

By: Holland

To: Public Health and
Welfare

HOUSE BILL NO. 701

1 AN ACT TO AMEND SECTION 43-1-2, MISSISSIPPI CODE OF 1972, TO
2 CREATE THE STATE BOARD OF HUMAN SERVICES TO PROVIDE THE POLICY
3 DIRECTION FOR THE DEPARTMENT OF HUMAN SERVICES; TO PROVIDE FOR THE
4 APPOINTMENT OF THE MEMBERS OF THE BOARD; TO PROVIDE THAT THE
5 EXECUTIVE DIRECTOR OF HUMAN SERVICES SHALL BE APPOINTED BY THE
6 GOVERNOR FROM THREE NOMINEES SUBMITTED BY THE BOARD; TO AUTHORIZE
7 THE JOINT OVERSIGHT COMMITTEE OF THE DEPARTMENT AND INDIVIDUAL
8 MEMBERS OF THE COMMITTEE TO ATTEND ANY MEETING OF THE BOARD AND TO
9 PARTICIPATE IN ANY BOARD DISCUSSIONS; TO AMEND SECTIONS 43-1-1,
10 43-1-3, 43-1-4, 43-1-5, 43-1-9, 43-1-11, 43-1-13, 43-1-15, 43-1-17
11 AND 43-1-21, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
12 PROVISIONS AND TO UPDATE REFERENCES TO THE STATE AND COUNTY
13 DEPARTMENTS OF HUMAN SERVICES; AND FOR RELATED PURPOSES.

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

15 SECTION 1. Section 43-1-2, Mississippi Code of 1972, is
16 amended as follows:[RF1]

17 43-1-2. (1) There is created the State Department of Human
18 Services, whose offices shall be located in Jackson, Mississippi,
19 and which shall be under the policy direction of the State Board
20 of Human Services created in subsection (2) of this section.

21 (2) (a) There is created the State Board of Human Services,
22 which shall consist of seven (7) members appointed by the
23 Governor, with the advice and consent of the Senate. One (1)
24 member of the board shall be appointed from each congressional
25 district as constituted on July 1, 2000, and two (2) members of
26 the board shall be appointed from the state at large. No board

27 member shall be an employee or elected official of the State of
28 Mississippi or a political subdivision of the state. The board
29 shall be composed of persons with extensive knowledge of or
30 practical experience in at least one (1) of the matters under the
31 jurisdiction of the board.

32 (b) The initial members of the board shall be appointed
33 for staggered terms, as follows: Two (2) members shall be
34 appointed for terms that end on June 30, 2002; three (3) members
35 shall be appointed for terms that end on June 30, 2004; and two
36 (2) members shall be appointed for terms that end on June 30,
37 2006. All subsequent appointments to the board shall be for terms
38 of four (4) years from the expiration date of the previous term.
39 No person shall be appointed to the board for more than two (2)
40 consecutive terms. Any vacancy on the board shall be filled by
41 appointment of the Governor, with the advice and consent of the
42 Senate, and the person appointed to fill the vacancy shall serve
43 for the remainder of the unexpired term. The members of the board
44 shall select one (1) member to serve as chairman of the board.
45 The board shall select a chairman once every two (2) years, and
46 any person who has previously served as chairman may be reelected
47 as chairman.

48 (c) Four (4) members of the board shall constitute a
49 quorum for the transaction of any business. The board shall hold
50 regular monthly meetings, and other meetings as may be necessary
51 for the purpose of conducting such business as may be required.
52 Members of the board shall receive the per diem authorized under
53 Section 25-3-69 for each day spent actually discharging their
54 official duties, and shall receive reimbursement for mileage and
55 necessary travel expenses incurred as provided in Section 25-3-41.

56 (3) (a) The chief administrative officer of the department
57 shall be the Executive Director of Human Services. The State

58 Board of Human Services shall submit to the Governor three (3)
59 nominees for the position of Executive Director of Human Services,
60 and the Governor shall appoint the executive director from the
61 list of nominees submitted, with the advice and consent of the
62 Senate. Each nominee for the position of executive director, and
63 the person appointed by the Governor as executive director, shall
64 possess the following qualifications, which shall be certified by
65 the State Personnel Board:

66 (i) A bachelor's degree from an accredited
67 institution of higher learning and ten (10) years' experience in
68 management, public administration, finance or accounting; or

69 (ii) A master's or doctoral degree from an
70 accredited institution of higher learning and five (5) years'
71 experience in management, public administration, finance or
72 accounting.

