

Senate Amendments to House Bill No. 570

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

23 **SECTION 1.** Section 43-17-39, Mississippi Code of 1972, is
24 amended as follows:

25 43-17-39. (1) The Department of Human Services is
26 Mississippi's lead agency in the federal Child Care and
27 Development Fund (CCDF) program. CCDF is comprised of the
28 following funding streams: discretionary, mandatory, federal
29 matching, and state matching. In addition, as allowed by federal
30 regulation, Mississippi currently transfers twenty percent (20%)
31 of the Temporary Assistance to Needy Families (TANF) grant into
32 CCDF. The CCDF/TANF program helps eligible working parents pay
33 for early care and education services for their children.

34 (2) In the operation of the CCDF/TANF program, the
35 Department of Human Services shall comply with the following
36 requirements:

37 (a) The department shall maintain records and post on a
38 monthly basis, as information is available, on a publicly
39 accessible website for each county, the information required for
40 the federal report known as the Child Care Aggregate Report,
41 ACF-800, federal report ACF-801 and for the state as a whole, the
42 information required for the financial report known as ACF-696
43 related to CCDF (42 USCS, Chapter 105, Subchapter II-B).

44 (b) The department shall establish performance level
45 standards including the following requirements in CCDF/TANF
46 certificate subgrants: measurable outcome-based contract
47 measures, clear statements of expectations, evaluation criteria,
48 documentation, and the explicit descriptions of reporting

49 requirements. The State Department of Audit shall annually audit
50 the expenditures by the department, subject to the availability of
51 public or private funds specifically for that purpose. The State
52 Department of Audit shall also annually audit expenditures by
53 subrecipients/subgrantees and providers including those currently
54 known as "Designated Agents" and those to whom Quality Improvement
55 funds were awarded by the department, and may audit such
56 expenditures during the five (5) years next preceding July 1,
57 2005, at the request of the Executive Director of the Department
58 of Human Services and subject to the availability of funds for
59 that purpose. In addition, the State Department of Audit shall
60 periodically, but not less than once every three (3) years,
61 conduct performance audits on the department for the purposes of
62 assessing program impact, subject to the availability of public or
63 private funds for that purpose. The State Department of Audit
64 shall provide copies of each of the audits to the Chairmen of the
65 House Public Health and Human Services Committee and the Senate
66 Public Health and Welfare Committee.

67 (c) The department shall provide to the custodial
68 parents a plain-language explanation of all program criteria to
69 qualify for a CCDF/TANF certificate to obtain early care and
70 education for a child from birth up to the 13th birthday if not
71 disabled, but if disabled, then up to eighteen (18) years of age.

72 (d) The department shall require licensed child care
73 providers participating in the CCDF/TANF certificate program to
74 provide developmentally appropriate early childhood educational
75 activities, including reading and writing.

76 * * *

77 (3) This section shall stand repealed on July 1, 2010.

78 **SECTION 2.** Section 43-20-5, Mississippi Code of 1972, is
79 amended as follows:

80 43-20-5. (1) From and after July 1, 2006, the powers and
81 duties of the State Department of Health relating to the licensure
82 of child care facilities under this chapter shall be transferred
83 to the State Department of Human Services. All records, property,

84 funds, other assets and personnel of the Child Care Licensure Unit
85 and the Child Care Licensure Program shall be transferred to the
86 Department of Human Services. The Executive Director of the
87 Department of Human Services may assign to the appropriate offices
88 such powers and duties deemed appropriate to carry out the lawful
89 functions of the department under this chapter.

90 (2) When used in this chapter, the following words shall
91 have the following meanings:

92 (a) "Child care facility" means a place that provides
93 shelter and personal care for six (6) or more children who are not
94 related within the third degree computed according to the civil
95 law to the operator and who are under thirteen (13) years of age,
96 for any part of the twenty-four-hour day, whether that place is
97 organized or operated for profit or not. The term "child care
98 facility" includes day nurseries, day care centers and any other
99 facility that falls within the scope of the definitions set forth
100 in this paragraph, regardless of auspices. Exemptions from the
101 provisions of this chapter include:

102 (i) Child care facilities that operate for no more
103 than two (2) days a week, whose primary purpose is to provide
104 respite for the caregiver or temporary care during other scheduled
105 or related activities and organized programs that operate for
106 three (3) or fewer weeks per year such as, but not limited to,
107 vacation bible schools and scout day camps.

