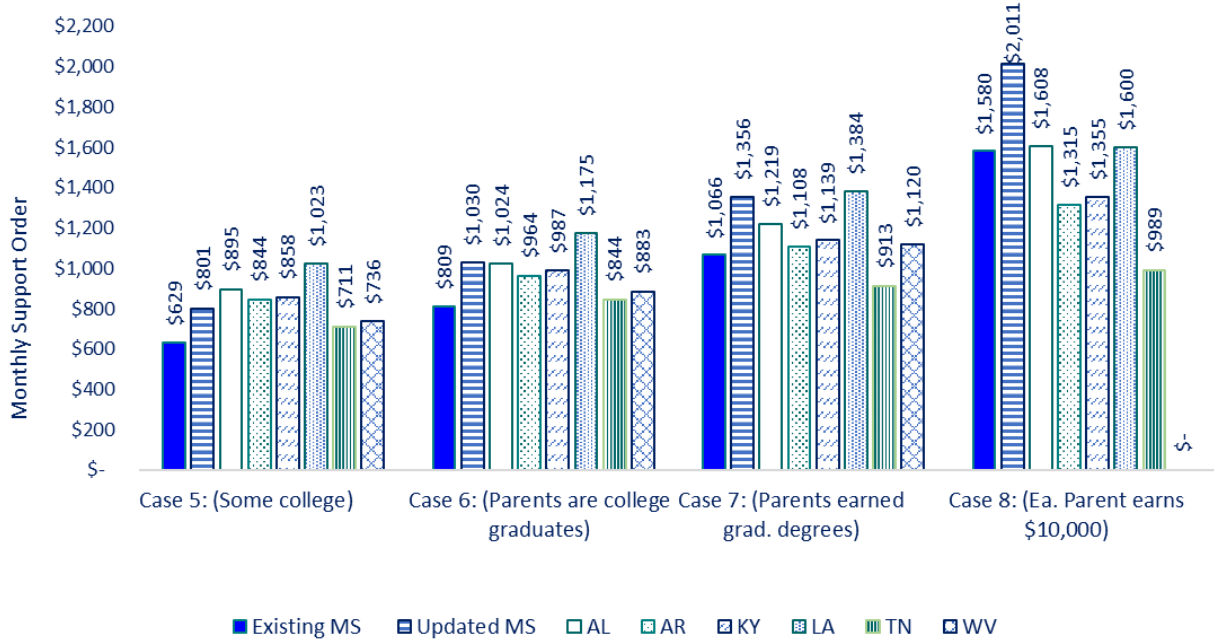
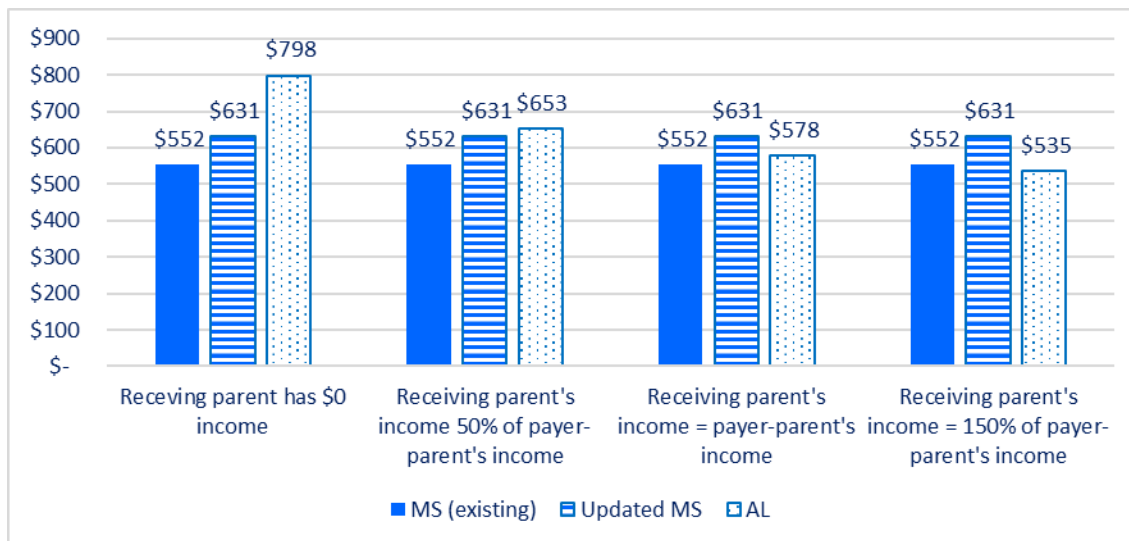


Exhibit 23: Comparison of Mississippi Percentages to Alabama's Income Shares Guidelines when the Receiving Parent's Income Increases



IMPACT OF PROPOSED LOW-INCOME ADJUSTMENT

Exhibit 24 through Exhibit 28 show the impact of the proposed low-income adjustment using net monthly incomes of \$1,000, \$1,100, \$1,200, \$1,300, \$1,400, \$1,500, \$1,525, and \$1,550. The incomes increase by \$100 per scenario until the income threshold of \$1,500 is met, then the income scenarios increase by \$25 to illustrate the steep increase inherent to the simplified method. (This limitation was identified earlier, so the intent is to examine the impact and whether it is truly an issue.) The reader should note that the income range along the horizontal axis is not to scale. The increase is actually steeper.

The graphical comparisons also show the obligation amount under the existing guidelines and the amounts based on the Texas, Alabama, and Arkansas guidelines. Texas is compared because the Mississippi low-income adjustment is modeled after the Texas approach. Alabama and Arkansas are the two neighboring states that have recently updated their guidelines including their low-income adjustment and have socioeconomic characteristics more similar to Mississippi than Tennessee and Louisiana.⁸⁵ Alabama and Arkansas consider both parents' incomes in the calculation of support, so the comparisons show one scenario where the custodial parent has no income and another whether the custodial parent's income equals the payer-parent's income. Alabama's SSR applies to gross income so does not impact most of the case scenarios.

For one child, as net income increases from \$1,500 per month to \$1,525 per month (which is a net income increase of \$25), the order amount would increase under the proposed guidelines percentage from \$210 per month to \$244 per month. This is a \$34 per month increase in the obligation amount when net income only increased \$25. A net income of \$1,500 could be realized by a single taxpayer

⁸⁵ Tennessee recently updated its low-income adjustment but not its child support table. Louisiana recently updated its child support table, but not its low-income adjustment.

working 40 hours per week at \$9.83 per hour. A pay increase to \$10.02 per hour would bring that parent to \$1,525 net per month in income. For two and more children, the increase is slightly more: \$36 to \$39 per month when the payer-parent's income increases from \$1,500 to \$1,525 net per month. On the other hand, the order increase when income increases from \$1,500 to \$1,550 net per month is more reasonable: \$42 to \$47 per month depending on the number of children. This would be a pay increase of 37 cents per hour if the parent works 40 hours per week. In short, the issue dissipates the larger the increase in income is.

