SENATE BILL NO. 2337

AN ACT TO AMEND SECTION 43-17-5, MISSISSIPPI CODE OF 1972, TO DIRECT THE DEPARTMENT OF HUMAN SERVICES TO REQUEST NECESSARY WAIVERS TO IMPLEMENT A CHILD DEVELOPMENT TRUST FUND PILOT PROGRAM FOR CHILDREN IN FAMILIES RECEIVING TANF ASSISTANCE WHO ARE SUBJECTED TO ABUSE OR NEGLECT, AND WHERE A FAMILY MEMBER HAS BEEN CONVICTED OF CERTAIN FELONIES; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 43-17-5, Mississippi Code of 1972, is amended as follows:

43-17-5. (1) The amount of Temporary Assistance for Needy Families (TANF) benefits which may be granted for any dependent child and a needy caretaker relative shall be determined by the county department with due regard to the resources and necessary expenditures of the family and the conditions existing in each case, and in accordance with the rules and regulations made by the Department of Human Services which shall not be less than the Standard of Need in effect for 1988, and shall be sufficient when added to all other income (except that any income specified in the federal Social Security Act, as amended, may be disregarded) and support available to the child to provide such child with a reasonable subsistence compatible with decency and health. The first family member in the dependent child's budget may receive an amount not to exceed One Hundred Ten Dollars ($110.00) per month; the second family member in the dependent child's budget may receive an amount not to exceed Thirty-six Dollars ($36.00) per month; and each additional family member in the dependent child's budget an amount not to exceed Twenty-four Dollars ($24.00) per month. The maximum for any individual family member in the dependent child's budget may be exceeded for foster or medical
care or in cases of mentally retarded or physically handicapped children. TANF benefits granted shall be specifically limited only (a) to children existing or conceived at the time the caretaker relative initially applies and qualifies for such assistance, unless this limitation is specifically waived by the department, or (b) to a child born following a twelve (12) consecutive-month period of discontinued benefits by the caretaker relative.

(2) TANF cash benefits in Mississippi shall be provided by monthly checks mailed to the recipient family until such time as an on-line electronic benefits transfer system for TANF benefit payments is implemented pursuant to Section 43-1-28.

(3) The Department of Human Services shall deny TANF benefits to the following categories of individuals, except for individuals and families specifically exempt or excluded for good cause as allowed by federal statute or regulation:

(a) Families without a minor child residing with the custodial parent or other adult caretaker relative of the child;

(b) Families which include an adult who has received TANF assistance for sixty (60) months after the commencement of the Mississippi TANF program, whether or not such period of time is consecutive;

(c) Families not assigning to the state any rights a family member may have, on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance, to support from any other person, as required by law;

(d) Families who fail to cooperate in establishing paternity or obtaining child support, as required by law;

(e) Any individual who has not attained eighteen (18) years of age, is not married to the head of household, has a minor child at least twelve (12) weeks of age in his or her care, and has not successfully completed a high school education or its
equivalent, if such individual does not participate in educational activities directed toward the attainment of a high school diploma or its equivalent, or an alternative educational or training program approved by the department;

(f) Any individual who has not attained eighteen (18) years of age, is not married, has a minor child in his or her care, and does not reside in a place or residence maintained by a parent, legal guardian or other adult relative or the individual as such parent's, guardian's or adult relative's own home;

(g) Any minor child who has been, or is expected by a parent or other caretaker relative of the child to be, absent from the home for a period of more than thirty (30) days;

(h) Any individual who is a parent or other caretaker relative of a minor child who fails to notify the department of the absence of the minor child from the home for the thirty-day period specified in paragraph (g), by the end of the five-day period that begins with the date that it becomes clear to the individual that the minor child will be absent for the thirty-day period;

(i) Any individual who fails to comply with the provisions of the Employability Development Plan signed by the individual which prescribe those activities designed to help the individual become and remain employed, or to participate satisfactorily in the assigned work activity, as authorized under subsection (6)(c);

(j) A parent or caretaker relative who has not engaged in an allowable work activity once the department determines the parent or caretaker relative is ready to engage in work, or once the parent or caretaker relative has received TANF assistance under the program for twenty-four (24) months, whether or not consecutive, whichever is earlier;

(k) Any individual who is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the
jurisdiction from which the individual flees, for a crime, or an
attempt to commit a crime, which is a felony under the laws of the
place from which the individual flees, or who is violating a
condition of probation or parole imposed under federal or state
law;

(l) Aliens who are not qualified under federal law;

(m) For a period of ten (10) years following
conviction, individuals convicted in federal or state court of
having made a fraudulent statement or representation with respect
to the individual's place of residence in order to receive TANF,
food stamps or Supplemental Security Income (SSI) assistance under
Title XVI or Title XIX simultaneously from two (2) or more states;
and

(n) Individuals who are recipients of federal
Supplemental Security Income (SSI) assistance.