73 (b) The executive director shall serve as secretary and
74 executive officer of the board, and he shall serve at the will and
75 pleasure of the Governor. The executive director's salary shall
76 be set by the Legislature and shall be provided for out of any
77 funds made available for that purpose by the Legislature, the
78 federal government, or other gifts or grants. The executive
79 director shall be responsible to the board for the proper
80 administration of the programs under the jurisdiction of the board
81 in conformity with the policies adopted by the board, and shall be
82 responsible for appointing heads of offices, bureaus and
83 divisions, as defined in Section 7-17-11, and any necessary
84 supervisors, assistants and employees. The salary and
85 compensation of those employees shall be subject to the rules and

86 regulations adopted and promulgated by the State Personnel Board.

87 (4) There shall be a Joint Oversight Committee of the
88 Department of Human Services composed of the respective chairmen
89 of the Senate Public Health and Welfare Committee, the Senate
90 Appropriations Committee, the House Public Health and Welfare
91 Committee and the House Appropriations Committee, two (2) members
92 of the Senate appointed by the Lieutenant Governor to serve at the
93 will and pleasure of the Lieutenant Governor, and two (2) members
94 of the House of Representatives appointed by the Speaker of the
95 House to serve at the will and pleasure of the Speaker. The
96 chairmanship of the committee shall alternate for twelve-month
97 periods between the Senate members and the House members, with the
98 Chairman of the Senate Public Health and Welfare Committee serving
99 as the first chairman. The committee shall meet once each month,
100 or upon the call of the chairman at such times as he deems
101 necessary or advisable. The committee or any individual member of
102 the committee may attend any meeting of the State Board of Human
103 Services, and may participate in any discussion occurring among
104 the board members at the meetings. The committee may make
105 recommendations to the Legislature pertaining to any matter within
106 the jurisdiction of the * * * Department of Human Services. The
107 appointing authorities may designate an alternate member from
108 their respective houses to serve when the regular designee is
109 unable to attend the meetings of the * * * committee. For
110 attending meetings of the * * * committee, those legislators shall
111 receive per diem and expenses, which shall be paid from the
112 contingent expense funds of their respective houses in the same
113 amounts as provided for committee meetings when the Legislature is

114 not in session; however, no per diem and expenses for attending
115 meetings of the committee will be paid while the Legislature is in
116 session. No per diem and expenses will be paid except for
117 attending meetings of the * * * committee without prior approval
118 of the proper committee in their respective houses.

119 (5) The * * * Department of Human Services, under the
120 direction of the State Board of Human Services, shall provide the
121 services authorized by law to every individual determined to be
122 eligible therefor, and in carrying out the purposes of the
123 department, the board is authorized:

124 (a) To formulate the policy of the department regarding
125 human services within the jurisdiction of the department;

126 (b) To adopt, modify, repeal and promulgate, after due
127 notice and hearing, and where not otherwise prohibited by federal
128 or state law, to make exceptions to and grant exemptions and
129 variances from, and to enforce rules and regulations implementing
130 or effectuating the powers and duties of the department under any
131 and all statutes within the department's jurisdiction, all of
132 which shall be binding upon the county departments of human
133 services;

134 (c) To apply for, receive and expend any federal or
135 state funds or contributions, gifts, devises, bequests or funds
136 from any other source;

137 (d) Except as limited by Section 43-1-3, to enter into,
138 and to authorize the executive director to execute, with the
139 approval of the board, contracts, grants and cooperative
140 agreements with any federal or state agency or subdivision
141 thereof, or any public or private institution located inside or

142 outside the State of Mississippi, or any person, corporation or
143 association in connection with carrying out the programs of the
144 department; and

145 (e) To discharge such other duties, responsibilities
146 and powers as are necessary to implement the programs of the
147 department.

148 (6) The executive director shall establish the
149 organizational structure of the * * * Department of Human
150 Services, which shall include the creation of any units necessary
151 to implement the duties assigned to the department and consistent
152 with specific requirements of law, including but not limited to:

153 (a) Office of Family and Children's Services;

154 (b) Office of Youth Services;

155 (c) Office of Economic Assistance;

156 (d) Office of Child Support.

