

By: Representative Holden

To: Judiciary B

HOUSE BILL NO. 828

1 AN ACT TO AMEND SECTION 41-37-25, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE AN AUTOPSY TO BE PERFORMED ON CHILDREN AGED SEVEN YEARS  
3 OR UNDER WHO DIE AS THE RESULT OF CHILD ABUSE; AND FOR RELATED  
4 PURPOSES.

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

6 SECTION 1. Section 41-37-25, Mississippi Code of 1972, is  
7 amended as follows:

8 41-37-25. An autopsy may be performed without court order by  
9 a qualified physician when authorized by (a) the decedent, during  
10 his lifetime, or (b) any of the following persons who shall have  
11 assumed custody of the body for the purpose of burial: A  
12 surviving spouse, either parent or any person in loco parentis, a  
13 descendant over the age of eighteen years, a guardian, or the next  
14 of kin. In the absence of any of the foregoing persons any friend  
15 of the deceased who has assumed responsibility for burial, or any  
16 other person charged by law with responsibility for burial, may  
17 give such consent. If two (2) or more persons have assumed  
18 custody of the body of an adult for purposes of burial, the  
19 consent of one (1) such person shall be deemed sufficient.

20 In the case of a minor, however, the consent of either parent  
21 shall be deemed sufficient, unless the other parent gives written  
22 notice to the physician who is to perform the autopsy of such

23 parent's objection thereto prior to the commencement of the  
24 autopsy. In the event that neither parent has legal custody of  
25 the minor, the guardian shall have the right to authorize an  
26 autopsy. In the case of a child age seven (7) years or under who  
27 dies as the result of child abuse, an autopsy shall be performed,  
28 notwithstanding parental objection. The fees provided in this  
29 chapter for autopsies in criminal investigations shall not be  
30 applicable to this section.

31 No autopsy shall be held under this section over the  
32 objection of the surviving spouse, or if there be no surviving  
33 spouse, or any surviving parent, or if there be neither a  
34 surviving spouse nor parent, then of any surviving child.

35 SECTION 2. This act shall take effect and be in force from  
36 and after July 1, 1999.