SENATE BILL NO. 2503
(As Sent to Governor)

AN ACT TO CREATE A JOINT COMMITTEE ON ESTABLISHING A
FREESTANDING MISSISSIPPI DEPARTMENT OF CHILDREN'S AFFAIRS; TO
AMEND SECTIONS 43-1-1, 43-1-2, 43-1-3, 43-1-5 AND 43-1-6,
MISSISSIPPI CODE OF 1972, WHICH CREATE THE DEPARTMENT OF HUMAN
SERVICES, PRESCRIBE ITS DUTIES AND TRANSFER THE PROGRAMS WITHIN
THE DIVISION OF FEDERAL-STATE PROGRAMS TO THE STATE DEPARTMENT OF
HUMAN SERVICES, TO EXTEND THE REPEAL DATES FROM JULY 1, 2001, TO
JULY 1, 2002; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) There is hereby created a Joint Committee on
Establishing a Mississippi Department of Children's Affairs. The
membership of the committee shall include the following: the
Chairman of the Senate Public Health and Welfare Committee; the
Chairman of the Senate Appropriations Committee; three (3) members
of the Senate appointed by the Lieutenant Governor; the Chairman
of the House Public Health and Welfare Committee; the Chairman of
the House Appropriations Committee; and three (3) members of the
House appointed by the Speaker of the House. The Chairman of the
Senate Public Health and Welfare Committee and the Chairman of the
House Public Health and Welfare Committee shall serve as
co-chairmen of the committee. The Joint Committee on Establishing
a Mississippi Department of Children's Affairs shall, with the
assistance of the Executive Director of the Department of Human
Services, the State Health Officer, the Executive Director of the
Mississippi Department of Mental Health, the Executive Director of
the Division of Medicaid, and the affected division directors,
study the implementation of a freestanding agency of Mississippi
government that would focus on and administer appropriate programs
relating to children. These programs may include the following:
(a) the functions of the Division of Youth Services of the
Department of Human Services; (b) the functions of the Child
Support Unit of the Department of Human Services; (c) the
functions of all other child service programs presently
administered by the Department of Human Services, including the
Division of Family and Children's Services, the Office for
Children and Youth, the foster care or foster home placement
program, child adoption and child placement, and investigation of
cchild abuse and neglect; (d) the administration of the school
attendance officers enforcing the Mississippi Compulsory School
Attendance Law presently administered by the district attorney
offices; (e) the alternative school programs presently
administered by the various school districts; (f) the Support Our
Students (SOS) community-based program presently under the State
Department of Education and any other youth mentoring program
operating under public grant funds; (g) any program for children
with severe emotional disturbances; (h) child care facility
licensure programs presently administered by the Mississippi
Department of Health; and (i) any staff transfers, budget
revisions, and cost reductions on additional cost resulting from
any recommended transitions.

(2) The joint committee shall make a report of its findings
and recommendations, including necessary legislation, to the
Legislature, the Lieutenant Governor and the Governor on December
1, 2001, for implementation in the 2002 Regular Session.

(3) The joint committee shall meet on the call of the
co-chairmen and shall organize by selecting from its membership a
vice chairman who shall also serve as secretary and shall be
responsible for keeping all records of the committee. A majority
of the members of the committee shall constitute a quorum. All
members shall be notified in writing of all meetings, such notices
to be mailed at least five (5) days prior to the date on which a
meeting is to be held.
(4) Members of the committee shall be paid from the contingent expense funds of their respective houses in the same amounts as provided for committee meetings when the Legislature is not in session.

(5) All agencies and divisions of agencies affected by this study are hereby directed to cooperate with the Joint Committee on Establishing a Mississippi Department of Children's Affairs in formulating and preparing its recommendations.

(6) The committee is empowered to utilize staff already employed by the agencies affected by this section and any other assistance made available to it.

(7) Upon presentation of its report, the committee shall be dissolved.

SECTION 2. Section 43-1-1, Mississippi Code of 1972, is amended as follows:

43-1-1. (1) The Department of Human Services shall be the State Department of Public Welfare and shall retain all powers and duties as granted to the State Department of Public Welfare. Wherever the term "State Department of Public Welfare" or "State Board of Public Welfare" appears in any law, the same shall mean the Department of Human Services. The Executive Director of the Department of Human Services may assign to the appropriate offices such powers and duties deemed appropriate to carry out the lawful functions of the department.

(2) This section shall stand repealed on July 1, 2002.

SECTION 3. Section 43-1-2, Mississippi Code of 1972, is amended as follows:

43-1-2. (1) There is created the Mississippi Department of Human Services, whose offices shall be located in Jackson, Mississippi, and which shall be under the policy direction of the Governor.

(2) The chief administrative officer of the department shall be the Executive Director of Human Services. The Governor shall
appoint the Executive Director of Human Services with the advice
and consent of the Senate, and he shall serve at the will and
pleasure of the Governor, and until his successor is appointed and
qualified. The Executive Director of Human Services shall possess
the following qualifications:

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

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

Those qualifications shall be certified by the State
Personnel Board.

