

By: Representative Scott (80th)

To: Judiciary B;  
Appropriations

HOUSE BILL NO. 1069

1 AN ACT TO BE KNOWN AS THE EMMITT LOUIS TILL VICTIMS'  
2 COMPENSATION ACT; TO PRESCRIBE THE BASIS OF CLAIMS UNDER THE ACT;  
3 TO EXPRESS THE LEGISLATIVE INTENT IN ESTABLISHING THIS ACT; TO  
4 PROVIDE CONDITIONS AND EXCEPTIONS FOR AWARDS; TO PRESCRIBE A  
5 PENALTY FOR FALSE CLAIMS; TO CREATE A SPECIAL FUND TO BE KNOWN AS  
6 THE EMMITT LOUIS TILL VICTIMS' COMPENSATION FUND; TO AMEND  
7 SECTIONS 99-41-7, 99-41-9 AND 99-41-11, MISSISSIPPI CODE OF 1972,  
8 IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED  
9 PURPOSES.

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

11 SECTION 1. This act shall be known and may be cited as "The  
12 Emmitt Louis Till Victims' Compensation Act."

13 SECTION 2. It is the intent of the Legislature to provide a  
14 method of compensating those persons who are lawful survivors of  
15 persons who were innocent victims of racially motivated criminal  
16 acts evincing racial animus or hatred that were committed between  
17 the years of 1945 and 1970. To this end, it is the Legislature's  
18 intention to provide compensation for the lawful survivors of  
19 victims of such acts, not to exceed One Hundred Thousand Dollars  
20 (\$100,000.00) per group of claimants who are lawful survivors of a  
21 single victim.

22 SECTION 3. As used in this act, unless the context otherwise  
23 requires, the term:

24 (a) "Claimant" means any person applying for  
25 compensation under this act who is a lawful survivor of a victim  
26 as defined by this act;

27 (b) "Racially motivated criminal conduct" means an act  
28 occurring within the geographical boundaries of this state between  
29 the years of 1945 and 1970, inclusive, which act resulted in the

30 death of a victim, and includes, but is not limited to, lynching,  
31 bombing, burning, shooting or hanging. The conduct must have  
32 evinced racial animus or hatred;

33 (c) "Department" means the Department of Finance and  
34 Administration;

35 (d) "Director" means the Victim Compensation Director  
36 as prescribed in Section 99-41-7;

37 (e) "Lawful survivor" means the surviving spouse or any  
38 direct descendant, per stirpes, of a victim;

39 (f) "Victim" means a person who suffered death in the  
40 State of Mississippi between the years of 1945 and 1970 as a  
41 result of racially motivated criminal conduct by Mississippi  
42 citizens.

43 SECTION 4. (1) Compensation shall not be awarded under this  
44 act:

45 (a) Unless the racially motivated criminal conduct  
46 occurred between January 1, 1945, and December 31, 1970;

47 (b) Unless the claim has been filed with the Victim  
48 Compensation Director within five (5) years from the date of this  
49 act;

50 (c) Unless the racially motivated criminal conduct  
51 resulted in death;

52 (d) If, following the filing of an application, the  
53 claimant failed to take further steps as required by the director  
54 to support the application, within ninety (90) days of such  
55 request made by the director, or failed to otherwise cooperate  
56 with requests of the director to determine eligibility unless  
57 failure to provide information was beyond the control of the  
58 claimant;

59 (e) In excess of One Hundred Thousand Dollars  
60 (\$100,000.00) in the aggregate for all the lawful survivors of a  
61 single victim.

62           (2) The director, on his own motion or on request of the  
63 claimant, may reconsider a decision granting or denying an award  
64 or determining its amount. An order of reconsideration of an  
65 award shall not require a refund of amounts previously paid unless  
66 the award was obtained by fraud. The right of reconsideration  
67 does not affect the finality of the decision concerning the amount  
68 of compensation for the purpose of judicial review.

69           (3) Claims shall be filed, hearings held, and appeals  
70 governed by Section 99-41-1 et seq., except where to do so would  
71 be inconsistent with this act.

72           SECTION 5. (1) Claims shall be made under oath. The filing  
73 of a false claim for compensation pursuant to this act shall  
74 constitute a misdemeanor and shall be punishable by a fine not to  
75 exceed One Thousand Dollars (\$1,000.00), or by imprisonment in the  
76 county jail for a term not to exceed one (1) year, or by both such  
77 fine and imprisonment, and the person convicted shall, as part of  
78 the sentence in either case, be required to repay to the Emmitt  
79 Louis Till Victims' Compensation Fund the amount received pursuant  
80 to the false claim.

