

By: Holland

To: County Affairs

## HOUSE BILL NO. 1509

1 AN ACT TO AMEND SECTION 41-61-63, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE THAT A CORONER SHALL NOT USE HIS POSITION OR AUTHORITY  
3 TO FAVOR ANY PARTICULAR FUNERAL HOME; TO AMEND SECTION 41-61-57,  
4 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE MEDICAL EXAMINER  
5 TO IMPOSE A CIVIL PENALTY UPON ANY CORONER WHO USES HIS POSITION  
6 OR AUTHORITY TO FAVOR A PARTICULAR FUNERAL HOME; AND FOR RELATED  
7 PURPOSES.

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

9 SECTION 1. Section 41-61-57, Mississippi Code of 1972, is  
10 amended as follows:[HS1]

11 41-61-57. (1) There are hereby created the positions of  
12 county medical examiners and county medical examiner  
13 investigators, to be established as herein provided through  
14 successful completion of the death investigation training school  
15 provided for in subsection (5) of this section. Each county  
16 medical examiner (CME) shall be a doctor of medicine (M.D.) or  
17 osteopathic medicine (D.O.) licensed in the State of Mississippi.  
18 Each county medical examiner investigator (CMEI) shall be a  
19 nonphysician who shall, as a minimum, possess a high school  
20 graduation diploma or its equivalent. Extra consideration for the  
21 CMEI position may be given for experience and/or training in  
22 health-related fields and medicolegal death investigations.

23 (2) Each coroner elected in the 1987 general election and  
24 thereafter, upon successful completion of the death investigation  
25 training school provided for in subsection (5) of this section,  
26 shall be recognized as a county medical examiner or county medical  
27 examiner investigator, according to the qualifications set out in  
28 subsection (1) of this section, and shall be designated the chief

29 for the county in which he was elected. If the elected or  
30 appointed coroner fails to successfully complete the death  
31 investigation training school, and thus is unable to take the oath  
32 of office, as provided in Section 19-21-105, there shall promptly  
33 be appointed a coroner pro tempore in the manner prescribed by  
34 Section 9-1-27, and that person shall be designated the chief  
35 county medical examiner or county medical examiner investigator  
36 until the time of the next death investigation training school,  
37 which he must successfully complete or be removed from office.  
38 Any elected coroner who has failed to successfully complete the  
39 death investigation training school may attend any subsequent  
40 death investigation training school conducted during the term for  
41 which he was elected, and upon the successful completion thereof,  
42 he shall become the chief CME or CMEI for the county in which he  
43 was elected. The coroner pro tempore then shall become a deputy  
44 CME or CMEI, provided he has successfully completed the death  
45 investigation training school. Notwithstanding anything in this  
46 section to the contrary, each coroner holding office on July 1,  
47 1986, shall be the chief CME or CMEI for the county in which he  
48 was elected through the expiration of his term in January 1988  
49 without having to attend the death investigation training school;  
50 however, he may voluntarily attend any such school conducted prior  
51 to that time.

52 (3) There shall be at least one (1) county medical examiner  
53 and/or county medical examiner investigator for each county, and  
54 one (1) county medical examiner or county medical examiner  
55 investigator shall be designated as the chief for each county,  
56 except as otherwise provided in subsection (4) of this section.  
57 Any county may have deputy county medical examiners or deputy  
58 county medical examiner investigators as deemed necessary who  
59 shall be appointed jointly by the board of supervisors and the CME  
60 or CMEI. However, when the population of a county reaches a total  
61 of twenty thousand (20,000) or greater, there shall be one or more  
62 officially appointed deputies. Deputies shall be subject to the  
63 same qualifications, training and certification requirements, and  
64 shall possess the same authority and discharge the same duties, as  
65 other county medical examiners or county medical examiner

66 investigators, and shall receive fees and expenses as provided in  
67 Sections 41-61-69 and 41-61-75. Any CME or CMEI may be removed by  
68 the State Medical Examiner prior to the expiration of his term as  
69 CME or CMEI for inefficiency, or other good cause, and the State  
70 Medical Examiner may impose such civil penalty as he deems  
71 appropriate upon any CME, CMEI or coroner who violates the  
72 provisions of Section 41-61-63, after written notice and a hearing  
73 in compliance with due process law.

74 (4) One (1) person may serve as the chief CME or CMEI for  
75 two (2) or more adjacent counties when that person consents and  
76 the boards of supervisors of each county involved and the State  
77 Medical Examiner consent in writing. Each respective county  
78 involved shall be responsible for payment for the services given  
79 to that county by the chief CME or CMEI.

80 (5) Chief and deputy CME's and CMEI's shall attend the death  
81 investigation training school provided by the Mississippi Crime  
82 Laboratory and the State Medical Examiner, and shall successfully  
83 complete subsequent testing on the subject material by the State  
84 Medical Examiner at least once every four (4) years. Room, board  
85 and transportation expenses for attending the school shall be  
86 borne by the county in which the CME or CMEI is serving. In  
87 addition to the above training, the individual shall receive at  
88 least twenty-four (24) hours annually of continuing education as  
89 prescribed and certified by the State Medical Examiner. If the  
90 above requirements for training or continuing education are not  
91 met, the individual immediately shall be disqualified and removed  
92 from office as CME and/or CMEI. Reapplication for the office may  
93 be made the following year after removal.