One simple solution to the problem would be to assess 14% to the first \$1,500 and to assess \$210 plus 16% of income greater than \$1,500 per month. However, this would complicate the calculation; it is also really only an issue for those with earnings near \$10.00 hour. It is not an issue by \$10.50 per hour.

Exhibit 24: Impact of Proposed Low-Income Adjustment: One Child

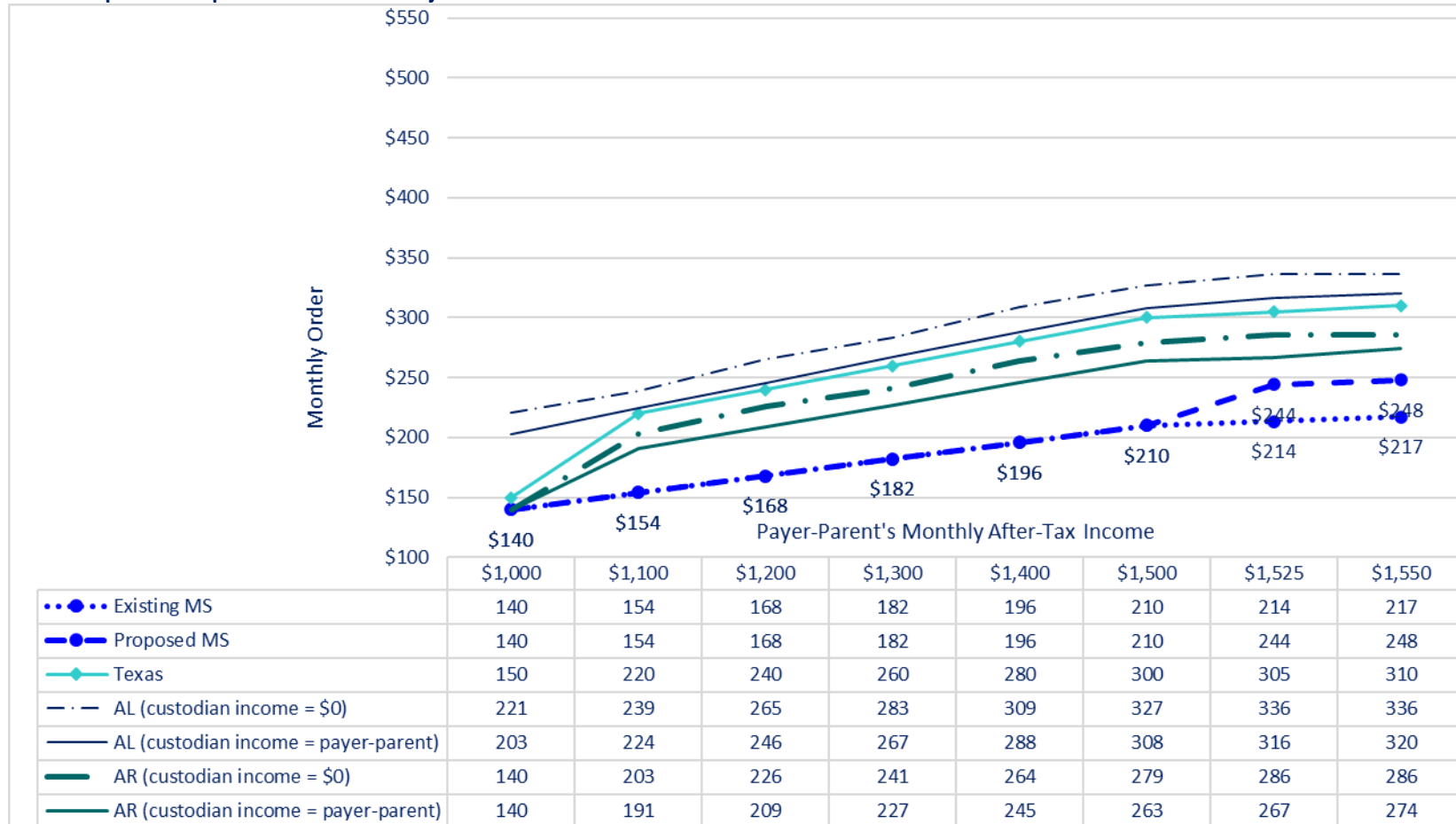


Exhibit 25: Impact of Proposed Low-Income Adjustment: Two Children

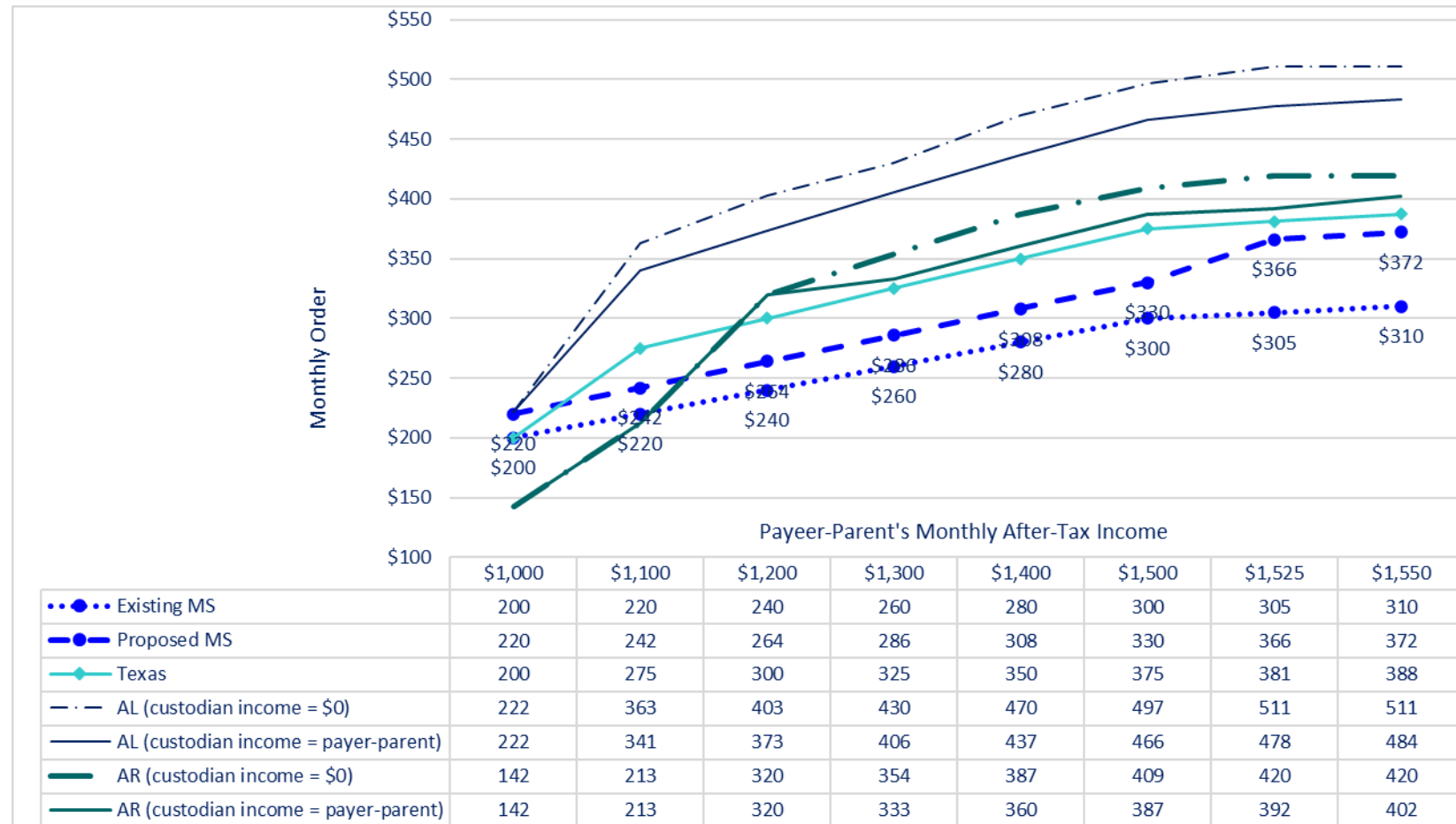


