

By: Representative Holland

To: Public Health and Human Services

HOUSE BILL NO. 909

1 AN ACT TO BRING FORWARD SECTIONS 41-61-51 THROUGH 41-61-79,  
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI MEDICAL  
3 EXAMINER ACT, AND SECTIONS 41-37-1 THROUGH 41-37-25, MISSISSIPPI  
4 CODE OF 1972, WHICH RELATE TO THE PERFORMING OF AUTOPSIES, FOR THE  
5 PURPOSE OF AMENDMENT RELATING TO THE SUDDEN DEATH OF INFANTS AND  
6 CHILDREN; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 41-61-51, Mississippi Code of 1972, is  
9 brought forward as follows:

10 41-61-51. Sections 41-61-51 through 41-61-79 shall be known  
11 and cited as "Mississippi Medical Examiner Act of 1986."

12 **SECTION 2.** Section 41-61-53, Mississippi Code of 1972, is  
13 brought forward as follows:

14 41-61-53. For the purposes of Sections 41-61-51 through  
15 41-61-79, the following definitions shall apply:

16 (a) "Certification of death" means signing the death  
17 certificate.

18 (b) "Coroner" means the elected county official  
19 provided for in Sections 19-21-101 through 19-21-107.

20 (c) "County medical examiner investigator" means a  
21 nonphysician trained and appointed to investigate and certify  
22 deaths affecting the public interest.

23 (d) "County medical examiner" means a licensed  
24 physician appointed to investigate and certify deaths affecting  
25 the public interest.

26 (e) "Death affecting the public interest" means any  
27 death of a human being where the circumstances are sudden,  
28 unexpected, violent, suspicious or unattended.

29 (f) "Medical examiner" means the State Medical  
30 Examiner, county medical examiners and county medical examiner  
31 investigators collectively, unless otherwise specified.

32 (g) "Pronouncement of death" means the statement of  
33 opinion that life has ceased for an individual.

34 (h) "State medical examiner" means the board certified  
35 forensic pathologist/physician appointed by the Commissioner of  
36 Public Safety to investigate and certify deaths which affect the  
37 public interest.

38 **SECTION 3.** Section 41-61-55, Mississippi Code of 1972, is  
39 brought forward as follows:

40 41-61-55. There is hereby created the position of State  
41 Medical Examiner, to be established as herein provided under the  
42 appointment by and supervision of the Commissioner of Public  
43 Safety.

44 Each applicant for the position of State Medical Examiner  
45 shall, as a minimum, be a physician who is eligible for a license  
46 to practice medicine in Mississippi and be certified in forensic  
47 pathology by the American Board of Pathology.

48 The State Medical Examiner may be removed by the commissioner  
49 only for inefficiency or other good cause, after written notice  
50 and a hearing complying with due process of law.

51 **SECTION 4.** Section 41-61-57, Mississippi Code of 1972, is  
52 brought forward as follows:

53 41-61-57. (1) There are hereby created the positions of  
54 county medical examiners and county medical examiner  
55 investigators, to be established as herein provided through  
56 successful completion of the death investigation training school  
57 provided for in subsection (5) of this section. Each county  
58 medical examiner (CME) shall be a doctor of medicine (M.D.) or  
59 osteopathic medicine (D.O.) licensed in the State of Mississippi.  
60 Each county medical examiner investigator (CMEI) shall be a  
61 nonphysician who shall, as a minimum, possess a high school

62 graduation diploma or its equivalent. Extra consideration for the  
63 CMEI position may be given for experience and/or training in  
64 health-related fields and medicolegal death investigations.