94 SECTION 2. Section 41-61-63, Mississippi Code of 1972, is  
95 amended as follows:[HS2]

96 41-61-63. (1) The State Medical Examiner shall:

97 (a) Provide assistance, consultation and training to  
98 county medical examiners, county medical examiner investigators

99 and law enforcement officials.

100 (b) Keep complete records of all relevant information  
101 concerning deaths or crimes requiring investigation by the medical  
102 examiners.

103 (c) Promulgate rules and regulations regarding the  
104 manner and techniques to be employed while conducting autopsies;  
105 the nature, character and extent of investigations to be made into  
106 deaths affecting the public interest to allow a medical examiner  
107 to render a full and complete analysis and report; the format and  
108 matters to be contained in all reports rendered by the medical  
109 examiners; and all other things necessary to carry out the  
110 purposes of Sections 41-61-51 through 41-61-79. The State Medical  
111 Examiner shall make such amendments to these rules and regulations  
112 as may be necessary. All medical examiners, coroners and law  
113 enforcement officers shall be subject to such rules.

114 (d) Cooperate with the crime detection and medical  
115 examiner laboratories authorized by Section 45-1-17, the  
116 University Medical Center, the Attorney General, law enforcement  
117 agencies, the courts and the State of Mississippi.

118 (2) In addition, the medical examiners shall:

119 (a) Upon receipt of notification of a death affecting  
120 the public interest, make inquiries regarding the cause and manner  
121 of death, reduce the findings to writing and promptly make a full  
122 report to the State Medical Examiner on forms prescribed for that  
123 purpose. The medical examiner shall be authorized to inspect and  
124 copy the medical reports of the decedent whose death is under  
125 investigation. However, the records copied shall be maintained as  
126 confidential so as to protect the doctor/patient privilege. The  
127 medical examiners shall be authorized to request the issuance of  
128 subpoenas, through the proper court, for the attendance of persons  
129 and for the production of documents as may be required by their  
130 investigation.

131 (b) Complete the medical examiner's portion of the

132 certificate of death within seventy-two (72) hours of assuming  
133 jurisdiction over a death, and forward the certificate to the  
134 funeral director or to the family. The medical examiner's portion  
135 of the certificate of death shall include the decedent's name, the  
136 date and time of death, the cause of death and the certifier's  
137 signature. If determination of the cause and/or manner of death  
138 are pending an autopsy or toxicological or other studies, these  
139 sections on the certificate may be marked "pending," with  
140 amendment and completion to follow the completion of the  
141 postmortem studies. The State Medical Examiner shall be  
142 authorized to amend a death certificate; however, the State  
143 Medical Examiner is not authorized to change or amend any death  
144 certificate after he has resigned or been removed from his office  
145 as the State Medical Examiner. Where an attending physician  
146 refuses to sign a certificate of death, or in case of any death,  
147 the State Medical Examiner or properly qualified designee may sign  
148 the death certificate.

149 (c) Cooperate with other agencies as provided for the  
150 State Medical Examiner in subsection (1)(d) of this section.

151 (d) In all investigations of deaths affecting the  
152 public interest where an autopsy will not be performed, obtain or  
153 attempt to obtain postmortem blood, urine and/or vitreous fluids.  
154 Medical examiners may also obtain rectal temperature measurements,  
155 known hair samples, radiographs, gunshot residue/wiping studies,  
156 fingerprints, palm prints and other noninvasive studies as the  
157 case warrants and/or as directed by the State Medical Examiner.  
158 Decisions may be made in consultation with investigating law  
159 enforcement officials and/or the State Medical Examiner. The cost  
160 of all studies not performed by the Mississippi Crime Laboratory  
161 shall be borne by the county. County medical examiner  
162 investigators shall be authorized to obtain these postmortem  
163 specimens themselves following successful completion of the death  
164 investigation training school.

165           (3) The medical examiner, including CME, CMEI or coroner,  
166 shall not use his position or authority to favor any particular  
167 funeral home or funeral homes. A violation of this subsection (3)  
168 subjects the medical examiner to a civil penalty as provided in  
169 Section 41-61-57.

170           (4) The State Medical Examiner shall obtain such liability  
171 insurance as deemed appropriate to the needs of the office, and  
172 may be sued by anyone affected to the extent of such insurance  
173 carried; however, immunity from suit is only waived to the extent  
174 of such liability insurance carried, and a judgment creditor shall  
175 have recourse only to the proceeds or right to proceeds of such  
176 liability insurance. No attempt shall be made in the trial of any  
177 case to suggest the existence of any insurance which covers in  
178 whole or in part any judgment or award rendered in favor of a  
179 claimant, but if the verdict rendered by the jury exceeds the  
180 limit of applicable insurance, the court on motion shall reduce  
181 the amount of the judgment to a sum equal to the applicable limit  
182 stated in the insurance policy. This subsection (4) shall stand  
183 repealed from and after July 1, 1993, by operation of law.

184           SECTION 3. This act shall take effect and be in force from  
185 and after July 1, 2000.