

By: Senator(s) Nunnelee

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2841

1 AN ACT TO AMEND SECTIONS 43-1-1, 43-1-2, 43-1-3, 43-1-5 AND
2 43-1-6, MISSISSIPPI CODE OF 1972, WHICH CREATE THE DEPARTMENT OF
3 HUMAN SERVICES, PRESCRIBE ITS DUTIES AND RESPONSIBILITIES, PROVIDE
4 FOR THE APPOINTMENT OF AN EXECUTIVE DIRECTOR OF HUMAN SERVICES,
5 PROVIDE FOR THE AUTHORITY AND RESPONSIBILITIES OF THE EXECUTIVE
6 DIRECTOR, PROVIDE FOR A JOINT OVERSIGHT COMMITTEE OF THE
7 DEPARTMENT, PROVIDE THE STRUCTURE OF THE DEPARTMENT AND TRANSFER
8 THE PROGRAMS WITHIN THE DIVISION OF FEDERAL-STATE PROGRAMS TO THE
9 DEPARTMENT, TO EXTEND THE AUTOMATIC REPEALERS ON THOSE SECTIONS;
10 AND FOR RELATED PURPOSES.

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

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

14 43-1-1. (1) The Department of Human Services shall be the
15 State Department of Public Welfare and shall retain all powers and
16 duties as granted to the State Department of Public Welfare.
17 Wherever the term "State Department of Public Welfare" or "State
18 Board of Public Welfare" appears in any law, the same shall mean
19 the Department of Human Services. The Executive Director of the
20 Department of Human Services may assign to the appropriate offices
21 such powers and duties deemed appropriate to carry out the lawful
22 functions of the department.

23 (2) This section shall stand repealed on July 1, 2006.

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

26 43-1-2. (1) There is created the Mississippi Department of
27 Human Services, whose offices shall be located in Jackson,
28 Mississippi, and which shall be under the policy direction of the
29 Governor.

30 (2) The chief administrative officer of the department shall
31 be the Executive Director of Human Services. The Governor shall

32 appoint the Executive Director of Human Services with the advice
33 and consent of the Senate, and he shall serve at the will and
34 pleasure of the Governor, and until his successor is appointed and
35 qualified. The Executive Director of Human Services shall possess
36 the following qualifications:

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

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

43 Those qualifications shall be certified by the State
44 Personnel Board.

45 (3) There shall be a Joint Oversight Committee of the
46 Department of Human Services composed of the respective chairmen
47 of the Senate Public Health and Welfare Committee, the Senate
48 Appropriations Committee, the House Public Health and Welfare
49 Committee and the House Appropriations Committee, two (2) members
50 of the Senate appointed by the Lieutenant Governor to serve at the
51 will and pleasure of the Lieutenant Governor, and two (2) members
52 of the House of Representatives appointed by the Speaker of the
53 House to serve at the will and pleasure of the Speaker. The
54 chairmanship of the committee shall alternate for twelve-month
55 periods between the Senate members and the House members, with the
56 Chairman of the Senate Public Health and Welfare Committee serving
57 as the first chairman. The committee shall meet once each month,
58 or upon the call of the chairman at such times as he deems
59 necessary or advisable, and may make recommendations to the
60 Legislature pertaining to any matter within the jurisdiction of
61 the Mississippi Department of Human Services. The appointing
62 authorities may designate an alternate member from their
63 respective houses to serve when the regular designee is unable to
64 attend such meetings of the oversight committee. For attending

65 meetings of the oversight committee, such legislators shall
66 receive per diem and expenses which shall be paid from the
67 contingent expense funds of their respective houses in the same
68 amounts as provided for committee meetings when the Legislature is
69 not in session; however, no per diem and expenses for attending
70 meetings of the committee will be paid while the Legislature is in
71 session. No per diem and expenses will be paid except for
72 attending meetings of the oversight committee without prior
73 approval of the proper committee in their respective houses.

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

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

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

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

91 (d) Except as limited by Section 43-1-3, to enter into
92 and execute contracts, grants and cooperative agreements with any
93 federal or state agency or subdivision thereof, or any public or
94 private institution located inside or outside the State of
95 Mississippi, or any person, corporation or association in
96 connection with carrying out the programs of the department; and

97 (e) To discharge such other duties, responsibilities
98 and powers as are necessary to implement the programs of the
99 department.