157 (7) The executive director * * * shall appoint heads of
158 offices, bureaus and divisions, as defined in Section 7-17-11, who
159 shall serve at the pleasure of the executive director. The salary
160 and compensation of those office, bureau and division heads shall
161 be subject to the rules and regulations adopted and promulgated by
162 the State Personnel Board * * *. The executive director may
163 organize offices as deemed appropriate to carry out the
164 responsibilities of the department. The organization charts of
165 the department shall be presented annually with the budget request
166 of the department for review by the Legislature.

167 (8) This section shall stand repealed on July 1, 2001.

168 SECTION 2. Section 43-1-1, Mississippi Code of 1972, is
169 amended as follows:[RF2]

170 43-1-1. (1) The Department of Human Services shall be the
171 State Department of Public Welfare and shall retain all powers and
172 duties as granted to the State Department of Public Welfare. The
173 State Board of Human Services shall be the State Board of Public
174 Welfare and shall retain all powers and duties as granted to the
175 State Board of Public Welfare. Wherever the term "State
176 Department of Public Welfare" or "State Board of Public Welfare"
177 appears in any law, the term shall mean the Department of Human
178 Services or the State Board of Human Services, respectively. The
179 Executive Director of the Department of Human Services may assign
180 to the appropriate offices such powers and duties deemed
181 appropriate to carry out the lawful functions of the department.

182 (2) This section shall stand repealed on July 1, 2001.

183 SECTION 3. Section 43-1-3, Mississippi Code of 1972, is
184 amended as follows:[RF3]

185 43-1-3. Notwithstanding the authority granted under
186 subsection (5) (d) of Section 43-1-2, the State Board of Human
187 Services, the Department of Human Services or the Executive
188 Director of Human Services shall not be authorized to delegate,
189 privatize or otherwise enter into a contract with a private entity
190 for the operation of any office, bureau or division of the
191 department, as defined in Section 7-17-11, without specific
192 authority to do so by general act of the Legislature. However,
193 nothing in this section shall be construed to invalidate (i) any
194 contract of the department that is in place and operational before
195 January 1, 1994; or (ii) the continued renewal of any such
196 contract with the same entity upon the expiration of the contract;
197 or (iii) the execution of a contract with another legal entity as

198 a replacement of any such contract that is expiring, provided that
199 the replacement contract is substantially the same as the expiring
200 contract. Notwithstanding any other provision of this section,
201 the board and the department shall be authorized to continue the
202 operation of its child support collection program with a private
203 entity on a pilot program basis in Hinds and Warren Counties in
204 Mississippi, and the department and the private entity shall
205 specifically be prohibited from expanding the pilot program to any
206 counties other than Hinds and Warren Counties without specific
207 authority to do so by amendment to this section by general act of
208 the Legislature. Before December 15, 1994, the department shall
209 provide a detailed report to the Joint Oversight Committee
210 established by Section 43-1-2 and to the Legislature that
211 describes the results of the pilot program for the privatization
212 of the department's child support collection program as of
213 December 1, 1994, including an evaluation of whether there has
214 been substantial compliance with the performance standards
215 specified in the contract for the private entity in conducting the
216 pilot program.

217 This section shall stand repealed on July 1, 2001.

218 SECTION 4. Section 43-1-4, Mississippi Code of 1972, is
219 amended as follows:[RF4]

220 43-1-4. The Department of Human Services, under the
221 direction of the State Board of Human Services, shall have the
222 following powers and duties:

223 (a) To provide basic services and assistance statewide
224 to needy and disadvantaged individuals and families.

225 (b) To promote integration of the many services and

226 programs within its jurisdiction at the client level thus
227 improving the efficiency and effectiveness of service delivery and
228 providing easier access to clients.

229 (c) To develop a statewide comprehensive service
230 delivery plan in coordination with the Board of Health, the Board
231 of Mental Health, and the Department of Finance and
232 Administration. * * *

233 (d) To employ personnel and expend funds appropriated
234 to the department to carry out the duties and responsibilities
235 assigned to the department by law.

236 SECTION 5. Section 43-1-5, Mississippi Code of 1972, is
237 amended as follows:[RF5]

238 43-1-5. It shall be the duty of the Department of Human
239 Services to:

240 (1) Establish and maintain programs not inconsistent with
241 the terms of this chapter and the rules, regulations and policies
242 of the State Board of Human Services, and publish the rules and
243 regulations of the board pertaining to those programs.

