

By: Representative Fredericks

To: Public Health and Human
Services; Appropriations

HOUSE BILL NO. 1139

1 AN ACT TO AMEND SECTION 43-17-5, MISSISSIPPI CODE OF 1972, TO
2 DIRECT THE DEPARTMENT OF HUMAN SERVICES TO TRANSFER UNCOMMITTED
3 TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) FUNDS EACH YEAR TO
4 THE CHILD CARE AND DEVELOPMENT FUND (CCDF), TO THE MAXIMUM EXTENT
5 PERMITTED UNDER FEDERAL LAW AND REGULATIONS; AND FOR RELATED
6 PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

82 (i) Any individual who fails to comply with the
83 provisions of the Employability Development Plan signed by the
84 individual which prescribe those activities designed to help the
85 individual become and remain employed, or to participate
86 satisfactorily in the assigned work activity, as authorized under
87 subsection (6)(c) and (d), or who does not engage in an applicant
88 job search within the thirty-day period for TANF application
89 approval after receiving the advice and consultation of
90 eligibility workers and/or caseworkers of the department providing
91 a detailed description of available job search venues in the
92 individual's county of residence or the surrounding counties;

93 (j) A parent or caretaker relative who has not engaged
94 in an allowable work activity once the department determines the
95 parent or caretaker relative is ready to engage in work, or once

96 the parent or caretaker relative has received TANF assistance
97 under the program for twenty-four (24) months, whether or not
98 consecutive, whichever is earlier;

99 (k) Any individual who is fleeing to avoid prosecution,
100 or custody or confinement after conviction, under the laws of the
101 jurisdiction from which the individual flees, for a crime, or an
102 attempt to commit a crime, which is a felony under the laws of the
103 place from which the individual flees, or who is violating a
104 condition of probation or parole imposed under federal or state
105 law;

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

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

114 (n) Individuals who are recipients of federal
115 Supplemental Security Income (SSI) assistance.

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

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

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

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

126 (iv) If the person is a parent or caretaker
127 relative with whom a dependent child is living, child care is
128 available for the child.

129 The monthly attendance requirement under this subsection
130 shall be attendance at the school in which the person is enrolled
131 for each day during a month that the school conducts classes in
132 which the person is enrolled, with not more than two (2) absences
133 during the month for reasons other than the reasons listed in
134 paragraph (e)(iv) of this subsection. Persons who fail to meet
135 participation requirements in this subsection shall be subject to
136 sanctions as provided in paragraph (f) of this subsection.

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

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

140 (ii) A vocational, technical and adult education
141 program; or

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

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

155 (d) The signature of a person on an application for
156 TANF benefits constitutes permission for the release of school
157 attendance records for that person or for any child residing with
158 that person. The department shall request information from the
159 child's school district about the child's attendance in the school
160 district's most recently completed semester of attendance. If
161 information about the child's previous school attendance is not

162 available or cannot be verified, the department shall require the
163 child to meet the monthly attendance requirement for one (1)
164 semester or until the information is obtained. The department
165 shall use the attendance information provided by a school district
166 to verify attendance for a child. The department shall review
167 with the parent or caretaker relative a child's claim that he or
168 she has a good cause for not attending school.

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

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

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

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

187 (iii) The child is prohibited by the school
188 district from attending school and an expulsion is pending. This
189 exemption no longer applies once the teenager has been expelled;
190 however, a teenager who has been expelled and is making
191 satisfactory progress towards obtaining a GED equivalent shall be
192 eligible for TANF benefits; or

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

- 195 1. Illness, injury or incapacity of the child
196 or the minor parent's child;
197 2. Court-required appearances or temporary
198 incarceration;
199 3. Medical or dental appointments for the
200 child or minor parent's child;
201 4. Death of a close relative;
202 5. Observance of a religious holiday;
203 6. Family emergency;
204 7. Breakdown in transportation;
205 8. Suspension; or
206 9. Any other circumstance beyond the control
207 of the child, as defined in regulations of the department.

208 (f) Upon determination that a child has failed without
209 good cause to attend school as required, the department shall
210 provide written notice to the parent or caretaker relative
211 (whoever is the primary recipient of the TANF benefits) that
212 specifies:

213 (i) That the family will be sanctioned in the next
214 possible payment month because the child who is required to attend
215 school has failed to meet the attendance requirement of this
216 subsection;

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

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

222 The child's parent or caretaker relative (whoever is the
223 primary recipient of the TANF benefits) may request a fair hearing
224 on the department's determination that the child has not been
225 attending school. If the child's parents or caretaker relative
226 does not request a fair hearing under this subsection, or if,
227 after a fair hearing has been held, the hearing officer finds that