Exhibit 26: Impact of Proposed Low-Income Adjustment: Three Children

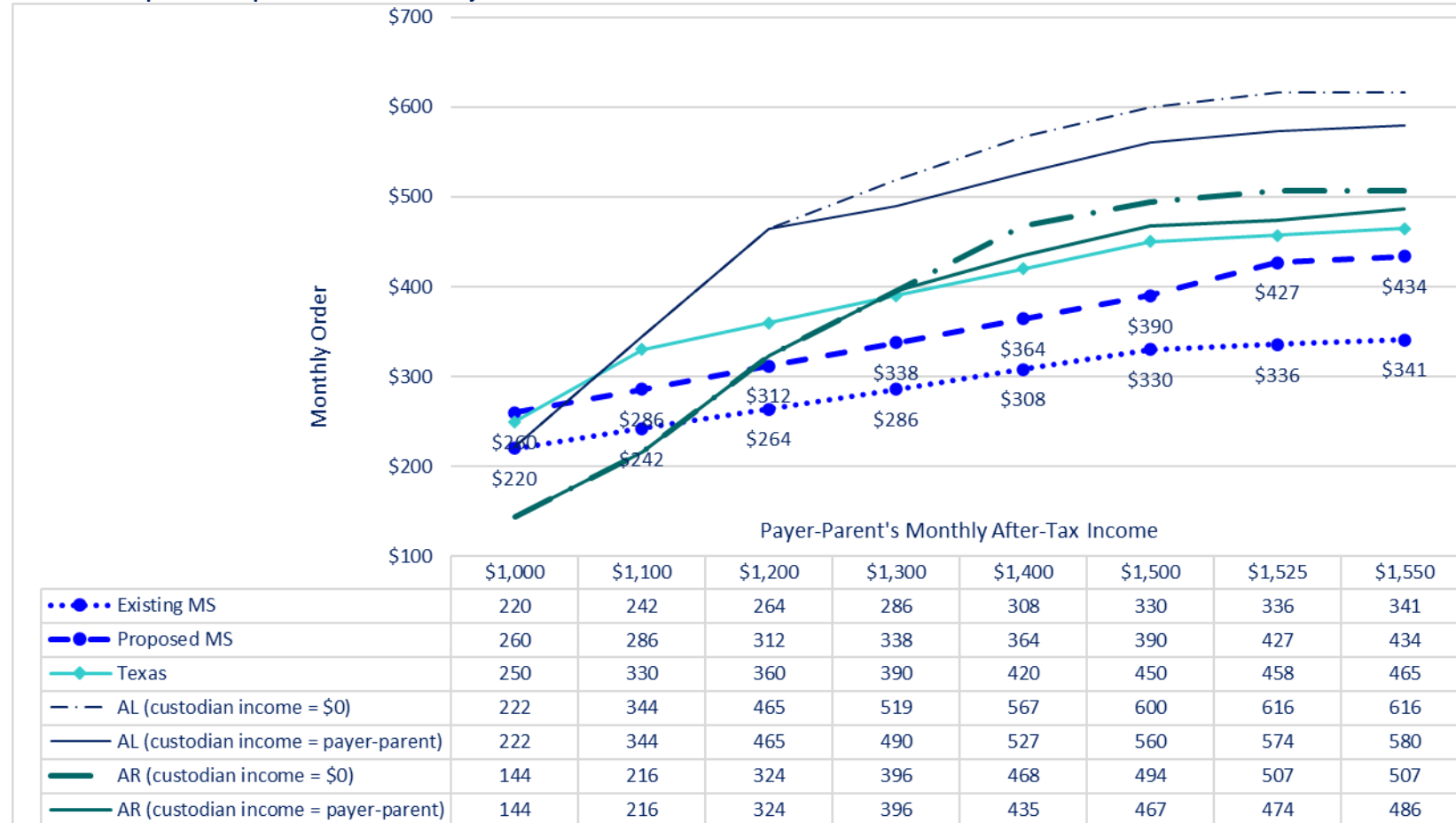


Exhibit 27: Impact of Proposed Low-Income Adjustment: Four Children

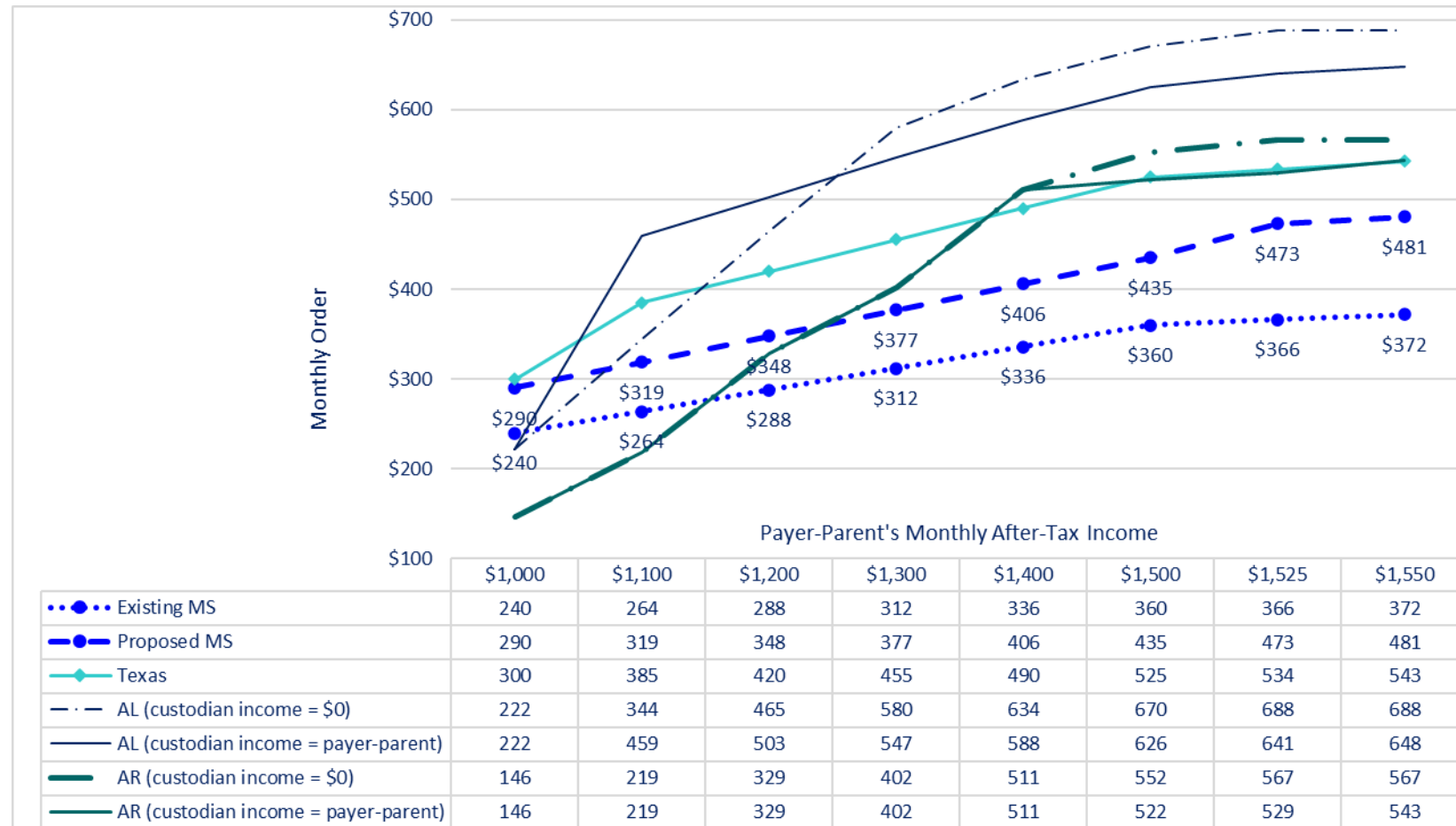
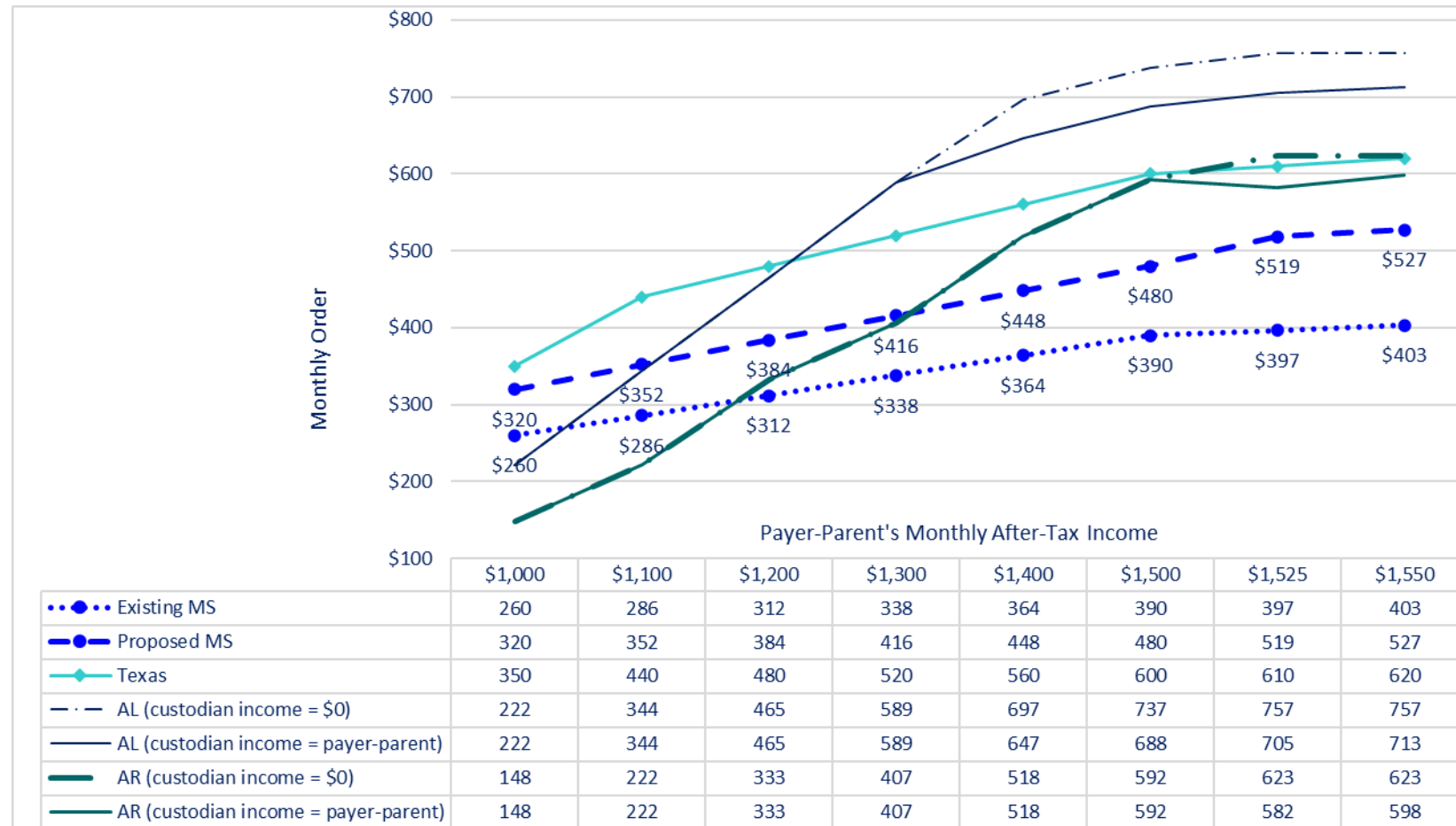


