

By: Representative Holland

To: Public Health and
Welfare

HOUSE BILL NO. 1090

1 AN ACT TO AMEND SECTION 41-57-13, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE STATE MEDICAL EXAMINER SHALL ISSUE ALL
3 AMENDMENT FORMS FOR AMENDING DEATH CERTIFICATES; TO PROVIDE THAT
4 BEFORE ANY AMENDMENTS ARE MADE TO ITEMS IN THE MEDICAL
5 CERTIFICATION OR OF A MEDICAL NATURE ON A DEATH CERTIFICATE, THE
6 STATE DEPARTMENT OF HEALTH SHALL NOTIFY THE PERSON ORIGINALLY
7 CERTIFYING THE INFORMATION OR THE STATE MEDICAL EXAMINER,
8 WHICHEVER DID NOT SUBMIT THE AMENDMENT FORM; TO PROVIDE THAT IN
9 CHANCERY COURT PROCEEDINGS FOR AMENDMENTS TO A DEATH CERTIFICATE,
10 THE STATE MEDICAL EXAMINER AND THE COUNTY MEDICAL EXAMINER OR
11 COUNTY MEDICAL EXAMINER INVESTIGATOR WHO CERTIFIED THE INFORMATION
12 SHALL BE MADE DEFENDANTS, IN ADDITION TO THE STATE DEPARTMENT OF
13 HEALTH; TO AMEND SECTION 41-61-65, MISSISSIPPI CODE OF 1972, TO
14 PROVIDE THAT IN CIRCUIT COURT PROCEEDINGS DISPUTING THE MEDICAL
15 EXAMINER'S DETERMINATION IN AN AUTOPSY, THE STATE MEDICAL EXAMINER
16 AND THE COUNTY MEDICAL EXAMINER OR COUNTY MEDICAL EXAMINER
17 INVESTIGATOR WHO CERTIFIED THE INFORMATION SHALL BE MADE
18 DEFENDANTS; TO AMEND SECTION 41-61-63, MISSISSIPPI CODE OF 1972,
19 TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
20 PURPOSES.

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

22 SECTION 1. Section 41-57-13, Mississippi Code of 1972, is
23 amended as follows:

24 41-57-13. (1) Death certificate errors in the recording of
25 personal information of the deceased may be corrected by affidavit
26 of the informant and the funeral director of the funeral home that
27 disposed of the body. Items in the medical certification or of a
28 medical nature may be amended upon receipt of the specified
29 amendment form from (a) the person originally certifying the
30 information or, if that person is deceased or incapacitated, from
31 the person responsible for the completion of such items, or (b)
32 the State Medical Examiner. The State Medical Examiner shall
33 issue all amendment forms for amending death certificates. Before
34 any amendments are made to items in the medical certification or

35 of a medical nature as certified under Section 41-61-59, the State
36 Department of Health shall notify the person specified in either
37 paragraph (a) or (b) who did not submit the amendment form. All
38 other amendments to a death certificate require adjudication by a
39 chancery court in the county of residence of the complainant or in
40 any chancery court district in the state if the complainant is a
41 nonresident. In all such proceedings, the State Department of
42 Health, the State Medical Examiner and the county medical examiner
43 or county medical examiner investigator who certified the
44 information shall be made defendants. No death certificate shall
45 be changed or amended by the State Medical Examiner or any county
46 medical examiner or county medical examiner investigator after he
47 has resigned or been removed from his office as the State Medical
48 Examiner, county medical examiner or county medical examiner
49 investigator.

50 (2) The local registrar of births and deaths in each county
51 in the state shall, at least monthly, supply the county registrar,
52 the tax assessor and the chairman of the county election
53 commission of each county a list of deaths in the counties of
54 individuals of voting age who have not been previously listed.
55 Such lists shall include the following information for each
56 deceased person: full name (as recorded on the death
57 certificate), social security number, date of death, sex, race,
58 age and usual place of residence.

59 (3) No such payment as is provided for in Section 41-57-11
60 shall be made by the board of supervisors unless and until the
61 local registrar shall certify that a list of all deaths of
62 individuals of voting age has been filed with the county voting
63 registrar, tax assessor and with the chairman of the county
64 election commission of the last county of residence of the
65 decedent in this state.

66 (4) In the event that the decedent is a female, who at the
67 time of her death was between the ages of ten (10) and fifty (50)

68 years old, the physician, medical examiner, coroner or other
69 official who certifies the decedent's cause of death shall
70 indicate, where appropriately designated, on the death certificate
71 whether (a) the decedent was pregnant at the time of her death;
72 (b) the decedent had given birth within the preceding ninety (90)
73 days; or (c) the decedent had a miscarriage within the preceding
74 ninety (90) days.

75 SECTION 2. Section 41-61-65, Mississippi Code of 1972, is
76 amended as follows:

77 41-61-65. (1) If, in the opinion of the medical examiner
78 investigating the case, it is advisable and in the public interest
79 that an autopsy or other study be made for the purpose of
80 determining the primary and/or contributing cause of death, an
81 autopsy or other study shall be made by the State Medical Examiner
82 or by a competent pathologist designated by the State Medical
83 Examiner. The State Medical Examiner or designated pathologist
84 may retain any tissues as needed for further postmortem studies or
85 documentation. A complete autopsy report of findings and
86 interpretations, prepared on forms designated for this purpose,
87 shall be submitted promptly to the State Medical Examiner. Copies
88 of the report shall be furnished to the authorizing medical
89 examiner, district attorney and court clerk. A copy of the report
90 shall be furnished to one (1) adult member of the immediate family
91 of the deceased or the legal representative or legal guardian of
92 members of the immediate family of the deceased upon request. In
93 determining the need for an autopsy, the medical examiner may
94 consider the request from the district attorney or county
95 prosecuting attorney, law enforcement or other public officials or
96 private persons. However, if the death occurred in the manner
97 specified in subsection (2)(j) of Section 41-61-59, an autopsy
98 shall be performed by the State Medical Examiner or his designated
99 pathologist, and the report of findings shall be forwarded
100 promptly to the State Medical Examiner, investigating medical

101 examiner, the infant's attending physician and the local sudden
102 infant death syndrome coordinator.

