

By: Senator(s) Simmons (12th)

To: Public Health and
Welfare; Judiciary, Division
A

SENATE BILL NO. 2689

1 AN ACT TO REPEAL SECTION 43-17-6, MISSISSIPPI CODE OF 1972,
2 WHICH REQUIRES APPLICANTS FOR TANF BENEFITS TO UNDERGO DRUG
3 TESTING AS A CONDITION FOR ELIGIBILITY; TO AMEND SECTION 43-17-5,
4 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THE ACT;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 43-17-6, Mississippi Code of 1972, which
8 requires TANF benefit applicants to undergo drug testing, is
9 hereby repealed.

10 **SECTION 2.** Section 43-17-5, Mississippi Code of 1972, is
11 amended as follows:

12 43-17-5. (1) The amount of Temporary Assistance for Needy
13 Families (TANF) benefits which may be granted for any dependent
14 child and a needy caretaker relative shall be determined by the
15 county department with due regard to the resources and necessary
16 expenditures of the family and the conditions existing in each
17 case, and in accordance with the rules and regulations made by the
18 Department of Human Services which shall not be less than the
19 Standard of Need in effect for 1988, and shall be sufficient when



20 added to all other income (except that any income specified in the
21 federal Social Security Act, as amended, may be disregarded) and
22 support available to the child to provide such child with a
23 reasonable subsistence compatible with decency and health. The
24 first family member in the dependent child's budget may receive an
25 amount not to exceed Two Hundred Dollars (\$200.00) per month; the
26 second family member in the dependent child's budget may receive
27 an amount not to exceed Thirty-six Dollars (\$36.00) per month; and
28 each additional family member in the dependent child's budget an
29 amount not to exceed Twenty-four Dollars (\$24.00) per month. The
30 maximum for any individual family member in the dependent child's
31 budget may be exceeded for foster or medical care or in cases of
32 children with an intellectual disability or a physical disability.
33 TANF benefits granted shall be specifically limited only (a) to
34 children existing or conceived at the time the caretaker relative
35 initially applies and qualifies for such assistance, unless this
36 limitation is specifically waived by the department, or (b) to a
37 child born following a twelve-consecutive-month period of
38 discontinued benefits by the caretaker relative.

39 (2) TANF benefits in Mississippi shall be provided to the
40 recipient family by an online electronic benefits transfer system.

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



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

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

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

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

58 (e) Any individual who has not attained eighteen (18)
59 years of age, is not married to the head of household, has a minor
60 child at least twelve (12) weeks of age in his or her care, and
61 has not successfully completed a high school education or its
62 equivalent, if such individual does not participate in educational
63 activities directed toward the attainment of a high school diploma
64 or its equivalent, or an alternative educational or training
65 program approved by the department;

66 (f) Any individual who has not attained eighteen (18)
67 years of age, is not married, has a minor child in his or her
68 care, and does not reside in a place or residence maintained by a



69 parent, legal guardian or other adult relative or the individual
70 as such parent's, guardian's or adult relative's own home;

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

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

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

92 (j) A parent or caretaker relative who has not engaged
93 in an allowable work activity once the department determines the



94 parent or caretaker relative is ready to engage in work, or once
95 the parent or caretaker relative has received TANF assistance
96 under the program for twenty-four (24) months, whether or not
97 consecutive, whichever is earlier;

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

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

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

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

115 * * *

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



requirement as provided in this subsection if all of the following apply:

- (i) The person is under age twenty (20);
- (ii) The person has not graduated from a public or private high school or obtained a High School Equivalency Diploma equivalent;
- (iii) The person is physically able to attend school and is not excused from attending school; and
- (iv) If the person is a parent or caretaker relative with whom a dependent child is living, child care is available for the child.

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

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

- (i) A school as defined in Section 37-13-91(2);
- (ii) A vocational, technical and adult education program; or



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

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

(d) The signature of a person on an application for TANF benefits constitutes permission for the release of school attendance records for that person or for any child residing with that person. The department shall request information from the child's school district about the child's attendance in the school district's most recently completed semester of attendance. If information about the child's previous school attendance is not available or cannot be verified, the department shall require the child to meet the monthly attendance requirement for one (1) semester or until the information is obtained. The department shall use the attendance information provided by a school district to verify attendance for a child. The department shall review



168 with the parent or caretaker relative a child's claim that he or
169 she has a good cause for not attending school.

