HOUSE BILL NO. 967

AN ACT TO PROVIDE FOR THE RELEASE OF MEDICAL RECORDS AND TO PROVIDE FOR THE PAYMENT OF THE COSTS THEREOF; TO AMEND SECTION 41-9-77, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD SECTIONS 41-9-103 AND 41-9-117, MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE USE OF MEDICAL RECORDS IN JUDICIAL PROCEEDINGS; AND FOR RELATED PURPOSES.

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

SECTION 1. Any patient of a physician, hospital or any other health care provider who signs a medical information release authorization shall have such records released to authorized recipients as provided by this section. No physician, hospital or any other health care provider may charge more than the actual cost of reproducing such information and the cost of forwarding the information to the recipient. A physician, hospital or any other health care provider may charge reasonable fees for additional duties such as interpreting medical records, providing a synopsis of medical records or any other service not related to reproduction and forwarding. Any person who violates the provisions of this section, upon conviction, shall be fined One Thousand Dollars ($1,000.00).

SECTION 2. Section 41-9-77, Mississippi Code of 1972, is amended as follows:

41-9-77. Any hospital may, in its discretion, cause any hospital record or part thereof to be reproduced on film or in any other acceptable form of medium, as determined by the licensing agency, which shall include, but not be limited to, microfilming, photographing, photostating or storage on optical disks. After the records have been reproduced, the hospital may retire the original documents so reproduced. Any such reproduction or copy
of an original hospital record or part thereof shall be deemed to be the original hospital record or part thereof for all purposes, shall be subject to retention and retirement as provided in Sections 41-9-69 through 41-9-73, and shall be admissible as evidence in all courts or administrative agencies to the same extent as the original would be or would have been admissible. A facsimile, exemplification or copy of such reproduction or copy shall be deemed to be a transcript, exemplification or copy of the original hospital record or part thereof. However, no state hospital shall undertake such reproduction or destruction of records except as provided in Section 25-59-1 et seq. No other public hospital shall undertake such reproduction unless the expense thereof has been provided for in the annual budget, or an amendment thereof, approved for such public hospital. Any records reproduced upon release and authorization by a patient shall be paid for as provided in Section 1 of this act.

SECTION 3. Section 41-9-103, Mississippi Code of 1972, is brought forward as follows:

41-9-103. Except as hereinafter provided, when a subpoena duces tecum is served upon a custodian of records of any hospital duly licensed under the laws of this state in an action or proceeding in which the hospital is neither a party nor the place where any cause of action is alleged to have arisen and such subpoena requires the production of all or any part of the records of the hospital relating to the care or treatment of a patient in such hospital, it shall be sufficient compliance therewith if the custodian or other officer of the hospital shall, on or before the time specified in the subpoena duces tecum, file with the court clerk or the officer, body or tribunal conducting the hearing, a true and correct copy (which may be a copy reproduced on film or other reproducing material by microfilming, photographing, photostating or other approximate process, or a facsimile,
SECTION 4. Section 41-9-117, Mississippi Code of 1972, is brought forward as follows:

41-9-117. In view of the property right of the hospital in its records, original records may be withdrawn after introduction into evidence and copies substituted, unless otherwise directed for good cause by the court, judge, officer, body, or tribunal conducting the hearing. The custodian may prepare copies of original records in advance of testifying for the purpose of making substitution of the original record, and the reasonable charges for making such copies shall be taxed as costs of court.

If copies are not prepared in advance, they can be made and substituted at any time after introduction of the original record, and the reasonable charges for making such copies shall be taxed as costs of court.

SECTION 5. This act shall take effect and be in force from and after July 1, 2001.