

By: Senator(s) Turner

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2505

1 AN ACT TO AMEND SECTION 43-17-5, MISSISSIPPI CODE OF 1972, TO
2 SPECIFICALLY PROVIDE THAT TANF PAYMENTS AND SUPPORT BENEFITS ARE
3 AVAILABLE TO ANY PERSON ENROLLED IN A FOUR-YEAR UNIVERSITY OR
4 COLLEGE PROGRAM WHO OTHERWISE MEETS ELIGIBILITY REQUIREMENTS; AND
5 FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

62 equivalent, if such individual does not participate in educational
63 activities directed toward the attainment of a high school diploma
64 or its equivalent, or an alternative educational or training
65 program approved by the department;

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

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

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

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

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

93 (k) Any individual who is fleeing to avoid prosecution,
94 or custody or confinement after conviction, under the laws of the

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

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

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

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

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

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

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

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

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

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

128 paragraph (e)(iv) of this subsection. Persons who fail to meet
129 participation requirements in this subsection shall be subject to
130 sanctions as provided in paragraph (f) of this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

193 3. Medical or dental appointments for the
194 child or minor parent's child;
195 4. Death of a close relative;
196 5. Observance of a religious holiday;
197 6. Family emergency;
198 7. Breakdown in transportation;
199 8. Suspension; or
200 9. Any other circumstance beyond the control
201 of the child, as defined in regulations of the department.

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

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

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

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

216 The child's parent or caretaker relative (whoever is the
217 primary recipient of the TANF benefits) may request a fair hearing
218 on the department's determination that the child has not been
219 attending school. If the child's parents or caretaker relative
220 does not request a fair hearing under this subsection, or if,
221 after a fair hearing has been held, the hearing officer finds that
222 the child without good cause has failed to meet the monthly
223 attendance requirement, the department shall discontinue or deny
224 TANF benefits to the child thirteen (13) years old, or older, in
225 the next possible payment month. The department shall discontinue

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

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

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

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

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

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

281 (iii) Willfully fails to report for allowable work
282 activities as prescribed in subsections (6)(c) and (d).

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

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

294 (i) Incapacity;

295 (ii) Temporary illness or injury, verified by
296 physician's certificate;

297 (iii) Is in the third trimester of pregnancy,
298 verified by physician's certificate;

299 (iv) Caretaker of a child under twelve (12)
300 months, for not more than twelve (12) months of the sixty-month
301 maximum benefit period;

302 (v) Caretaker of an ill or incapacitated person,
303 as verified by physician's certificate;

304 (vi) Age, if over sixty (60) or under eighteen
305 (18) years of age;

306 (vii) Receiving treatment for substance abuse, if
307 the person is in compliance with the substance abuse treatment
308 plan;

309 (viii) In a two-parent family, the caretaker of a
310 severely disabled child, as verified by a physician's certificate;
311 or

312 (ix) History of having been a victim of domestic
313 violence, which has been reported as required by state law and is
314 substantiated by police reports or court records, and being at
315 risk of further domestic violence, shall be exempt for a period as
316 deemed necessary by the department but not to exceed a total of
317 twelve (12) months, which need not be consecutive, in the
318 sixty-month maximum benefit period. For the purposes of this
319 subparagraph (ix), "domestic violence" means that an individual
320 has been subjected to:

321 1. Physical acts that resulted in, or
322 threatened to result in, physical injury to the individual;

323 2. Sexual abuse;

- 324 3. Sexual activity involving a dependent
325 child;
- 326 4. Being forced as the caretaker relative of
327 a dependent child to engage in nonconsensual sexual acts or
328 activities;
- 329 5. Threats of, or attempts at, physical or
330 sexual abuse;
- 331 6. Mental abuse; or
- 332 7. Neglect or deprivation of medical care.