108 (ii) Any child residential home as defined in, and
109 in compliance with the provisions of, Section 43-16-3(b) et seq.

110 (iii) 1. Any elementary, including kindergarten,
111 and/or secondary school system, accredited by the Mississippi
112 State Department of Education, the Southern Association of
113 Colleges and Schools, the Mississippi Private School Education
114 Association, the American Association of Christian Schools, the
115 Association of Christian Schools International, and any Head Start
116 program operating in conjunction with an elementary school system,
117 whether it is public, private or parochial, whose primary purpose
118 is a structured school or school readiness program.

119 2. Accreditation, for the purpose of
120 exemption from the provisions of this chapter, means: a. receipt
121 by any school or school system of full accreditation from an
122 accrediting entity listed in item 1 of this subparagraph (iii), or
123 b. proof of application by the school or school system for
124 accreditation status from the accrediting entity. Proof of
125 application for accreditation status shall include, but not be
126 limited to, a copy of the applicant's completed application for
127 accreditation filed with the licensing agency and a letter or
128 other authenticating documentation from a signatory authority with
129 the accrediting entity that the application for accreditation has
130 been received and that the applicant is currently under
131 consideration or review for full accreditation status by the
132 accrediting entity. An exemption for a nonaccredited applicant
133 under this item 2 shall be for a maximum of one (1) year from the
134 receipt date by the licensing agency of the completed
135 documentation for proof of application for accreditation status.
136 Failure to receive full accreditation by the end of the one-year
137 exemption period for a nonaccredited applicant shall result in the
138 nonaccredited applicant no longer remaining exempt from the
139 provisions of this chapter at the end of the one-year period.
140 However, if full accreditation is not received by the end of the
141 one-year exemption period, the State Department of Human Services,
142 in its discretion, may extend the exemption period for any
143 nonaccredited applicant for periods of six (6) months, with the
144 total extension not to exceed one (1) year. During any such
145 extension periods, the department shall have the authority to
146 enforce child care facility licensure provisions relating to the
147 health and safety of the children in the school or school system.
148 If a nonaccredited applicant fails to receive full accreditation
149 by the end of all extended exemption periods, the applicant shall
150 no longer remain exempt from the provisions of this chapter at the
151 end of the extended exemption periods. This item 2 shall stand
152 repealed on July 1, 2007.

153 (iv) Any membership organization affiliated with a
154 national organization that charges only a nominal annual
155 membership fee, does not receive monthly, weekly or daily payments
156 for services, and is certified by its national association as
157 being in compliance with the association's minimum standards and
158 procedures including, but not limited to, the Boys and Girls Club
159 of America, and the YMCA.

160 (v) Any family child care home as defined in
161 Section 43-20-53(a) et seq.

162 All other preschool child care programs and/or extended day
163 school programs must meet requirements set forth in this chapter.

164 (b) "Health" means that condition of being sound in
165 mind and body and encompasses an individual's physical, mental and
166 emotional welfare.

167 (c) "Safety" means that condition of being protected
168 from hurt, injury or loss.

169 (d) "Person" means any person, firm, partnership,
170 corporation or association.

171 (e) "Operator" means any person, acting individually or
172 jointly with another person or persons, who establishes, owns,
173 operates, conducts or maintains a child care facility. The child
174 care facility license shall be issued in the name of the operator,
175 or, if there is more than one (1) operator, in the name of one (1)
176 of the operators. If there is more than one (1) operator, all
177 statutory and regulatory provisions concerning the background
178 checks of operators shall be equally applied to all operators of a
179 facility including, but not limited to, a spouse who jointly owns,
180 operates or maintains the child care facility regardless of which
181 particular person is named on the license.

182 (f) "Personal care" means assistance rendered by
183 personnel of the child care facility in performing one or more of
184 the activities of daily living which includes, but is not limited
185 to, the feeding, personal grooming, supervising and dressing of
186 children placed in the child care facility.

187 (g) "Licensing agency" means the Mississippi Department
188 of Human Services.

