MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001
By: Representatives Frierson, Clarke, Horne, Stevens
To: Public Health and Welfare

HOUSE BILL NO. 1120

AN ACT TO AMEND SECTIONS 41-23-1 AND 41-57-27, MISSISSIPPI
CODE OF 1972, TO ESTABLISH A RANGE OF ADMINISTRATIVE AND CRIMINAL
PENALTIES FOR PERSONS WHO VIOLATE CERTAIN REPORTING REQUIREMENTS
OF THE STATE BOARD OF HEALTH; AND FOR RELATED PURPOSES.

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

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

41-23-1. (1) The State Board of Health shall adopt rules
and regulations (a) defining and classifying communicable diseases
and other diseases that are a danger to health based upon the
characteristics of the disease; and (b) establishing reporting,
monitoring and preventive procedures for those diseases.

(2) Upon the death of any person who has been diagnosed as
having Human Immunodeficiency Virus/Acquired Immune Deficiency
Syndrome (HIV/AIDS) or any Class 1 disease as designated by the
State Board of Health, in a hospital or other health care
facility, in all other cases where there is an attending
physician, and in cases in which the medical examiner, as defined
in Section 41-61-53(f), investigates and certifies the cause of
death, the attending physician, the person in charge of the
hospital or health care facility, or the medical examiner, as the
case may be, shall report as soon as practicable to the Executive
Officer of the State Board of Health or to other authorities the
cause or contributing cause of death as required by the State
Board of Health. Such reporting shall be according to procedures
as required by the State Board of Health.

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(3) Upon the death of any person who has been diagnosed as having Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS), where there is not an attending physician, any family member or other person making disposition of the body who knows that such decedent had been diagnosed as having HIV/AIDS shall report this fact to the medical examiner as defined in Section 41-61-53(f), who shall report as soon as practicable to the Executive Officer of the State Board of Health or to other authorities the cause or contributing cause of death as required by the State Board of Health. Such reporting shall be according to procedures as required by the State Board of Health.

(4) Every practicing or licensed physician, or person in charge of a hospital, health care facility, insurance company which causes to be performed blood tests for underwriting purposes or laboratory, shall report immediately to the Executive Officer of the State Board of Health or to other authorities as required by the State Board of Health every case of such diseases as shall be required to be reported by the State Board of Health. Such reporting shall be according to procedures, and shall include such information about the case, as shall be required by the State Board of Health. Insurance companies having such blood test results shall report immediately to the Executive Officer of the State Board of Health or to other authorities as required by the State Board of Health every case of such diseases as shall be required to be reported by the State Board of Health. The insurance company shall notify the individual on whom the blood test was performed in writing by certified mail of an adverse underwriting decision based upon the results of such individual's blood test but shall not disclose the specific results of such blood tests to the individual. The insurance company shall also inform the individual on whom the blood test was performed that the results of the blood test will be sent to the physician designated by the individual at the time of application and that
such physician should be contacted for information regarding the blood test results. If a physician was not designated at the time of application, the insurance company shall request that the individual name a physician to whom a copy of the blood test can be sent.

(5) Any practicing or licensed physician, or person in charge of a hospital or health care facility, who knows that a patient has a medical condition specified by the Department of Health as requiring special precautions by health care providers, shall report this fact and the need for appropriate precautions to any other institution or provider of health care services to whom such patient is transferred or referred, according to regulations established by the State Board of Health.

(6) Any practicing or licensed physician or person in charge of a hospital, health care facility or laboratory who fails to make the reports required under this section regarding Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS) or any Class 1 disease or condition as designated by the State Board of Health shall be subject to the penalties provided for in subsection (8) of this section.

(7) Any person other than a practicing or licensed physician, or person in charge of a hospital or health care facility, willfully failing to make the reports required under this section shall be subject to the penalties provided for in subsection (8) of this section.

(8) Any person who fails to make a report required under this section shall be punished as follows:

(a) For a physician or nonphysician who is in violation for the first time, an administrative fine or One Hundred Dollars ($100.00).