244 (2) Make such reports in such form and containing such
245 information as the federal government may, from time to time,
246 require, and comply with such provisions as the federal government
247 may, from time to time, find necessary to assure the correctness
248 and verification of those reports.

249 (3) Within ninety (90) days after the end of each fiscal
250 year, and at each regular session of the Legislature, make and
251 publish one (1) report to the Governor and to the Legislature,
252 showing for the period of time covered, in each county and for the
253 state as a whole:

- 254 (a) The total number of recipients;
- 255 (b) The total amount paid to them in cash;
- 256 (c) The maximum and the minimum amount paid to any
257 recipients in any one (1) month;
- 258 (d) The total number of applications;
- 259 (e) The number granted;
- 260 (f) The number denied;
- 261 (g) The number cancelled;
- 262 (h) The amount expended for administration of the
263 provisions of this chapter;
- 264 (i) The amount of money received from the federal
265 government, if any;
- 266 (j) The amount of money received from recipients of
267 assistance and from their estates and the disposition of same;
- 268 (k) Such other information and recommendations as the
269 Governor may require or the department * * * deems advisable, or
270 as the Legislature may request;
- 271 (l) The number of state-owned automobiles purchased and
272 operated during the year by the department, the number purchased
273 and operated out of funds appropriated by the Legislature, the
274 number purchased and operated out of any other public funds, the
275 miles traveled per automobile, the total miles traveled, the
276 average cost per mile and depreciation estimate on each
277 automobile;
- 278 (m) The cost per mile and total number of miles
279 traveled by department employees in privately-owned automobiles,
280 for which reimbursement is made out of state funds;
- 281 (n) Each association, convention or meeting attended by

282 any department employees, the purposes thereof, the names of the
283 employees attending and the total cost to the state of such
284 convention, association or meeting;

285 (o) How the money appropriated to the institutions
286 under the jurisdiction of the department has been expended during
287 the preceding year, beginning and ending with the fiscal year of
288 each institution, exhibiting the salaries paid to officers and
289 employees of the institutions, and each and every item of receipt
290 and expenditure;

291 (p) The activities of each office within the Department
292 of Human Services and recommendations for improvement of the
293 services to be performed by each office;

294 (q) In order of authority, the twenty (20) highest paid
295 employees in the department receiving an annual salary in excess
296 of Forty Thousand Dollars (\$40,000.00), by P.I.N. number, job
297 title, job description and annual salary.

298 Each report shall be balanced and shall begin with the
299 balance at the end of the preceding fiscal year, and if any
300 property belonging to the state or the institution is used for
301 profit the report shall show the expenses incurred in managing the
302 property and the amount received from the same. Those reports
303 shall also show a summary of the gross receipts and gross
304 disbursements for each fiscal year and shall show the money on
305 hand at the beginning of the fiscal period of each office and
306 institution of the department.

307 This section shall stand repealed on July 1, 2001.

308 SECTION 6. Section 43-1-9, Mississippi Code of 1972, is
309 amended as follows:[RF6]

310 43-1-9. There shall be created in each county of the state a
311 county department of human services, which shall consist of a
312 county director of human services, and such other personnel as may
313 be necessary for the efficient performance of the duties of the
314 county department. It shall be the duty of the board of
315 supervisors of each county to provide office space for the county
316 department.

317 County director. The Executive Director of Human Services
318 shall designate, in accordance with the rules and regulations of
319 the State Personnel Board, * * * a county director of human
320 services who shall serve as the executive and administrative
321 officer of the county department and shall be responsible to the
322 state department for its management. The director shall be a
323 resident citizen of the county and shall not hold any political
324 office of the state, county, municipality or subdivision thereof.

325 However, in cases of emergency, the Executive Director of Human
326 Services may appoint a director of human services who is a
327 nonresident of that county, to serve during the period of
328 emergency only.

329 The county department of human services shall administer
330 within the county all forms of public assistance and welfare
331 services. The county department shall comply with such
332 regulations and submit such reports as may be established or
333 required by the state department. Subject to the approval of the
334 state department, the county department may cooperate with other
335 departments, agencies and institutions, state and local, when so
336 requested, in performing services in conformity with the
337 provisions of this chapter.

