

By: Senator(s) Nunnelee

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2036

1 AN ACT TO AMEND SECTION 43-17-5, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE A LUMP-SUM PAYMENT TO TEMPORARY ASSISTANCE FOR NEEDY
3 FAMILIES (TANF) RECIPIENTS WHO BECOME DISQUALIFIED FOR ASSISTANCE
4 PAYMENTS AS A RESULT OF GETTING MARRIED; AND FOR RELATED PURPOSES.

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

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

8 43-17-5. (1) The amount of Temporary Assistance for Needy
9 Families (TANF) benefits which may be granted for any dependent
10 child and a needy caretaker relative shall be determined by the
11 county department with due regard to the resources and necessary
12 expenditures of the family and the conditions existing in each
13 case, and in accordance with the rules and regulations made by the
14 Department of Human Services which shall not be less than the
15 Standard of Need in effect for 1988, and shall be sufficient when
16 added to all other income (except that any income specified in the
17 federal Social Security Act, as amended, may be disregarded) and
18 support available to the child to provide such child with a
19 reasonable subsistence compatible with decency and health. The
20 first family member in the dependent child's budget may receive an
21 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;
22 the second family member in the dependent child's budget may
23 receive an amount not to exceed Thirty-six Dollars (\$36.00) per
24 month; and each additional family member in the dependent child's
25 budget an amount not to exceed Twenty-four Dollars (\$24.00) per
26 month. The maximum for any individual family member in the
27 dependent child's budget may be exceeded for foster or medical
28 care or in cases of mentally retarded or physically handicapped



29 children. TANF benefits granted shall be specifically limited
30 only (a) to children existing or conceived at the time the
31 caretaker relative initially applies and qualifies for such
32 assistance, unless this limitation is specifically waived by the
33 department, or (b) to a child born following a twelve (12)
34 consecutive month period of discontinued benefits by the caretaker
35 relative.

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

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

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

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

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

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

57 (e) Any individual who has not attained eighteen (18)
58 years of age, is not married to the head of household, has a minor
59 child at least twelve (12) weeks of age in his or her care, and
60 has not successfully completed a high school education or its
61 equivalent, if such individual does not participate in educational



62 activities directed toward the attainment of a high school diploma
63 or its equivalent, or an alternative educational or training
64 program approved by the department;

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

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

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

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

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

92 (k) Any individual who is fleeing to avoid prosecution,
93 or custody or confinement after conviction, under the laws of the
94 jurisdiction from which the individual flees, for a crime, or an



95 attempt to commit a crime, which is a felony under the laws of the
96 place from which the individual flees, or who is violating a
97 condition of probation or parole imposed under federal or state
98 law;

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

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

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

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

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

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

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

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

122 The monthly attendance requirement under this subsection
123 shall be attendance at the school in which the person is enrolled
124 for each day during a month that the school conducts classes in
125 which the person is enrolled, with not more than two (2) absences
126 during the month for reasons other than the reasons listed in
127 paragraph (e)(iv) of this subsection. Persons who fail to meet



128 participation requirements in this subsection shall be subject to
129 sanctions as provided in paragraph (f) of this subsection.

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

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

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

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

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

148 (d) The signature of a person on an application for
149 TANF benefits constitutes permission for the release of school
150 attendance records for that person or for any child residing with
151 that person. The department shall request information from the
152 child's school district about the child's attendance in the school
153 district's most recently completed semester of attendance. If
154 information about the child's previous school attendance is not
155 available or cannot be verified, the department shall require the
156 child to meet the monthly attendance requirement for one (1)
157 semester or until the information is obtained. The department
158 shall use the attendance information provided by a school district
159 to verify attendance for a child. The department shall review



160 with the parent or caretaker relative a child's claim that he or
161 she has a good cause for not attending school.

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

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

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

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

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

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

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

190 2. Court-required appearances or temporary
191 incarceration;



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

206 (i) That the family will be sanctioned in the next
207 possible payment month because the child who is required to attend
208 school has failed to meet the attendance requirement of this
209 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



225 or deny twenty-five percent (25%) of the family grant when a child
226 six (6) through twelve (12) years of age without good cause has
227 failed to meet the monthly attendance requirement. Both the child
228 and family sanction may apply when children in both age groups
229 fail to meet the attendance requirement without good cause. A
230 sanction applied under this subsection shall be effective for one
231 (1) month for each month that the child failed to meet the monthly
232 attendance requirement. In the case of a dropout, the sanction
233 shall remain in force until the parent or caretaker relative
234 provides written proof from the school district that the child has
235 reenrolled and met the monthly attendance requirement for one (1)
236 calendar month. Any month in which school is in session for at
237 least ten (10) days during the month may be used to meet the
238 attendance requirement under this subsection. This includes
239 attendance at summer school. The sanction shall be removed the
240 next possible payment month.

241 (5) All parents or caretaker relatives shall have their
242 dependent children receive vaccinations and booster vaccinations
243 against those diseases specified by the State Health Officer
244 pursuant to Section 41-23-37 in accordance with the vaccination
245 and booster vaccination schedule prescribed by the State Health
246 Officer for children of that age, in order for the parents or
247 caretaker relatives to be eligible or remain eligible to receive
248 TANF benefits. Proof of having received such vaccinations and
249 booster vaccinations shall be given by presenting the certificates
250 of vaccination issued by any health care provider licensed to
251 administer vaccinations, and submitted on forms specified by the
252 State Board of Health. If the parents without good cause do not
253 have their dependent children receive the vaccinations and booster
254 vaccinations as required by this subsection and they fail to
255 comply after thirty (30) days' notice, the department shall
256 sanction the family's TANF benefits by twenty-five percent (25%)



257 for the next payment month and each subsequent payment month until
258 the requirements of this subsection are met.