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

179 If a school district fails to provide to the department the
180 information about the school attendance of any child within
181 fifteen (15) working days after a written request, the department
182 shall notify the Department of Audit within three (3) working days
183 of the school district's failure to comply with that requirement.
184 The Department of Audit shall begin audit proceedings within five
185 (5) working days of notification by the Department of Human
186 Services to determine the school district's compliance with the
187 requirements of this subsection (4). If the Department of Audit
188 finds that the school district is not in compliance with the
189 requirements of this subsection, the school district shall be
190 penalized as follows: The Department of Audit shall notify the
191 State Department of Education of the school district's
192 noncompliance, and the Department of Education shall reduce the



193 calculation of the school district's net enrollment that is used
194 to determine the allocation of total funding formula funds by the
195 number of children for which the district has failed to provide to
196 the Department of Human Services the required information about
197 the school attendance of those children. The reduction in the
198 calculation of the school district's net enrollment under this
199 paragraph shall be effective for a period of one (1) year.

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

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

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

209 (iii) The child is prohibited by the school
210 district from attending school and an expulsion is pending. This
211 exemption no longer applies once the teenager has been expelled;
212 however, a teenager who has been expelled and is making
213 satisfactory progress towards obtaining a High School Equivalency
214 Diploma equivalent shall be eligible for TANF benefits; or

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



- 217 1. Illness, injury or incapacity of the child
218 or the minor parent's child;
219 2. Court-required appearances or temporary
220 incarceration;
221 3. Medical or dental appointments for the
222 child or minor parent's child;
223 4. Death of a close relative;
224 5. Observance of a religious holiday;
225 6. Family emergency;
226 7. Breakdown in transportation;
227 8. Suspension; or
228 9. Any other circumstance beyond the control
229 of the child, as defined in regulations of the department.

230 (f) Upon determination that a child has failed without
231 good cause to attend school as required, the department shall
232 provide written notice to the parent or caretaker relative
233 (whoever is the primary recipient of the TANF benefits) that
234 specifies:

235 (i) That the family will be sanctioned in the next
236 possible payment month because the child who is required to attend
237 school has failed to meet the attendance requirement of this
238 subsection;

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



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

The child's parent or caretaker relative (whoever is the primary recipient of the TANF benefits) may request a fair hearing on the department's determination that the child has not been attending school. If the child's parents or caretaker relative does not request a fair hearing under this subsection, or if, after a fair hearing has been held, the hearing officer finds that the child without good cause has failed to meet the monthly attendance requirement, the department shall discontinue or deny TANF benefits to the child thirteen (13) years old, or older, in the next possible payment month. The department shall discontinue or deny twenty-five percent (25%) of the family grant when a child six (6) through twelve (12) years of age without good cause has failed to meet the monthly attendance requirement. Both the child and family sanction may apply when children in both age groups fail to meet the attendance requirement without good cause. A sanction applied under this subsection shall be effective for one (1) month for each month that the child failed to meet the monthly attendance requirement. In the case of a dropout, the sanction shall remain in force until the parent or caretaker relative provides written proof from the school district that the child has reenrolled and met the monthly attendance requirement for one (1) calendar month. Any month in which school is in session for at



least ten (10) days during the month may be used to meet the attendance requirement under this subsection. This includes attendance at summer school. The sanction shall be removed the next possible payment month.

(5) All parents or caretaker relatives shall have their dependent children receive vaccinations and booster vaccinations against those diseases specified by the State Health Officer under Section 41-23-37 in accordance with the vaccination and booster vaccination schedule prescribed by the State Health Officer for children of that age, in order for the parents or caretaker relatives to be eligible or remain eligible to receive TANF benefits. Proof of having received such vaccinations and booster vaccinations shall be given by presenting the certificates of vaccination issued by any health care provider licensed to administer vaccinations, and submitted on forms specified by the State Board of Health. If the parents without good cause do not have their dependent children receive the vaccinations and booster vaccinations as required by this subsection and they fail to comply after thirty (30) days' notice, the department shall sanction the family's TANF benefits by twenty-five percent (25%) for the next payment month and each subsequent payment month until the requirements of this subsection are met.

(6) (a) If the parent or caretaker relative applying for TANF assistance is work eligible, as determined by the Department of Human Services, the person shall be required to engage in an



allowable work activity once the department determines the parent or caretaker relative is determined work eligible, or once the parent or caretaker relative has received TANF assistance under the program for twenty-four (24) months, whether or not consecutive, whichever is earlier. No TANF benefits shall be given to any person to whom this section applies who fails without good cause to comply with the Employability Development Plan prepared by the department for the person, or who has refused to accept a referral or offer of employment, training or education in which he or she is able to engage, subject to the penalties prescribed in paragraph (e) of this subsection. A person shall be deemed to have refused to accept a referral or offer of employment, training or education if he or she:

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

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

(iii) Willfully fails to report for allowable work activities as prescribed in paragraphs (c) and (d) of this subsection.

