

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2009
(As Sent to Governor)

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 ESTABLISH THE DEPARTMENT
3 OF HUMAN SERVICES, THE OFFICE OF EXECUTIVE DIRECTOR OF THE
4 DEPARTMENT, AND THE JOINT OVERSIGHT COMMITTEE OF THE DEPARTMENT
5 AND PRESCRIBE THEIR POWERS AND DUTIES, AND WHICH WERE REPEALED BY
6 OPERATION OF LAW ON JULY 1, 2004; TO AMEND REENACTED SECTIONS
7 43-1-1, 43-1-2, 43-1-3, 43-1-5 AND 43-1-6, MISSISSIPPI CODE OF
8 1972, TO PROVIDE THAT THOSE SECTIONS WILL STAND REPEALED ON JULY
9 1, 2009; TO RATIFY CERTAIN ACTIONS IN CONNECTION WITH THE
10 DEPARTMENT OF HUMAN SERVICES TAKEN BETWEEN JUNE 30, 2004, AND THE
11 EFFECTIVE DATE OF THIS ACT; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 43-1-1, Mississippi Code of 1972, is
14 reenacted and amended as follows:

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

24 (2) This section shall stand repealed on July 1, 2009.

25 **SECTION 2.** Section 43-1-2, Mississippi Code of 1972, is
26 reenacted and amended as follows:

27 43-1-2. (1) There is created the Mississippi Department of
28 Human Services, whose offices shall be located in Jackson,
29 Mississippi, and which shall be under the policy direction of the
30 Governor.

31 (2) The chief administrative officer of the department shall
32 be the Executive Director of Human Services. The Governor shall
33 appoint the Executive Director of Human Services with the advice
34 and consent of the Senate, and he shall serve at the will and
35 pleasure of the Governor, and until his successor is appointed and
36 qualified. The Executive Director of Human Services shall possess
37 the following qualifications:

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

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

44 Those qualifications shall be certified by the State
45 Personnel Board.

46 (3) There shall be a Joint Oversight Committee of the
47 Department of Human Services composed of the respective chairmen
48 of the Senate Public Health and Welfare Committee, the Senate
49 Appropriations Committee, the House Public Health and Human
50 Services Committee and the House Appropriations Committee, three
51 (3) members of the Senate appointed by the Lieutenant Governor to
52 serve at the will and pleasure of the Lieutenant Governor, and
53 three (3) members of the House of Representatives appointed by the
54 Speaker of the House to serve at the will and pleasure of the
55 Speaker. The chairmanship of the committee shall alternate for
56 twelve-month periods between the Senate members and the House
57 members, on May 1 of each year, with the Chairman of the Senate
58 Public Health and Welfare Committee serving as * * * chairman
59 beginning in even-numbered years, and the Chairman of the House
60 Public Health and Human Services Committee serving as chairman
61 beginning in odd-numbered years. The committee shall meet once
62 each quarter, or upon the call of the chairman at such times as he
63 deems necessary or advisable, and may make recommendations to the

64 Legislature pertaining to any matter within the jurisdiction of
65 the Mississippi Department of Human Services. The appointing
66 authorities may designate an alternate member from their
67 respective houses to serve when the regular designee is unable to
68 attend such meetings of the oversight committee. For attending
69 meetings of the oversight committee, such legislators shall
70 receive per diem and expenses which shall be paid from the
71 contingent expense funds of their respective houses in the same
72 amounts as provided for committee meetings when the Legislature is
73 not in session; however, no per diem and expenses for attending
74 meetings of the committee will be paid while the Legislature is in
75 session. No per diem and expenses will be paid except for
76 attending meetings of the oversight committee without prior
77 approval of the proper committee in their respective houses.

78 (4) The * * * Department of Human Services shall provide the
79 services authorized by law to every individual determined to be
80 eligible therefor, and in carrying out the purposes of the
81 department, the executive director is authorized:

82 (a) To formulate the policy of the department regarding
83 human services within the jurisdiction of the department;

84 (b) To adopt, modify, repeal and promulgate, after due
85 notice and hearing, and where not otherwise prohibited by federal
86 or state law, to make exceptions to and grant exemptions and
87 variances from, and to enforce rules and regulations implementing
88 or effectuating the powers and duties of the department under any
89 and all statutes within the department's jurisdiction, all of
90 which shall be binding upon the county departments of human
91 services;

92 (c) To apply for, receive and expend any federal or
93 state funds or contributions, gifts, devises, bequests or funds
94 from any other source;

95 (d) Except as limited by Section 43-1-3, to enter into
96 and execute contracts, grants and cooperative agreements with any

97 federal or state agency or subdivision thereof, or any public or
98 private institution located inside or outside the State of
99 Mississippi, or any person, corporation or association in
100 connection with carrying out the programs of the department; and

101 (e) To discharge such other duties, responsibilities
102 and powers as are necessary to implement the programs of the
103 department.

104 (5) The executive director shall establish the
105 organizational structure of the Mississippi Department of Human
106 Services which shall include the creation of any units necessary
107 to implement the duties assigned to the department and consistent
108 with specific requirements of law, including, but not limited to:

109 (a) Office of Family and Children's Services;

110 (b) Office of Youth Services;

111 (c) Office of Economic Assistance;

112 (d) Office of Child Support Enforcement.

