

By: Representative Holland

To: Public Health and Human Services

HOUSE BILL NO. 1260

1 AN ACT TO REENACT SECTIONS 43-1-1, 43-1-2, 43-1-3, 43-1-5 AND
2 43-1-6, MISSISSIPPI CODE OF 1972, WHICH CREATE THE DEPARTMENT OF
3 HUMAN SERVICES AND THE EXECUTIVE DIRECTOR OF HUMAN SERVICES AND
4 PRESCRIBE THEIR POWERS AND DUTIES, AND WHICH WERE REPEALED BY
5 OPERATION OF LAW ON JULY 1, 2004; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 43-1-1, Mississippi Code of 1972, is
8 reenacted as follows:

9 43-1-1. (1) The Department of Human Services shall be the
10 State Department of Public Welfare and shall retain all powers and
11 duties as granted to the State Department of Public Welfare.
12 Wherever the term "State Department of Public Welfare" or "State
13 Board of Public Welfare" appears in any law, the same shall mean
14 the Department of Human Services. The Executive Director of the
15 Department of Human Services may assign to the appropriate offices
16 such powers and duties deemed appropriate to carry out the lawful
17 functions of the department.

18 (2) This section shall stand repealed on July 1, 2006.

19 **SECTION 2.** Section 43-1-2, Mississippi Code of 1972, is
20 reenacted as follows:

21 43-1-2. (1) There is created the Mississippi Department of
22 Human Services, whose offices shall be located in Jackson,
23 Mississippi, and which shall be under the policy direction of the
24 Governor.

25 (2) The chief administrative officer of the department shall
26 be the Executive Director of Human Services. The Governor shall
27 appoint the Executive Director of Human Services with the advice
28 and consent of the Senate, and he or she shall serve at the will

29 and pleasure of the Governor, and until his or her successor is
30 appointed and qualified. The Executive Director of Human Services
31 shall possess the following qualifications:

32 (a) A bachelor's degree from an accredited institution
33 of higher learning and ten (10) years' experience in management,
34 public administration, finance or accounting; or

35 (b) A master's or doctoral degree from an accredited
36 institution of higher learning and five (5) years' experience in
37 management, public administration, finance or accounting.

38 Those qualifications shall be certified by the State
39 Personnel Board.

40 (3) There shall be a Joint Oversight Committee of the
41 Department of Human Services composed of the respective chairmen
42 of the Senate Public Health and Welfare Committee, the Senate
43 Appropriations Committee, the House Public Health and Human
44 Services Committee and the House Appropriations Committee, two (2)
45 members of the Senate appointed by the Lieutenant Governor to
46 serve at the will and pleasure of the Lieutenant Governor, and two
47 (2) members of the House of Representatives appointed by the
48 Speaker of the House to serve at the will and pleasure of the
49 Speaker. The chairmanship of the committee shall alternate for
50 twelve-month periods between the Senate members and the House
51 members, with the Chairman of the Senate Public Health and Welfare
52 Committee serving as the first chairman. The committee shall meet
53 once each month, or upon the call of the chairman at such times as
54 he or she deems necessary or advisable, and may make
55 recommendations to the Legislature pertaining to any matter within
56 the jurisdiction of the Department of Human Services. The
57 appointing authorities may designate an alternate member from
58 their respective houses to serve when the regular designee is
59 unable to attend the meetings of the oversight committee. For
60 attending meetings of the oversight committee, the legislators
61 shall receive per diem and expenses, which shall be paid from the

62 contingent expense funds of their respective houses in the same
63 amounts as provided for committee meetings when the Legislature is
64 not in session; however, no per diem and expenses for attending
65 meetings of the committee will be paid while the Legislature is in
66 session. No per diem and expenses will be paid except for
67 attending meetings of the oversight committee without prior
68 approval of the proper committee in their respective houses.

69 (4) The Department of Human Services shall provide the
70 services authorized by law to every individual determined to be
71 eligible therefor, and in carrying out the purposes of the
72 department, the executive director is authorized:

73 (a) To formulate the policy of the department regarding
74 human services within the jurisdiction of the department;

75 (b) To adopt, modify, repeal and promulgate, after due
76 notice and hearing, and where not otherwise prohibited by federal
77 or state law, to make exceptions to and grant exemptions and
78 variances from, and to enforce rules and regulations implementing
79 or effectuating the powers and duties of the department under any
80 and all statutes within the department's jurisdiction, all of
81 which shall be binding upon the county departments of human
82 services;

83 (c) To apply for, receive and expend any federal or
84 state funds or contributions, gifts, devises, bequests or funds
85 from any other source;

86 (d) Except as limited by Section 43-1-3, to enter into
87 and execute contracts, grants and cooperative agreements with any
88 federal or state agency or subdivision thereof, or any public or
89 private institution located inside or outside the State of
90 Mississippi, or any person, corporation or association in
91 connection with carrying out the programs of the department; and

92 (e) To discharge such other duties, responsibilities
93 and powers as are necessary to implement the programs of the
94 department.

95 (5) The executive director shall establish the
96 organizational structure of the Department of Human Services,
97 which shall include the creation of any units necessary to
98 implement the duties assigned to the department and consistent
99 with specific requirements of law including, but not limited to:

- 100 (a) Office of Family and Children's Services;
- 101 (b) Office of Youth Services;
- 102 (c) Office of Economic Assistance;
- 103 (d) Office of Child Support Enforcement.