189 (h) "Caregiver" means any person who provides direct
190 care, supervision or guidance to children in a child care
191 facility, regardless of title or occupation.

192 **SECTION 3.** Section 43-20-8, Mississippi Code of 1972, is
193 amended as follows:

194 43-20-8. (1) The licensing agency shall have powers and
195 duties as set forth below, in addition to other duties prescribed
196 under this chapter:

197 (a) Promulgate rules and regulations concerning the
198 licensing and regulation of child care facilities as defined in
199 Section 43-20-5;

200 (b) Have the authority to issue, deny, suspend, revoke,
201 restrict or otherwise take disciplinary action against licensees
202 as provided for in this chapter;

203 (c) Set and collect fees and penalties as provided for
204 in this chapter; and

205 (d) Have such other powers as may be required to carry
206 out the provisions of this chapter.

207 (2) Child care facilities shall assure that parents have
208 welcome access to the child care facility at all times.

209 (3) Each child care facility shall develop and maintain a
210 current list of contact persons for each child provided care by
211 that facility. An agreement may be made between the child care
212 facility and the child's parent, guardian or contact person at the
213 time of registration to inform the parent, guardian or contact
214 person if the child does not arrive at the facility within a
215 reasonable time.

216 (4) Child care facilities shall require that, for any
217 current or prospective caregiver, all criminal records, background
218 and sex offender registry checks and current child abuse registry
219 checks are obtained. In order to determine the applicant's
220 suitability for employment, the applicant shall be fingerprinted.
221 If no disqualifying record is identified at the state level, the

222 fingerprints shall be forwarded by the Department of Public Safety
223 to the FBI for a national criminal history record check.

224 (5) The licensing agency shall require to be performed a
225 criminal records background check and a child abuse registry check
226 for all operators of a child care facility and any person living
227 in a residence used for child care. The Department of Human
228 Services shall have the authority to disclose * * * any potential
229 applicant whose name is listed on the Child Abuse Central Registry
230 or has a pending administrative review. That information shall
231 remain confidential by all parties. In order to determine the
232 applicant's suitability for employment, the applicant shall be
233 fingerprinted. If no disqualifying record is identified at the
234 state level, the fingerprints shall be forwarded by the Department
235 of Public Safety to the FBI for a national criminal history record
236 check.

237 (6) The licensing agency shall have the authority to exclude
238 a particular crime or crimes or a substantiated finding of child
239 abuse and/or neglect as disqualifying individuals or entities for
240 prospective or current employment or licensure.

241 (7) The licensing agency and its agents, officers,
242 employees, attorneys and representatives shall not be held civilly
243 liable for any findings, recommendations or actions taken under
244 this section.

245 (8) All fees incurred in compliance with this section shall
246 be borne by the child care facility. The licensing agency is
247 authorized to charge a fee that includes the amount required by
248 the Federal Bureau of Investigation for the national criminal
249 history record check in compliance with the Child Protection Act
250 of 1993, as amended, and any necessary costs incurred by the
251 licensing agency for the handling and administration of the
252 criminal history background checks.

253 **SECTION 4.** Section 43-20-11, Mississippi Code of 1972, is
254 amended as follows:

255 43-20-11. An application for a license under this chapter
256 shall be made to the licensing agency upon forms provided by it,

257 and shall contain such information as the licensing agency may
258 reasonably require. Each application for a license shall be
259 accompanied by a license fee not to exceed Two Hundred Dollars
260 (\$200.00), which shall be paid to the licensing agency. Licenses
261 shall be granted to applicants upon the filing of properly
262 completed application forms, accompanied by payment of the said
263 license fee, and a certificate of inspection and approval by the
264 fire department of the municipality or other political subdivision
265 in which the facility is located, and by a certificate of
266 inspection and approval by the health department of the county in
267 which the facility is located, and approval by the licensing
268 agency; except that if no fire department exists where the
269 facility is located, the State Fire Marshal shall certify as to
270 the inspection for safety from fire hazards. Said fire, county
271 health department and licensing agency inspections and approvals
272 shall be based upon regulations promulgated by the licensing
273 agency * * *.