228 the child without good cause has failed to meet the monthly
229 attendance requirement, the department shall discontinue or deny
230 TANF benefits to the child thirteen (13) years old, or older, in
231 the next possible payment month. The department shall discontinue
232 or deny twenty-five percent (25%) of the family grant when a child
233 six (6) through twelve (12) years of age without good cause has
234 failed to meet the monthly attendance requirement. Both the child
235 and family sanction may apply when children in both age groups
236 fail to meet the attendance requirement without good cause. A
237 sanction applied under this subsection shall be effective for one
238 (1) month for each month that the child failed to meet the monthly
239 attendance requirement. In the case of a dropout, the sanction
240 shall remain in force until the parent or caretaker relative
241 provides written proof from the school district that the child has
242 reenrolled and met the monthly attendance requirement for one (1)
243 calendar month. Any month in which school is in session for at
244 least ten (10) days during the month may be used to meet the
245 attendance requirement under this subsection. This includes
246 attendance at summer school. The sanction shall be removed the
247 next possible payment month.

248 (5) All parents or caretaker relatives shall have their
249 dependent children receive vaccinations and booster vaccinations
250 against those diseases specified by the State Health Officer
251 pursuant to Section 41-23-37 in accordance with the vaccination
252 and booster vaccination schedule prescribed by the State Health
253 Officer for children of that age, in order for the parents or
254 caretaker relatives to be eligible or remain eligible to receive
255 TANF benefits. Proof of having received such vaccinations and
256 booster vaccinations shall be given by presenting the certificates
257 of vaccination issued by any health care provider licensed to
258 administer vaccinations, and submitted on forms specified by the
259 State Board of Health. If the parents without good cause do not
260 have their dependent children receive the vaccinations and booster

261 vaccinations as required by this subsection and they fail to
262 comply after thirty (30) days' notice, the department shall
263 sanction the family's TANF benefits by twenty-five percent (25%)
264 for the next payment month and each subsequent payment month until
265 the requirements of this subsection are met.

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

282 (i) Willfully fails to report for an interview
283 with respect to employment when requested to do so by the
284 department; or

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

287 (iii) Willfully fails to report for allowable work
288 activities as prescribed in subsection (6)(c) and (d).

289 (b) The Department of Human Services shall operate a
290 statewide work program for TANF recipients to provide work
291 activities and supportive services to enable families to become
292 self-sufficient and improve their competitive position in the work
293 force in accordance with the requirements of the federal Personal

294 Responsibility and Work Opportunity Reconciliation Act of 1996
295 (Public Law 104-193), as amended, and the regulations promulgated
296 thereunder. Within sixty (60) days after the initial application
297 for TANF benefits, the TANF recipient must participate in a job
298 search skills training workshop or a job readiness program, which
299 shall include résumé writing, job search skills, employability
300 skills and, if available at no charge, the General Aptitude Test
301 Battery or its equivalent. All adults who are not specifically
302 exempt shall be referred by the department for allowable work
303 activities. An adult may be exempt from the mandatory work
304 activity requirement for the following reasons:

305 (i) Incapacity;

306 (ii) Temporary illness or injury, verified by
307 physician's certificate;

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

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

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

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

317 (vii) Receiving treatment for substance abuse, if
318 the person is in compliance with the substance abuse treatment
319 plan;

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

323 (ix) History of having been a victim of domestic
324 violence, which has been reported as required by state law and is
325 substantiated by police reports or court records, and being at
326 risk of further domestic violence, shall be exempt for a period as

327 deemed necessary by the department but not to exceed a total of
328 twelve (12) months, which need not be consecutive, in the
329 sixty-month maximum benefit period. For the purposes of this
330 subparagraph (ix), "domestic violence" means that an individual
331 has been subjected to:

- 332 1. Physical acts that resulted in, or
333 threatened to result in, physical injury to the individual;
- 334 2. Sexual abuse;
- 335 3. Sexual activity involving a dependent
336 child;
- 337 4. Being forced as the caretaker relative of
338 a dependent child to engage in nonconsensual sexual acts or
339 activities;
- 340 5. Threats of, or attempts at, physical or
341 sexual abuse;
- 342 6. Mental abuse; or
- 343 7. Neglect or deprivation of medical care.

344 (c) For all families, all adults who are not
345 specifically exempt shall be required to participate in work
346 activities for at least the minimum average number of hours per
347 week specified by federal law or regulation, not fewer than twenty
348 (20) hours per week (thirty-five (35) hours per week for
349 two-parent families) of which are attributable to the following
350 allowable work activities:

- 351 (i) Unsubsidized employment;
- 352 (ii) Subsidized private employment;
- 353 (iii) Subsidized public employment;
- 354 (iv) Work experience (including work associated
355 with the refurbishing of publicly assisted housing), if sufficient
356 private employment is not available;
- 357 (v) On-the-job training;
- 358 (vi) Job search and job readiness assistance
359 consistent with federal TANF regulations;

360 (vii) Community service programs;
361 (viii) Vocational educational training (not to
362 exceed twelve (12) months with respect to any individual);
363 (ix) The provision of child care services to an
364 individual who is participating in a community service program;
365 (x) Satisfactory attendance at high school or in a
366 course of study leading to a high school equivalency certificate,
367 for heads of household under age twenty (20) who have not
368 completed high school or received such certificate;
369 (xi) Education directly related to employment, for
370 heads of household under age twenty (20) who have not completed
371 high school or received such equivalency certificate.