81           (2) Any person who shall knowingly furnish any false  
82 information or knowingly fails or omits to disclose a material  
83 fact or circumstance with the intent to defraud the department for  
84 compensation pursuant to this act shall be guilty of a misdemeanor  
85 and shall be punished by a fine not to exceed One Thousand Dollars  
86 (\$1,000.00), or by imprisonment in the county jail for a term not  
87 to exceed one (1) year, or both, and the person convicted shall,  
88 as part of the sentence in either case, be required to repay to  
89 the Emmitt Louis Till Victims' Compensation Fund the total amount  
90 received pursuant to the false claim.

91           (3) If a payment or overpayment of compensation is made  
92 because of clerical error, mistaken identity, innocent  
93 misrepresentation by or on behalf of the recipient of the  
94 compensation award or other circumstances of a similar nature not

95 induced by fraud by or on behalf of the recipient, the recipient  
96 is liable for repayment of the compensation. The department may  
97 waive, decrease or adjust the amount of the repayment of the  
98 compensation.

99       SECTION 6. (1) From and after July 1, 2000, there is  
100 created in the State Treasury a special interest-bearing fund to  
101 be known as the Emmitt Louis Till Victims' Compensation Fund. The  
102 purpose of the fund shall be to provide for the payment of awards  
103 of compensation pursuant to this act and the payment of all  
104 necessary and proper expenses incurred by the department in the  
105 administration of this act. Expenditures from the fund shall be  
106 paid by the State Treasurer upon warrants issued by the Department  
107 of Finance and Administration, and upon requisitions signed by the  
108 executive director of the department or his duly designated  
109 representative in the manner provided by law. The fund shall be a  
110 continuing fund, not subject to fiscal-year limitations, and shall  
111 consist of: (a) monies appropriated by the Legislature for the  
112 purposes of compensating claimants under this act; (b) the  
113 interest accruing to the fund; (c) monies received from the  
114 federal government; and (d) monies received from such other  
115 sources as may be provided by law.

116       (2) No compensation payments shall be made which exceed the  
117 amount of money in the fund. The state shall not be liable for a  
118 written order to pay compensation, except to the extent that  
119 monies are available in the fund on the date the award is ordered.  
120 The department shall establish such rules and regulations as shall  
121 be necessary to adjust awards and payments so that the total  
122 amount awarded does not exceed the amount of money on deposit in  
123 the fund. Such rules and regulations may include, but shall not  
124 be limited to, the authority to provide for suspension of payments  
125 and proportioned reduction of benefits to all claimants; however,  
126 no such reductions as provided for shall entitle claimants to  
127 future retroactive reimbursements in future years.

128 SECTION 7. Section 99-41-7, Mississippi Code of 1972, is  
129 amended as follows:

130 99-41-7. There is hereby created in the Department of  
131 Finance and Administration the position of Victim Compensation  
132 Director, hereafter referred to as "director." The duties of the  
133 director shall include receipt, investigation, verification and  
134 adjudication of a claim for compensation under the provisions of  
135 this chapter and the Emmitt Louis Till Victims' Compensation Act.  
136 The director shall be appointed by the executive director of the  
137 department.

138 SECTION 8. Section 99-41-9, Mississippi Code of 1972, is  
139 amended as follows:

140 99-41-9. In addition to any other powers and duties  
141 specified elsewhere in this chapter, the department is hereby  
142 authorized to:

143 (a) Except as otherwise provided by this chapter,  
144 regulate the procedures for the director to expedite his functions  
145 and adopt rules and regulations for the position of director;

146 (b) Define any term not defined in this chapter in a  
147 manner not inconsistent with this chapter;

148 (c) Prescribe forms necessary to carry out the purposes  
149 of this chapter and make such forms available for use in making  
150 applications for compensation;

151 (d) Authorize the director to take judicial notice of  
152 general, technical and scientific facts within the director's  
153 specialized knowledge;

154 (e) Publicize the availability of compensation and  
155 information regarding the filing of claims and ask that public  
156 officials and law enforcement agencies take reasonable care that  
157 victims be informed about the availability of compensation and the  
158 procedure for applying for compensation;

159 (f) Apply for funds from and to submit all necessary  
160 forms to any federal agency participating in a cooperative program

161 to compensate victims of crimes, and to apply for and accept any  
162 gifts, bequests, grants, donations or funds from other sources,  
163 public or private, for carrying out the provisions of this  
164 chapter; \* \* \*

165 (g) Adopt such rules and regulations as shall be  
166 necessary for carrying out the provisions of this chapter; and

167 (h) Perform all the duties and possess all the powers  
168 enumerated in this section in connection with the administration  
169 of claims under the Emmitt Louis Till Victims' Compensation Act.

