

By: Representative Holland

To: Public Health and Welfare

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1090

1 AN ACT TO AMEND SECTION 41-57-13, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IN CHANCERY COURT PROCEEDINGS FOR AMENDMENTS TO A
3 DEATH CERTIFICATE, THE STATE MEDICAL EXAMINER AND THE COUNTY
4 MEDICAL EXAMINER OR COUNTY MEDICAL EXAMINER INVESTIGATOR WHO
5 CERTIFIED THE INFORMATION SHALL BE MADE DEFENDANTS, IN ADDITION TO
6 THE STATE DEPARTMENT OF HEALTH; TO AMEND SECTION 41-61-65,
7 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN CIRCUIT COURT
8 PROCEEDINGS DISPUTING THE MEDICAL EXAMINER'S DETERMINATION IN AN
9 AUTOPSY, THE STATE MEDICAL EXAMINER AND THE COUNTY MEDICAL
10 EXAMINER OR COUNTY MEDICAL EXAMINER INVESTIGATOR WHO CERTIFIED THE
11 INFORMATION SHALL BE MADE DEFENDANTS; TO AMEND SECTION 41-61-63,
12 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS
13 ACT; AND FOR RELATED PURPOSES.

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

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

17 41-57-13. (1) Death certificate errors in the recording of
18 personal information of the deceased may be corrected by affidavit
19 of the informant and the funeral director of the funeral home that
20 disposed of the body. Items in the medical certification or of a
21 medical nature may be amended upon receipt of the specified
22 amendment form from (a) the person originally certifying the
23 information or, if deceased or incapacitated, from the person
24 responsible for the completion of such items, or (b) the State
25 Medical Examiner. All other amendments to a death certificate
26 require adjudication by a chancery court in the county of
27 residence of the complainant or in any chancery court district in
28 the state if the complainant is a nonresident. In all such
29 proceedings, the State Department of Health, the State Medical
30 Examiner and the county medical examiner or county medical
31 examiner investigator who certified the information shall be made

32 defendants. No death certificate shall be changed or amended by
33 the State Medical Examiner or any county medical examiner or
34 county medical examiner investigator after he has resigned or been
35 removed from his office as the State Medical Examiner, county
36 medical examiner or county medical examiner investigator.

37 (2) The local registrar of births and deaths in each county
38 in the state shall, at least monthly, supply the county registrar,
39 the tax assessor and the chairman of the county election
40 commission of each county a list of deaths in the counties of
41 individuals of voting age who have not been previously listed.
42 Such lists shall include the following information for each
43 deceased person: full name (as recorded on the death
44 certificate), social security number, date of death, sex, race,
45 age and usual place of residence.

46 (3) No such payment as is provided for in Section 41-57-11
47 shall be made by the board of supervisors unless and until the
48 local registrar shall certify that a list of all deaths of
49 individuals of voting age has been filed with the county voting
50 registrar, tax assessor and with the chairman of the county
51 election commission of the last county of residence of the
52 decedent in this state.

53 (4) In the event that the decedent is a female, who at the
54 time of her death was between the ages of ten (10) and fifty (50)
55 years old, the physician, medical examiner, coroner or other
56 official who certifies the decedent's cause of death shall
57 indicate, where appropriately designated, on the death certificate
58 whether (a) the decedent was pregnant at the time of her death;
59 (b) the decedent had given birth within the preceding ninety (90)
60 days; or (c) the decedent had a miscarriage within the preceding
61 ninety (90) days.

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

64 41-61-65. (1) If, in the opinion of the medical examiner
65 investigating the case, it is advisable and in the public interest
66 that an autopsy or other study be made for the purpose of
67 determining the primary and/or contributing cause of death, an
68 autopsy or other study shall be made by the State Medical Examiner
69 or by a competent pathologist designated by the State Medical
70 Examiner. The State Medical Examiner or designated pathologist
71 may retain any tissues as needed for further postmortem studies or
72 documentation. A complete autopsy report of findings and
73 interpretations, prepared on forms designated for this purpose,
74 shall be submitted promptly to the State Medical Examiner. Copies
75 of the report shall be furnished to the authorizing medical
76 examiner, district attorney and court clerk. A copy of the report
77 shall be furnished to one (1) adult member of the immediate family
78 of the deceased or the legal representative or legal guardian of
79 members of the immediate family of the deceased upon request. In
80 determining the need for an autopsy, the medical examiner may
81 consider the request from the district attorney or county
82 prosecuting attorney, law enforcement or other public officials or
83 private persons. However, if the death occurred in the manner
84 specified in subsection (2)(j) of Section 41-61-59, an autopsy
85 shall be performed by the State Medical Examiner or his designated
86 pathologist, and the report of findings shall be forwarded
87 promptly to the State Medical Examiner, investigating medical
88 examiner, the infant's attending physician and the local sudden
89 infant death syndrome coordinator.