274 Each license shall be issued only for the premises and person
275 or persons named in the application and shall not be transferable
276 or assignable except with the written approval of the licensing
277 agency. Licenses shall be posted in a conspicuous place on the
278 licensed premises.

279 No governmental entity or agency shall be required to pay the
280 fee or fees set forth in this section.

281 **SECTION 5.** Section 43-20-12, Mississippi Code of 1972, is
282 amended as follows:

283 43-20-12. All fees collected by the Mississippi Department
284 of Human Services under this chapter and any penalties collected
285 by the board for violations of this chapter shall be deposited in
286 the State General Fund * * *.

287 **SECTION 6.** Section 43-20-14, Mississippi Code of 1972, is
288 amended as follows:

289 43-20-14. (1) The licensing agency may deny a license or
290 refuse to renew a license for any of the reasons set forth in
291 subsection (3) of this section.

292 (2) Before the licensing agency may deny or refuse to renew,
293 the applicant or person named on the license shall be entitled to
294 a hearing in order to show cause why the license should not be
295 denied or should be renewed.

296 (3) The licensing agency may suspend, revoke or restrict the
297 license of any child care facility upon one or more of the
298 following grounds:

299 (a) Fraud, misrepresentation or concealment of material
300 facts;

301 (b) Conviction of an operator for any crime if the
302 licensing agency finds that the act or acts for which the operator
303 was convicted could have a detrimental effect on children cared
304 for by any child care facility;

305 (c) Violation of any of the provisions of this act or
306 of the regulations governing the licensing and regulation of child
307 care facilities promulgated by the licensing agency;

308 (d) Any conduct, or failure to act, that is found or
309 determined by the licensing agency to threaten the health or
310 safety of children at the facility;

311 (e) Failure by the child care facility to comply with
312 the provisions of Section 43-20-8(3) regarding background checks
313 of caregivers; and

314 (f) Information received by the licensing agency as a
315 result of the criminal records background check and the child
316 abuse registry check on all operators under Section 43-20-8.

317 (4) Before the licensing agency may suspend, revoke or
318 restrict the license of any facility, any licensee affected by
319 that decision of the licensing agency shall be entitled to a
320 hearing in which the licensee may show cause why the license
321 should not be suspended, revoked or restricted.

322 (5) Any licensee who disagrees with or is aggrieved by a
323 decision of the Mississippi State Department of Human Services in
324 regard to the denial, refusal to renew, suspension, revocation or
325 restriction of the license of the licensee, may appeal to the
326 chancery court of the county in which the facility is located.

327 The appeal shall be filed no later than thirty (30) days after the
328 licensee receives written notice of the final administrative
329 action by the Mississippi State Department of Human Services as to
330 the suspension, revocation or restriction of the license of the
331 licensee.

332 **SECTION 7.** Section 43-20-53, Mississippi Code of 1972, is
333 amended as follows:

334 43-20-53. As used in Sections 43-20-51 through 43-20-65:

335 (a) "Family child care home" means any residential
336 facility occupied by the operator where five (5) or fewer children
337 who are not related within the third degree computed according to
338 the civil law to the provider and who are under the age of
339 thirteen (13) years of age are provided care for any part of the
340 twenty-four-hour day.

341 (b) "Registering agency" means the Mississippi State
342 Department of Human Services.

343 (c) "Provider" means the person responsible for the
344 care of children.

345 **SECTION 8.** Section 43-20-57, Mississippi Code of 1972, is
346 amended as follows:

347 43-20-57. (1) No person shall knowingly maintain a family
348 child care home if, in such family child care home, there resides,
349 works or regularly volunteers any person who:

350 (a) (i) Has a felony conviction for a crime against
351 persons;

352 (ii) Has a felony conviction under the Uniform
353 Controlled Substances Act;

354 (iii) Has a conviction for a crime of child abuse
355 or neglect;

356 (iv) Has a conviction for any sex offense as
357 defined in Section 45-33-23, Mississippi Code of 1972; or

358 (v) Any other offense committed in another
359 jurisdiction or any federal offense which, if committed in this
360 state, would be deemed to be such a crime without regard to its
361 designation elsewhere;

362 (b) Has been adjudicated a juvenile offender because of
363 having committed an act which if done by an adult would constitute
364 the commission of a felony and which is a crime against persons;

365 (c) Has had a child declared in a court order in this
366 or any other state to be deprived or a child in need of care based
367 on an allegation of physical, mental or emotional abuse or neglect
368 or sexual abuse;

369 (d) Has had parental rights terminated pursuant to
370 Section 93-15-101 et seq., Mississippi Code of 1972; or

371 (e) Has an infectious or contagious disease, as defined
372 by the State Department of Health pursuant to Section 41-23-1,
373 Mississippi Code of 1972.

