

By: Representative Banks

To: Public Health and  
Welfare

HOUSE BILL NO. 923

1 AN ACT TO AMEND SECTIONS 41-37-13, 41-61-65, 41-61-67,  
2 47-5-151 AND 99-41-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
3 PARENTS OF DECEASED PERSONS ON WHICH AN AUTOPSY IS PERFORMED SHALL  
4 BE PROVIDED A COPY OF THE AUTOPSY REPORT; AND FOR RELATED  
5 PURPOSES.

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

7 **SECTION 1.** Section 41-37-13, Mississippi Code of 1972, is  
8 amended as follows:

9 41-37-13. In all cases where an autopsy is performed as  
10 provided in Section 41-37-9, the person making the autopsy shall  
11 file a report, in duplicate, of the autopsy with the circuit clerk  
12 of the county where the death is being investigated. The circuit  
13 clerk shall keep and preserve the report and make it available to  
14 the district attorney, county prosecuting attorney, grand jury,  
15 coroner, \* \* \* the accused, and the parents of the deceased.

16 **SECTION 2.** Section 41-61-65, Mississippi Code of 1972, is  
17 amended as follows:

18 41-61-65. (1) If, in the opinion of the medical examiner  
19 investigating the case, it is advisable and in the public interest  
20 that an autopsy or other study be made for the purpose of  
21 determining the primary and/or contributing cause of death, an  
22 autopsy or other study shall be made by the State Medical Examiner  
23 or by a competent pathologist designated by the State Medical  
24 Examiner. The State Medical Examiner or designated pathologist  
25 may retain any tissues as needed for further postmortem studies or  
26 documentation. A complete autopsy report of findings and  
27 interpretations, prepared on forms designated for this purpose,  
28 shall be submitted promptly to the State Medical Examiner. Copies



29 of the report shall be furnished to the authorizing medical  
30 examiner, district attorney and court clerk. A copy of the report  
31 shall be furnished to one (1) adult member of the immediate family  
32 of the deceased or the legal representative or legal guardian of  
33 members of the immediate family of the deceased upon request, and  
34 if the adult member, legal guardian or legal representative is not  
35 a parent of the deceased, a copy shall be provided to the parents.  
36 In determining the need for an autopsy, the medical examiner may  
37 consider the request from the district attorney or county  
38 prosecuting attorney, law enforcement or other public officials or  
39 private persons. However, if the death occurred in the manner  
40 specified in subsection (2)(j) of Section 41-61-59, an autopsy  
41 shall be performed by the State Medical Examiner or his designated  
42 pathologist, and the report of findings shall be forwarded  
43 promptly to the State Medical Examiner, investigating medical  
44 examiner, the infant's attending physician and the local sudden  
45 infant death syndrome coordinator.

46 (2) Any medical examiner or duly licensed physician  
47 performing authorized investigations and/or autopsies as provided  
48 in Sections 41-61-51 through 41-61-79, who, in good faith,  
49 complies with the provisions of Sections 41-61-51 through  
50 41-61-79, in the determination of the cause and/or manner of death  
51 for the purpose of certification of that death, shall not be  
52 liable for damages on account thereof, and shall be immune from  
53 any civil liability that might otherwise be incurred or imposed.

54 (3) Family members or others who disagree with the medical  
55 examiner's determination shall be able to petition and present  
56 written argument to the State Medical Examiner for further review.  
57 If the petitioner still disagrees, he may petition the circuit  
58 court which may, in its discretion, hold a formal hearing. All  
59 cost of the petitioning and hearing shall be borne by the  
60 petitioner.



61           **SECTION 3.** Section 41-61-67, Mississippi Code of 1972, is  
62 amended as follows:

63           41-61-67. (1) In any case of death where the body is or has  
64 been buried without investigation by a medical examiner as to the  
65 cause and manner of death, or where sufficient cause develops for  
66 further investigation after a body has been buried as determined  
67 by a medical examiner, the State Medical Examiner shall authorize  
68 an investigation and send a report of the investigation with  
69 recommendations to the appropriate district attorney. The  
70 district attorney may forward the report to the circuit court  
71 having jurisdiction of the matter and petition the court for  
72 disinterment. The circuit judge may order that the body be  
73 exhumed and that an autopsy be performed by the State Medical  
74 Examiner. A report of the autopsy and other pathological studies  
75 shall be delivered to the judge and to the parents of the  
76 deceased. However, in cases of suspected homicide, the State  
77 Medical Examiner shall be able to authorize disinterment for the  
78 purposes of autopsy. The cost of the exhumation, autopsy,  
79 transportation and disposition of the body shall be paid by the  
80 county for which the service is provided.

81           (2) Any person may petition the circuit court for an order  
82 of exhumation. Upon a showing of sufficient cause, the court may  
83 order the body exhumed. The cost incurred shall be assigned to  
84 the petitioner.