(b) For a physician or nonphysician who is in violation for a second time, an administrative fine of Two Hundred Dollars ($200.00).
(c) For a third violation of a physician, and any violations subsequent to a third violation, a fine of Two Hundred Dollars ($200.00) and a recommendation from the State Health Officer to the State Board of Medical Licensure that the physician be suspended from the practice of medicine for a period not to exceed thirty (30) days.

(d) For a third violation of a nonphysician, and any violations subsequent to a third violation, the nonphysician shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by confinement in the county jail for not more than thirty (30) days, or both.

(e) All administrative fines provided for in this subsection shall be imposed by the State Health Officer following notice and hearing. Such fines may be appealed to the State Board of Health. Appeals from decisions of the State Board of Health may be appealed to the circuit court of the aggrieved party's residence.

(9) The provisions of this section are cumulative and supplemental to any other provision of law, and a conviction or penalty imposed under this section shall not preclude any other action at law, proceedings for professional discipline or other criminal proceedings.

(10) Notwithstanding any law of this state to the contrary, the State Board of Health is authorized to establish the rules by which exceptions may be made to the confidentiality provisions of the laws of this state for the notification of third parties of an individual's infection with any Class 1 or Class 2 disease, as designated by the State Board of Health, when exposure is indicated or there exists a threat to the public health and welfare. All notifications authorized by this section shall be within the rules established according to this subsection. All persons who receive notification of the infectious condition of an
individual under this subsection and the rules established under this subsection shall hold such information in the strictest of confidence and privilege, shall not reveal the information to others, and shall take only those actions necessary to protect the health of the infected person or other persons where there is a foreseeable, real or probable risk of transmission of the disease.

(11) Each public or private correctional facility housing state offenders, federal offenders or offenders from any other jurisdiction shall require all offenders in the facility to be tested for tuberculosis and Human Immunodeficiency Virus (HIV) in conjunction with the rules and regulations of the State Department of Health. The reporting shall be according to procedures and shall include any information about the case that is required by the State Board of Health. In order to carry out the provisions of this section, the following shall apply:

(a) Any such public or private correctional facility may contract with the Mississippi Department of Corrections, the Mississippi State Department of Health, or other such appropriate state, federal or local entity for the inspection, monitoring or provision of any assistance necessary or desirable to maintain appropriate facilities for the purpose of identification, prevention, and treatment of communicable diseases and other conditions considered prejudicial to public health; and

(b) Any such public or private correctional facility shall grant representatives of the State Department of Health, in the discharge of its duties, access to all areas of the facility and to the offenders and staff at all times. The facility shall reimburse the State Department of Health for all costs incurred for the control of communicable diseases or other conditions prejudicial to public health in the facility and for the costs incurred for the control of communicable diseases or other conditions prejudicial to public health spreading from the
facility, staff or inmates to other individuals or property in the county or state.

SECTION 2. Section 41-57-27, Mississippi Code of 1972, is amended as follows:

41-57-27. Any person or persons who shall violate any rule, regulation or order of the State Board of Health relative to recording, reporting or filing information for the Bureau of Vital Statistics, or who shall willfully neglect or refuse to perform any duties imposed upon them by said orders, or who shall furnish false information for the purpose of making incorrect records for said bureau, or who shall willfully furnish false information to said bureau for the purpose of establishing a false identity, shall be subject to the following penalties:

(a) For a physician or nonphysician who is in violation for the first time, an administrative fine or One Hundred Dollars ($100.00).

(b) For a physician or nonphysician who is in violation for a second time, an administrative fine of Two Hundred Dollars ($200.00).

(c) For a third violation of a physician, and any violations subsequent to a third violation, a fine of Two Hundred Dollars ($200.00) and a recommendation from the State Health Officer to the State Board of Medical Licensure that the physician be suspended from the practice of medicine for a period not to exceed thirty (30) days.

(d) For a third violation of a nonphysician, and any violations subsequent to a third violation, the nonphysician shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by confinement in the county jail for not more than thirty (30) days, or both.

(e) All administrative fines provided for in this subsection shall be imposed by the State Health Officer following
notice and hearing. Such fines may be appealed to the State Board of Health. Appeals from decisions of the State Board of Health may be appealed to the circuit court of the aggrieved party's residence.

SECTION 3. This act shall take effect and be in force from and after July 1, 2001.