(b) The Department of Human Services shall operate a statewide work program for TANF recipients to provide work activities and supportive services to enable families to become self-sufficient and improve their competitive position in the



workforce in accordance with the requirements of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193), as amended, and the regulations promulgated thereunder, and the Deficit Reduction Act of 2005 (Public Law 109-171), as amended. Within sixty (60) days after the initial application for TANF benefits, the TANF recipient must participate in a job search skills training workshop or a job readiness program, which shall include resume writing, job search skills, employability skills and, if available at no charge, the General Aptitude Test Battery or its equivalent. All adults who are not specifically exempt shall be referred by the department for allowable work activities. An adult may be exempt from the mandatory work activity requirement for the following reasons:

(i) Incapacity;

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

(iii) Is in the third trimester of pregnancy, and there are complications verified by the certificate of a physician, nurse practitioner, physician assistant, or any other licensed health care professional practicing under a protocol with a licensed physician;

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



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

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

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

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

(ix) History of having been a victim of domestic
violence, which has been reported as required by state law and is
substantiated by police reports or court records, and being at
risk of further domestic violence, shall be exempt for a period as
deemed necessary by the department but not to exceed a total of
twelve (12) months, which need not be consecutive, in the
sixty-month maximum benefit period. For the purposes of this
subparagraph (ix), "domestic violence" means that an individual
has been subjected to:

1. Physical acts that resulted in, or
threatened to result in, physical injury to the individual;
2. Sexual abuse;
3. Sexual activity involving a dependent
child;



364 4. Being forced as the caretaker relative of
365 a dependent child to engage in nonconsensual sexual acts or
366 activities;

367 5. Threats of, or attempts at, physical or
368 sexual abuse;

369 6. Mental abuse; or

370 7. Neglect or deprivation of medical care.

371 (c) For all families, all adults who are not
372 specifically exempt shall be required to participate in work
373 activities for at least the minimum average number of hours per
374 week specified by federal law or regulation, not fewer than twenty
375 (20) hours per week (thirty-five (35) hours per week for
376 two-parent families) of which are attributable to the following
377 allowable work activities:

378 (i) Unsubsidized employment;

379 (ii) Subsidized private employment;

380 (iii) Subsidized public employment;

381 (iv) Work experience (including work associated
382 with the refurbishing of publicly assisted housing), if sufficient
383 private employment is not available;

384 (v) On-the-job training;

385 (vi) Job search and job readiness assistance
386 consistent with federal TANF regulations;

387 (vii) Community service programs;



(viii) Vocational educational training (not to exceed twelve (12) months with respect to any individual);

(ix) The provision of child care services to an individual who is participating in a community service program;

(x) Satisfactory attendance at high school or in a course of study leading to a high school equivalency certificate, for heads of household under age twenty (20) who have not completed high school or received such certificate;

(xi) Education directly related to employment, for heads of household under age twenty (20) who have not completed high school or received such equivalency certificate.

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

(i) Job skills training directly related to employment;

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

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

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



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

(i) For the first violation, the department shall terminate the TANF assistance otherwise payable to the family for a two-month period or until the person has complied with the required work activity, whichever is longer;

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

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

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

For a two-parent family, unless prohibited by state or federal law, Medicaid assistance shall be terminated only for the person whose failure to participate in allowable work activity caused the family's TANF assistance to be sanctioned under this paragraph (e), unless an individual is pregnant, but shall not be terminated for any other person in the family who is meeting that



person's applicable work requirement or who is not required to work. Minor children shall continue to be eligible for Medicaid benefits regardless of the disqualification of their parent or caretaker relative for TANF assistance under this subsection (6), unless prohibited by state or federal law.