65 (2) Each coroner elected in the 1987 general election and  
66 thereafter, upon successful completion of the death investigation  
67 training school provided for in subsection (5) of this section,  
68 shall be recognized as a county medical examiner or county medical  
69 examiner investigator, according to the qualifications set out in  
70 subsection (1) of this section, and shall be designated the chief  
71 for the county in which he was elected. If the elected or  
72 appointed coroner fails to successfully complete the death  
73 investigation training school, and thus is unable to take the oath  
74 of office, as provided in Section 19-21-105, there shall promptly  
75 be appointed a coroner pro tempore in the manner prescribed by  
76 Section 9-1-27, and that person shall be designated the chief  
77 county medical examiner or county medical examiner investigator  
78 until the time of the next death investigation training school,  
79 which he must successfully complete or be removed from office.  
80 Any elected coroner who has failed to successfully complete the  
81 death investigation training school may attend any subsequent  
82 death investigation training school conducted during the term for  
83 which he was elected, and upon the successful completion thereof,  
84 he shall become the chief CME or CMEI for the county in which he  
85 was elected. The coroner pro tempore then shall become a deputy  
86 CME or CMEI, provided he has successfully completed the death  
87 investigation training school. Notwithstanding anything in this  
88 section to the contrary, each coroner holding office on July 1,  
89 1986, shall be the chief CME or CMEI for the county in which he  
90 was elected through the expiration of his term in January 1988  
91 without having to attend the death investigation training school;  
92 however, he may voluntarily attend any such school conducted prior  
93 to that time.

94 (3) There shall be at least one (1) county medical examiner  
95 and/or county medical examiner investigator for each county, and  
96 one (1) county medical examiner or county medical examiner  
97 investigator shall be designated as the chief for each county,  
98 except as otherwise provided in subsection (4) of this section.  
99 Any county may have deputy county medical examiners or deputy  
100 county medical examiner investigators as deemed necessary who  
101 shall be appointed jointly by the board of supervisors and the CME  
102 or CMEI. However, when the population of a county reaches a total  
103 of twenty thousand (20,000) or greater, there shall be one or more  
104 officially appointed deputies. Deputies shall be subject to the  
105 same qualifications, training and certification requirements, and  
106 shall possess the same authority and discharge the same duties, as  
107 other county medical examiners or county medical examiner  
108 investigators, and shall receive fees and expenses as provided in  
109 Sections 41-61-69 and 41-61-75. Any CME or CMEI may be removed by  
110 the State Medical Examiner prior to the expiration of his term as  
111 CME or CMEI for inefficiency, or other good cause, after written  
112 notice and a hearing in compliance with due process law.

113 (4) One (1) person may serve as the chief CME or CMEI for  
114 two (2) or more adjacent counties when that person consents and  
115 the boards of supervisors of each county involved and the State  
116 Medical Examiner consent in writing. Each respective county  
117 involved shall be responsible for payment for the services given  
118 to that county by the chief CME or CMEI.

119 (5) Chief and deputy CME's and CMEI's shall attend the death  
120 investigation training school provided by the Mississippi Crime  
121 Laboratory and the State Medical Examiner, and shall successfully  
122 complete subsequent testing on the subject material by the State  
123 Medical Examiner at least once every four (4) years. Room, board  
124 and transportation expenses for attending the school shall be  
125 borne by the county in which the CME or CMEI is serving. In  
126 addition to the above training, the individual shall receive at

127 least twenty-four (24) hours annually of continuing education as  
128 prescribed and certified by the State Medical Examiner. If the  
129 above requirements for training or continuing education are not  
130 met, the individual immediately shall be disqualified and removed  
131 from office as CME and/or CMEI. Reapplication for the office may  
132 be made the following year after removal.

133 **SECTION 5.** Section 41-61-59, Mississippi Code of 1972, is  
134 brought forward as follows:

135 41-61-59. (1) A person's death that affects the public  
136 interest as specified in subsection (2) of this section shall be  
137 promptly reported to the medical examiner by the physician in  
138 attendance, any hospital employee, any law enforcement officer  
139 having knowledge of the death, the embalmer or other funeral home  
140 employee, any emergency medical technician, any relative or any  
141 other person present. The appropriate medical examiner shall  
142 notify the municipal or state law enforcement agency or sheriff  
143 and take charge of the body. When the medical examiner has  
144 received notification under Section 41-39-15(6) that the deceased  
145 is medically suitable to be an organ and/or tissue donor, the  
146 medical examiner's authority over the body shall be subject to the  
147 provisions of Section 41-39-15(6). The appropriate medical  
148 examiner shall notify the Mississippi Bureau of Narcotics within  
149 twenty-four (24) hours of receipt of the body in cases of death as  
150 described in subsection (2)(m) or (n) of this section.