113 (6) The Executive Director of Human Services shall appoint
114 heads of offices, bureaus and divisions, as defined in Section
115 7-17-11, who shall serve at the pleasure of the executive
116 director. The salary and compensation of such office, bureau and
117 division heads shall be subject to the rules and regulations
118 adopted and promulgated by the State Personnel Board as created
119 under Section 25-9-101 et seq. The executive director shall have
120 the authority to organize offices as deemed appropriate to carry
121 out the responsibilities of the department. The organization
122 charts of the department shall be presented annually with the
123 budget request of the Governor for review by the Legislature.

124 (7) This section shall stand repealed on July 1, 2009.

125 **SECTION 3.** Section 43-1-3, Mississippi Code of 1972, is
126 reenacted and amended as follows:

127 43-1-3. Notwithstanding the authority granted under
128 subsection (4)(d) of Section 43-1-2, the Department of Human
129 Services or the Executive Director of Human Services shall not be

130 authorized to delegate, privatize or otherwise enter into a
131 contract with a private entity for the operation of any office,
132 bureau or division of the department, as defined in Section
133 7-17-11, without specific authority to do so by general act of the
134 Legislature. However, nothing in this section shall be construed
135 to invalidate (i) any contract of the department that is in place
136 and operational before January 1, 1994; or (ii) the continued
137 renewal of any such contract with the same entity upon the
138 expiration of the contract; or (iii) the execution of a contract
139 with another legal entity as a replacement of any such contract
140 that is expiring, provided that the replacement contract is
141 substantially the same as the expiring contract. * * *

142 This section shall stand repealed on July 1, 2009.

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

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

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

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

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

161 (a) The total number of recipients;

162 (b) The total amount paid to them in cash;

163 (c) The maximum and the minimum amount paid to any
164 recipients in any one month;

165 (d) The total number of applications;

166 (e) The number granted;

167 (f) The number denied;

168 (g) The number cancelled;

169 (h) The amount expended for administration of the
170 provisions of this chapter;

171 (i) The amount of money received from the federal
172 government, if any;

173 (j) The amount of money received from recipients of
174 assistance and from their estates and the disposition of same;

175 (k) Such other information and recommendations as the
176 Governor may require or the department shall deem advisable;

177 (l) The number of state-owned automobiles purchased and
178 operated during the year by the department, the number purchased
179 and operated out of funds appropriated by the Legislature, the
180 number purchased and operated out of any other public funds, the
181 miles traveled per automobile, the total miles traveled, the
182 average cost per mile and depreciation estimate on each
183 automobile;

184 (m) The cost per mile and total number of miles
185 traveled by department employees in privately-owned automobiles,
186 for which reimbursement is made out of state funds;

187 (n) Each association, convention or meeting attended by
188 any department employees, the purposes thereof, the names of the
189 employees attending and the total cost to the state of such
190 convention, association or meeting;

191 (o) How the money appropriated to the institutions
192 under the jurisdiction of the department has been expended during
193 the preceding year, beginning and ending with the fiscal year of
194 each institution, exhibiting the salaries paid to officers and

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

197 (p) The activities of each office within the Department
198 of Human Services and recommendations for improvement of the
199 services to be performed by each division;

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

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

213 This section shall stand repealed on July 1, 2009.

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

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

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

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

224 This section shall stand repealed on July 1, 2009.

225 **SECTION 6.** The Department of Human Services created by
226 Section 2 of this act is a continuation of the Department of Human
227 Services that existed on June 30, 2004, and the Joint Oversight

228 Committee created by Section 2 of this act is a continuation of
229 the Joint Oversight Committee that existed on June 30, 2004. It
230 is the intention of this Senate Bill No. 2009, 2005 Regular
231 Session, to resolve all issues and matters in the Order Appointing
232 a Receiver for the Department of Human Services issued by the
233 Chancery Court of the First Judicial District of Hinds County,
234 Mississippi, in the case of State of Mississippi, Ex Rel. Jim
235 Hood, Attorney General v. Haley Barbour, Governor, et al., Cause
236 No. 62004-1170, and the Attorney General shall file appropriate
237 motions in the chancery court to dismiss this case. Provided,
238 however, all actions taken by the receivership referred to in said
239 court order between June 30, 2004, and the effective date of this
240 act that would have been lawful if they had been taken by the
241 Department of Human Services as it existed on June 30, 2004,
242 pursuant to the department's powers or duties as they existed on
243 June 30, 2004, or pursuant to any powers or duties of the
244 department provided for by any state law enacted during the 2004
245 or 2005 Regular Sessions or any federal law or regulation that was
246 in effect between June 30, 2004, and the effective date of this
247 act, are retroactively ratified, confirmed and validated. In
248 addition, all actions taken by the State Fiscal Officer, the State
249 Treasurer and their respective employees between June 30, 2004,
250 and the effective date of this act in connection with the
251 expenditure by the receivership referred to in said court order of
252 any of the funds appropriated to the Department of Human Services
253 by House Bill No. 1747, 2004 Regular Session, are retroactively
254 ratified, confirmed and validated.

255 **SECTION 7.** This act shall take effect and be in force from
256 and after its passage.