

By: Kirby

To: Insurance

SENATE BILL NO. 3156

1 AN ACT TO CREATE A NEW SECTION TO BE CODIFIED AS SECTION
2 25-15-18, MISSISSIPPI CODE OF 1972, TO PROVIDE SUBROGATION RIGHTS
3 UNDER THE STATE AND SCHOOL EMPLOYEES HEALTH INSURANCE PLAN; AND
4 FOR RELATED PURPOSES.

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

6 SECTION 1. The following shall be codified as Section
7 25-15-18, Mississippi Code of 1972:

8 25-15-18. (1) If medical assistance is provided to an
9 employee or dependant under this article for injuries, disease or
10 sickness caused under circumstances creating a cause of action in
11 favor of the employee or eligible dependent against any person,
12 firm or corporation, then the board or its designee shall be
13 entitled to recover the proceeds that may result from the exercise
14 of any rights of recovery which the employee or dependent may have
15 against any such person, firm or corporation to the extent of the
16 actual amount of the medical payments made by the plan on behalf
17 of the employee or dependent. The employee dependent shall
18 execute and deliver instruments and papers to do whatever is
19 necessary to secure such rights and shall do nothing after the
20 medical assistance is provided to prejudice the subrogation rights
21 of the board. The board or its designee may compromise or settle
22 any such claim and execute a release of any claim it has by virtue
23 of this section.

24 (2) The acceptance of medical assistance under this article
25 or making of a claim thereunder shall not affect the right of the
26 employee, dependent or his legal representative to recover the
27 medical assistance payments made by the plan as an element of

28 special damages in any action at law; however, a copy of the
29 pleadings shall be mailed certified to the board or its designee
30 at the time of the institution of suit, and proof of such notice
31 shall be filed of record in such action. The board, at any time
32 before the trial on the facts, may join in such action or may
33 intervene therein. Any amount recovered by an employee, dependent
34 or legal representative shall be applied in the order as follows:

35 (a) The reasonable cost of the collection, including
36 attorney's fees, as approved and allowed by the court having
37 jurisdiction based upon admissible evidence or, in case of
38 settlement without suit, by the board or its designee;

39 (b) The actual amount of the medical assistance
40 payments made by the plan on behalf of the employee, or dependent
41 or such pro rata amount as may be arrived at by the board or its
42 designee and the employee, dependent or his legal representative,
43 or as set by the court having jurisdiction, based upon admissible
44 evidence, using the order of precedence of liens set forth herein.

45 (c) Any excess shall be awarded to the employee or
46 dependent.

47 (3) No compromise of any claim by the employee, dependent or
48 his legal representative shall be binding upon or affect the
49 rights of the board against the third party unless the board or
50 its designee has entered into the compromise. Any compromise
51 effected by the employee, dependent or legal representative with
52 the third party in the absence of advance notification to and
53 approval by the board or its designee shall constitute conclusive
54 evidence of the liability of the third party, and the board or its
55 designee in litigating its claim against the third party shall be
56 required only to prove the amount and correctness of its claim
57 relating to such injury, disease or sickness. It is further
58 provided that should the employee, dependent or his legal
59 representative fail to notify the board or its designee of the
60 institution of legal proceedings against a third party for which
61 the board has a cause of action, the facts relating to negligence
62 and the liability of the third party, if judgment is rendered for
63 the employee or dependent, shall constitute conclusive evidence of
64 liability in a subsequent action maintained by the board or its

65 designee and only the amount and correctness of the board's claim
66 relating to the injuries, disease or sickness shall be tried
67 before the court. The board shall be authorized in bringing such
68 action against the third party and his insurer jointly or against
69 the insurer alone.

70 (4) Nothing herein shall be construed to diminish or
71 otherwise restrict the subrogation right of the board against a
72 third party for medical assistance paid by the plan in behalf of
73 the employee or dependent as a result of injuries, disease or
74 sickness caused under circumstances creating a cause of action in
75 favor of the employee or dependent against such a third party.

76 SECTION 2. This act shall take effect and be in force from
77 and after July 1, 2000.