

By: Representative Fillingane

To: Public Health and Human
Services; Appropriations

HOUSE BILL NO. 872

1 AN ACT TO AMEND SECTION 43-17-5, MISSISSIPPI CODE OF 1972, TO
2 DENY TEMPORARY ASSISTANCE TO NEEDY FAMILIES (TANF) BENEFITS TO A
3 PARENT OR CARETAKER RELATIVE OF A CHILD RECEIVING TANF BENEFITS
4 WHO WILLFULLY FAILS TO COMPLY WITH THE RECOMMENDATION OF A
5 LICENSED HEALTH CARE PROFESSIONAL THAT THE PARENT OR CARETAKER
6 RELATIVE TAKE CERTAIN ACTIONS THAT WOULD IMPROVE THE CHILD'S
7 HEALTH OR THE CHILD'S BEHAVIOR IN SCHOOL; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** 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 One Hundred Ten Dollars (\$110.00) per month;
26 the second family member in the dependent child's budget may
27 receive an amount not to exceed Thirty-six Dollars (\$36.00) per
28 month; and each additional family member in the dependent child's
29 budget an amount not to exceed Twenty-four Dollars (\$24.00) per
30 month. The maximum for any individual family member in the

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

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

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

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

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

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

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

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

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

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

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

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

84 (i) Any individual who fails to comply with the
85 provisions of the Employability Development Plan signed by the
86 individual which prescribe those activities designed to help the
87 individual become and remain employed, or to participate
88 satisfactorily in the assigned work activity, as authorized under
89 subsections (6)(c) and (d);

90 (j) A parent or caretaker relative who has not engaged
91 in an allowable work activity once the department determines the
92 parent or caretaker relative is ready to engage in work, or once
93 the parent or caretaker relative has received TANF assistance
94 under the program for twenty-four (24) months, whether or not
95 consecutive, whichever is earlier;

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

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

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

111 (n) Individuals who are recipients of federal
112 Supplemental Security Income (SSI) assistance; and

113 (o) A parent or caretaker relative of a child receiving
114 TANF benefits who willfully fails to comply with the
115 recommendation of a licensed health care professional that the
116 parent or caretaker relative take certain actions that would
117 improve the child's health or the child's behavior in school.

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

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

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

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

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

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

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

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

142 (ii) A vocational, technical and adult education
143 program; or

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

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

157 (d) The signature of a person on an application for
158 TANF benefits constitutes permission for the release of school
159 attendance records for that person or for any child residing with
160 that person. The department shall request information from the

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

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

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

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

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

189 (iii) The child is prohibited by the school
190 district from attending school and an expulsion is pending. This
191 exemption no longer applies once the teenager has been expelled;
192 however, a teenager who has been expelled and is making

193 satisfactory progress towards obtaining a GED equivalent shall be
194 eligible for TANF benefits; or

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

197 1. Illness, injury or incapacity of the child
198 or the minor parent's child;

199 2. Court-required appearances or temporary
200 incarceration;

201 3. Medical or dental appointments for the
202 child or minor parent's child;

203 4. Death of a close relative;

204 5. Observance of a religious holiday;

205 6. Family emergency;

206 7. Breakdown in transportation;

207 8. Suspension; or

208 9. Any other circumstance beyond the control
209 of the child, as defined in regulations of the department.

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

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

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

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

224 The child's parent or caretaker relative (whoever is the
225 primary recipient of the TANF benefits) may request a fair hearing

226 on the department's determination that the child has not been
227 attending school. If the child's parents or caretaker relative
228 does not request a fair hearing under this subsection, or if,
229 after a fair hearing has been held, the hearing officer finds that
230 the child without good cause has failed to meet the monthly
231 attendance requirement, the department shall discontinue or deny
232 TANF benefits to the child thirteen (13) years old, or older, in
233 the next possible payment month. The department shall discontinue
234 or deny twenty-five percent (25%) of the family grant when a child
235 six (6) through twelve (12) years of age without good cause has
236 failed to meet the monthly attendance requirement. Both the child
237 and family sanction may apply when children in both age groups
238 fail to meet the attendance requirement without good cause. A
239 sanction applied under this subsection shall be effective for one
240 (1) month for each month that the child failed to meet the monthly
241 attendance requirement. In the case of a dropout, the sanction
242 shall remain in force until the parent or caretaker relative
243 provides written proof from the school district that the child has
244 reenrolled and met the monthly attendance requirement for one (1)
245 calendar month. Any month in which school is in session for at
246 least ten (10) days during the month may be used to meet the
247 attendance requirement under this subsection. This includes
248 attendance at summer school. The sanction shall be removed the
249 next possible payment month.