(4) (a) Any person who is otherwise eligible for TANF
benefits, including custodial and noncustodial parents, shall be
required to attend school and meet the monthly attendance
requirement as provided in this subsection if all of the following
apply:

(i) The person is under age twenty (20);

(ii) The person has not graduated from a public or
private high school or obtained a GED equivalent;

(iii) The person is physically able to attend
school and is not excused from attending school; and

(iv) If the person is a parent or caretaker
relative with whom a dependent child is living, child care is
available for the child.

The monthly attendance requirement under this subsection
shall be attendance at the school in which the person is enrolled
for each day during a month that the school conducts classes in
which the person is enrolled, with not more than two (2) absences
during the month for reasons other than the reasons listed in
paragraph (e)(iv) of this subsection. Persons who fail to meet participation requirements in this subsection shall be subject to sanctions as provided in paragraph (f) of this subsection.

(b) As used in this subsection, "school" means any one of the following:

(i) A school as defined in Section 37-13-91(2);

(ii) A vocational, technical and adult education program; or

(iii) A course of study meeting the standards established by the State Department of Education for the granting of a declaration of equivalency of high school graduation.

(c) If any compulsory-school-age child, as defined in Section 37-13-91(2), to which TANF eligibility requirements apply is not in compliance with the compulsory school attendance requirements of Section 37-13-91(6), the superintendent of schools of the school district in which the child is enrolled or eligible to attend shall notify the county department of human services of the child's noncompliance. The Department of Human Services shall review school attendance information as provided under this paragraph at all initial eligibility determinations and upon subsequent report of unsatisfactory attendance.

(d) The signature of a person on an application for TANF benefits constitutes permission for the release of school attendance records for that person or for any child residing with that person. The department shall request information from the child's school district about the child's attendance in the school district's most recently completed semester of attendance. If information about the child's previous school attendance is not available or cannot be verified, the department shall require the child to meet the monthly attendance requirement for one (1) semester or until the information is obtained. The department shall use the attendance information provided by a school district to verify attendance for a child. The department shall review
with the parent or caretaker relative a child's claim that he or she has a good cause for not attending school.

A school district shall provide information to the department about the attendance of a child who is enrolled in a public school in the district within five (5) working days of the receipt of a written request for such information from the department. The school district shall define how many hours of attendance count as a full day and shall provide that information, upon request, to the department. In reporting attendance, the school district may add partial days' absence together to constitute a full day's absence.

(e) A child who is required to attend school to meet the requirements under this subsection shall comply except when there is good cause, which shall be demonstrated by any of the following circumstances:

(i) The minor parent is the caretaker of a child less than twelve (12) weeks old; or

(ii) The department determines that child care services are necessary for the minor parent to attend school and there is no child care available; or

(iii) The child is prohibited by the school district from attending school and an expulsion is pending. This exemption no longer applies once the teenager has been expelled; however, a teenager who has been expelled and is making satisfactory progress towards obtaining a GED equivalent shall be eligible for TANF benefits; or

(iv) The child failed to attend school for one or more of the following reasons:

1. Illness, injury or incapacity of the child or the minor parent's child;

2. Court-required appearances or temporary incarceration;
3. Medical or dental appointments for the child or minor parent's child;

4. Death of a close relative;

5. Observance of a religious holiday;

6. Family emergency;

7. Breakdown in transportation;

8. Suspension; or

9. Any other circumstance beyond the control of the child, as defined in regulations of the department.

(f) Upon determination that a child has failed without good cause to attend school as required, the department shall provide written notice to the parent or caretaker relative (whoever is the primary recipient of the TANF benefits) that specifies:

(i) That the family will be sanctioned in the next possible payment month because the child who is required to attend school has failed to meet the attendance requirement of this subsection;

(ii) The beginning date of the sanction, and the child to whom the sanction applies;

(iii) The right of the child's parents or caretaker relative (whoever is the primary recipient of the TANF benefits) to request a fair hearing under this subsection.

