

By: Banks, Fleming, Straughter, Wallace,
West

To: Public Health and
Welfare; Judiciary B

HOUSE BILL NO. 1201

1 AN ACT TO AMEND SECTIONS 41-37-13, 41-61-65, 41-61-67,
2 47-5-151 AND 99-41-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
3 PARENTS OF DECEASED PERSONS ON WHICH AN AUTOPSY IS PERFORMED SHALL
4 BE PROVIDED A COPY OF THE AUTOPSY REPORT; AND FOR RELATED
5 PURPOSES.

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

7 SECTION 1. Section 41-37-13, Mississippi Code of 1972, is
8 amended as follows:[JU1]

9 41-37-13. In all cases where an autopsy is performed as
10 provided in section 41-37-9, the person making said autopsy shall
11 file a report, in duplicate, of said autopsy with the circuit
12 clerk of the county where the death is being investigated. Such
13 circuit clerk shall keep and preserve said report and make it
14 available to the district attorney, county prosecuting attorney,
15 grand jury, coroner, * * * the accused, and the parents of the
16 deceased.

17 SECTION 2. Section 41-61-65, Mississippi Code of 1972, is
18 amended as follows:

19 41-61-65. (1) If, in the opinion of the medical examiner
20 investigating the case, it is advisable and in the public interest
21 that an autopsy or other study be made for the purpose of
22 determining the primary and/or contributing cause of death, an
23 autopsy or other study shall be made by the State Medical Examiner
24 or by a competent pathologist designated by the State Medical
25 Examiner. The State Medical Examiner or designated pathologist
26 may retain any tissues as needed for further postmortem studies or
27 documentation. A complete autopsy report of findings and

28 interpretations, prepared on forms designated for this purpose,
29 shall be submitted promptly to the State Medical Examiner. Copies
30 of the report shall be furnished to the authorizing medical
31 examiner, district attorney and court clerk. A copy of the report
32 shall be furnished to one (1) adult member of the immediate family
33 of the deceased or the legal representative or legal guardian of
34 members of the immediate family of the deceased upon request, and
35 if such adult member, legal guardian or legal representative is
36 not a parent of the deceased, a copy shall be provided to the
37 parents. In determining the need for an autopsy, the medical
38 examiner may consider the request from the district attorney or
39 county prosecuting attorney, law enforcement or other public
40 officials or private persons. However, if the death occurred in
41 the manner specified in subsection (2)(j) of Section 41-61-59, an
42 autopsy shall be performed by the State Medical Examiner or his
43 designated pathologist, and the report of findings shall be
44 forwarded promptly to the State Medical Examiner, investigating
45 medical examiner, the infant's attending physician and the local
46 sudden infant death syndrome coordinator.

47 (2) Any medical examiner or duly licensed physician
48 performing authorized investigations and/or autopsies as provided
49 in Sections 41-61-51 through 41-61-79, who, in good faith,
50 complies with the provisions of Sections 41-61-51 through
51 41-61-79, in the determination of the cause and/or manner of death
52 for the purpose of certification of that death, shall not be
53 liable for damages on account thereof, and shall be immune from
54 any civil liability that might otherwise be incurred or imposed.

55 (3) Family members or others who disagree with the medical
56 examiner's determination shall be able to petition and present
57 written argument to the State Medical Examiner for further review.
58 If the petitioner still disagrees, he may petition the circuit
59 court which may, in its discretion, hold a formal hearing. All
60 cost of the petitioning and hearing shall be borne by the
61 petitioner.

62 SECTION 3. Section 41-61-67, Mississippi Code of 1972, is
63 amended as follows:

64 41-61-67. (1) In any case of death where the body is or has

65 been buried without investigation by a medical examiner as to the
66 cause and manner of death, or where sufficient cause develops for
67 further investigation after a body has been buried as determined
68 by a medical examiner, the State Medical Examiner shall authorize
69 an investigation and send a report of the investigation with
70 recommendations to the appropriate district attorney. The
71 district attorney may forward the report to the circuit court
72 having jurisdiction of the matter and petition the court for
73 disinterment. The circuit judge may order that the body be
74 exhumed and that an autopsy be performed by the State Medical
75 Examiner. A report of the autopsy and other pathological studies
76 shall be delivered to the judge and to the parents of the
77 deceased. However, in cases of suspected homicide, the State
78 Medical Examiner shall be able to authorize disinterment for the
79 purposes of autopsy. The cost of the exhumation, autopsy,
80 transportation and disposition of the body shall be paid by the
81 county for which the service is provided.

82 (2) Any person may petition the circuit court for an order
83 of exhumation. Upon a showing of sufficient cause, the court may
84 order the body exhumed. The cost incurred shall be assigned to
85 the petitioner.

