

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2009

1 AN ACT TO REENACT SECTIONS 43-1-1, 43-1-2, 43-1-3, 43-1-5 AND  
 2 43-1-6, MISSISSIPPI CODE OF 1972, WHICH ESTABLISH THE DEPARTMENT  
 3 OF HUMAN SERVICES, THE OFFICE OF EXECUTIVE DIRECTOR OF THE  
 4 DEPARTMENT, AND THE JOINT OVERSIGHT COMMITTEE OF THE DEPARTMENT  
 5 AND PRESCRIBE THEIR POWERS AND DUTIES, AND WHICH WERE REPEALED BY  
 6 OPERATION OF LAW ON JULY 1, 2004; TO AMEND REENACTED SECTIONS  
 7 43-1-1, 43-1-2, 43-1-3, 43-1-5 AND 43-1-6, MISSISSIPPI CODE OF  
 8 1972, TO PROVIDE THAT THOSE SECTIONS WILL STAND REPEALED ON JULY  
 9 1, 2007; TO RATIFY CERTAIN ACTIONS IN CONNECTION WITH THE  
 10 DEPARTMENT OF HUMAN SERVICES TAKEN BETWEEN JUNE 30, 1994, AND THE  
 11 EFFECTIVE DATE OF THIS ACT; TO AMEND SECTION 25-9-127, MISSISSIPPI  
 12 CODE OF 1972, TO PROVIDE THAT FOR A PERIOD OF ONE YEAR, THE  
 13 PERSONNEL ACTIONS OF THE DEPARTMENT OF HUMAN SERVICES SHALL BE  
 14 EXEMPT FROM CERTAIN STATE PERSONNEL BOARD PROCEDURES; AND FOR  
 15 RELATED PURPOSES.

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

17 **SECTION 1.** Section 43-1-1, Mississippi Code of 1972, is  
 18 reenacted and amended as follows:

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

28 (2) This section shall stand repealed on July 1, 2007.

29 **SECTION 2.** Section 43-1-2, Mississippi Code of 1972, is  
 30 reenacted and amended as follows:

31 43-1-2. (1) There is created the Mississippi Department of  
 32 Human Services, whose offices shall be located in Jackson,

33 Mississippi, and which shall be under the policy direction of the  
34 Governor.

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

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

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

48 Those qualifications shall be certified by the State  
49 Personnel Board.

50 (3) There shall be a Joint Oversight Committee of the  
51 Department of Human Services composed of the respective chairmen  
52 of the Senate Public Health and Welfare Committee, the Senate  
53 Appropriations Committee, the House Public Health and Human  
54 Services Committee and the House Appropriations Committee, two (2)  
55 members of the Senate appointed by the Lieutenant Governor to  
56 serve at the will and pleasure of the Lieutenant Governor, and two  
57 (2) members of the House of Representatives appointed by the  
58 Speaker of the House to serve at the will and pleasure of the  
59 Speaker. The chairmanship of the committee shall alternate for  
60 twelve-month periods between the Senate members and the House  
61 members, with the Chairman of the Senate Public Health and Welfare  
62 Committee serving as the first chairman. The committee shall meet  
63 once each month, or upon the call of the chairman at such times as  
64 he deems necessary or advisable, and may make recommendations to  
65 the Legislature pertaining to any matter within the jurisdiction

66 of the Mississippi Department of Human Services. The appointing  
67 authorities may designate an alternate member from their  
68 respective houses to serve when the regular designee is unable to  
69 attend such meetings of the oversight committee. For attending  
70 meetings of the oversight committee, such legislators shall  
71 receive per diem and expenses which shall be paid from the  
72 contingent expense funds of their respective houses in the same  
73 amounts as provided for committee meetings when the Legislature is  
74 not in session; however, no per diem and expenses for attending  
75 meetings of the committee will be paid while the Legislature is in  
76 session. No per diem and expenses will be paid except for  
77 attending meetings of the oversight committee without prior  
78 approval of the proper committee in their respective houses.

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

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

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

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

96 (d) Except as limited by Section 43-1-3, to enter into  
97 and execute contracts, grants and cooperative agreements with any  
98 federal or state agency or subdivision thereof, or any public or

99 private institution located inside or outside the State of  
100 Mississippi, or any person, corporation or association in  
101 connection with carrying out the programs of the department; and  
102 (e) To discharge such other duties, responsibilities  
103 and powers as are necessary to implement the programs of the  
104 department.

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

110 (a) Office of Family and Children's Services;

111 (b) Office of Youth Services;

112 (c) Office of Economic Assistance;

113 (d) Office of Child Support Enforcement.