The child's parent or caretaker relative (whoever is the primary recipient of the TANF benefits) may request a fair hearing on the department's determination that the child has not been attending school. If the child's parents or caretaker relative does not request a fair hearing under this subsection, or if, after a fair hearing has been held, the hearing officer finds that the child without good cause has failed to meet the monthly attendance requirement, the department shall discontinue or deny TANF benefits to the child thirteen (13) years old, or older, in the next possible payment month. The department shall discontinue
or deny twenty-five percent (25%) of the family grant when a child six (6) through twelve (12) years of age without good cause has failed to meet the monthly attendance requirement. Both the child and family sanction may apply when children in both age groups fail to meet the attendance requirement without good cause. A sanction applied under this subsection shall be effective for one (1) month for each month that the child failed to meet the monthly attendance requirement. In the case of a dropout, the sanction shall remain in force until the parent or caretaker relative provides written proof from the school district that the child has re-enrolled and met the monthly attendance requirement for one (1) calendar month. Any month in which school is in session for at least ten (10) days during the month may be used to meet the attendance requirement under this subsection. This includes attendance at summer school. The sanction shall be removed the next possible payment month.

(5) All parents or caretaker relatives shall have their dependent children receive vaccinations and booster vaccinations against those diseases specified by the State Health Officer pursuant to Section 41-23-37 in accordance with the vaccination and booster vaccination schedule prescribed by the State Health Officer for children of that age, in order for the parents or caretaker relatives to be eligible or remain eligible to receive TANF benefits. Proof of having received such vaccinations and booster vaccinations shall be given by presenting the certificates of vaccination issued by any health care provider licensed to administer vaccinations, and submitted on forms specified by the State Board of Health. If the parents without good cause do not have their dependent children receive the vaccinations and booster vaccinations as required by this subsection and they fail to comply after thirty (30) days' notice, the department shall sanction the family's TANF benefits by twenty-five percent (25%)
for the next payment month and each subsequent payment month until
the requirements of this subsection are met.

(6) (a) If the parent or caretaker relative applying for
TANF assistance is an employable person, as determined by the
Department of Human Services, the person shall be required to
engage in an allowable work activity once the department
determines the parent or caretaker relative is ready to engage in
work, or once the parent or caretaker relative has received TANF
assistance under the program for twenty-four (24) months, whether
or not consecutive, whichever is earlier. No TANF benefits shall
be given to any person to whom this section applies who fails
without good cause to comply with the Employability Development
Plan prepared by the department for the person, or who has refused
to accept a referral or offer of employment, training or education
in which he or she is able to engage, subject to the penalties
prescribed in subsection (6)(d). A person shall be deemed to have
refused to accept a referral or offer of employment, training or
education if he or she:

(i) Willfully fails to report for an interview
with respect to employment when requested to do so by the
department; or

(ii) Willfully fails to report to the department
the result of a referral to employment; or

(iii) Willfully fails to report for allowable work
activities as prescribed in subsection (6)(c).

(b) The Department of Human Services shall operate a
statewide work program for TANF recipients to provide work
activities and supportive services to enable families to become
self-sufficient and improve their competitive position in the work
force in accordance with the requirements of the federal Personal
Responsibility and Work Opportunity Reconciliation Act of 1996
(Public Law 104-193), as amended, and the regulations promulgated
thereunder. All adults who are not specifically exempt shall be
referred by the department for allowable work activities. An adult may be exempt from the mandatory work activity requirement for the following reasons:

(i) Incapacity;
(ii) Temporary illness or injury, verified by physician's certificate;
(iii) Is in the third trimester of pregnancy, verified by physician's certificate;
(iv) Caretaker of a child under twelve (12) months, for not more than twelve (12) months of the sixty-month maximum benefit period;
(v) Caretaker of an ill or incapacitated person, as verified by physician's certificate;
(vi) Age, if over sixty (60) or under eighteen (18) years of age;
(vii) Receiving treatment for substance abuse, if the person is in compliance with the substance abuse treatment plan;
(viii) In a two-parent family, the caretaker of a severely disabled child, as verified by a physician's certificate;
(ix) History of having been a victim of domestic violence, which has been reported as required by state law and is substantiated by police reports or court records, and being at risk of further domestic violence, shall be exempt for a period as deemed necessary by the department but not to exceed a total of twelve (12) months, which need not be consecutive, in the sixty-month maximum benefit period. For the purposes of this subparagraph (ix), "domestic violence" means that an individual has been subjected to:

1. Physical acts that resulted in, or threatened to result in, physical injury to the individual;
2. Sexual abuse;
3. Sexual activity involving a dependent child;