Exhibit 28: Impact of Proposed Low-Income Adjustment: Five Children



SECTION 5: SUMMARY AND CONCLUSIONS

This report documents that Mississippi has fulfilled the federal requirement of state child support guidelines reviews to consider economic data on the cost of raising children. The report reviewed over 10 studies of child-rearing expenditures. It relies on the most current study in use by other states to update the Mississippi guidelines percentages. That study also forms the basis of the Alabama child support guidelines table. For Mississippi, it was adjusted to consider Mississippi price levels and other factors to make it congruent with Mississippi's guidelines percentage format. Specifically, the existing Mississippi guidelines provides a flat percentage of payer-parent's income be assigned to child support (i.e., 14% for one child, 20% for two children, 22% for three children, 24% for four children, and 26% for five and more children.) In contrast, Alabama and most states rely on an income shares table of child support obligations for a range of parental combined income and number of children that allows the percentage of payer-parent income assigned to child support to vary with income and the obligee's income. In the income shares model, each parent is responsible for their prorated share of the table amount. Mississippi is one of seven states that does not factor in the income of the receiving parent into its child support guidelines. Mississippi is one of three states to assign a flat percentage of payer-parent income to child support. Other states use a varying percentage, the income shares model, or another guidelines model that allows the percentage to vary with income.

Additionally, this report reviews different state approaches to fulfilling the 2016-added federal requirement to consider the subsistence needs of the payer-parent through a low-income adjustment.. This report documents the basis of a Mississippi low-income adjustment modeled after the Texas low-income adjustment. Like Mississippi, the Texas guidelines provides a flat percentage of net income be assigned to child support. The Texas low-income adjustment lowers the Texas guidelines percentage below its low-income threshold. The low-income threshold and percentage reduction are policy decisions. The low-income adjustment documented in this report uses \$1,500 net (which is called adjusted gross income in the Mississippi guidelines) as its low-income threshold. This approximates 130% of the 2022 federal poverty guidelines, which is the income threshold for the Supplemental Nutrition Assistance Program (SNAP). Mississippi also lowered its guidelines percentages by two percentage points, which generally yields amounts in mid-range of Arkansas and Alabama, neighboring states that recently updated their guidelines tables.

Exhibit 29 shows the proposed, updated Mississippi guidelines percentages and low-income adjustment.

CONCLUSION

Mississippi has fulfilled the federal requirement to consider economic data on the cost of raising children. Updating the guidelines percentages would produce modest increases for one child and larger increases for two or more children. The increases could make a difference to a child's life. Adopting a low-income adjustment would fulfill the federal requirement for states to consider the subsistence needs of payer-parents with limited ability to pay. It would also be fair.

Exhibit 29: Proposed Mississippi Percentages

The following child support award guidelines shall be a rebuttable presumption in all judicial or administrative proceedings regarding the awarding or modifying of child support awards in this state:

Number of Children Due Support		Percentage of Adjusted Gross Income* that Should Be Awarded for Support when the Payer-Parent's Adjusted Gross Income** is \$1,500 per month or less
	1	14%
	2	22%
	3	26%
	4	29%
	5 or more	32%

Number of Children Due Support		Percentage of Adjusted Gross Income* that Should Be Awarded for Support when the Payer-Parent's** Adjusted Gross Income is more than \$1,500 per month
	1	16%
	2	24%
	3	28%
	4	31%
	5 or more	34%

APPENDIX A: TECHNICAL DOCUMENTATION OF THE UPDATED PERCENTAGES

There are several technical considerations and steps taken to update the child support percentages.

BETSON-ROTHBARTH CONVERSION

Exhibit A-1 shows the national data that Betson provided CPR to convert the BR5 measurements to child support percentages that are adjusted for Mississippi. For Exhibit A-1, which considers national data, Betson provided CPR with information for 25 income ranges that were generally income intervals of \$5,000–\$20,000 per year. CPR collapsed a few of them to average out some anomalies (e.g., a spike in the percentage of total expenditures devoted to child-rearing expenditures once childcare and extraordinary medical expenses were excluded from a particular income range). The collapsing resulted in the 20 income ranges shown in Exhibit A-1.

Exhibit A-1: Parental Expenditures on Children and Other Expenditures by Income Range Used in the BR5 Measurements (National Data)								
Annual After-Tax Income Range (2020 dollars)	Number of Observations	Total Expenditures as a % of After-Tax Income	Expenditures on Children as a % of Total Consumption Expenditures (Rothbarth 2013–2019 data)			Childcare \$ as a % of Consumption (per child)	Total Excess Medical \$ as a % of Consumption	
			1 Child	2 Children	3 Children		(per capita)	(total)
\$ 0 – \$19,999	283	>200%	22.433%	34.670%	42.514%	0.473%	0.870%	3.005%
\$20,000 – \$29,999	306	134.235%	23.739%	36.642%	44.893%	0.437%	0.894%	3.208%
\$30,000 – \$34,999	306	107.769%	24.057%	37.118%	45.462%	0.407%	1.047%	3.722%
\$35,000 – \$39,999	409	103.780%	24.222%	37.364%	45.755%	0.647%	1.390%	4.878%
\$40,000 – \$44,999	428	100.064%	24.362%	37.571%	46.002%	0.721%	1.468%	5.301%
\$45,000 – \$49,999	416	97.195%	24.452%	37.705%	46.161%	0.747%	1.539%	5.485%
\$50,000 – \$54,999	399	92.716%	24.509%	37.789%	46.261%	0.855%	1.609%	5.887%
\$55,000 – \$59,999	367	90.548%	24.580%	37.894%	46.386%	1.210%	2.166%	7.389%
\$60,000 – \$64,999	335	86.130%	24.615%	37.945%	46.447%	0.776%	2.071%	7.474%
\$65,000 – \$69,999	374	84.016%	24.668%	38.025%	46.541%	1.255%	2.114%	7.525%
\$70,000 – \$74,999	333	82.671%	24.725%	38.108%	46.640%	1.586%	2.121%	7.375%
\$74,999 – \$84,999	615	82.690%	24.820%	38.249%	46.807%	1.743%	2.343%	7.894%
\$85,000 – \$89,999	318	78.663%	24.863%	38.311%	46.880%	1.392%	2.155%	8.331%
\$90,000 – \$99,999	565	76.240%	24.912%	38.384%	46.966%	1.658%	2.000%	7.888%
\$100,000 – \$109,999	493	75.488%	24.996%	38.508%	47.113%	2.159%	1.946%	7.121%
\$110,000 – \$119,999	374	73.058%	25.054%	38.593%	47.213%	2.523%	1.942%	7.583%
\$120,000 – \$139,999	468	71.731%	25.142%	38.722%	47.365%	2.477%	1.893%	6.494%
\$140,000 – \$159,999	240	70.658%	25.266%	38.904%	47.579%	3.073%	1.855%	7.516%
\$160,000 – \$199,999	512	62.753%	25.322%	38.986%	47.676%	1.790%	1.806%	7.037%
\$200,000 or more	498	58.427%	25.571%	39.350%	48.103%	2.459%	1.554%	6.501%

