

By: Senator(s) Canon, Dearing, Bryan, Hewes,
Walls

To: Public Health and
Welfare; Judiciary

SENATE BILL NO. 2456

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 RELATING TO CONTAGIOUS DISEASES; AND
5 FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

88 (a) For a physician or nonphysician who is in violation
89 for the first time, an administrative fine of One Hundred Dollars
90 (\$100.00).

91 (b) For a physician or nonphysician who is in violation
92 for a second time, an administrative fine of Two Hundred Dollars
93 (\$200.00).

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

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

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

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

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

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

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

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

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

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

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

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

172 (a) For a physician or nonphysician who is in violation
173 for the first time, an administrative fine of One Hundred Dollars
174 (\$100.00).

175 (b) For a physician or nonphysician who is in violation
176 for a second time, an administrative fine of Two Hundred Dollars
177 (\$200.00).

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

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

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

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

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