4. Being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;

5. Threats of, or attempts at, physical or sexual abuse;

6. Mental abuse; or

7. Neglect or deprivation of medical care.

(c) For all families, all adults who are not specifically exempt shall be required to participate in work activities for at least the minimum average number of hours per week specified by federal law or regulation, not fewer than twenty (20) hours per week (thirty-five (35) hours per week for two-parent families) of which are attributable to the following allowable work activities:

(i) Unsubsidized employment;

(ii) Subsidized private employment;

(iii) Subsidized public employment;

(iv) Work experience (including work associated with the refurbishing of publicly assisted housing), if sufficient private employment is not available;

(v) On-the-job training;

(vi) Job search and job readiness assistance consistent with federal TANF regulations;

(vii) Community service programs;

(viii) Vocational educational training (not to exceed twelve (12) months with respect to any individual);

(ix) The provision of child care services to an individual who is participating in a community service program;

(x) Satisfactory attendance at high school or in a course of study leading to a high school equivalency certificate,
for heads of household under age twenty (20) who have not completed high school or received such certificate;

(x) Education directly related to employment, for heads of household under age twenty (20) who have not completed high school or received such equivalency certificate.

The following are allowable work activities which may be attributable to hours in excess of the minimum specified above:

(i) Job skills training directly related to employment;

(ii) Education directly related to employment for individuals who have not completed high school or received a high school equivalency certificate;

(iii) Satisfactory attendance at high school or in a course of study leading to a high school equivalency, for individuals who have not completed high school or received such equivalency certificate;

(iv) Job search and job readiness assistance consistent with federal TANF regulations.

(d) If any adult or caretaker relative refuses to participate in allowable work activity as required under this subsection (6), the following full family TANF benefit penalty will apply, subject to due process to include notification, conciliation and a hearing if requested by the recipient:

(i) For the first violation, the department shall terminate the TANF assistance otherwise payable to the family for a two-month period or until the person has complied with the required work activity, whichever is longer;

(ii) For the second violation, the department shall terminate the TANF assistance otherwise payable to the family for a six-month period or until the person has complied with the required work activity, whichever is longer;

(iii) For the third violation, the department shall terminate the TANF assistance otherwise payable to the family for a twelve-month period or until the person has complied with the required work activity, whichever is longer;
family for a twelve-month period or until the person has complied
with the required work activity, whichever is longer;

(iv) For the fourth violation, the person shall be
permanently disqualified.

For a two-parent family, unless prohibited by state or
federal law, Medicaid assistance shall be terminated only for the
person whose failure to participate in allowable work activity
caused the family's TANF assistance to be sanctioned under this
subsection (6)(d), unless an individual is pregnant, but shall not
be terminated for any other person in the family who is meeting
that person's applicable work requirement or who is not required
to work. Minor children shall continue to be eligible for
Medicaid benefits regardless of the disqualification of their
parent or caretaker relative for TANF assistance under this
subsection (6), unless prohibited by state or federal law.

(e) Any person enrolled in a two-year or four-year
college program who meets the eligibility requirements to receive
TANF benefits, and who is meeting the applicable work requirements
and all other applicable requirements of the TANF program, shall
continue to be eligible for TANF benefits while enrolled in the
college program for as long as the person meets the requirements
of the TANF program, unless prohibited by federal law.

(f) No adult in a work activity required under this
subsection (6) shall be employed or assigned (i) when any other
individual is on layoff from the same or any substantially
equivalent job within six (6) months before the date of the TANF
recipient's employment or assignment; or (ii) if the employer has
terminated the employment of any regular employee or otherwise
caused an involuntary reduction of its work force in order to fill
the vacancy so created with an adult receiving TANF assistance.

The Mississippi Employment Security Commission, established under
Section 71-5-101, shall appoint one or more impartial hearing
officers to hear and decide claims by employees of violations of
this paragraph (f). The hearing officer shall hear all the evidence with respect to any claim made hereunder and such additional evidence as he may require and shall make a determination and the reason therefor. The claimant shall be promptly notified of the decision of the hearing officer and the reason therefor. Within ten (10) days after the decision of the hearing officer has become final, any party aggrieved thereby may secure judicial review thereof by commencing an action, in the circuit court of the county in which the claimant resides, against the commission for the review of such decision, in which action any other party to the proceeding before the hearing officer shall be made a defendant. Any such appeal shall be on the record which shall be certified to the court by the commission in the manner provided in Section 71-5-531, and the jurisdiction of the court shall be confined to questions of law which shall render its decision as provided in that section.