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

(g) No adult in a work activity required under this subsection (6) shall be employed or assigned (i) when any other individual is on layoff from the same or any substantially equivalent job within six (6) months before the date of the TANF recipient's employment or assignment; or (ii) if the employer has terminated the employment of any regular employee or otherwise caused an involuntary reduction of its workforce in order to fill the vacancy so created with an adult receiving TANF assistance. The Mississippi Department of Employment Security, established under Section 71-5-101, shall appoint one or more impartial hearing officers to hear and decide claims by employees of violations of this paragraph (g). The hearing officer shall hear all the evidence with respect to any claim made hereunder and such



463 additional evidence as he may require and shall make a
464 determination and the reason therefor. The claimant shall be
465 promptly notified of the decision of the hearing officer and the
466 reason therefor. Within ten (10) days after the decision of the
467 hearing officer has become final, any party aggrieved thereby may
468 secure judicial review thereof by commencing an action, in the
469 circuit court of the county in which the claimant resides, against
470 the department for the review of such decision, in which action
471 any other party to the proceeding before the hearing officer shall
472 be made a defendant. Any such appeal shall be on the record which
473 shall be certified to the court by the department in the manner
474 provided in Section 71-5-531, and the jurisdiction of the court
475 shall be confined to questions of law which shall render its
476 decision as provided in that section.

477 (7) The Department of Human Services may provide child care
478 for eligible participants who require such care so that they may
479 accept employment or remain employed. The department may also
480 provide child care for those participating in the TANF program
481 when it is determined that they are satisfactorily involved in
482 education, training or other allowable work activities. The
483 department may contract with Head Start agencies to provide child
484 care services to TANF recipients. The department may also arrange
485 for child care by use of contract or vouchers, provide vouchers in
486 advance to a caretaker relative, reimburse a child care provider,
487 or use any other arrangement deemed appropriate by the department,



488 and may establish different reimbursement rates for child care
489 services depending on the category of the facility or home. Any
490 center-based or group home child care facility under this
491 subsection shall be licensed by the State Department of Health
492 pursuant to law. When child care is being provided in the child's
493 own home, in the home of a relative of the child, or in any other
494 unlicensed setting, the provision of such child care may be
495 monitored on a random basis by the Department of Human Services or
496 the State Department of Health. Transitional child care
497 assistance may be continued if it is necessary for parents to
498 maintain employment once support has ended, unless prohibited
499 under state or federal law. Transitional child care assistance
500 may be provided for up to twenty-four (24) months after the last
501 month during which the family was eligible for TANF assistance, if
502 federal funds are available for such child care assistance.

503 (8) The Department of Human Services may provide
504 transportation or provide reasonable reimbursement for
505 transportation expenses that are necessary for individuals to be
506 able to participate in allowable work activity under the TANF
507 program.

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



513 of employment of the caretaker relative; however, Medicaid
514 assistance for more than twelve (12) months may be provided only
515 if a federal waiver is obtained to provide such assistance for
516 more than twelve (12) months and federal and state funds are
517 available to provide such assistance.

518 (10) The department shall require applicants for and
519 recipients of public assistance from the department to sign a
520 personal responsibility contract that will require the applicant
521 or recipient to acknowledge his or her responsibilities to the
522 state.

523 (11) The department shall enter into an agreement with the
524 State Personnel Board and other state agencies that will allow
525 those TANF participants who qualify for vacant jobs within state
526 agencies to be placed in state jobs. State agencies participating
527 in the TANF work program shall receive any and all benefits
528 received by employers in the private sector for hiring TANF
529 recipients. This subsection (11) shall be effective only if the
530 state obtains any necessary federal waiver or approval and if
531 federal funds are available therefor. Not later than September 1,
532 2021, the department shall prepare a report, which shall be
533 provided to the Chairmen of the House and Senate Public Health
534 Committees and to any other member of the Legislature upon
535 request, on the history, status, outcomes and effectiveness of the
536 agreements required under this subsection.



537 (12) Any unspent TANF funds remaining from the prior fiscal
538 year may be expended for any TANF allowable activities.

539 (13) The Mississippi Department of Human Services shall
540 provide TANF applicants information and referral to programs that
541 provide information about birth control, prenatal health care,
542 abstinence education, marriage education, family preservation and
543 fatherhood. Not later than September 1, 2021, the department
544 shall prepare a report, which shall be provided to the Chairmen of
545 the House and Senate Public Health Committees and to any other
546 member of the Legislature upon request, on the history, status,
547 outcomes and effectiveness of the information and referral
548 requirements under this subsection.

549 (14) No new TANF program requirement or restriction
550 affecting a person's eligibility for TANF assistance, or allowable
551 work activity, which is not mandated by federal law or regulation
552 may be implemented by the Department of Human Services after July
553 1, 2004, unless such is specifically authorized by an amendment to
554 this section by the Legislature.

555 **SECTION 3.** This act shall take effect and be in force from
556 and after July 1, 2025.