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

- 340 (i) Unsubsidized employment;
- 341 (ii) Subsidized private employment;
- 342 (iii) Subsidized public employment;
- 343 (iv) Work experience (including work associated
344 with the refurbishing of publicly assisted housing), if sufficient
345 private employment is not available;
- 346 (v) On-the-job training;
- 347 (vi) Job search and job readiness assistance
348 consistent with federal TANF regulations;
- 349 (vii) Community service programs;
- 350 (viii) Vocational educational training (not to
351 exceed twelve (12) months with respect to any individual);
- 352 (ix) The provision of child care services to an
353 individual who is participating in a community service program;
- 354 (x) Satisfactory attendance at high school or in a
355 course of study leading to a high school equivalency certificate,

356 for heads of household under age twenty (20) who have not
357 completed high school or received such certificate;

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

361 (d) The following are allowable work activities which
362 may be attributable to hours in excess of the minimum specified in
363 subsection (6)(c):

364 (i) Job skills training directly related to
365 employment;

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

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

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

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

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

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

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

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

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

405 (f) Any person enrolled in a two-year or four-year
406 university or college program who meets the eligibility
407 requirements to receive TANF benefits, and who is meeting the
408 applicable work requirements and all other applicable requirements
409 of the TANF program, shall continue to be eligible for TANF
410 benefits while enrolled in the college program for as long as the
411 person meets the requirements of the TANF program, unless
412 prohibited by federal law. From and after July 1, 2004, TANF
413 assistance benefits, which shall include child care and
414 transportation subsidies, shall be available to any eligible
415 person enrolled in a four-year university or college program, and
416 who is meeting the applicable minimum work requirements of twenty
417 (20) hours per week in an allowable work activity.

418 (g) No adult in a work activity required under this
419 subsection (6) shall be employed or assigned (i) when any other
420 individual is on layoff from the same or any substantially

421 equivalent job within six (6) months before the date of the TANF
422 recipient's employment or assignment; or (ii) if the employer has
423 terminated the employment of any regular employee or otherwise
424 caused an involuntary reduction of its work force in order to fill
425 the vacancy so created with an adult receiving TANF assistance.
426 The Mississippi Employment Security Commission, established under
427 Section 71-5-101, shall appoint one or more impartial hearing
428 officers to hear and decide claims by employees of violations of
429 this paragraph (f). The hearing officer shall hear all the
430 evidence with respect to any claim made hereunder and such
431 additional evidence as he may require and shall make a
432 determination and the reason therefor. The claimant shall be
433 promptly notified of the decision of the hearing officer and the
434 reason therefor. Within ten (10) days after the decision of the
435 hearing officer has become final, any party aggrieved thereby may
436 secure judicial review thereof by commencing an action, in the
437 circuit court of the county in which the claimant resides, against
438 the commission for the review of such decision, in which action
439 any other party to the proceeding before the hearing officer shall
440 be made a defendant. Any such appeal shall be on the record which
441 shall be certified to the court by the commission in the manner
442 provided in Section 71-5-531, and the jurisdiction of the court
443 shall be confined to questions of law which shall render its
444 decision as provided in that section.

445 (7) The Department of Human Services may provide child care
446 for eligible participants who require such care so that they may
447 accept employment or remain employed. The department may also
448 provide child care for those participating in the TANF program
449 when it is determined that they are satisfactorily involved in
450 education, training or other allowable work activities. The
451 department may contract with Head Start agencies to provide child
452 care services to TANF recipients. The department may also arrange
453 for child care by use of contract or vouchers, provide vouchers in

454 advance to a caretaker relative, reimburse a child care provider,
455 or use any other arrangement deemed appropriate by the department,
456 and may establish different reimbursement rates for child care
457 services depending on the category of the facility or home. Any
458 center-based or group home child care facility under this
459 subsection shall be licensed by the State Department of Health
460 pursuant to law. When child care is being provided in the child's
461 own home, in the home of a relative of the child, or in any other
462 unlicensed setting, the provision of such child care may be
463 monitored on a random basis by the Department of Human Services or
464 the State Department of Health. Transitional child care
465 assistance may be continued if it is necessary for parents to
466 maintain employment once support has ended, unless prohibited
467 under state or federal law. Transitional child care assistance
468 may be provided for up to twenty-four (24) months after the last
469 month during which the family was eligible for TANF assistance, if
470 federal funds are available for such child care assistance.

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

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

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

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

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

506 **SECTION 2.** This act shall take effect and be in force from
507 and after July 1, 2004.