(7) The Department of Human Services may provide child care for eligible participants who require such care so that they may accept employment or remain employed. The department may also provide child care for those participating in the TANF program when it is determined that they are satisfactorily involved in education, training or other allowable work activities. The department may contract with Head Start agencies to provide child care services to TANF recipients. The department may also arrange for child care by use of contract or vouchers, provide vouchers in advance to a caretaker relative, reimburse a child care provider, or use any other arrangement deemed appropriate by the department, and may establish different reimbursement rates for child care services depending on the category of the facility or home. Any center-based or group home child care facility under this subsection shall be licensed by the State Department of Health pursuant to law. When child care is being provided in the child's own home, in the home of a relative of the child, or in any other
unlicensed setting, the provision of such child care may be monitored on a random basis by the Department of Human Services or the State Department of Health. Transitional child care assistance may be continued if it is necessary for parents to maintain employment once support has ended, unless prohibited under state or federal law. Transitional child care assistance may be provided for up to twenty-four (24) months after the last month during which the family was eligible for TANF assistance, if federal funds are available for such child care assistance.

(8) The Department of Human Services may provide transportation or provide reasonable reimbursement for transportation expenses that are necessary for individuals to be able to participate in allowable work activity under the TANF program.

(9) Medicaid assistance shall be provided to a family of TANF program participants for up to twenty-four (24) consecutive calendar months following the month in which the participating family would be ineligible for TANF benefits because of increased income, expiration of earned income disregards, or increased hours of employment of the caretaker relative; however, Medicaid assistance for more than twelve (12) months may be provided only if a federal waiver is obtained to provide such assistance for more than twelve (12) months and federal and state funds are available to provide such assistance.

(10) The department shall require applicants for and recipients of public assistance from the department to sign a personal responsibility contract that will require the applicant or recipient to acknowledge his or her responsibilities to the state.

(11) The department shall enter into an agreement with the State Personnel Board and other state agencies that will allow those TANF participants who qualify for vacant jobs within state agencies to be placed in state jobs. State agencies participating
in the TANF work program shall receive any and all benefits received by employers in the private sector for hiring TANF recipients. This subsection (11) shall be effective only if the state obtains any necessary federal waiver or approval and if federal funds are available therefor.

(12) No new TANF program requirement or restriction affecting a person's eligibility for TANF assistance, or allowable work activity, which is not mandated by federal law or regulation may be implemented by the Department of Human Services after the effective date of this act, unless such is specifically authorized by an amendment to this section by the Legislature.

(13) The Department of Human Services is hereby authorized and directed to apply for necessary waivers under federal law to implement a Child Development Trust Fund Pilot Program for children in families receiving TANF assistance, using the following guidelines:

(a) In families receiving TANF assistance, where child abuse or neglect has been documented by a licensed social worker or other personnel required to make reports of child abuse or neglect by law, or where a family member has been convicted of a felony as documented by a licensed social worker, the Department of Human Services shall terminate the TANF assistance otherwise payable to the family and place the proceeds into a trust fund to be expended by the department for the subsistence, housing and other benefit of the child or children in the family, as directed by the department.

(b) For purposes of this Child Development Trust Fund Pilot Program, in addition to any child abuse or neglect determined by a youth court, child abuse or neglect shall include: (i) physical acts that resulted in, or threatened to result in, physical injury to a dependent child; (ii) sexual activity involving a dependent child; (iii) threats of, or attempts at, physical or sexual abuse of a dependent child; (iv) mental abuse ...
of a dependent child; or (v) neglect or deprivation of medical
care for the dependent child.

(c) For purposes of this Child Development Trust Fund
Pilot Program, a "felony" which disqualifies a family from
receiving TANF assistance shall mean a felony conviction, guilty
plea or plea of nolo contendere to a felony of possession or sale
of drugs, murder, manslaughter, armed robbery, rape, sexual
battery, sex offense listed in Section 45-31-3(I), child abuse,
arson, grand larceny, burglary, gratification of lust or
aggravated assault which has not been reversed on appeal or for
which a pardon has not been granted.

(d) The department shall develop procedures for
applying for the Child Development Trust Fund Pilot Program by
county human services departments, and shall establish guidelines
for the expenditures of TANF funds for the benefit of children
participating in the program, and the department may contract with
private entities for providing services for children under the
Child Development Trust Fund.

SECTION 2 This act shall take effect and be in force from
and after July 1, 2001.