103 (2) Any medical examiner or duly licensed physician
104 performing authorized investigations and/or autopsies as provided
105 in Sections 41-61-51 through 41-61-79 who, in good faith, complies
106 with the provisions of Sections 41-61-51 through 41-61-79 in the
107 determination of the cause and/or manner of death for the purpose
108 of certification of that death, shall not be liable for damages on
109 account thereof, and shall be immune from any civil liability that
110 might otherwise be incurred or imposed.

111 (3) Family members or others who disagree with the medical
112 examiner's determination shall be able to petition and present
113 written argument to the State Medical Examiner for further review.
114 If the petitioner still disagrees, he may petition the circuit
115 court which may, in its discretion, hold a formal hearing. In all
116 such proceedings, the State Medical Examiner and the county
117 medical examiner or county medical examiner investigator who
118 certified the information shall be made defendants. All costs of
119 the petitioning and hearing shall be borne by the petitioner.

120 SECTION 3. Section 41-61-63, Mississippi Code of 1972, is
121 amended as follows:

122 41-61-63. (1) The State Medical Examiner shall:

123 (a) Provide assistance, consultation and training to
124 county medical examiners, county medical examiner investigators
125 and law enforcement officials.

126 (b) Keep complete records of all relevant information
127 concerning deaths or crimes requiring investigation by the medical
128 examiners.

129 (c) Promulgate rules and regulations regarding the
130 manner and techniques to be employed while conducting autopsies;
131 the nature, character and extent of investigations to be made into
132 deaths affecting the public interest to allow a medical examiner
133 to render a full and complete analysis and report; the format and

134 matters to be contained in all reports rendered by the medical
135 examiners; and all other things necessary to carry out the
136 purposes of Sections 41-61-51 through 41-61-79. The State Medical
137 Examiner shall make such amendments to these rules and regulations
138 as may be necessary. All medical examiners, coroners and law
139 enforcement officers shall be subject to such rules.

140 (d) Cooperate with the crime detection and medical
141 examiner laboratories authorized by Section 45-1-17, the
142 University of Mississippi Medical Center, the Attorney General,
143 law enforcement agencies, the courts and the State of Mississippi.

144 (e) Issue all amendment forms for amending death
145 certificates.

146 (2) In addition, the medical examiners shall:

147 (a) Upon receipt of notification of a death affecting
148 the public interest, make inquiries regarding the cause and manner
149 of death, reduce the findings to writing and promptly make a full
150 report to the State Medical Examiner on forms prescribed for that
151 purpose. The medical examiner shall be authorized to inspect and
152 copy the medical reports of the decedent whose death is under
153 investigation. However, the records copied shall be maintained as
154 confidential so as to protect the doctor/patient privilege. The
155 medical examiners shall be authorized to request the issuance of
156 subpoenas, through the proper court, for the attendance of persons
157 and for the production of documents as may be required by their
158 investigation.

159 (b) Complete the medical examiner's portion of the
160 certificate of death within seventy-two (72) hours of assuming
161 jurisdiction over a death, and forward the certificate to the
162 funeral director or to the family. The medical examiner's portion
163 of the certificate of death shall include the decedent's name, the
164 date and time of death, the cause of death and the certifier's
165 signature. If determination of the cause and/or manner of death
166 are pending an autopsy or toxicological or other studies, these

167 sections on the certificate may be marked "pending," with
168 amendment and completion to follow the completion of the
169 postmortem studies. The State Medical Examiner shall be
170 authorized to amend a death certificate; however, the State
171 Medical Examiner is not authorized to change or amend any death
172 certificate after he has resigned or been removed from his office
173 as the State Medical Examiner. Where an attending physician
174 refuses to sign a certificate of death, or in case of any death,
175 the State Medical Examiner or properly qualified designee may sign
176 the death certificate.

177 (c) Cooperate with other agencies as provided for the
178 State Medical Examiner in subsection (1)(d) of this section.

179 (d) In all investigations of deaths affecting the
180 public interest where an autopsy will not be performed, obtain or
181 attempt to obtain postmortem blood, urine and/or vitreous fluids.
182 Medical examiners may also obtain rectal temperature measurements,
183 known hair samples, radiographs, gunshot residue/wiping studies,
184 fingerprints, palm prints and other noninvasive studies as the
185 case warrants and/or as directed by the State Medical Examiner.
186 Decisions may be made in consultation with investigating law
187 enforcement officials and/or the State Medical Examiner. The cost
188 of all studies not performed by the Mississippi Crime Laboratory
189 shall be borne by the county. County medical examiner
190 investigators shall be authorized to obtain these postmortem
191 specimens themselves following successful completion of the death
192 investigation training school.

193 (3) The medical examiner shall not use his position or
194 authority to favor any particular funeral home or funeral homes.

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196 SECTION 4. This act shall take effect and be in force from
197 and after July 1, 2001.