HOUSE BILL NO. 1069

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

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

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

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

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

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

(b) "Racially motivated criminal conduct" means an act occurring within the geographical boundaries of this state between the years of 1945 and 1970, inclusive, which act resulted in the
death of a victim, and includes, but is not limited to, lynching, bombing, burning, shooting or hanging. The conduct must have evinced racial animus or hatred;

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

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

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

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

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

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

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

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

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

(e) In excess of One Hundred Thousand Dollars ($100,000.00) in the aggregate for all the lawful survivors of a single victim.
(2) The director, on his own motion or on request of the claimant, may reconsider a decision granting or denying an award or determining its amount. An order of reconsideration of an award shall not require a refund of amounts previously paid unless the award was obtained by fraud. The right of reconsideration does not affect the finality of the decision concerning the amount of compensation for the purpose of judicial review.

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

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

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

(3) If a payment or overpayment of compensation is made because of clerical error, mistaken identity, innocent misrepresentation by or on behalf of the recipient of the compensation award or other circumstances of a similar nature not
induced by fraud by or on behalf of the recipient, the recipient is liable for repayment of the compensation. The department may waive, decrease or adjust the amount of the repayment of the compensation.

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

(2) No compensation payments shall be made which exceed the amount of money in the fund. The state shall not be liable for a written order to pay compensation, except to the extent that monies are available in the fund on the date the award is ordered. The department shall establish such rules and regulations as shall be necessary to adjust awards and payments so that the total amount awarded does not exceed the amount of money on deposit in the fund. Such rules and regulations may include, but shall not be limited to, the authority to provide for suspension of payments and proportioned reduction of benefits to all claimants; however, no such reductions as provided for shall entitle claimants to future retroactive reimbursements in future years.
SECTION 7. Section 99-41-7, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

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

(f) Apply for funds from and to submit all necessary forms to any federal agency participating in a cooperative program.
to compensate victims of crimes, and to apply for and accept any
gifts, bequests, grants, donations or funds from other sources,
public or private, for carrying out the provisions of this
chapter; * * *

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

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

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

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

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

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

(4) The director may request access to and obtain from
prosecuting attorneys or law enforcement officers, as well as
state and local agencies, any reports of investigations or other
data necessary to assist the director in making a determination of eligibility for compensation under the provisions of this chapter.

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

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

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

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

(a) Findings of fact;

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

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

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

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

(f) Whether disbursement of any compensation awarded shall be made in a lump sum or in periodic payments.
The director on his own motion or on request of the claimant may reconsider a decision granting or denying an award or determining its amount. An order on reconsideration of an award shall not require a refund of amounts previously paid unless the award was obtained by fraud.

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

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

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

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