

By: Representative Reeves

To: Judiciary A

HOUSE BILL NO. 341

1 AN ACT TO AMEND SECTION 83-49-13, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THE INSURED A CHOICE OF ATTORNEYS UNDER A PREPAID LEGAL  
3 SERVICES INSURANCE PLAN; TO AMEND SECTION 83-49-5, MISSISSIPPI  
4 CODE OF 1972, TO REVISE DEFINITIONS; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 83-49-5, Mississippi Code of 1972, is  
7 amended as follows:

8 83-49-5. In this chapter, the following terms shall have the  
9 following meanings:

10 (a) "Sponsor" means any insurer, as defined in this  
11 section, or any other corporation organized for the exclusive  
12 purpose of establishing and operating prepaid legal services  
13 plans.

14 (b) "Prepaid legal services plan" or "plan" means any  
15 arrangement whereby responsibility is undertaken to provide or  
16 arrange for, or to pay for or reimburse any part of the cost of,  
17 any legal services for a consideration consisting in part of  
18 prepaid or periodic charges or dues; but the provisions of this  
19 chapter shall not apply to the benefits available under automobile  
20 club membership contracts and automobile liability insurance  
21 policies which supply limited legal services or reimbursement for  
22 legal services in automobile-related matters under certificates of  
23 authority issued by the Insurance Commissioner, or to any legal  
24 aid or other legal services program for the indigent, or to any  
25 employer-employee legal services plan which is excluded from the  
26 provisions of this chapter by the provisions of the Federal

27 Employee Retirement Income Security Act of 1974, or any amendments  
28 thereto.

29 (c) "Legal services" means any services normally  
30 provided by an attorney, as well as the payment of court costs and  
31 related expenses incurred in the exercise of any right; but not  
32 including the payment of fines, penalties, judgments or  
33 assessments. "Legal services" shall not include any service  
34 provided by an attorney in regard to a tort action.

35 (d) "Advertising" means any communication, other than a  
36 solicitation, as hereinafter defined, to the public or any segment  
37 thereof by means of radio, television, newspaper, magazine,  
38 periodical, brochure, pamphlet, circular, or any other means, the  
39 apparent purpose or reasonable effect of which would be to convey  
40 information purporting to relate to or describe legal rights,  
41 legal services, attorneys or prepaid legal services plans.

42 (e) "Solicitation" means any communication, written or  
43 oral, in person, or by means of telephone, radio, television,  
44 newspaper, magazine, periodical, brochure, circular, or otherwise,  
45 of any offer of coverage in a prepaid legal services plan, or  
46 invitation, or request to enroll in a prepaid legal services plan,  
47 or attempt to obtain consideration for the coverage of a prepaid  
48 legal services plan, or any other device, the apparent purpose or  
49 reasonable effect of which would be to induce the recipient  
50 thereof to enroll in, or pay any consideration for the coverage  
51 provided by, a prepaid legal services plan.

52 (f) "Commissioner" means the Insurance Commissioner of  
53 the State of Mississippi.

54 (g) "Subscriber" means any person who has been enrolled  
55 in a prepaid legal services plan and is entitled to receive the  
56 benefits provided in the plan.

57 (h) "Subscription contract" means any contract signed  
58 by an authorized representative of a prepaid legal services plan  
59 and an individual or an authorized representative of his group or

60 employer or labor union or other entity with which he is  
61 affiliated, under which the individual becomes a subscriber to the  
62 plan.

63           (i) "Insurer," as defined in this chapter means an  
64 insurer licensed to transact life or casualty insurance in this  
65 state.

66           (j) "Attorney" means an active member of the  
67 Mississippi Bar.

68           SECTION 2. Section 83-49-13, Mississippi Code of 1972, is  
69 amended as follows:

70           83-49-13. (1) Any sponsor of any prepaid legal services  
71 plan, or authorized representative thereof, may enter into a  
72 subscription contract with any person, or with any person's  
73 employer, or with any other person or group acting in his or its  
74 behalf; provided, however, that:

75           (a) No such subscription contract shall be written for  
76 a period longer than three (3) years; and

77           (b) In the case of subscription contracts issued to  
78 groups, no member of the group shall be bound by the subscription  
79 contract unless he indicates in writing to the group no earlier  
80 than ten (10) days after the date on which he has received  
81 effective notice of the terms and benefits of the plan and the  
82 intention of his group to contract for such plan that he does wish  
83 to become a subscriber and to be bound by the subscription  
84 contract. The notice received by such member shall contain,  
85 without limitation, the provisions itemized in subsection (2)  
86 hereinbelow.

