

By: Senator(s) Huggins

To: Public Health and Welfare

SENATE BILL NO. 2871

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 defendant. 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, Mississippi  
85 Code of 1972, an autopsy shall be performed by the State Medical  
86 Examiner or his designated pathologist, and the report of findings  
87 shall be forwarded promptly to the State Medical Examiner,  
88 investigating medical examiner, the infant's attending physician  
89 and the local sudden 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, Mississippi Code of 1972,  
93 who, in good faith, complies with the provisions of Sections  
94 41-61-51 through 41-61-79, Mississippi Code of 1972, in the  
95 determination of the cause and/or manner of death for the purpose  
96 of certification of that death, shall not be liable for damages on  
97 account thereof, and shall be immune from any civil liability that  
98 might otherwise be incurred or imposed.



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

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

110 41-61-63. (1) The State Medical Examiner shall:

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

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

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

128 (d) Cooperate with the crime detection and medical  
129 examiner laboratories authorized by Section 45-1-17, the  
130 University of Mississippi Medical Center, the Attorney General,  
131 law enforcement agencies, the courts and the State of Mississippi.



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

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

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

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



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

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

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182           **SECTION 4.** This act shall take effect and be in force from  
183 and after July 1, 2002.