151 (2) A death affecting the public interest includes, but is  
152 not limited to, any of the following:

153 (a) Violent death, including homicidal, suicidal or  
154 accidental death.

155 (b) Death caused by thermal, chemical, electrical or  
156 radiation injury.

157 (c) Death caused by criminal abortion, including  
158 self-induced abortion, or abortion related to or by sexual abuse.

159           (d) Death related to disease thought to be virulent or  
160 contagious that may constitute a public hazard.

161           (e) Death that has occurred unexpectedly or from an  
162 unexplained cause.

163           (f) Death of a person confined in a prison, jail or  
164 correctional institution.

165           (g) Death of a person where a physician was not in  
166 attendance within thirty-six (36) hours preceding death, or in  
167 prediagnosed terminal or bedfast cases, within thirty (30) days  
168 preceding death.

169           (h) Death of a person where the body is not claimed by  
170 a relative or a friend.

171           (i) Death of a person where the identity of the  
172 deceased is unknown.

173           (j) Death of a child under the age of two (2) years  
174 where death results from an unknown cause or where the  
175 circumstances surrounding the death indicate that sudden infant  
176 death syndrome may be the cause of death.

177           (k) Where a body is brought into this state for  
178 disposal and there is reason to believe either that the death was  
179 not investigated properly or that there is not an adequate  
180 certificate of death.

181           (l) Where a person is presented to a hospital emergency  
182 room unconscious and/or unresponsive, with cardiopulmonary  
183 resuscitative measures being performed, and dies within  
184 twenty-four (24) hours of admission without regaining  
185 consciousness or responsiveness, unless a physician was in  
186 attendance within thirty-six (36) hours preceding presentation to  
187 the hospital, or in cases in which the decedent had a prediagnosed  
188 terminal or bedfast condition, unless a physician was in  
189 attendance within thirty (30) days preceding presentation to the  
190 hospital.

191 (m) Death that is caused by drug overdose or which is  
192 believed to be caused by drug overdose.

193 (n) When a stillborn fetus is delivered and the cause  
194 of the demise is medically believed to be from the use by the  
195 mother of any controlled substance as defined in Section  
196 41-29-105.

197 (3) The State Medical Examiner is empowered to investigate  
198 deaths, under the authority hereinafter conferred, in any and all  
199 political subdivisions of the state. The county medical examiners  
200 and county medical examiner investigators, while appointed for a  
201 specific county, may serve other counties on a regular basis with  
202 written authorization by the State Medical Examiner, or may serve  
203 other counties on an as-needed basis upon the request of the  
204 ranking officer of the investigating law enforcement agency. The  
205 county medical examiner or county medical examiner investigator of  
206 any county that has established a regional medical examiner  
207 district under subsection (4) of Section 41-61-77 may serve other  
208 counties that are parties to the agreement establishing the  
209 district, in accordance with the terms of the agreement, and may  
210 contract with counties that are not part of the district to  
211 provide medical examiner services for those counties. If a death  
212 affecting the public interest takes place in a county other than  
213 the one where injuries or other substantial causal factors leading  
214 to the death have occurred, jurisdiction for investigation of the  
215 death may be transferred, by mutual agreement of the respective  
216 medical examiners of the counties involved, to the county where  
217 the injuries or other substantial causal factors occurred, and the  
218 costs of autopsy or other studies necessary to the further  
219 investigation of the death shall be borne by the county assuming  
220 jurisdiction.

221 (4) The chief county medical examiner or chief county  
222 medical examiner investigator may receive from the county in which  
223 he serves a salary of Nine Hundred Dollars (\$900.00) per month, in

224 addition to the fees specified in Sections 41-61-69 and 41-61-75,  
225 provided that no county shall pay the chief county medical  
226 examiner or chief county medical examiner investigator less than  
227 One Hundred Dollars (\$100.00) per month as a salary, in addition  
228 to other compensation provided by law. In any county having one  
229 or more deputy medical examiners or deputy medical examiner  
230 investigators, each deputy may receive from the county in which he  
231 serves, in the discretion of the board of supervisors, a salary of  
232 not more than Nine Hundred Dollars (\$900.00) per month, in  
233 addition to the fees specified in Sections 41-61-69 and 41-61-75.  
234 For this salary the chief shall assure twenty-four-hour daily and  
235 readily available death investigators for the county, and shall  
236 maintain copies of all medical examiner death investigations for  
237 the county for at least the previous five (5) years. He shall  
238 coordinate his office and duties and cooperate with the State  
239 Medical Examiner, and the State Medical Examiner shall cooperate  
240 with him.