250 (5) All parents or caretaker relatives shall have their
251 dependent children receive vaccinations and booster vaccinations
252 against those diseases specified by the State Health Officer
253 pursuant to Section 41-23-37 in accordance with the vaccination
254 and booster vaccination schedule prescribed by the State Health
255 Officer for children of that age, in order for the parents or
256 caretaker relatives to be eligible or remain eligible to receive
257 TANF benefits. Proof of having received such vaccinations and
258 booster vaccinations shall be given by presenting the certificates

259 of vaccination issued by any health care provider licensed to
260 administer vaccinations, and submitted on forms specified by the
261 State Board of Health. If the parents without good cause do not
262 have their dependent children receive the vaccinations and booster
263 vaccinations as required by this subsection and they fail to
264 comply after thirty (30) days' notice, the department shall
265 sanction the family's TANF benefits by twenty-five percent (25%)
266 for the next payment month and each subsequent payment month until
267 the requirements of this subsection are met.

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

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

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

289 (iii) Willfully fails to report for allowable work
290 activities as prescribed in subsections (6)(c) and (d).

291 (b) The Department of Human Services shall operate a
292 statewide work program for TANF recipients to provide work
293 activities and supportive services to enable families to become
294 self-sufficient and improve their competitive position in the work
295 force in accordance with the requirements of the federal Personal
296 Responsibility and Work Opportunity Reconciliation Act of 1996
297 (Public Law 104-193), as amended, and the regulations promulgated
298 thereunder. All adults who are not specifically exempt shall be
299 referred by the department for allowable work activities. An
300 adult may be exempt from the mandatory work activity requirement
301 for the following reasons:

302 (i) Incapacity;

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

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

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

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

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

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

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

319 or

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

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

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

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

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

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

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

- 372 (i) Job skills training directly related to
373 employment;
- 374 (ii) Education directly related to employment for
375 individuals who have not completed high school or received a high
376 school equivalency certificate;
- 377 (iii) Satisfactory attendance at high school or in
378 a course of study leading to a high school equivalency, for
379 individuals who have not completed high school or received such
380 equivalency certificate;
- 381 (iv) Job search and job readiness assistance
382 consistent with federal TANF regulations.

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

- 388 (i) For the first violation, the department shall
389 terminate the TANF assistance otherwise payable to the family for

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

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

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

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

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

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

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

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

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

456 advance to a caretaker relative, reimburse a child care provider,
457 or use any other arrangement deemed appropriate by the department,
458 and may establish different reimbursement rates for child care
459 services depending on the category of the facility or home. Any
460 center-based or group home child care facility under this
461 paragraph shall be licensed by the State Department of Health
462 pursuant to law. When child care is being provided in the child's
463 own home, in the home of a relative of the child, or in any other
464 unlicensed setting, the provision of such child care may be
465 monitored on a random basis by the Department of Human Services or
466 the State Department of Health. Transitional child care
467 assistance may be continued if it is necessary for parents to
468 maintain employment once support has ended, unless prohibited
469 under state or federal law. Transitional child care assistance
470 may be provided for up to twenty-four (24) months after the last
471 month during which the family was eligible for TANF assistance, if
472 federal funds are available for such child care assistance.

473 (8) The Department of Human Services may provide
474 transportation or provide reasonable reimbursement for
475 transportation expenses that are necessary for individuals to be
476 able to participate in allowable work activity under the TANF
477 program.

478 (9) Medicaid assistance shall be provided to a family of
479 TANF program participants for up to twenty-four (24) consecutive
480 calendar months following the month in which the participating
481 family would be ineligible for TANF benefits because of increased
482 income, expiration of earned income disregards, or increased hours
483 of employment of the caretaker relative; however, Medicaid
484 assistance for more than twelve (12) months may be provided only
485 if a federal waiver is obtained to provide such assistance for
486 more than twelve (12) months and federal and state funds are
487 available to provide such assistance.

488 (10) The department shall require applicants for and
489 recipients of public assistance from the department to sign a
490 personal responsibility contract that will require the applicant
491 or recipient to acknowledge his or her responsibilities to the
492 state.

493 (11) The department shall enter into an agreement with the
494 State Personnel Board and other state agencies that will allow
495 those TANF participants who qualify for vacant jobs within state
496 agencies to be placed in state jobs. State agencies participating
497 in the TANF work program shall receive any and all benefits
498 received by employers in the private sector for hiring TANF
499 recipients. This subsection (11) shall be effective only if the
500 state obtains any necessary federal waiver or approval and if
501 federal funds are available therefor.

502 (12) No new TANF program requirement or restriction
503 affecting a person's eligibility for TANF assistance, or allowable
504 work activity, which is not mandated by federal law or regulation
505 may be implemented by the Department of Human Services after July
506 1, 2004, unless such is specifically authorized by an amendment to
507 this section by the Legislature.

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