104 (6) The Executive Director of Human Services shall appoint
105 heads of offices, bureaus and divisions, as defined in Section
106 7-17-11, who shall serve at the pleasure of the executive
107 director. The salary and compensation of the office, bureau and
108 division heads shall be subject to the rules and regulations
109 adopted and promulgated by the State Personnel Board as created
110 under Section 25-9-101 et seq. The executive director shall have
111 the authority to organize offices as deemed appropriate to carry
112 out the responsibilities of the department. The organization
113 charts of the department shall be presented annually with the
114 budget request of the Governor for review by the Legislature.

115 (7) This section shall stand repealed on July 1, 2006.

116 **SECTION 3.** Section 43-1-3, Mississippi Code of 1972, is
117 reenacted as follows:

118 43-1-3. Notwithstanding the authority granted under
119 subsection (4)(d) of Section 43-1-2, the Department of Human
120 Services or the Executive Director of Human Services shall not be
121 authorized to delegate, privatize or otherwise enter into a
122 contract with a private entity for the operation of any office,
123 bureau or division of the department, as defined in Section
124 7-17-11, without specific authority to do so by general act of the
125 Legislature. However, nothing in this section shall be construed
126 to invalidate (a) any contract of the department that is in place
127 and operational before January 1, 1994; or (b) the continued

128 renewal of any such contract with the same entity upon the
129 expiration of the contract; or (c) the execution of a contract
130 with another legal entity as a replacement of any such contract
131 that is expiring, provided that the replacement contract is
132 substantially the same as the expiring contract. Notwithstanding
133 any other provision of this section, the department shall be
134 authorized to continue the operation of its child support
135 collection program with a private entity on a pilot program basis
136 in Hinds and Warren Counties in Mississippi, and the department
137 and the private entity shall specifically be prohibited from
138 expanding the pilot program to any counties other than Hinds and
139 Warren Counties without specific authority to do so by amendment
140 to this section by general act of the Legislature.

141 This section shall stand repealed on July 1, 2006.

142 **SECTION 4.** Section 43-1-5, Mississippi Code of 1972, is
143 reenacted as follows:

144 43-1-5. It shall be the duty of the Department of Human
145 Services to:

146 (1) Establish and maintain programs not inconsistent with
147 the terms of this chapter and the rules, regulations and policies
148 of the Department of Human Services, and publish the rules and
149 regulations of the department pertaining to those programs.

150 (2) Make such reports in such form and containing such
151 information as the federal government may, from time to time,
152 require, and comply with such provisions as the federal government
153 may, from time to time, find necessary to assure the correctness
154 and verification of those reports.

155 (3) Within ninety (90) days after the end of each fiscal
156 year, and at each regular session of the Legislature, make and
157 publish one (1) report to the Governor and to the Legislature,
158 showing for the period of time covered, in each county and for the
159 state as a whole:

160 (a) The total number of recipients;

- 161 (b) The total amount paid to them in cash;
- 162 (c) The maximum and the minimum amount paid to any
163 recipients in any one (1) month;
- 164 (d) The total number of applications;
- 165 (e) The number granted;
- 166 (f) The number denied;
- 167 (g) The number cancelled;
- 168 (h) The amount expended for administration of the
169 provisions of this chapter;
- 170 (i) The amount of money received from the federal
171 government, if any;
- 172 (j) The amount of money received from recipients of
173 assistance and from their estates and the disposition of same;
- 174 (k) Such other information and recommendations as the
175 Governor may require or the department deems advisable;
- 176 (l) The number of state-owned automobiles purchased and
177 operated during the year by the department, the number purchased
178 and operated out of funds appropriated by the Legislature, the
179 number purchased and operated out of any other public funds, the
180 miles traveled per automobile, the total miles traveled, the
181 average cost per mile and depreciation estimate on each
182 automobile;
- 183 (m) The cost per mile and total number of miles
184 traveled by department employees in privately-owned automobiles,
185 for which reimbursement is made out of state funds;
- 186 (n) Each association, convention or meeting attended by
187 any department employees, the purposes thereof, the names of the
188 employees attending and the total cost to the state of the
189 convention, association or meeting;
- 190 (o) How the money appropriated to the institutions
191 under the jurisdiction of the department has been expended during
192 the preceding year, beginning and ending with the fiscal year of
193 each institution, exhibiting the salaries paid to officers and

194 employees of the institutions, and each and every item of receipt
195 and expenditure;

196 (p) The activities of each office within the department
197 and recommendations for improvement of the services to be
198 performed by each office;

199 (q) In order of authority, the twenty (20) highest paid
200 employees in the department receiving an annual salary in excess
201 of Forty Thousand Dollars (\$40,000.00), by PIN number, job title,
202 job description and annual salary.

203 Each report shall be balanced and shall begin with the
204 balance at the end of the preceding fiscal year, and if any
205 property belonging to the state or the institution is used for
206 profit, the report shall show the expenses incurred in managing
207 the property and the amount received from the same. Those reports
208 shall also show a summary of the gross receipts and gross
209 disbursements for each fiscal year and shall show the money on
210 hand at the beginning of the fiscal period of each division and
211 institution of the department.

212 This section shall stand repealed on July 1, 2006.

213 **SECTION 5.** Section 43-1-6, Mississippi Code of 1972, is
214 reenacted as follows:

215 43-1-6. The following programs within the Division of
216 Federal-State Programs, Office of the Governor, shall be
217 transferred to the Department of Human Services:

- 218 (a) Office of Energy and Community Services;
219 (b) Juvenile Justice Advisory Committee; and
220 (c) Mississippi Council on Aging.

221 All authority to implement those programs shall be vested in
222 the Department of Human Services.

223 This section shall stand repealed on July 1, 2006.

224 **SECTION 6.** This act shall take effect and be in force from
225 and after July 1, 2005.