241 (5) A body composed of the State Medical Examiner, whether  
242 appointed on a permanent or interim basis, the Director of the  
243 State Board of Health or his designee, the Attorney General or his  
244 designee, the President of the Mississippi Coroners' Association  
245 (or successor organization) or his designee, and a certified  
246 pathologist appointed by the Mississippi State Medical Association  
247 shall adopt, promulgate, amend and repeal rules and regulations as  
248 may be deemed necessary by them from time to time for the proper  
249 enforcement, interpretation and administration of Sections  
250 41-61-51 through 41-61-79, in accordance with the provisions of  
251 the Mississippi Administrative Procedures Law, being Section  
252 25-43-1 et seq.

253 **SECTION 6.** Section 41-61-61, Mississippi Code of 1972, is  
254 brought forward as follows:

255 41-61-61. (1) Upon the death of any person where that death  
256 affects the public interest, the medical examiner of the county in



257 which the body of the deceased is found or, if death occurs in a  
258 moving conveyance, where the conveyance stops and death is  
259 pronounced, shall be notified promptly by any person having  
260 knowledge or suspicion of such a death, as provided in subsection  
261 (1) of Section 41-61-59. No person shall disturb the body at the  
262 scene of such a death until authorized by the medical examiner,  
263 unless the medical examiner is unavailable and it is determined by  
264 an appropriate law enforcement officer that the presence of the  
265 body at the scene would risk the integrity of the body or provide  
266 a hazard to the safety of others. For the limited purposes of  
267 this section, expression of an opinion that death has occurred may  
268 be made by a nurse, an emergency medical technician, or any other  
269 competent person, in the absence of a physician.

270 (2) The discovery of anatomical material suspected of being  
271 part of the human body shall be promptly reported to the medical  
272 examiner of the county in which the material is found, or to the  
273 State Medical Examiner.

274 (3) A person who willfully moves, distributes or conceals a  
275 body or body part in violation of this section is guilty of a  
276 misdemeanor, and may be punished by a fine of not more than Five  
277 Hundred Dollars (\$500.00), or by imprisonment for not more than  
278 six (6) months in the county jail, or by both such fine and  
279 imprisonment.

280 (4) Upon oral or written authorization of the medical  
281 examiner, if an autopsy is to be performed, the body shall be  
282 transported directly to an autopsy facility in a suitable secure  
283 conveyance, and the expenses of transportation shall be paid by  
284 the county for which the service is provided. The county may  
285 contract with individuals or make available a vehicle to the  
286 medical examiner or law enforcement personnel for transportation  
287 of bodies.

288 **SECTION 7.** Section 41-61-63, Mississippi Code of 1972, is  
289 brought forward as follows:

290 41-61-63. (1) The State Medical Examiner shall:

291 (a) Provide assistance, consultation and training to  
292 county medical examiners, county medical examiner investigators  
293 and law enforcement officials.

294 (b) Keep complete records of all relevant information  
295 concerning deaths or crimes requiring investigation by the medical  
296 examiners.

297 (c) Promulgate rules and regulations regarding the  
298 manner and techniques to be employed while conducting autopsies;  
299 the nature, character and extent of investigations to be made into  
300 deaths affecting the public interest to allow a medical examiner  
301 to render a full and complete analysis and report; the format and  
302 matters to be contained in all reports rendered by the medical  
303 examiners; and all other things necessary to carry out the  
304 purposes of Sections 41-61-51 through 41-61-79. The State Medical  
305 Examiner shall make such amendments to these rules and regulations  
306 as may be necessary. All medical examiners, coroners and law  
307 enforcement officers shall be subject to such rules.