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

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

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

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

282 (b) The Department of Human Services shall operate a
283 statewide work program for TANF recipients to provide work
284 activities and supportive services to enable families to become
285 self-sufficient and improve their competitive position in the work
286 force in accordance with the requirements of the federal Personal
287 Responsibility and Work Opportunity Reconciliation Act of 1996
288 (Public Law 104-193), as amended, and the regulations promulgated
289 thereunder. All adults who are not specifically exempt shall be



290 referred by the department for allowable work activities. An
291 adult may be exempt from the mandatory work activity requirement
292 for the following reasons:

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

- 320 1. Physical acts that resulted in, or
- 321 threatened to result in, physical injury to the individual;
- 322 2. Sexual abuse;



355 for heads of household under age twenty (20) who have not
356 completed high school or received such certificate;
357 (xi) Education directly related to employment, for
358 heads of household under age twenty (20) who have not completed
359 high school or received such equivalency certificate.

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

362 (i) Job skills training directly related to
363 employment;
364 (ii) Education directly related to employment for
365 individuals who have not completed high school or received a high
366 school equivalency certificate;

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

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

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

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

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

386 (iii) For the third violation, the department
387 shall terminate the TANF assistance otherwise payable to the



388 family for a twelve-month period or until the person has complied
389 with the required work activity, whichever is longer;

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

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

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

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

418 The Mississippi Employment Security Commission, established under
419 Section 71-5-101, shall appoint one or more impartial hearing
420 officers to hear and decide claims by employees of violations of



421 this paragraph (f). The hearing officer shall hear all the
422 evidence with respect to any claim made hereunder and such
423 additional evidence as he may require and shall make a
424 determination and the reason therefor. The claimant shall be
425 promptly notified of the decision of the hearing officer and the
426 reason therefor. Within ten (10) days after the decision of the
427 hearing officer has become final, any party aggrieved thereby may
428 secure judicial review thereof by commencing an action, in the
429 circuit court of the county in which the claimant resides, against
430 the commission for the review of such decision, in which action
431 any other party to the proceeding before the hearing officer shall
432 be made a defendant. Any such appeal shall be on the record which
433 shall be certified to the court by the commission in the manner
434 provided in Section 71-5-531, and the jurisdiction of the court
435 shall be confined to questions of law which shall render its
436 decision as provided in that section.

437 (7) The Department of Human Services may provide child care
438 for eligible participants who require such care so that they may
439 accept employment or remain employed. The department may also
440 provide child care for those participating in the TANF program
441 when it is determined that they are satisfactorily involved in
442 education, training or other allowable work activities. The
443 department may contract with Head Start agencies to provide child
444 care services to TANF recipients. The department may also arrange
445 for child care by use of contract or vouchers, provide vouchers in
446 advance to a caretaker relative, reimburse a child care provider,
447 or use any other arrangement deemed appropriate by the department,
448 and may establish different reimbursement rates for child care
449 services depending on the category of the facility or home. Any
450 center-based or group home child care facility under this
451 paragraph shall be licensed by the State Department of Health
452 pursuant to law. When child care is being provided in the child's
453 own home, in the home of a relative of the child, or in any other



454 unlicensed setting, the provision of such child care may be
455 monitored on a random basis by the Department of Human Services or
456 the State Department of Health. Transitional child care
457 assistance may be continued if it is necessary for parents to
458 maintain employment once support has ended, unless prohibited
459 under state or federal law. Transitional child care assistance
460 may be provided for up to twenty-four (24) months after the last
461 month during which the family was eligible for TANF assistance, if
462 federal funds are available for such child care assistance.

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

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

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

483 (11) The department shall enter into an agreement with the
484 State Personnel Board and other state agencies that will allow
485 those TANF participants who qualify for vacant jobs within state
486 agencies to be placed in state jobs. State agencies participating



487 in the TANF work program shall receive any and all benefits
488 received by employers in the private sector for hiring TANF
489 recipients. This subsection (11) shall be effective only if the
490 state obtains any necessary federal waiver or approval and if
491 federal funds are available therefor.

492 (12) The Department of Human Services may make a one-time
493 lump-sum payment to any TANF participant who becomes disqualified
494 for TANF assistance payments as a result of getting married. Such
495 payment shall only be made following one (1) year of the
496 participant's marriage, to be verified by the department. The
497 amount of the lump-sum payment shall be equal to seventy-five
498 percent (75%) of the aggregate annual payment which would have
499 been made to the participant if the person had remained eligible
500 for TANF assistance. In the event that the participant's marriage
501 also disqualifies the participant for food stamps and/or Medicaid
502 assistance, the amount of the lump-sum payment shall be equal to
503 one hundred percent (100%) of the aggregate annual payment which
504 would have been made to the participant if the person had remained
505 eligible for TANF assistance.

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

512 **SECTION 2.** This act shall take effect and be in force from
513 and after July 1, 2002.