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

125 (7) The Attorney General shall be counsel and attorney of  
126 record for the Mississippi Department of Human Services and shall  
127 provide such legal services as may be requested from time to time,  
128 without cost. The Executive Director of Human Services is hereby  
129 authorized to employ such legal counsel as may be necessary or  
130 appropriate for the operation of the department.

131       (8) By fiscal year 2007 the Office of Youth Services shall  
132 ensure that every county shall have available at least one (1)  
133 nonresidential, community-based dispositional service for  
134 juveniles who are adjudicated delinquent. Examples of such  
135 services include, but are not limited to, the existing adolescent  
136 offender program, mentoring programs, home detention, counseling  
137 services, conflict resolution programs, community service and  
138 substance abuse treatment. The Office of Youth Services shall  
139 seek funds for a statewide system of nonresidential,  
140 community-based dispositional services through the state budget  
141 process, federal grants, private foundations and donations. When  
142 possible the Office of Youth Services shall contract with  
143 nonprofit organizations and universities to provide such services  
144 to youth. No TANF funds shall be used for any of the services in  
145 this subsection (8). The provisions of this subsection shall  
146 stand repealed on June 30, 2006.

147       (9) This section shall stand repealed on July 1, 2007.

148       **SECTION 3.** Section 43-1-3, Mississippi Code of 1972, is  
149 reenacted and amended as follows:

150       43-1-3. Notwithstanding the authority granted under  
151 subsection (4)(d) of Section 43-1-2, the Department of Human  
152 Services or the Executive Director of Human Services shall not be  
153 authorized to delegate, privatize or otherwise enter into a  
154 contract with a private entity for the operation of any office,  
155 bureau or division of the department, as defined in Section  
156 7-17-11, without specific authority to do so by general act of the  
157 Legislature. However, nothing in this section shall be construed  
158 to invalidate (i) any contract of the department that is in place  
159 and operational before January 1, 1994; or (ii) the continued  
160 renewal of any such contract with the same entity upon the  
161 expiration of the contract; or (iii) the execution of a contract  
162 with another legal entity as a replacement of any such contract  
163 that is expiring, provided that the replacement contract is

164 substantially the same as the expiring contract. Notwithstanding  
165 any other provision of this section, the department shall be  
166 authorized to continue the operation of its child support  
167 collection program with a private entity on a pilot program basis  
168 in Hinds and Warren Counties in Mississippi, and the department  
169 and the private entity shall specifically be prohibited from  
170 expanding such pilot program to any counties other than Hinds and  
171 Warren Counties without specific authority to do so by amendment  
172 to this section by general act of the Legislature. Before  
173 December 15, 1994, the department shall provide a detailed report  
174 to the Joint Oversight Committee established by Section 43-1-2 and  
175 to the Legislature that describes the results of the pilot program  
176 for the privatization of the department's child support collection  
177 program as of December 1, 1994, including an evaluation of whether  
178 there has been substantial compliance with the performance  
179 standards specified in the contract for the private entity in  
180 conducting the pilot program.

181 This section shall stand repealed on July 1, 2007.

182 **SECTION 4.** Section 43-1-5, Mississippi Code of 1972, is  
183 reenacted and amended as follows:

184 43-1-5. It shall be the duty of the Department of Human  
185 Services to:

186 (1) Establish and maintain programs not inconsistent with  
187 the terms of this chapter and the rules, regulations and policies  
188 of the \* \* \* Department of Human Services, and publish the rules  
189 and regulations of the department pertaining to such programs.

190 (2) Make such reports in such form and containing such  
191 information as the federal government may, from time to time,  
192 require, and comply with such provisions as the federal government  
193 may, from time to time, find necessary to assure the correctness  
194 and verification of such reports.

195 (3) Within ninety (90) days after the end of each fiscal  
196 year, and at each regular session of the Legislature, make and

197 publish one (1) report to the Governor and to the Legislature,  
198 showing for the period of time covered, in each county and for the  
199 state as a whole:

200 (a) The total number of recipients;

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

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

204 (d) The total number of applications;

205 (e) The number granted;

206 (f) The number denied;

207 (g) The number cancelled;

208 (h) The amount expended for administration of the  
209 provisions of this chapter;

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

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

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

216 (l) The number of state-owned automobiles purchased and  
217 operated during the year by the department, the number purchased  
218 and operated out of funds appropriated by the Legislature, the  
219 number purchased and operated out of any other public funds, the  
220 miles traveled per automobile, the total miles traveled, the  
221 average cost per mile and depreciation estimate on each  
222 automobile;

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

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

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

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

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

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

252           This section shall stand repealed on July 1, 2007.

253           **SECTION 5.** Section 43-1-6, Mississippi Code of 1972, is  
254 reenacted and amended as follows:

255           43-1-6. The following programs within the Division of  
256 Federal-State Programs, Office of the Governor, shall be  
257 transferred to the \* \* \* Department of Human Services:

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

261           All authority to implement those programs shall be vested in  
262 the \* \* \* Department of Human Services.