Detailed Steps Used to Arrive at Updated Percentages

The steps used to convert the information from Exhibit A-1 to the updated percentages are generally the same steps used to develop most income shares guidelines except the last step.

The steps are presented in the order they occur, not in the order of the factors discussed in Section 2.

The steps consist of:

Step 1: Exclude childcare expenses;

Step 2: Exclude child's healthcare expenses except up to the first \$250 per year per child that is used to cover ordinary, out-of-pocket medical expenses for the child;

Step 3: Adjust for ratio of expenditures to after-tax income;

Step 4: Update for current price levels;

Step 5: Develop marginal percentages;

Step 6: Extend measurements to four and more children;

Step 7: Adjust for Mississippi's price parity; and

Step 8: Adjust for Mississippi's flat percentage guidelines.

Step 1: Exclude Childcare Expenses

Childcare expenses are excluded because work-related childcare expenses are a deviation factor. Starting with the expenditures on children, which is shown in fourth column of Exhibit A-1, average childcare expenses are subtracted from the percentage of total income devoted to child-rearing. For example, at combined incomes of \$60,000–\$64,999 per year, 37.945% of total expenditures is devoted to child-rearing expenditures for two children. Childcare comprises 0.776% of total expenditures per child. The percentage may appear small compared to the cost of childcare, but it reflects the average across all children regardless of whether they incur childcare expenses. Childcare expenses may not incur because the children are older, a relative provides childcare at no expense, or another situation.

The percentage of total expenditures devoted to childcare is multiplied by the number of children (e.g., 0.776 multiplied by children is 1.552%). Continuing with the example of a combined income of \$60,000–\$64,999 net per year, 1.552% is subtracted from 37.945%. The remainder, 36.393% (37.945 minus 1.552 equals 36.393), is the adjusted percentage devoted to child-rearing expenditures for two children that excludes childcare expenses.

One limitation is that the Consumer Expenditure (CE) survey, which is the underlying data source) does not discern between work-related childcare expenses and childcare expenses the parents incurred due to entertainment (e.g., they incurred childcare expenses when they went out to dinner.) This means that work-related childcare expenses may be slightly overstated. In turn, this would understate the percentages. Similarly, if there are economies to scale for childcare, multiplying the number of children by the percentage per child would overstate actual childcare expenses. When subtracted from the percentages, this would reduce the percentage too much. However, due to the small percentage devoted to childcare expenses, any understatement is likely to be small.

Step 2: Exclude Medical Expenses

A similar adjustment is made for the child's medical expenses except an additional step is taken. Exhibit A-1 shows the excess medical percentage, which is defined as the cost of health insurance and out-of-

pocket medical expenses exceeding \$250 per person per year. It is shown two ways: the per-capita amount and the average amount for the entire household. Either way considers expenditures on the two adults in the household. It is adjusted to a per-child amount since medical expenses of children are less. The underlying data do not track whether the insurance premium or medical expense was made for an adult's or a child's healthcare needs.

Based on the 2017 National Medical Expenditure survey, the annual out-of-pocket medical expense per child is \$270, while it is \$615 for an adult between the ages of 18–64.⁸⁶ In other words, an adult's out-of-medical expenses are 2.28 times that of a child. This information is used to recalibrate the per-person excessive medical amount shown in Exhibit A-1 to a per-child amount. For example, at combined incomes of \$60,000–\$64,999 per year, the total excess medical expense is 7.474%. The adjusted child amount is 7.474 divided by the weighted amounts for family members (6.1684 based on 2.28 times two adults plus the average number of children for this income range, 1.6084). The quotient, 1.212%, is the per-child amount for excess medical. It is less than the per-capita amount of 2.071%.

Continuing from the example in Step 1, where 36.393 is the percentage that excludes childcare for two children at a combined income of \$60,000–\$64,999 per year, 1.212 multiplied by two children is subtracted to exclude the children's excessive medical expenses. This leaves 33.969 as the percentage of total expenditures devoted to raising two children, less childcare expenses and excess medical expenses.

Step 3: Convert to After-Tax Income

The next step is to convert the percentage from above to an after-tax income by multiplying it by expenditures to after-tax income ratios. Continuing using the example of combined income of \$60,000–\$64,999 per year, the ratio is 86.130. When multiplied by 33.969, this yields 29.257% of after-tax income being the percentage of after-tax income devoted to raising two children, excluding their childcare and excess medical expenses.

Step 4: Adjust to Current Price Levels

The amounts in Exhibit A-1 are based on May 2020 price levels. They are converted to September 2022 price levels using changes to the Consumer Price Index (CPI-U), which is the most used price index.⁸⁷ The adjustment is applied to the midpoint of each after-tax income range. Exhibit A-2 shows the midpoint in January 2022 dollars. Price levels have increased by 15.8% from May 2020 to September 2022.

⁸⁶ Agency for Healthcare Research and Quality. (Jun. 2020). *Mean expenditure per person by source of payment and age groups, United States, 2017. Medical Expenditure Panel Survey*. Generated interactively on Jun. 12, 2020, from https://www.meps.ahrq.gov/mepstrends/hc_use/.

⁸⁷ U.S. Bureau of Labor Statistics. (n.d.). *Consumer Price Index*. Retrieved from https://www.bls.gov/regions/mid-atlantic/data/consumerpriceindexhistorical_us_table.htm.