(3) There shall be a Joint Oversight Committee of the
Department of Human Services composed of the respective chairmen
of the Senate Public Health and Welfare Committee, the Senate
Appropriations Committee, the House Public Health and Welfare
Committee and the House Appropriations Committee, two (2) members
of the Senate appointed by the Lieutenant Governor to serve at the
will and pleasure of the Lieutenant Governor, and two (2) members
of the House of Representatives appointed by the Speaker of the
House to serve at the will and pleasure of the Speaker. The
chairmanship of the committee shall alternate for twelve-month
periods between the Senate members and the House members, with the
Chairman of the Senate Public Health and Welfare Committee serving
as the first chairman. The committee shall meet once each month,
or upon the call of the chairman at such times as he deems
necessary or advisable, and may make recommendations to the
Legislature pertaining to any matter within the jurisdiction of
the Mississippi Department of Human Services. The appointing
authorities may designate an alternate member from their
respective houses to serve when the regular designee is unable to
attend such meetings of the oversight committee. For attending
meetings of the oversight committee, such legislators shall receive per diem and expenses which shall be paid from the contingent expense funds of their respective houses in the same amounts as provided for committee meetings when the Legislature is not in session; however, no per diem and expenses for attending meetings of the committee will be paid while the Legislature is in session. No per diem and expenses will be paid except for attending meetings of the oversight committee without prior approval of the proper committee in their respective houses.

(4) The State Department of Human Services shall provide the services authorized by law to every individual determined to be eligible therefor, and in carrying out the purposes of the department, the executive director is authorized:

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

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

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

(d) Except as limited by Section 43-1-3, to enter into and execute contracts, grants and cooperative agreements with any federal or state agency or subdivision thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, corporation or association in connection with carrying out the programs of the department; and
(e) To discharge such other duties, responsibilities and powers as are necessary to implement the programs of the department.

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

(a) Office of Family and Children's Services;
(b) Office of Youth Services;
(c) Office of Economic Assistance;
(d) Office of Child Support.

(6) The Executive Director of Human Services shall appoint heads of offices, bureaus and divisions, as defined in Section 7-17-11, who shall serve at the pleasure of the executive director. The salary and compensation of such office, bureau and division heads shall be subject to the rules and regulations adopted and promulgated by the State Personnel Board as created under Section 25-9-101 et seq. The executive director shall have the authority to organize offices as deemed appropriate to carry out the responsibilities of the department. The organization charts of the department shall be presented annually with the budget request of the Governor for review by the Legislature.

(7) This section shall stand repealed on July 1, 2002.

SECTION 4. Section 43-1-3, Mississippi Code of 1972, is amended as follows:

43-1-3. Notwithstanding the authority granted under subsection (4)(d) of Section 43-1-2, the Department of Human Services or the Executive Director of Human Services shall not be authorized to delegate, privatize or otherwise enter into a contract with a private entity for the operation of any office, bureau or division of the department, as defined in Section 7-17-11, without specific authority to do so by general act of the legislature.
Legislature. However, nothing in this section shall be construed to invalidate (i) any contract of the department that is in place and operational before January 1, 1994; or (ii) the continued renewal of any such contract with the same entity upon the expiration of the contract; or (iii) the execution of a contract with another legal entity as a replacement of any such contract that is expiring, provided that the replacement contract is substantially the same as the expiring contract. Notwithstanding any other provision of this section, the department shall be authorized to continue the operation of its child support collection program with a private entity on a pilot program basis in Hinds and Warren Counties in Mississippi, and the department and the private entity shall specifically be prohibited from expanding such pilot program to any counties other than Hinds and Warren Counties without specific authority to do so by amendment to this section by general act of the Legislature. Before December 15, 1994, the department shall provide a detailed report to the Joint Oversight Committee established by Section 43-1-2 and to the Legislature that describes the results of the pilot program for the privatization of the department's child support collection program as of December 1, 1994, including an evaluation of whether there has been substantial compliance with the performance standards specified in the contract for the private entity in conducting the pilot program.

This section shall stand repealed on July 1, 2002.

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

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

(1) Establish and maintain programs not inconsistent with the terms of this chapter and the rules, regulations and policies of the State Department of Human Services, and publish the rules and regulations of the department pertaining to such programs.
(2) Make such reports in such form and containing such information as the federal government may, from time to time, require, and comply with such provisions as the federal government may, from time to time, find necessary to assure the correctness and verification of such reports.

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

   a) The total number of recipients;
   b) The total amount paid to them in cash;
   c) The maximum and the minimum amount paid to any recipients in any one (1) month;
   d) The total number of applications;
   e) The number granted;
   f) The number denied;
   g) The number cancelled;
   h) The amount expended for administration of the provisions of this chapter;
   i) The amount of money received from the federal government, if any;
   j) The amount of money received from recipients of assistance and from their estates and the disposition of same;
   k) Such other information and recommendations as the Governor may require or the department shall deem advisable;
   l) The number of state-owned automobiles purchased and operated during the year by the department, the number purchased and operated out of funds appropriated by the Legislature, the number purchased and operated out of any other public funds, the miles traveled per automobile, the total miles traveled, the average cost per mile and depreciation estimate on each automobile;
(m) The cost per mile and total number of miles traveled by department employees in privately-owned automobiles, for which reimbursement is made out of state funds;

(n) Each association, convention or meeting attended by any department employees, the purposes thereof, the names of the employees attending and the total cost to the state of such convention, association or meeting;

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

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

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

Each report shall be balanced and shall begin with the balance at the end of the preceding fiscal year, and if any property belonging to the state or the institution is used for profit such report shall show the expenses incurred in managing the property and the amount received from the same. Such reports shall also show a summary of the gross receipts and gross disbursements for each fiscal year and shall show the money on hand at the beginning of the fiscal period of each division and institution of the department.

This section shall stand repealed on July 1, 2002.

SECTION 6. Section 43-1-6, Mississippi Code of 1972, is amended as follows:
43-1-6. The following programs within the Division of Federal-State Programs, Office of the Governor, shall be transferred to the State Department of Human Services:

(a) Office of Energy and Community Services;
(b) Juvenile Justice Advisory Committee; and
(c) Mississippi Council on Aging.

All authority to implement those programs shall be vested in the State Department of Human Services.

This section shall stand repealed on July 1, 2002.

SECTION 7. This act shall take effect and be in force from and after June 30, 2001.