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

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

313 (a) Upon receipt of notification of a death affecting  
314 the public interest, make inquiries regarding the cause and manner  
315 of death, reduce the findings to writing and promptly make a full  
316 report to the State Medical Examiner on forms prescribed for that  
317 purpose. The medical examiner shall be authorized to inspect and  
318 copy the medical reports of the decedent whose death is under  
319 investigation. However, the records copied shall be maintained as  
320 confidential so as to protect the doctor/patient privilege. The  
321 medical examiners shall be authorized to request the issuance of  
322 subpoenas, through the proper court, for the attendance of persons

323 and for the production of documents as may be required by their  
324 investigation.

325 (b) Complete the medical examiner's portion of the  
326 certificate of death within seventy-two (72) hours of assuming  
327 jurisdiction over a death, and forward the certificate to the  
328 funeral director or to the family. The medical examiner's portion  
329 of the certificate of death shall include the decedent's name, the  
330 date and time of death, the cause of death and the certifier's  
331 signature. If determination of the cause and/or manner of death  
332 are pending an autopsy or toxicological or other studies, these  
333 sections on the certificate may be marked "pending," with  
334 amendment and completion to follow the completion of the  
335 postmortem studies. The State Medical Examiner shall be  
336 authorized to amend a death certificate; however, the State  
337 Medical Examiner is not authorized to change or amend any death  
338 certificate after he has resigned or been removed from his office  
339 as the State Medical Examiner. Where an attending physician  
340 refuses to sign a certificate of death, or in case of any death,  
341 the State Medical Examiner or properly qualified designee may sign  
342 the death certificate.

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

345 (d) In all investigations of deaths affecting the  
346 public interest where an autopsy will not be performed, obtain or  
347 attempt to obtain postmortem blood, urine and/or vitreous fluids.  
348 Medical examiners may also obtain rectal temperature measurements,  
349 known hair samples, radiographs, gunshot residue/wiping studies,  
350 fingerprints, palm prints and other noninvasive studies as the  
351 case warrants and/or as directed by the State Medical Examiner.  
352 Decisions may be made in consultation with investigating law  
353 enforcement officials and/or the State Medical Examiner. The cost  
354 of all studies not performed by the Mississippi Crime Laboratory  
355 shall be borne by the county. County medical examiner

356 investigators shall be authorized to obtain these postmortem  
357 specimens themselves following successful completion of the death  
358 investigation training school.

359 (e) In all investigations of deaths occurring in the  
360 manner specified in subsection (2)(j) of Section 41-61-59, a death  
361 investigation shall be performed by the medical examiners in  
362 accordance with the child death investigation protocol established  
363 by the State Medical Examiner. The results of the death  
364 investigation shall be reported to the State Medical Examiner on  
365 forms prescribed for that purpose by the State Medical Examiner  
366 and to appropriate authorities, including police and child  
367 protective services, within three (3) days of the conclusion of  
368 the death investigation.

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

371 **SECTION 8.** Section 41-61-65, Mississippi Code of 1972, is  
372 brought forward as follows:

373 41-61-65. (1) If, in the opinion of the medical examiner  
374 investigating the case, it is advisable and in the public interest  
375 that an autopsy or other study be made for the purpose of  
376 determining the primary and/or contributing cause of death, an  
377 autopsy or other study shall be made by the State Medical Examiner  
378 or by a competent pathologist designated by the State Medical  
379 Examiner. The State Medical Examiner or designated pathologist  
380 may retain any tissues as needed for further postmortem studies or  
381 documentation. When the medical examiner has received  
382 notification under Section 41-39-15(6) that the deceased is  
383 medically suitable to be an organ and/or tissue donor, the State  
384 Medical Examiner or designated pathologist may retain any biopsy  
385 or medically approved sample of the organ and/or tissue in  
386 accordance with the provisions of Section 41-39-15(6). A complete  
387 autopsy report of findings and interpretations, prepared on forms  
388 designated for this purpose, shall be submitted promptly to the

389 State Medical Examiner. Copies of the report shall be furnished  
390 to the authorizing medical examiner, district attorney and court  
391 clerk. A copy of the report shall be furnished to one (1) adult  
392 member of the immediate family of the deceased or the legal  
393 representative or legal guardian of members of the immediate  
394 family of the deceased upon request. In determining the need for  
395 an autopsy, the medical examiner may consider the request from the  
396 district attorney or county prosecuting attorney, law enforcement  
397 or other public officials or private persons. However, if the  
398 death occurred in the manner specified in subsection (2)(j) of  
399 Section 41-61-59, an autopsy shall be performed by the State  
400 Medical Examiner or his designated pathologist, and the report of  
401 findings shall be forwarded promptly to the State Medical  
402 Examiner, investigating medical examiner, the State Department of  
403 Health, the infant's attending physician and the local sudden  
404 infant death syndrome coordinator.

