

By: Senator(s) Walls

To: Judiciary

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 3052

1 AN ACT TO AMEND SECTION 11-46-11, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE SAVINGS CLAUSE IN FAVOR OF MINORS AND THOSE WITH  
3 DISABILITIES; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 11-46-11, Mississippi Code of 1972, is  
6 amended as follows:

7 11-46-11. (1) After all procedures within a governmental  
8 entity have been exhausted, any person having a claim for injury  
9 arising under the provisions of this chapter against a  
10 governmental entity or its employee shall proceed as he might in  
11 any action at law or in equity; provided, however, that ninety  
12 (90) days prior to maintaining an action thereon, such person  
13 shall file a notice of claim with the chief executive officer of  
14 the governmental entity. Service of notice of claim may also be  
15 had in the following manner: If the governmental entity is a  
16 county, then upon the chancery clerk of the county sued; if the  
17 governmental entity is a municipality, then upon the city clerk.  
18 If the governmental entity to be sued is a state entity as defined  
19 in Section 11-46-1(j), service of notice of claim shall be had  
20 only upon that entity's chief executive officer. If the  
21 governmental entity is participating in a plan administered by the  
22 board pursuant to Section 11-46-7(3), such chief executive officer  
23 shall notify the board of any claims filed within five (5) days  
24 after the receipt thereof.

25 (2) Every notice of claim required by subsection (1) of this  
26 section shall be in writing, and shall be delivered in person or  
27 by registered or certified United States mail. Every notice of



28 claim shall contain a short and plain statement of the facts upon  
29 which the claim is based, including the circumstances which  
30 brought about the injury, the extent of the injury, the time and  
31 place the injury occurred, the names of all persons known to be  
32 involved, the amount of money damages sought and the residence of  
33 the person making the claim at the time of the injury and at the  
34 time of filing the notice.

35 (3) All actions brought under the provisions of this chapter  
36 shall be commenced within one (1) year next after the date of the  
37 tortious, wrongful or otherwise actionable conduct on which the  
38 liability phase of the action is based, and not after; provided,  
39 however, that the filing of a notice of claim as required by  
40 subsection (1) of this section shall serve to toll the statute of  
41 limitations for a period of ninety-five (95) days from the date  
42 the chief executive officer of the state agency receives the  
43 notice of claim, or for one hundred twenty (120) days from the  
44 date the chief executive officer or other statutorily designated  
45 official of a municipality, county or other political subdivision  
46 receives the notice of claim, during which time no action may be  
47 maintained by the claimant unless the claimant has received a  
48 notice of denial of claim. After the tolling period has expired,  
49 the claimant shall then have an additional ninety (90) days to  
50 file any action against the governmental entity served with proper  
51 claim notice. However, should the governmental entity deny any  
52 such claim, then the additional ninety (90) days during which the  
53 claimant may file an action shall begin to run upon the claimant's  
54 receipt of notice of denial of claim from the governmental entity.  
55 All notices of denial of claim shall be served by governmental  
56 entities upon claimants by certified mail, return receipt  
57 requested, only. For purposes of determining the running of  
58 limitations periods under this chapter, service of any notice of  
59 claim or notice of denial of claim shall be effective upon  
60 delivery by the methods statutorily designated in this chapter.



61 The limitations period provided herein shall control and shall be  
62 exclusive in all actions subject to and brought under the  
63 provisions of this chapter, notwithstanding the nature of the  
64 claim, the label or other characterization the claimant may use to  
65 describe it, or the provisions of any other statute of limitations  
66 which would otherwise govern the type of claim or legal theory if  
67 it were not subject to or brought under the provisions of this  
68 chapter.

69 (4) From and after April 1, 1993, if any person entitled to  
70 bring any action under this chapter shall, at the time at which  
71 the cause of action accrued, be under the disability of infancy or  
72 unsoundness of mind, he may bring the action within the time  
73 allowed in this section after his disability shall be removed as  
74 provided by law. The savings in favor of persons under disability  
75 of unsoundness of mind shall never extend longer than twenty-one  
76 (21) years.

77 **SECTION 2.** This act shall take effect and be in force from  
78 and after its passage.