374 (2) No person shall maintain a family child care home if
375 such person has been found to be a disabled person in need of a
376 guardian or conservator, or both.

377 (3) Any person who resides in the home and who has been
378 found to be a disabled person in need of a guardian or
379 conservator, or both, shall be included in the total number of
380 children allowed in care.

381 (4) In accordance with the provision of this subsection (4),
382 the State Department of Human Services shall have access to any
383 court orders or adjudications of any court of record, any records
384 of such orders or adjudications, criminal history record
385 information in the possession of the Mississippi Highway Safety
386 Patrol or court of this state concerning persons working,
387 regularly volunteering or residing in a family child care home.
388 The department shall have access to these records for the purpose
389 of determining whether or not the home meets the requirements of
390 Sections 43-20-51 through 43-20-65.

391 (5) No family child care home or its employees shall be
392 liable for civil damages to any person refused employment or
393 discharged from employment by reason of such home's compliance
394 with the provisions of this section if such home acts in good
395 faith to comply with this section.

396 **SECTION 9.** Section 43-20-59, Mississippi Code of 1972, is
397 amended as follows:

398 43-20-59. (1) Any person maintaining a family child care
399 home may register such home with the State Department of Human
400 Services on forms provided by the department.

401 (2) A certificate of registration shall be issued to the
402 applicant for registration who (a) attests to the safety of the
403 home for the care of children, (b) submits a fee of Five Dollars
404 (\$5.00) payable to the department, and (c) certifies that no
405 person described in paragraph (a), (b), (c), (d) or (e) of Section
406 43-20-57(1) resides, works or volunteers in the family child care
407 home.

408 (3) The department shall furnish each applicant for
409 registration a family child care home safety evaluation form to be
410 completed by the applicant and submitted with the registration
411 application.

412 (4) The certificate of registration shall be renewed
413 annually in the same manner provided for in this section.

414 (5) A certificate of registration shall be in force for one
415 (1) year after the date of issuance unless revoked pursuant to
416 Sections 43-20-51 through 43-20-65. The certificate shall specify
417 that the registrant may operate a family child care home for five
418 (5) or fewer children. This section shall not be construed to
419 limit the right of the department to enter a registered family
420 child care home for the purpose of assessing compliance with
421 Sections 43-20-51 through 43-20-65 after receiving a complaint
422 against the registrant of such home or in conducting a periodic
423 routine inspection.

424 (6) The department shall adopt rules and regulations to
425 implement the registration provisions.

426 **SECTION 10.** Section 43-17-39, Mississippi Code of 1972, is
427 amended as follows:

428 43-17-39. (1) The Department of Human Services is
429 Mississippi's lead agency in the federal Child Care and
430 Development Fund (CCDF) program. CCDF is comprised of the

431 following funding streams: discretionary, mandatory, federal
432 matching, and state matching. In addition, as allowed by federal
433 regulation, Mississippi currently transfers twenty percent (20%)
434 of the Temporary Assistance to Needy Families (TANF) grant into
435 CCDF. The CCDF/TANF program helps eligible working parents pay
436 for early care and education services for their children.

437 (2) In the operation of the CCDF/TANF program, the
438 Department of Human Services shall comply with the following
439 requirements:

440 (a) The department shall maintain records and post on a
441 monthly basis, as information is available, on a publicly
442 accessible website for each county, the information required for
443 the federal report known as the Child Care Aggregate Report,
444 ACF-800, federal report ACF-801 and for the state as a whole, the
445 information required for the financial report known as ACF-696
446 related to CCDF (42 USCS, Chapter 105, Subchapter II-B).