86 SECTION 4. Section 47-5-151, Mississippi Code of 1972, is
87 amended as follows:

88 47-5-151. The superintendent (warden) or other person in
89 charge of prisoners, upon the death of any prisoner under his care
90 and control, shall at once notify the county medical examiner or
91 county medical examiner investigator (hereinafter "medical
92 examiner") of the county in which said prisoner died, of the death
93 of the prisoner, and it shall be the duty of such medical
94 examiner, when so notified of the death of such person, to obtain
95 a court order and notify the State Medical Examiner of the death
96 of such prisoner. It shall be mandatory that the State Medical
97 Examiner cause an autopsy to be performed upon the body of the

98 deceased prisoner. Furthermore, the State Medical Examiner shall
99 investigate any case where a person is found dead on the premises
100 of the correctional system, in accordance with Sections 41-61-51
101 through 41-61-79. The State Medical Examiner shall make a written
102 report of his investigation, and shall furnish a copy of the same,
103 including the autopsy report, to the superintendent (warden) and a
104 copy of the same to the district attorney of the county in which
105 said prisoner died and to the parents of the deceased. The copy
106 so furnished to the district attorney shall be turned over by the
107 district attorney to the grand jury, and it shall be the duty of
108 the grand jury, if there be any suspicion of wrongdoing shown by
109 the inquest papers, to thoroughly investigate the cause of such
110 death.

111 It shall be the duty of the medical examiner of the county in
112 which said prisoner died to arrange for the remains to be
113 transported to the State Medical Examiner for said autopsy, and
114 accompanying the remains shall be the court order for autopsy and
115 any documents or records pertaining to the deceased prisoner,
116 institutional health records or other information relating to the
117 circumstances surrounding the prisoner's death. The State Medical
118 Examiner shall arrange for the remains to be transported to the
119 county in which said prisoner died following completion of the
120 autopsy. If the remains are not claimed for burial within
121 forty-eight (48) hours after autopsy, then said remains may be
122 delivered to the University of Mississippi Medical Center for use
123 in medical research or anatomical study.

124 The provisions herein set forth in the first paragraph shall
125 likewise apply to any case in which any person is found dead on
126 the premises of the Mississippi State Penitentiary except that the
127 autopsy to be performed on the body of such a person shall not be
128 mandatory upon a person who is not a prisoner unless the medical
129 examiner determines that the death resulted from circumstances
130 raising questions as to the cause of death, in which case the

131 medical examiner may cause an autopsy to be performed upon the
132 body of such deceased person in the same manner as authorized to
133 be performed upon the body of a deceased prisoner.

134 Provided further, that the provisions herein shall apply with
135 respect to any deceased prisoner who at the time of death is being
136 detained by duly constituted state authority such as the Columbia
137 Training School, Oakley Training School, Mississippi State
138 Hospital at Whitfield, East Mississippi State Hospital, or any
139 other state institution.

140 The provisions of this section shall not apply to a prisoner
141 who was lawfully executed as provided in Sections 99-19-49 through
142 99-19-55.

143 Any officer or employee of the prison system or any other
144 officer, employee or person having charge of any prisoner who
145 shall fail to immediately notify the medical examiner of the death
146 of such prisoner, shall be guilty of a misdemeanor and, upon
147 conviction thereof, shall be punished by a fine of not less than
148 One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars
149 (\$500.00) and by confinement in the county jail for not more than
150 one (1) year.

151 SECTION 5. Section 99-41-15, Mississippi Code of 1972, is
152 amended as follows:

153 99-41-15. (1) Any person filing a claim under the
154 provisions of this chapter shall be deemed to have waived any
155 physician-patient privilege as to the communications or records
156 relevant to an issue of the physical, mental or emotional
157 conditions of the claimant. However, any record or report
158 obtained by the director, the confidentiality of which is
159 otherwise protected by any other law or regulation, shall remain
160 confidential, subject to such law or regulation.

161 (2) If the mental, physical or emotional condition of a
162 claimant is material to a claim, the director, upon good cause
163 shown, may order the claimant to submit to a mental or physical

164 examination and may order an autopsy of a deceased victim. The
165 order shall specify the time, place, manner, conditions and scope
166 of the examination or autopsy and the person by whom it is to be
167 made. The order shall also require the person to file with the
168 director a detailed written report of the examination or autopsy.

169 The report shall set out the findings of the person making the
170 report, including the results of all tests made, the diagnosis,
171 prognosis and other conclusions and reports of earlier
172 examinations of the same conditions.

173 (3) The director shall furnish a copy of the report
174 examined. If the victim is deceased the director shall furnish a
175 copy of the report to the claimant on request, and if the claimant
176 is someone other than the parents of the deceased, the parents
177 shall be provided a copy of the report.

178 (4) The director may require the claimant to supply any
179 additional medical or psychological reports available relating to
180 the injury or death for which compensation is claimed.

181 SECTION 6. This act shall take effect and be in force from
182 and after July 1, 2000.