263 This section shall stand repealed on July 1, 2007.

264 **SECTION 6.** The Department of Human Services created by  
265 Section 2 of this act is a continuation of the Department of Human  
266 Services that existed on June 30, 2004, and the Joint Oversight  
267 Committee created by Section 2 of this act is a continuation of  
268 the Joint Oversight Committee that existed on June 30, 2004. The  
269 Order Appointing a Receiver for the Department of Human Services  
270 issued by the Chancery Court of the First Judicial District of  
271 Hinds County, Mississippi, in the case of State of Mississippi, Ex  
272 Rel. Jim Hood, Attorney General v. Haley Barbour, Governor, et  
273 al., Cause No. 62004-1170, shall be moot and have no force or  
274 effect from and after the effective date of this act; the  
275 Department of Human Services created by Section 2 of this act  
276 supersedes the receivership referred to in said court order in all  
277 respects after the effective date of this act, and the Attorney  
278 General shall file appropriate motions in the chancery court to  
279 dismiss this case. Provided, however, all actions taken by the  
280 receivership referred to in said court order between June 30,  
281 2004, and the effective date of this act that would have been  
282 lawful if they had been taken by the Department of Human Services  
283 as it existed on June 30, 2004, pursuant to the department's  
284 powers or duties as they existed on June 30, 2004, or pursuant to  
285 any powers or duties as they existed on June 30, 2004, or pursuant  
286 to any powers or duties of the department provided for by any  
287 state law enacted during the 2004 Regular Session or any federal  
288 law or regulation that was in effect between June 30, 2004, and  
289 the effective date of this act, are retroactively ratified,  
290 confirmed and validated. In addition, all actions taken by the  
291 State Fiscal Officer, the State Treasurer and their respective  
292 employees between June 30, 2004, and the effective date of this  
293 act in connection with the expenditure by the receivership  
294 referred to in said court order of any of the funds appropriated  
295 to the Department of Human Services by House Bill No. 1747, 2004

296 Regular Session, are retroactively ratified, confirmed and  
297 validated.

298         **SECTION 7.** Section 25-9-127, Mississippi Code of 1972, is  
299 amended as follows:

300         25-9-127. (1) No employee of any department, agency or  
301 institution who is included under this chapter or hereafter  
302 included under its authority, and who is subject to the rules and  
303 regulations prescribed by the state personnel system may be  
304 dismissed or otherwise adversely affected as to compensation or  
305 employment status except for inefficiency or other good cause, and  
306 after written notice and hearing within the department, agency or  
307 institution as shall be specified in the rules and regulations of  
308 the State Personnel Board complying with due process of law; and  
309 any employee who has by written notice of dismissal or action  
310 adversely affecting his compensation or employment status shall,  
311 on hearing and on any appeal of any decision made in such action,  
312 be required to furnish evidence that the reasons stated in the  
313 notice of dismissal or action adversely affecting his compensation  
314 or employment status are not true or are not sufficient grounds  
315 for the action taken; provided, however, that this provision shall  
316 not apply (a) to persons separated from any department, agency or  
317 institution due to curtailment of funds or reduction in staff when  
318 such separation is in accordance with rules and regulations of the  
319 state personnel system; (b) during the probationary period of  
320 state service of twelve (12) months; and (c) to an executive  
321 officer of any state agency who serves at the will and pleasure of  
322 the Governor, board, commission or other appointing authority.

323         (2) The operation of a state-owned motor vehicle without a  
324 valid Mississippi driver's license by an employee of any  
325 department, agency or institution that is included under this  
326 chapter and that is subject to the rules and regulations of the  
327 state personnel system shall constitute good cause for dismissal  
328 of such person from employment.

329           (3) Beginning July 1, 1999, every male between the ages of  
330 eighteen (18) and twenty-six (26) who is required to register  
331 under the federal Military Selective Service Act, 50 USCS App.  
332 453, and who is an employee of the state shall not be promoted to  
333 any higher position of employment with the state until he submits  
334 to the person, commission, board or agency by which he is employed  
335 satisfactory documentation of his compliance with the draft  
336 registration requirements of the Military Selective Service Act.  
337 The documentation shall include a signed affirmation under penalty  
338 of perjury that the male employee has complied with the  
339 requirements of the federal selective service act.

340           (4) For a period of one (1) year after the effective date of  
341 this act, the provisions of Section 25-9-127(1) shall not apply to  
342 the personnel actions of the Mississippi Department of Human  
343 Services. All new employees in the Department of Human Services  
344 shall meet criteria of the State Personnel Board as presently  
345 exists for employment.

346           **SECTION 8.** This act shall take effect and be in force from  
347 and after its passage.