

By: Representatives Frierson, Clarke, Horne,
Stevens

To: Public Health and
Welfare

HOUSE BILL NO. 1120

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

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

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

8 41-23-1. (1) The State Board of Health shall adopt rules
9 and regulations (a) defining and classifying communicable diseases
10 and other diseases that are a danger to health based upon the
11 characteristics of the disease; and (b) establishing reporting,
12 monitoring and preventive procedures for those diseases.

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

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

38 (4) Every practicing or licensed physician, or person in
39 charge of a hospital, health care facility, insurance company
40 which causes to be performed blood tests for underwriting purposes
41 or laboratory, shall report immediately to the Executive Officer
42 of the State Board of Health or to other authorities as required
43 by the State Board of Health every case of such diseases as shall
44 be required to be reported by the State Board of Health. Such
45 reporting shall be according to procedures, and shall include such
46 information about the case, as shall be required by the State
47 Board of Health. Insurance companies having such blood test
48 results shall report immediately to the Executive Officer of the
49 State Board of Health or to other authorities as required by the
50 State Board of Health every case of such diseases as shall be
51 required to be reported by the State Board of Health. The
52 insurance company shall notify the individual on whom the blood
53 test was performed in writing by certified mail of an adverse
54 underwriting decision based upon the results of such individual's
55 blood test but shall not disclose the specific results of such
56 blood tests to the individual. The insurance company shall also
57 inform the individual on whom the blood test was performed that
58 the results of the blood test will be sent to the physician
59 designated by the individual at the time of application and that

60 such physician should be contacted for information regarding the
61 blood test results. If a physician was not designated at the time
62 of application, the insurance company shall request that the
63 individual name a physician to whom a copy of the blood test can
64 be sent.

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

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

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

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

87 (a) For a physician or nonphysician who is in violation
88 for the first time, an administrative fine or One Hundred Dollars
89 (\$100.00).

90 (b) For a physician or nonphysician who is in violation
91 for a second time, an administrative fine of Two Hundred Dollars
92 (\$200.00).

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

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

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

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

116 (10) Notwithstanding any law of this state to the contrary,
117 the State Board of Health is authorized to establish the rules by
118 which exceptions may be made to the confidentiality provisions of
119 the laws of this state for the notification of third parties of an
120 individual's infection with any Class 1 or Class 2 disease, as
121 designated by the State Board of Health, when exposure is
122 indicated or there exists a threat to the public health and
123 welfare. All notifications authorized by this section shall be
124 within the rules established according to this subsection. All
125 persons who receive notification of the infectious condition of an

126 individual under this subsection and the rules established under
127 this subsection shall hold such information in the strictest of
128 confidence and privilege, shall not reveal the information to
129 others, and shall take only those actions necessary to protect the
130 health of the infected person or other persons where there is a
131 foreseeable, real or probable risk of transmission of the disease.

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

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

149 (b) Any such public or private correctional facility
150 shall grant representatives of the State Department of Health, in
151 the discharge of its duties, access to all areas of the facility
152 and to the offenders and staff at all times. The facility shall
153 reimburse the State Department of Health for all costs incurred
154 for the control of communicable diseases or other conditions
155 prejudicial to public health in the facility and for the costs
156 incurred for the control of communicable diseases or other
157 conditions prejudicial to public health spreading from the

158 facility, staff or inmates to other individuals or property in the
159 county or state.

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

162 41-57-27. Any person or persons who shall violate any rule,
163 regulation or order of the State Board of Health relative to
164 recording, reporting or filing information for the Bureau of Vital
165 Statistics, or who shall willfully neglect or refuse to perform
166 any duties imposed upon them by said orders, or who shall furnish
167 false information for the purpose of making incorrect records for
168 said bureau, or who shall willfully furnish false information to
169 said bureau for the purpose of establishing a false identity,
170 shall be subject to the following penalties:

171 (a) For a physician or nonphysician who is in violation
172 for the first time, an administrative fine or One Hundred Dollars
173 (\$100.00).

174 (b) For a physician or nonphysician who is in violation
175 for a second time, an administrative fine of Two Hundred Dollars
176 (\$200.00).

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

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

189 (e) All administrative fines provided for in this
190 subsection shall be imposed by the State Health Officer following

191 notice and hearing. Such fines may be appealed to the State Board
192 of Health. Appeals from decisions of the State Board of Health
193 may be appealed to the circuit court of the aggrieved party's
194 residence.

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