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

413 (3) Family members or others who disagree with the medical  
414 examiner's determination shall be able to petition and present  
415 written argument to the State Medical Examiner for further review.  
416 If the petitioner still disagrees, he may petition the circuit  
417 court, which may, in its discretion, hold a formal hearing. In  
418 all those proceedings, the State Medical Examiner and the county  
419 medical examiner or county medical examiner investigator who  
420 certified the information shall be made defendants. All costs of  
421 the petitioning and hearing shall be borne by the petitioner.

422           **SECTION 9.** Section 41-61-67, Mississippi Code of 1972, is  
423 brought forward as follows:

424           41-61-67. (1) In any case of death where the body is or has  
425 been buried without investigation by a medical examiner as to the  
426 cause and manner of death, or where sufficient cause develops for  
427 further investigation after a body has been buried as determined  
428 by a medical examiner, the State Medical Examiner shall authorize  
429 an investigation and send a report of the investigation with  
430 recommendations to the appropriate district attorney. The  
431 district attorney may forward the report to the circuit court  
432 having jurisdiction of the matter and petition the court for  
433 disinterment. The circuit judge may order that the body be  
434 exhumed and that an autopsy be performed by the State Medical  
435 Examiner. A report of the autopsy and other pathological studies  
436 shall be delivered to the judge. However, in cases of suspected  
437 homicide, the State Medical Examiner shall be able to authorize  
438 disinterment for the purposes of autopsy. The cost of the  
439 exhumation, autopsy, transportation and disposition of the body  
440 shall be paid by the county for which the service is provided.

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

445           **SECTION 10.** Section 41-61-69, Mississippi Code of 1972, is  
446 brought forward as follows:

447           41-61-69. (1) No person knowing or having reason to know  
448 that a death may be under the jurisdiction of the medical examiner  
449 shall embalm, bury or cremate the body without the permission of  
450 the medical examiner. Any person violating the provisions of this  
451 section shall be guilty of a misdemeanor, and may be punished by a  
452 fine of not more than Five Hundred Dollars (\$500.00), or by  
453 imprisonment for not more than six (6) months in the county jail,  
454 or by both such fine and imprisonment.

455 (2) A dead body shall not be cremated or buried at sea  
456 unless a medical examiner certifies that he has been informed of  
457 or inquired into the cause and the manner of death and has the  
458 opinion that no further examination is necessary. This subsection  
459 shall not apply to deaths occurring less than twenty-four (24)  
460 hours after birth or to death of patient resulting only from  
461 natural disease and occurring in a licensed hospital unless the  
462 death falls within the jurisdiction of the medical examiner. The  
463 State Medical Examiner shall be authorized to adopt rules creating  
464 additional exceptions to this subsection. For making this  
465 certification, the medical examiner or his deputy shall be  
466 entitled to charge a fee of Twenty-five Dollars (\$25.00), to be  
467 paid by the applicant, unless such medical examiner or his deputy  
468 has filed a written report of such death as provided in Section  
469 41-61-73, Mississippi Code of 1972, and received a fee therefor  
470 paid by the county.

471 **SECTION 11.** Section 41-61-75, Mississippi Code of 1972, is  
472 brought forward as follows:

473 41-61-75. (1) For each investigation with the preparation  
474 and submission of the required reports, the following fees shall  
475 be billed to and paid by the county for which the service is  
476 provided:

477 (a) A medical examiner or his deputy shall receive  
478 Eighty-five Dollars (\$85.00) for each completed report of  
479 investigation of death, plus the examiner's actual expenses.