338 In counties having two (2) judicial districts, the Executive
339 Director of Human Services may create and establish in each of the
340 judicial districts a separate county department of human services,
341 which shall consist of a director of human services and such other
342 personnel as may be necessary for the efficient performance of the
343 duties of the department thus established. In those cases the two
344 (2) departments so established shall be dealt with as though each
345 is a separate and distinct county department of human services,
346 and each of the departments and each of the directors shall
347 operate and have jurisdiction coextensive with the boundaries of
348 the judicial district in which it is established; in addition, in
349 those cases the words "county" and "director of human services"
350 when used in this chapter shall, where applicable, mean each
351 judicial district, and the director of human services appointed
352 therefor; and where the board of supervisors is authorized to
353 appropriate funds or provide office space or like assistance for
354 one (1) county * * * department or director of human services,
355 the board may, as the case may be, appropriate the amount
356 specified by law or render the assistance required by law to each
357 of the departments or directors. * * * However, * * * the
358 Executive Director of Human Services shall not create and
359 establish a separate county department of human services under
360 this paragraph in any county in which the separate county
361 department of human services is not in existence on January 1,
362 1983. In addition, in any county having two (2) county
363 departments of human services on January 1, 1983, but only one (1)
364 county director of human services on that date, the Executive
365 Director of Human Services shall not authorize and establish the

366 second position of county director of human services in that
367 county.

368 In any county not having two (2) judicial districts that is
369 greater than fifty (50) miles in length, the Executive Director of
370 Human Services may establish one (1) branch office of the county
371 department of human services, which shall be staffed with existing
372 employees and administrative staff of the county department for
373 not less than four (4) days per week.

374 SECTION 7. Section 43-1-11, Mississippi Code of 1972, is
375 amended as follows:[RF7]

376 43-1-11. The boards of supervisors of the various counties
377 of this state may, in their discretion, * * * expend and
378 appropriate such sums as they deem necessary out of any available
379 county funds for the purpose of providing office space for the
380 local county department of human services. This includes, but is
381 not limited to, adequate office space for the efficient conduct of
382 business, as well as providing for payment of electricity, water,
383 gas, maintenance and repair of the building, and janitorial
384 services and supplies.

385 SECTION 8. Section 43-1-13, Mississippi Code of 1972, is
386 amended as follows:[RF8]

387 43-1-13. It shall be unlawful for a member of the State
388 Board of Human Services or any other employee of the State
389 Department of Human Services or the county * * * departments of
390 human services to take an active part in any political campaign.
391 For violation of this provision the offending party shall be
392 removed from office and in addition thereto, upon conviction,
393 shall be guilty of a misdemeanor, subject to a fine of not more

394 than two hundred dollars (\$200.00).

395 SECTION 9. Section 43-1-15, Mississippi Code of 1972, is
396 amended as follows:[RF9]

397 43-1-15. The Department of Finance and Administration shall
398 furnish office space for the State Department of Human Services in
399 the City of Jackson and may rent suitable quarters in the city if
400 there is not sufficient room in one of the state office buildings.

401 In case it is necessary to rent those quarters, the cost of the
402 rental, janitorial service, fuel and janitor's supplies shall not
403 be counted in determining the administrative cost limitation of
404 Section 43-9-37.

405 SECTION 10. Section 43-1-17, Mississippi Code of 1972, is
406 amended as follows:[RF10]

407 43-1-17. The State Department of Human Services shall
408 cooperate with the federal government, its agencies and
409 instrumentalities, in carrying out the provisions of any federal
410 acts concerning public welfare, and in other matters of mutual
411 concern pertaining to public welfare, including the adoption of
412 such methods of administration as are found by the federal
413 government to be necessary for the efficient operation of plans
414 for public assistance and welfare services in accordance with the
415 provisions of the federal Social Security Act, as amended. It
416 shall also cooperate with other departments, agencies and
417 institutions, federal, state and local or private, when so
418 requested, in performing services in conformity with the
419 provisions of this chapter and chapter 9 of this title.

420 SECTION 11. Section 43-1-21, Mississippi Code of 1972, is
421 amended as follows:[RF11]

422 43-1-21. The State Board of Human Services may, in its
423 discretion, destroy or cause to be destroyed, or otherwise
424 disposed of, any and all abandoned applications, closed case
425 files, communications, information, memoranda, records, reports,
426 paid checks, and files, in the office of the State Department of
427 Human Services when and as they become three (3) or more completed
428 fiscal years old and which, in the opinion of the * * * board
429 * * *, are no longer useful or necessary.

430 SECTION 12. This act shall take effect and be in force from
431 and after July 1, 2000.