87           (2) Every subscription contract shall be in writing and  
88 shall contain the following provisions:

89           (a) A brief statement of the plan's financial  
90 structure, including a statement of the amount of any premiums,  
91 charges or dues to be charged or currently being charged and the  
92 manner in which such amount is to be paid;

93           (b) A statement of the amount of benefits,  
94 reimbursement or indemnity to be furnished to each subscriber, and  
95 the period during which it will be furnished; and, if there are  
96 exceptions, reductions, exclusions, limitations or restrictions of  
97 such benefits reimbursement or indemnity, a detailed statement of  
98 such exceptions, reductions, exclusions, limitations or  
99 restrictions;

100           (c) A statement of the terms and conditions upon which  
101 the subscription contract may be cancelled or otherwise terminated  
102 by the sponsor or by the subscriber or by his employer or by his  
103 group. Provided, that any such cancellation or termination by the  
104 sponsor shall not become effective unless accomplished in  
105 accordance with the provisions of Sections 83-11-5, 83-11-9,  
106 83-11-13, 83-11-15, 83-11-17, 83-11-19 and 83-11-21;

107           (d) A statement describing the applicability or  
108 nonapplicability of the benefits of the plan to the family  
109 dependents of the subscriber;

110           (e) A statement of the period of grace which will be  
111 allowed the subscriber or his employer or group for making any  
112 payment due under the subscription contract, which period shall  
113 not be less than twenty (20) days;

114           (f) A statement describing a procedure for settling  
115 disputes between or among the sponsor, participating or staff  
116 attorneys, and the subscribers;

117           (g) A statement that the subscription contract includes  
118 the endorsements thereon and attached papers, if any, and contains  
119 the entire contract; and

120           (h) A statement that no statements by the subscriber or  
121 his employee or group in the application for the contract shall  
122 void the subscription contract or be used in any legal proceeding  
123 thereunder, unless such application or an exact copy thereof is  
124 included in or attached to such subscription contract.

125 (3) A sponsor may provide a benefit plan which would provide  
126 only a telephone service for advice or consultation. Such  
127 telephone service shall not recommend a particular attorney to the  
128 subscriber.

129 (4) A sponsor may provide a benefit plan which would provide  
130 legal service including telephone advice or consultation and may  
131 create a list of attorneys to provide the legal services.  
132 However, if the sponsor creates such a list, the list must include  
133 all those attorneys who are active members of the Mississippi Bar  
134 and who agree to the payment terms of the sponsor. The benefit  
135 plan shall not:

136 (a) Prohibit or limit any subscriber from selecting an  
137 attorney of his choice who has agreed to participate in the plan  
138 according to the terms offered by the sponsor;

139 (b) Deny an attorney the right to participate as a  
140 legal services provider under the plan if the attorney agrees to  
141 provide legal services that meets the terms and requirements set  
142 forth by the sponsor and agrees to the terms of reimbursement set  
143 forth by the sponsor;

144 (c) Impose a monetary advantage or penalty that would  
145 affect a subscriber's choice among those attorneys who have agreed  
146 to participate in the plan according to the terms offered by the  
147 sponsor; or

148 (d) Deny or reduce payment of benefits because the  
149 subscriber selects an attorney of his or her choice if that  
150 attorney has enrolled with the plan under the terms offered to all  
151 attorneys in the state.

152 (5) Every subscriber shall be furnished a copy of his  
153 subscription contract, and every employer or other group shall be  
154 furnished a copy of the subscription contract signed by it.

155 (6) The sponsor shall be required to file a "specimen" copy  
156 of each subscription contract it uses, and a copy of its  
157 underwriting rules with the commissioner and a copy thereof shall

158 also be sent to the Mississippi Bar by the sponsor. Such filings  
159 shall be approved by the commissioner before used, however, such  
160 filings with the commissioner shall be deemed approved ninety (90)  
161 days after the date such filing is received by the commissioner,  
162 unless, prior to the expiration of said ninety-day period, the  
163 commissioner notified the sponsor of the prepaid legal services  
164 plan in writing of the commissioner's disapproval. The  
165 commissioner shall require that all such subscription contracts  
166 shall be fair and reasonable, and shall not approve any  
167 subscription contracts or underwriting rules that are unfair or  
168 inequitable or contrary to the public policy of this state, or  
169 would, because such provisions are unclear or deceptively worded  
170 or encourage misrepresentation.

171 SECTION 3. This act shall take effect and be in force from  
172 and after July 1, 2001.