Exhibit A-2: Schedule of Proportions for One, Two, and Three Children							
Annual After-Tax Income Range (May 2020 dollars)	Annual Midpoint of Income Range (Jan. 2022 Dollars)	One Child		Two Children		Three Children	
		Midpoint	Marginal Percentage	Midpoint	Marginal Percentage	Midpoint	Marginal Percentage
< \$30,000	\$0	23.041%	23.041%	35.086%	35.086%	42.414%	42.414%
\$30,000 – \$34,999	\$35,638	23.041%	23.041%	35.086%	30.397%	42.414%	34.813%
\$35,000 – \$39,999	\$41,121	23.041%	20.834%	34.461%	34.031%	41.401%	40.211%
\$40,000 – \$44,999	\$46,603	22.782%	16.965%	34.410%	25.320%	41.261%	30.000%
\$45,000 – \$49,999	\$52,086	22.169%	10.445%	33.453%	14.985%	40.075%	17.008%
\$50,000 – \$54,999	\$57,569	21.053%	9.406%	31.694%	10.817%	37.879%	8.818%
\$55,000 – \$59,999	\$63,051	20.040%	13.143%	29.879%	22.110%	35.351%	29.299%
\$60,000 – \$64,999	\$68,534	19.488%	7.992%	29.257%	9.168%	34.867%	7.438%
\$65,000 – \$69,999	\$74,017	18.637%	11.118%	27.769%	14.584%	32.835%	14.789%
\$70,000 – \$74,999	\$79,500	18.118%	16.525%	26.860%	23.208%	31.591%	25.699%
\$74,999 – \$84,999	\$87,724	17.969%	12.081%	26.518%	19.891%	31.038%	25.883%
\$85,000 – \$89,999	\$95,948	17.464%	9.419%	25.950%	13.114%	30.597%	14.370%
\$90,000 – \$99,999	\$104,172	16.829%	12.140%	24.936%	16.107%	29.315%	16.595%
\$100,000 – \$109,999	\$115,137	16.382%	7.712%	24.095%	9.708%	28.104%	9.272%
\$110,000 – \$119,999	\$126,103	15.628%	14.265%	22.844%	21.151%	26.466%	24.896%
\$120,000 – \$139,999	\$142,551	15.471%	11.375%	22.649%	15.036%	26.285%	15.418%
\$140,000 – \$159,999	\$164,482	14.925%	9.996%	21.634%	17.177%	24.836%	23.161%
\$160,000 – \$199,999	\$197,378	14.103%	10.376%	20.891%	14.835%	24.557%	16.780%
\$200,000 or more	\$283,881	12.968%		19.046%		22.187%	

Step 5: Develop Marginal Percentages

In this step, the information from the previous steps is used to compute a tax schedule-like schedule of proportions for one, two, and three children that is shown in Exhibit A-4. The percentages from above (e.g., 29.257% for two children for the combined income of \$60,000–\$64,999 per year in 2020 dollars) are assigned to the midpoint of that income range adjusted for inflation (\$68,534 in 2022 dollars). Marginal percentages are created by interpolating between income ranges. For the highest income range, the midpoint was supplied by Betson: \$258,887 per year in May 2020 dollars.

Another adjustment was made at low incomes. The percentages for incomes below \$30,000 net per year were less than the amounts for the net income range \$30,000–\$34,999 per year. This is an artificial result caused by the cap on expenditures in Step 3 because families of this income range spend more than their after-tax income, on average. Decreasing percentages result in a smooth decrease when the parent receiving support has more income. This is the general result of the steps so far. The exception is at low incomes because of the cap. Without the cap, it will also produce decreasing percentages. For the purposes of the child support schedule, the percentage from the \$30,000–\$34,999 are applied to all incomes less than \$30,000 per year. For one child, the percentages are actually from the \$35,000–\$39,999 income range. To be clear, this is still less than what families of this income range actually spend on children.

Step 6: Extend to More Children

Most of the measurements only cover one, two, and three children. The number of families in the CE with four or more children is insufficient to produce reliable estimates. For many child support guidelines, the National Research Council's (NRC) equivalence scale, as shown below, is used to extend the three-child estimate to four and more children:⁸⁸

$$= (\text{number of adults} + 0.7 \times \text{number of children})^{0.7}$$

Application of the equivalence scale implies that expenditures on four children are 11.7% more than the expenditures for three children, expenditures on five children are 10.0% more than the expenditures for four children, and expenditures on six children are 8.7% more than the expenditures for five children.

Step 7: Adjust for Mississippi's Price Parity

The percentages shown in Exhibit A-2 are decreased by Mississippi's most recent price parity (2020) to account for Mississippi's lower cost of living.

Step 8: Develop a Flat Percentage

The flat percentage is developed by finding the basic obligation at net income of \$6,800 per month, which approximates the median income of Mississippi husband-wife families with children. That basic obligation is divided by half to reflect that each parent has equal financial responsibility. It is also assumed that the parents have equal income. In turn, half of the basic obligation is divided by \$3,400 to arrive at the guidelines percentage for that particular number of children.

Consumer Expenditure Data

Most studies of child-rearing expenditures, including the BR and USDA measurements, draw on expenditures data collected from families participating in the Consumers Expenditures Survey (CE) that is administered by the Bureau of Labor Statistics (BLS). Economists use the CE because it is the most comprehensive and detailed survey conducted on household expenditures and consists of a large sample. The CE surveys about 7,000 households per quarter on expenditures, income, and household characteristics (e.g., family size). Households remain in the survey for four consecutive quarters, with households rotating in and out each quarter. Most economists, including Betson, use three or four quarters of expenditures data for a surveyed family. This means that family expenditures are averaged for about a year rather than over a quarter, which may not be as reflective of typical family expenditures.

In all, the BR5 study relies on expenditures/outlays data from almost 14,000 households, in which over half had a minor child present in the household. The subset of CE households considered for the BR5 measurements used to develop the existing updated schedule consisted of married couples of child-rearing age with no other adults living in the household (e.g., grandparents), households with no change in family size or composition during the survey period, and households with at least three completed

⁸⁸ Citro, Constance F., & Robert T. Michael (eds.). (1995). *Measuring Poverty: A New Approach*. National Academy Press. Washington, D.C.

interviews. Other family types were considered, which also changed the sample size, but the percentage of child-rearing expenditures in these alternative assumptions did not significantly change the percentage of expenditures devoted to child-rearing expenditures. The other family types included in these expanded samples were households with adult children living with them and domestic partners with children.