447 (b) The department shall establish performance level
448 standards including the following requirements in CCDF/TANF
449 certificate subgrants: measurable outcome-based contract
450 measures, clear statements of expectations, evaluation criteria,
451 documentation, and the explicit descriptions of reporting
452 requirements. The State Department of Audit shall annually audit
453 the expenditures by the department, subject to the availability of
454 public or private funds specifically for that purpose. The State
455 Department of Audit shall also annually audit expenditures by
456 subrecipients/subgrantees and providers including those currently
457 known as "Designated Agents" and those to whom Quality Improvement
458 funds were awarded by the department, and may audit such
459 expenditures during the five (5) years next preceding July 1,
460 2005, at the request of the Executive Director of the Department
461 of Human Services and subject to the availability of funds for
462 that purpose. In addition, the State Department of Audit shall
463 periodically, but not less than once every three (3) years,
464 conduct performance audits on the department for the purposes of
465 assessing program impact, subject to the availability of public or

466 private funds for that purpose. The State Department of Audit
467 shall provide copies of each of the audits to the Chairmen of the
468 House Public Health and Human Services Committee and the Senate
469 Public Health and Welfare Committee.

470 (c) The department shall provide to the custodial
471 parents a plain-language explanation of all program criteria to
472 qualify for a CCDF/TANF certificate to obtain early care and
473 education for a child from birth up to the 13th birthday if not
474 disabled, but if disabled, then up to eighteen (18) years of age.

475 (d) The department shall require licensed child care
476 providers participating in the CCDF/TANF certificate program to
477 provide developmentally appropriate early childhood educational
478 activities, including reading and writing.

479 (3) [Deleted]

480 (4) [Deleted]

481 **SECTION 11.** Sections 43-20-7 and 43-20-55, Mississippi Code
482 of 1972, which create an Advisory Council to assist the licensing
483 agency in the development of child care facility standards and
484 regulations, are hereby repealed.

485 **SECTION 12.** This act shall take effect and be in force from
486 and after July 1, 2006.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 43-17-39, MISSISSIPPI CODE OF 1972,
2 TO EXTEND THE DATE OF THE REPEALER ON THE SECTION THAT PRESCRIBES
3 CERTAIN REQUIREMENTS FOR THE DEPARTMENT OF HUMAN SERVICES IN THE
4 OPERATION OF THE CHILD CARE AND DEVELOPMENT FUND/TEMPORARY
5 ASSISTANCE TO NEEDY FAMILIES PROGRAM; TO AMEND SECTIONS 43-20-5,
6 43-20-8, 43-20-11, 43-20-12, 43-20-14, 43-20-53, 43-20-57 AND
7 43-20-59, MISSISSIPPI CODE OF 1972, TO TRANSFER THE POWERS AND
8 DUTIES OF THE STATE DEPARTMENT OF HEALTH RELATING TO THE LICENSURE
9 OF CHILD CARE FACILITIES TO THE STATE DEPARTMENT OF HUMAN SERVICES
10 AND TO PROVIDE THAT THE DEPARTMENT OF HUMAN SERVICES SHALL PERFORM
11 ALL OF THE DUTIES RELATING TO THE ESTABLISHMENT AND ENFORCEMENT OF
12 REGULATIONS GOVERNING THE OPERATION OF LICENSED CHILD CARE
13 FACILITIES THAT WERE FORMERLY PERFORMED BY THE STATE DEPARTMENT OF
14 HEALTH; TO AMEND SECTION 43-17-39, MISSISSIPPI CODE OF 1972, TO
15 DELETE THE AUTOMATIC REPEALER ON THE STATUTE PROVIDING THAT THE
16 DEPARTMENT OF HUMAN SERVICES IS THE LEAD AGENCY FOR THE FEDERAL
17 CHILD CARE AND DEVELOPMENT FUND (CCDF) PROGRAM; TO REPEAL SECTIONS
18 43-20-7 AND 43-20-55, MISSISSIPPI CODE OF 1972, WHICH CREATE AN
19 ADVISORY COUNCIL TO ASSIST THE LICENSING AGENCY IN THE DEVELOPMENT
20 OF CHILD CARE FACILITY STANDARDS AND REGULATIONS; AND FOR RELATED
21 PURPOSES.

SS02\HB570A.1J

John O. Gilbert
Secretary of the Senate