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

375 (i) Job skills training directly related to
376 employment;

377 (ii) Education directly related to employment for
378 individuals who have not completed high school or received a high
379 school equivalency certificate;

380 (iii) Satisfactory attendance at high school or in
381 a course of study leading to a high school equivalency, for
382 individuals who have not completed high school or received such
383 equivalency certificate;

384 (iv) Job search and job readiness assistance
385 consistent with federal TANF regulations.

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

391 (i) For the first violation, the department shall
392 terminate the TANF assistance otherwise payable to the family for

393 a two-month period or until the person has complied with the
394 required work activity, whichever is longer;

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

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

403 (iv) For the fourth violation, the person shall be
404 permanently disqualified.

405 For a two-parent family, unless prohibited by state or
406 federal law, Medicaid assistance shall be terminated only for the
407 person whose failure to participate in allowable work activity
408 caused the family's TANF assistance to be sanctioned under this
409 subsection (6)(e), unless an individual is pregnant, but shall not
410 be terminated for any other person in the family who is meeting
411 that person's applicable work requirement or who is not required
412 to work. Minor children shall continue to be eligible for
413 Medicaid benefits regardless of the disqualification of their
414 parent or caretaker relative for TANF assistance under this
415 subsection (6), unless prohibited by state or federal law.

416 (f) Any person enrolled in a two-year or four-year
417 college program who meets the eligibility requirements to receive
418 TANF benefits, and who is meeting the applicable work requirements
419 and all other applicable requirements of the TANF program, shall
420 continue to be eligible for TANF benefits while enrolled in the
421 college program for as long as the person meets the requirements
422 of the TANF program, unless prohibited by federal law.

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

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

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

459 advance to a caretaker relative, reimburse a child care provider,
460 or use any other arrangement deemed appropriate by the department,
461 and may establish different reimbursement rates for child care
462 services depending on the category of the facility or home. Any
463 center-based or group home child care facility under this
464 subsection shall be licensed by the State Department of Health
465 pursuant to law. When child care is being provided in the child's
466 own home, in the home of a relative of the child, or in any other
467 unlicensed setting, the provision of such child care may be
468 monitored on a random basis by the Department of Human Services or
469 the State Department of Health. Transitional child care
470 assistance may be continued if it is necessary for parents to
471 maintain employment once support has ended, unless prohibited
472 under state or federal law. Transitional child care assistance
473 may be provided for up to twenty-four (24) months after the last
474 month during which the family was eligible for TANF assistance, if
475 federal funds are available for such child care assistance. The
476 department shall transfer uncommitted TANF funds each year to the
477 Child Care and Development Fund (CCDF), to the maximum extent
478 permitted under federal law and regulations, to provide more funds
479 to the CCDF for the Office for Children and Youth to help eligible
480 working parents pay for early care and education services for
481 their children.

482 (8) The Department of Human Services may provide
483 transportation or provide reasonable reimbursement for
484 transportation expenses that are necessary for individuals to be
485 able to participate in allowable work activity under the TANF
486 program.

487 (9) Medicaid assistance shall be provided to a family of
488 TANF program participants for up to twenty-four (24) consecutive
489 calendar months following the month in which the participating
490 family would be ineligible for TANF benefits because of increased
491 income, expiration of earned income disregards, or increased hours

492 of employment of the caretaker relative; however, Medicaid
493 assistance for more than twelve (12) months may be provided only
494 if a federal waiver is obtained to provide such assistance for
495 more than twelve (12) months and federal and state funds are
496 available to provide such assistance.

497 (10) The department shall require applicants for and
498 recipients of public assistance from the department to sign a
499 personal responsibility contract that will require the applicant
500 or recipient to acknowledge his or her responsibilities to the
501 state.

502 (11) The department shall enter into an agreement with the
503 State Personnel Board and other state agencies that will allow
504 those TANF participants who qualify for vacant jobs within state
505 agencies to be placed in state jobs. State agencies participating
506 in the TANF work program shall receive any and all benefits
507 received by employers in the private sector for hiring TANF
508 recipients. This subsection (11) shall be effective only if the
509 state obtains any necessary federal waiver or approval and if
510 federal funds are available therefor.

511 (12) No new TANF program requirement or restriction
512 affecting a person's eligibility for TANF assistance, or allowable
513 work activity, which is not mandated by federal law or regulation
514 may be implemented by the Department of Human Services after July
515 1, 2004, unless such is specifically authorized by an amendment to
516 this section by the Legislature.

517 **SECTION 2.** This act shall take effect and be in force from
518 and after July 1, 2007.