90 (2) Any medical examiner or duly licensed physician
91 performing authorized investigations and/or autopsies as provided
92 in Sections 41-61-51 through 41-61-79 who, in good faith, complies
93 with the provisions of Sections 41-61-51 through 41-61-79 in the
94 determination of the cause and/or manner of death for the purpose
95 of certification of that death, shall not be liable for damages on

96 account thereof, and shall be immune from any civil liability that
97 might otherwise be incurred or imposed.

98 (3) Family members or others who disagree with the medical
99 examiner's determination shall be able to petition and present
100 written argument to the State Medical Examiner for further review.
101 If the petitioner still disagrees, he may petition the circuit
102 court which may, in its discretion, hold a formal hearing. In all
103 such proceedings, the State Medical Examiner and the county
104 medical examiner or county medical examiner investigator who
105 certified the information shall be made defendants. All costs of
106 the petitioning and hearing shall be borne by the petitioner.

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

109 41-61-63. (1) The State Medical Examiner shall:

110 (a) Provide assistance, consultation and training to
111 county medical examiners, county medical examiner investigators
112 and law enforcement officials.

113 (b) Keep complete records of all relevant information
114 concerning deaths or crimes requiring investigation by the medical
115 examiners.

116 (c) Promulgate rules and regulations regarding the
117 manner and techniques to be employed while conducting autopsies;
118 the nature, character and extent of investigations to be made into
119 deaths affecting the public interest to allow a medical examiner
120 to render a full and complete analysis and report; the format and
121 matters to be contained in all reports rendered by the medical
122 examiners; and all other things necessary to carry out the
123 purposes of Sections 41-61-51 through 41-61-79. The State Medical
124 Examiner shall make such amendments to these rules and regulations
125 as may be necessary. All medical examiners, coroners and law
126 enforcement officers shall be subject to such rules.

127 (d) Cooperate with the crime detection and medical
128 examiner laboratories authorized by Section 45-1-17, the

129 University of Mississippi Medical Center, the Attorney General,
130 law enforcement agencies, the courts and the State of Mississippi.

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

132 (a) Upon receipt of notification of a death affecting
133 the public interest, make inquiries regarding the cause and manner
134 of death, reduce the findings to writing and promptly make a full
135 report to the State Medical Examiner on forms prescribed for that
136 purpose. The medical examiner shall be authorized to inspect and
137 copy the medical reports of the decedent whose death is under
138 investigation. However, the records copied shall be maintained as
139 confidential so as to protect the doctor/patient privilege. The
140 medical examiners shall be authorized to request the issuance of
141 subpoenas, through the proper court, for the attendance of persons
142 and for the production of documents as may be required by their
143 investigation.

144 (b) Complete the medical examiner's portion of the
145 certificate of death within seventy-two (72) hours of assuming
146 jurisdiction over a death, and forward the certificate to the
147 funeral director or to the family. The medical examiner's portion
148 of the certificate of death shall include the decedent's name, the
149 date and time of death, the cause of death and the certifier's
150 signature. If determination of the cause and/or manner of death
151 are pending an autopsy or toxicological or other studies, these
152 sections on the certificate may be marked "pending," with
153 amendment and completion to follow the completion of the
154 postmortem studies. The State Medical Examiner shall be
155 authorized to amend a death certificate; however, the State
156 Medical Examiner is not authorized to change or amend any death
157 certificate after he has resigned or been removed from his office
158 as the State Medical Examiner. Where an attending physician
159 refuses to sign a certificate of death, or in case of any death,
160 the State Medical Examiner or properly qualified designee may sign
161 the death certificate.

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

164 (d) In all investigations of deaths affecting the
165 public interest where an autopsy will not be performed, obtain or
166 attempt to obtain postmortem blood, urine and/or vitreous fluids.
167 Medical examiners may also obtain rectal temperature measurements,
168 known hair samples, radiographs, gunshot residue/wiping studies,
169 fingerprints, palm prints and other noninvasive studies as the
170 case warrants and/or as directed by the State Medical Examiner.
171 Decisions may be made in consultation with investigating law
172 enforcement officials and/or the State Medical Examiner. The cost
173 of all studies not performed by the Mississippi Crime Laboratory
174 shall be borne by the county. County medical examiner
175 investigators shall be authorized to obtain these postmortem
176 specimens themselves following successful completion of the death
177 investigation training school.

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

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