480 (b) The pathologist performing autopsies as provided in  
481 Section 41-61-65 shall receive Five Hundred Fifty Dollars  
482 (\$550.00) per completed autopsy, plus mileage expenses to and from  
483 the site of the autopsy.

484 (2) Any medical examiner, physician or pathologist who is  
485 subpoenaed for appearance and testimony before a grand jury,  
486 courtroom trial or deposition shall be entitled to an expert  
487 witness hourly fee to be set by the court and mileage expenses to

488 and from the site of the testimony, and such amount shall be paid  
489 by the jurisdiction or party issuing the subpoena.

490       **SECTION 12.** Section 41-61-77, Mississippi Code of 1972, is  
491 brought forward as follows:

492       41-61-77. (1) The Department of Public Safety shall  
493 establish and maintain a central office for the Mississippi Crime  
494 Laboratory and the State Medical Examiner with appropriate  
495 facilities and personnel for postmortem medicolegal examinations.  
496 District offices, with appropriate facilities and personnel, may  
497 also be established and maintained if considered necessary by the  
498 department for the proper management of postmortem examinations.

499       The facilities of the central and district offices and their  
500 staff services may be available to the medical examiners and  
501 designated pathologists in their investigations.

502       (2) In order to provide proper facilities for investigating  
503 deaths as authorized in Sections 41-61-51 through 41-61-79, the  
504 State Medical Examiner may arrange for the use of existing public  
505 or private laboratory facilities. The State Medical Examiner may  
506 contract with qualified persons to perform or to provide support  
507 services for autopsies, studies and investigations not  
508 inconsistent with other applicable laws. Such laboratory  
509 facilities may be located at the University of Mississippi Medical  
510 Center or any other suitable location. The State Medical Examiner  
511 may also serve as a member of the faculty at the University of  
512 Mississippi Medical Center and other institutions of higher  
513 learning. He shall be authorized to employ, with the approval of  
514 the Commissioner of Public Safety, such additional scientific,  
515 technical, administrative and clerical assistants as are necessary  
516 for performance of his duties. Such employees in the office of  
517 the State Medical Examiner shall be subject to the rules,  
518 regulations and policies of the state personnel system in their  
519 employment.



520           (3) The State Medical Examiner shall be authorized to  
521 appoint and/or employ qualified pathologists as additional  
522 associate and assistant state medical examiners as are necessary  
523 to carry out the duties of his office. The associate and  
524 assistant state medical examiners shall be licensed to practice  
525 medicine in Mississippi and, insofar as practicable, shall be  
526 trained in the field of forensic pathology. The State Medical  
527 Examiner may delegate specific duties to competent and qualified  
528 medical examiners within the scope of the express authority  
529 granted to him by law or regulation. Employees of the office of  
530 the State Medical Examiner shall have the authority to enter any  
531 political subdivisions of this state for the purpose of carrying  
532 out medical investigations.

533           (4) The board of supervisors of any two (2) or more adjacent  
534 counties may enter into written agreements with one another, in  
535 accordance with Section 17-13-1 et seq., to establish regional  
536 medical examiner districts for the purposes of providing and  
537 coordinating medical examiner services on a regional basis,  
538 establishing central forensic facilities for the counties  
539 involved, and employing or contracting with one or more  
540 pathologists to serve as medical examiners of the district, who  
541 will perform postmortem examinations and autopsies for the  
542 counties involved. Any powers which may be exercised under this  
543 chapter by an individual county, county medical examiner or county  
544 medical examiner investigator may be exercised jointly with any  
545 other county or with the county medical examiner or county medical  
546 examiner investigator of such other county, in accordance with the  
547 terms of the agreement between the counties involved. Any county  
548 entering into such an agreement shall be authorized to expend any  
549 funds necessary to carry out the purposes of such agreement. Any  
550 municipality located within any such district is hereby authorized  
551 and empowered to contribute funds to such district. For any such  
552 district established, the counties involved shall attempt to

553 coordinate the operation of the district and any district  
554 facilities with the operation of any district office or offices  
555 established by the State Medical Examiner under subsection (1) of  
556 this section which include such counties. The medical examiners  
557 authorized in this subsection shall have the same authority within  
558 a medical examiner district and the counties served by such  
559 district as does the State Medical Examiner.