85           **SECTION 4.** Section 47-5-151, Mississippi Code of 1972, is  
86 amended as follows:

87           47-5-151. The superintendent (warden) or other person in  
88 charge of prisoners, upon the death of any prisoner under his care  
89 and control, shall at once notify the county medical examiner or  
90 county medical examiner investigator (hereinafter "medical  
91 examiner") of the county in which the prisoner died, of the death  
92 of the prisoner, and it shall be the duty of the medical examiner,  
93 when so notified of the death of the person, to obtain a court



94 order and notify the State Medical Examiner of the death of the  
95 prisoner. \* \* \* The State Medical Examiner shall cause an autopsy  
96 to be performed upon the body of the deceased prisoner.  
97 Furthermore, the State Medical Examiner shall investigate any case  
98 where a person is found dead on the premises of the correctional  
99 system, in accordance with Sections 41-61-51 through 41-61-79.  
100 The State Medical Examiner shall make a written report of his  
101 investigation, and shall furnish a copy of the same, including the  
102 autopsy report, to the superintendent (warden) and a copy of the  
103 same to the district attorney of the county in which the prisoner  
104 died and to the parents of the deceased. The copy so furnished to  
105 the district attorney shall be turned over by the district  
106 attorney to the grand jury, and it shall be the duty of the grand  
107 jury, if there is any suspicion of wrongdoing shown by the inquest  
108 papers, to thoroughly investigate the cause of the death.

109 It shall be the duty of the medical examiner of the county in  
110 which the prisoner died to arrange for the remains to be  
111 transported to the State Medical Examiner for the autopsy, and  
112 accompanying the remains shall be the court order for autopsy and  
113 any documents or records pertaining to the deceased prisoner,  
114 institutional health records or other information relating to the  
115 circumstances surrounding the prisoner's death. The State Medical  
116 Examiner shall arrange for the remains to be transported to the  
117 county in which the prisoner died following completion of the  
118 autopsy. If the remains are not claimed for burial within  
119 forty-eight (48) hours after autopsy, then the remains may be  
120 delivered to the University of Mississippi Medical Center for use  
121 in medical research or anatomical study.

122 The provisions \* \* \* set forth in the first paragraph for  
123 this section shall likewise apply to any case in which any person  
124 is found dead on the premises of the Mississippi State  
125 Penitentiary, except that the autopsy to be performed on the body  
126 of such a person shall not be mandatory upon a person who is not a



127 prisoner unless the medical examiner determines that the death  
128 resulted from circumstances raising questions as to the cause of  
129 death, in which case the medical examiner may cause an autopsy to  
130 be performed upon the body of the deceased person in the same  
131 manner as authorized to be performed upon the body of a deceased  
132 prisoner.

133 \* \* \* The provisions in this section shall apply with  
134 respect to any deceased prisoner who at the time of death is being  
135 detained by duly constituted state authority such as the Columbia  
136 Training School, Oakley Training School, Mississippi State  
137 Hospital at Whitfield, East Mississippi State Hospital, or any  
138 other state institution.

139 The provisions of this section shall not apply to a prisoner  
140 who was lawfully executed as provided in Sections 99-19-49 through  
141 99-19-55.

142 Any officer or employee of the prison system or any other  
143 officer, employee or person having charge of any prisoner who  
144 \* \* \* fails to immediately notify the medical examiner of the  
145 death of the prisoner, shall be guilty of a misdemeanor and, upon  
146 conviction thereof, shall be punished by a fine of not less than  
147 One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars  
148 (\$500.00) and by confinement in the county jail for not more than  
149 one (1) year.

150 **SECTION 5.** Section 99-41-15, Mississippi Code of 1972, is  
151 amended as follows:

152 99-41-15. (1) Any person filing a claim under the  
153 provisions of this chapter shall be deemed to have waived any  
154 physician-patient privilege as to the communications or records  
155 relevant to an issue of the physical, mental or emotional  
156 conditions of the claimant. However, any record or report  
157 obtained by the director, the confidentiality of which is  
158 otherwise protected by any other law or regulation, shall remain  
159 confidential, subject to that law or regulation.



160 (2) If the mental, physical or emotional condition of a  
161 claimant is material to a claim, the director, upon good cause  
162 shown, may order the claimant to submit to a mental or physical  
163 examination and may order an autopsy of a deceased victim. The  
164 order shall specify the time, place, manner, conditions and scope  
165 of the examination or autopsy and the person by whom it is to be  
166 made. The order shall also require the person to file with the  
167 director a detailed written report of the examination or autopsy.  
168 The report shall set out the findings of the person making the  
169 report, including the results of all tests made, the diagnosis,  
170 prognosis and other conclusions and reports of earlier  
171 examinations of the same conditions.

172 (3) The director shall furnish a copy of the report  
173 examined. If the victim is deceased, the director shall furnish a  
174 copy of the report to the claimant on request, and if the claimant  
175 is someone other than the parents of the deceased, the parents  
176 shall be provided a copy of the report.

177 (4) The director may require the claimant to supply any  
178 additional medical or psychological reports available relating to  
179 the injury or death for which compensation is claimed.

180 **SECTION 6.** This act shall take effect and be in force from  
181 and after July 1, 2002.

