

By: Senator(s) Hyde-Smith

To: Public Health and Welfare

SENATE BILL NO. 2885

1 AN ACT TO AMEND SECTION 71-7-15, MISSISSIPPI CODE OF 1972, TO
2 FORWARD POSITIVE DRUG TEST RESULTS TO THE DEPARTMENT OF HUMAN
3 SERVICES TO CHECK FOR TANF VIOLATORS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 71-7-15, Mississippi Code of 1972, is
6 amended as follows:

7 71-7-15. (1) Except as otherwise provided in this section,
8 all information, interviews, reports, statements, memoranda and
9 test results, written or otherwise, received by the employer
10 through its drug and alcohol testing program are confidential
11 communications and may not be used or received in evidence,
12 obtained in discovery, or disclosed in any public or private
13 proceedings, except in accordance with this chapter.

14 (2) Any information obtained by an employer pursuant to this
15 chapter shall be the property of the employer.

16 (3) An employer shall not release to any person other than
17 the employee or job applicant, or employer medical, supervisory or
18 other personnel, as designated by the employer on a need to know
19 basis, information related to drug and alcohol test results
20 unless:

21 (a) The employee or job applicant has expressly, in
22 writing, granted permission for the employer to release such
23 information;

24 (b) It is necessary to introduce a positive confirmed
25 test result into an arbitration proceeding pursuant to a
26 collective bargaining agreement, an administrative hearing under
27 applicable state or local law, or a judicial proceeding, provided

28 that information is relevant to the hearing or proceeding, or the
29 information must be disclosed to a federal or state agency or
30 other unit of the state or United States government as required
31 under law, regulation or order, or in accordance with compliance
32 requirements of a state or federal government contract, or
33 disclosed to a drug abuse rehabilitation program for the purpose
34 of evaluation or treatment of an employee; or

35 (c) There is a risk to public health or safety that can
36 be minimized or prevented by the release of such information;
37 provided, however, that unless such risk is immediate, a court
38 order permitting the release shall be obtained prior to the
39 release of the information.

40 (4) The confidentiality provisions provided for in this
41 section shall not apply to other parts of an employee's or job
42 applicant's personnel or medical files.

43 (5) If an employee refuses to sign a written consent form
44 for release of information to persons as permitted in this
45 chapter, the employer shall not be barred from discharging or
46 disciplining the employee.

47 (6) All test results for job applicants that are positive
48 for use of illegal drugs shall be forwarded to the Department of
49 Human Services for cross-matching against the state roster of TANF
50 recipients.

51 **SECTION 2.** This act shall take effect and be in force from
52 and after July 1, 2005.