170 SECTION 9. Section 99-41-11, Mississippi Code of 1972, is  
171 amended as follows:

172 99-41-11. (1) The director shall award compensation for  
173 economic loss arising from criminally injurious conduct if  
174 satisfied by a preponderance of the evidence that the requirements  
175 for compensation have been met.

176 (2) The director shall make such investigations, administer  
177 such oaths or affirmations and receive such evidence as he deems  
178 relevant and necessary to make a determination on any application  
179 received. The director shall have the power to subpoena  
180 witnesses, compel their attendance and require the production of  
181 records and other evidence. Application to a court for aid in  
182 enforcing a subpoena may be made in the name of the director. To  
183 the extent that funds are appropriated or otherwise available, the  
184 department may employ such personnel, including expert witnesses,  
185 as may be required in connection with particular applications  
186 before the director, and the director may take judicial notice of  
187 general, technical and scientific facts within his specialized  
188 knowledge.

189 (3) The director may settle a claim by stipulation, agreed  
190 settlement, consent order or default.

191 (4) The director may request access to and obtain from  
192 prosecuting attorneys or law enforcement officers, as well as  
193 state and local agencies, any reports of investigations or other

194 data necessary to assist the director in making a determination of  
195 eligibility for compensation under the provisions of this chapter.

196 (5) Notwithstanding any other provision of law, every law  
197 enforcement agency and prosecuting attorney in the state shall  
198 provide to the director, upon request, a complete copy of the  
199 report regarding the incident and any supplemental reports  
200 involving the crime or incident giving rise to a claim filed  
201 pursuant to this chapter within thirty (30) days of such request.

202 (6) Any statute providing for the confidentiality of a  
203 claimant or victim's court record shall not be applicable under  
204 this chapter, notwithstanding the provisions of any other law to  
205 the contrary; provided, however, any such record or report which  
206 is otherwise protected from public disclosure by the provisions of  
207 any other law shall otherwise remain subject to the provisions of  
208 such law.

209 (7) The director may require that the claimant submit with  
210 the application material substantiating the facts stated in the  
211 application.

212 (8) After processing an application for compensation filed  
213 under rules and regulations promulgated by the department, the  
214 director shall enter an order stating:

215 (a) Findings of fact;

216 (b) The decision as to whether or not compensation  
217 shall be awarded;

218 (c) The amount of compensation, if any, due under this  
219 chapter;

220 (d) The person or persons to whom any compensation  
221 should be paid;

222 (e) The percentage share of the total of any  
223 compensation award and the dollar amount each person shall  
224 receive; and

225 (f) Whether disbursement of any compensation awarded  
226 shall be made in a lump sum or in periodic payments.

227 (9) The director on his own motion or on request of the  
228 claimant may reconsider a decision granting or denying an award or  
229 determining its amount. An order on reconsideration of an award  
230 shall not require a refund of amounts previously paid unless the  
231 award was obtained by fraud.

232 (10) If a claimant disagrees with the decision of the  
233 director, he may contest such decision to the deputy director of  
234 the department within fifteen (15) days after notification of  
235 issuance of the decision. There shall be no appeal of a decision  
236 of the director except as set forth in this subsection.

237 (11) In a contested case, all parties shall be afforded an  
238 opportunity for a hearing after reasonable notice pursuant to  
239 regulations promulgated pursuant to this chapter and may offer  
240 evidence and argument on any issue relevant to the claim and may  
241 examine witnesses and offer evidence in reply to any matter of an  
242 evidentiary nature relevant to the claim. The deputy director  
243 shall have the power to subpoena witnesses, compel their  
244 attendance and require the production of records and other  
245 evidence. The decision of the deputy director becomes the final  
246 decision of the department. A record of the hearing in a  
247 contested case shall be made and shall be transcribed upon request  
248 of any party who shall pay transcription costs unless otherwise  
249 ordered by the deputy director.

250 (12) The director shall award compensation for racially  
251 motivated criminal conduct pursuant to Section 99-42-1 et seq.,  
252 and shall exercise all the duties and privileges conferred by this  
253 section in the conduct of that responsibility where not  
254 inconsistent with the terms and conditions of awards from the  
255 fund.

256 SECTION 10. This act shall take effect and be in force from  
257 and after July 1, 2001.