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

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

109 (6) The Executive Director of Human Services shall appoint
110 heads of offices, bureaus and divisions, as defined in Section
111 7-17-11, who shall serve at the pleasure of the executive
112 director. The salary and compensation of such office, bureau and
113 division heads shall be subject to the rules and regulations
114 adopted and promulgated by the State Personnel Board as created
115 under Section 25-9-101 et seq. The executive director shall have
116 the authority to organize offices as deemed appropriate to carry
117 out the responsibilities of the department. The organization
118 charts of the department shall be presented annually with the
119 budget request of the Governor for review by the Legislature.

120 (7) This section shall stand repealed on July 1, 2006.

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

123 43-1-3. Notwithstanding the authority granted under
124 subsection (4)(d) of Section 43-1-2, the Department of Human
125 Services or the Executive Director of Human Services shall not be
126 authorized to delegate, privatize or otherwise enter into a
127 contract with a private entity for the operation of any office,
128 bureau or division of the department, as defined in Section
129 7-17-11, without specific authority to do so by general act of the

130 Legislature. However, nothing in this section shall be construed
131 to invalidate (i) any contract of the department that is in place
132 and operational before January 1, 1994; or (ii) the continued
133 renewal of any such contract with the same entity upon the
134 expiration of the contract; or (iii) the execution of a contract
135 with another legal entity as a replacement of any such contract
136 that is expiring, provided that the replacement contract is
137 substantially the same as the expiring contract. Notwithstanding
138 any other provision of this section, the department shall be
139 authorized to continue the operation of its child support
140 collection program with a private entity on a pilot program basis
141 in Hinds and Warren Counties in Mississippi, and the department
142 and the private entity shall specifically be prohibited from
143 expanding such pilot program to any counties other than Hinds and
144 Warren Counties without specific authority to do so by amendment
145 to this section by general act of the Legislature. Before
146 December 15, 1994, the department shall provide a detailed report
147 to the Joint Oversight Committee established by Section 43-1-2 and
148 to the Legislature that describes the results of the pilot program
149 for the privatization of the department's child support collection
150 program as of December 1, 1994, including an evaluation of whether
151 there has been substantial compliance with the performance
152 standards specified in the contract for the private entity in
153 conducting the pilot program.

154 This section shall stand repealed on July 1, 2006.

155 **SECTION 4.** Section 43-1-5, Mississippi Code of 1972, is
156 amended as follows:

157 43-1-5. It shall be the duty of the Department of Human
158 Services to:

159 (1) Establish and maintain programs not inconsistent with
160 the terms of this chapter and the rules, regulations and policies
161 of the State Department of Human Services, and publish the rules
162 and regulations of the department pertaining to such programs.

163 (2) Make such reports in such form and containing such
164 information as the federal government may, from time to time,
165 require, and comply with such provisions as the federal government
166 may, from time to time, find necessary to assure the correctness
167 and verification of such reports.

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

173 (a) The total number of recipients;

174 (b) The total amount paid to them in cash;

175 (c) The maximum and the minimum amount paid to any
176 recipients in any one (1) month;

177 (d) The total number of applications;

178 (e) The number granted;

179 (f) The number denied;

180 (g) The number cancelled;

181 (h) The amount expended for administration of the
182 provisions of this chapter;

183 (i) The amount of money received from the federal
184 government, if any;

185 (j) The amount of money received from recipients of
186 assistance and from their estates and the disposition of same;

187 (k) Such other information and recommendations as the
188 Governor may require or the department shall deem advisable;

189 (l) The number of state-owned automobiles purchased and
190 operated during the year by the department, the number purchased
191 and operated out of funds appropriated by the Legislature, the
192 number purchased and operated out of any other public funds, the
193 miles traveled per automobile, the total miles traveled, the
194 average cost per mile and depreciation estimate on each
195 automobile;

196 (m) The cost per mile and total number of miles
197 traveled by department employees in privately-owned automobiles,
198 for which reimbursement is made out of state funds;

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

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

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

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

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

225 This section shall stand repealed on July 1, 2006.

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

228 43-1-6. The following programs within the Division of
229 Federal-State Programs, Office of the Governor, shall be
230 transferred to the State Department of Human Services:

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

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

236 This section shall stand repealed on July 1, 2006.

237 **SECTION 6.** This act shall take effect and be in force from
238 and after June 30, 2004.