The CE asks households about expenditures on over 100 detailed items. Exhibit A-4 shows the major categories of expenditures captured by the CE. It includes the purchase price and sales tax on all goods purchased within the survey period. In recent years, the CE has added another measure of expenditures called “outlays.” The key difference is that outlays essentially include installment plans on purchases, mortgage principal payments, and payments on home equity loans, while expenditures do not. To illustrate the difference, consider a family who purchases a home theater system during the survey period, puts nothing down, and pays for the home theater system through 36 months of installment payments. The expenditures measure would capture the total purchase price of the home theater system. The outlays measure would only capture the installment payments made in the survey period.

Exhibit A-4: Partial List of Expenditure Items Considered in the Consumer Expenditure Survey	
Housing	Rent paid for dwellings, rent received as pay, parking fees, maintenance, and other expenses for rented dwellings; interest and principal payments on mortgages, interest and principal payments on home equity loans and lines of credit, property taxes and insurance, refinancing and prepayment charges, ground rent, expenses for property management and security, homeowners’ insurance, fire insurance and extended coverage, expenses for repairs and maintenance contracted out, and expenses of materials for owner-performed repairs and maintenance for dwellings used or maintained by the consumer unit. Also includes utilities, cleaning supplies, household textiles, furniture, major and small appliances, and other miscellaneous household equipment (tools, plants, decorative items).
Food	Food at home purchased at grocery or other food stores, as well as meals, including tips, purchased away from home (e.g., full-service and fast-food restaurant, vending machines).
Transportation	Vehicle finance charges, gasoline and motor oil, maintenance and repairs, vehicle insurance, public transportation, leases, parking fees, and other transportation expenditures.
Entertainment	Admission to sporting events, movies, concerts, health clubs, recreational lessons, television/radio/sound equipment, pets, toys, hobbies, and other entertainment equipment and services.
Apparel	Apparel, footwear, uniforms, diapers, alterations and repairs, dry cleaning, sent-out laundry, watches, and jewelry.
Other	Personal care products, reading materials, education fees, banking fees, interest paid on lines of credit, and other expenses.

The BLS designed the CE to produce a nationally representative sample and samples representative of the four regions (Midwest, Northeast, South, and West). The sample sizes for each state, however, are not large enough to estimate child-rearing costs for families within a state. We know of no state that has seriously contemplated conducting a survey similar to the CE at a state level. The costs and time requirements would be prohibitive.

Outlays include mortgage principal payments, payments on second mortgages, and home equity payments, which is what the 2020 Betson-Rothbarth (BR) measurement considers. As explained in Section 3, this is a change from older BR measurements. The CE traditional measure of expenditures does not consider these outlays. The merit of using expenditures, which does not include mortgage principal payments, is that any equity in the home should be considered part of the property settlement and not part of the child support payments. The limitations are that not all families have substantial equity in their homes and some families have second mortgages or home equity loans that further reduce home equity. The merit of using outlays is that it is more in line with family budgeting on a monthly basis in that it considers the entire mortgage payment including the amounts paid toward both interest and principal, and the amount paid toward a second mortgage or home equity loan if there is such a payment. Both measures include payment of the mortgage interest, rent among households dwelling in apartments, utilities, property taxes, and other housing expenses. Housing-related items, which are identified in Exhibit A-5, comprise the largest share of total family expenditures. Housing expenses compose about 40% of total family expenditures.

Transportation expenses account for about one-sixth of total family expenditures. In the category of “transportation,” the CE includes net vehicle outlays; vehicle finance charges; gasoline and motor oil; maintenance and repairs; vehicle insurance; public transportation expenses; and vehicle rentals, leases, licenses, and other charges. The net vehicle outlay is the purchase price of a vehicle less the trade-in value. Net vehicle outlays account for just over one-third of all transportation expenses. Net vehicle outlays are an important consideration when measuring child-rearing expenditures because the family’s use of the vehicle is often longer than the survey period. In Betson’s first three studies, he excluded them because in his earlier estimates that consider expenditures the vehicle can be sold again later, after the survey period. In contrast, Betson’s 2020 estimates that consider outlays capture vehicle payments made over the survey period. The USDA, which relies on expenditures, includes all transportation expenses including net vehicle outlays. There are some advantages and disadvantages to each approach. Excluding it makes sense when the vehicle may be part of the property settlement in a divorce. An alternative to that would be to include a value that reflects depreciation of the vehicle over time, but that information is not available. Including the entire net vehicle outlay when expenditures are used as the basis of the estimate likely overstates depreciation. When the basis of the estimates is outlays, it includes only vehicle installment payments rather than net vehicle outlays. This effectively avoids the issues of vehicle equity and depreciation.

Betson excludes some expenditure items captured by the CE because they are obviously not child-rearing expenses. Specifically, he excludes contributions by family members to Social Security and private pension plans, and cash contributions made to members outside the surveyed household. The USDA also excludes these expenses from its estimates of child-rearing expenditures.

Gross and net incomes are reported by families participating in the CE. The difference between gross and net income is taxes. In fact, the CE uses the terms “income before taxes” and “income after taxes” instead of gross and net income. Income before taxes is the total money earnings and selected money receipts. It includes wages and salary, self-employment income, Social Security benefits, pension income, rental income, unemployment compensation, workers’ compensation, veterans’ benefits,

public assistance, and other sources of income. Income and taxes are based on self-reports and not checked against actual records.

The BLS has concerns that income may be underreported in the CE. Although underreporting of income is a problem inherent to surveys, the BLS is particularly concerned because expenditures exceed income among low-income households participating in the CE. The BLS does not know whether the cause is underreporting of income or that low-income households are actually spending more than their incomes because of an unemployment spell, the primary earner is a student, or the household is otherwise withdrawing from its savings. To improve income information, the BLS added and revised income questions in 2001. The new questions impute income based on a relationship to its expenditures when households do not report income. The 2010 and 2020 Betson-Rothbarth measurements rely on these new questions. Previous Betson measurements do not.

The BLS also had concerns with taxes being underreported. Beginning in 2013, the BLS began calculating taxes for families using a tax calculator, rather than relying self-reported amounts. This also affected differences between the BR5 measurements and earlier measurements.

The BLS also does not include changes in net assets or liabilities as income or expenditures. In all, the BLS makes it clear that reconciling differences between income and expenditures and precisely measuring income are not parts of the core mission of the CE. Rather, the core mission is to measure and track expenditures. The BLS recognizes that at some low-income levels the CE shows that total expenditures exceed after-tax incomes, and that at very high incomes the CE shows total expenditures are considerably less than after-tax incomes. However, the changes to the income measure, the use of outlays rather than expenditures, and use of the tax calculator have lessened some of these issues.