560 **SECTION 13.** Section 41-61-79, Mississippi Code of 1972, is  
561 brought forward as follows:

562 41-61-79. (1) The county medical examiner, county medical  
563 examiner investigator or deputies thereof may be furnished by the  
564 board of supervisors of the county:

565 (a) A two-way radio for countywide communication, using  
566 similar frequencies to those used by the sheriff. The  
567 responsibility for the installation, maintenance and removal of  
568 such equipment may be vested in the sheriff by the board of  
569 supervisors.

570 (b) A pager/beeper which can be employed countywide.

571 (c) A morgue or morgue facilities with proper  
572 examination equipment as directed by the State Medical Examiner.  
573 The facility may be at a hospital, funeral home or other suitable  
574 location. The county may contract with an individual or  
575 establishment to provide these facilities.

576 (d) A camera suitable for crime-scene or death-scene  
577 photography, plus film and processing.

578 (e) Body bags and cloth sheets, as needed.

579 (2) The county medical examiner or county medical examiner  
580 investigator may be furnished by the board of supervisors of the  
581 county with:

582 (a) A vehicle.

583 (b) Any other equipment, facilities or personnel deemed  
584 necessary by the medical examiners and by the board of supervisors  
585 of that county.

586 (3) The vehicle used by a medical examiner in the  
587 performance of his duties shall be considered to be an emergency  
588 vehicle and may be equipped with red emergency flashing lights and  
589 siren.

590 (4) The costs of any equipment or facilities purchased and  
591 the compensation of any persons employed under the authority of  
592 this section shall be paid from the general county fund or any  
593 other funds which may be made available to the board of  
594 supervisors for such purchases or employment of personnel.

595 **SECTION 14.** Section 41-37-1, Mississippi Code of 1972, is  
596 brought forward as follows:

597 41-37-1. The term "autopsy" as used in this chapter shall be  
598 construed to mean the scientific examination of the body of a  
599 deceased person, or any portion thereof, by acceptable scientific  
600 methods and the removal and retention of parts of the body to  
601 accomplish such an examination.

602 The term "autopsy" as used in this chapter shall not be  
603 construed to mean the scientific dissection of the whole body as  
604 practiced in medical schools in the instruction of anatomy to  
605 medical students.

606 **SECTION 15.** Section 41-37-3, Mississippi Code of 1972, is  
607 brought forward as follows:

608 41-37-3. An autopsy may be performed, as provided by this  
609 chapter, for the purpose of determining the primary and/or  
610 contributing cause of death in the interest of public health and  
611 in criminal cases.

612 **SECTION 16.** Section 41-37-5, Mississippi Code of 1972, is  
613 brought forward as follows:

614 41-37-5. Only a physician duly licensed by the Mississippi  
615 State Board of Health may perform an autopsy.

616 **SECTION 17.** Section 41-37-7, Mississippi Code of 1972, is  
617 brought forward as follows:

618           41-37-7. A duly licensed physician authorized to perform an  
619 autopsy as provided in this chapter, and who, in good faith,  
620 complies with the provisions of this chapter in the performance of  
621 an autopsy, shall not be liable for damages on account thereof.

622           **SECTION 18.** Section 41-37-9, Mississippi Code of 1972, is  
623 brought forward as follows:

624           41-37-9. A circuit judge, chancellor or county judge of the  
625 county or district where a person died or where the body of such  
626 deceased person may be or where the mortal stroke or other cause  
627 of death occurred, may, in his discretion, either in termtime or  
628 in vacation, order an autopsy to be performed upon the body of  
629 such deceased person (1) upon the petition of a county prosecuting  
630 attorney of the county where the person died, or where the body of  
631 such deceased person may be at the time or where the mortal stroke  
632 or other cause of death occurred, or (2) upon petition of the  
633 district attorney of the district where the person died, or where  
634 the body of such deceased person may be at the time or where the  
635 mortal stroke or other cause of death occurred. In the event that  
636 said petition is filed by the county prosecuting attorney or  
637 district attorney, it shall contain allegations that the  
638 petitioner believes, has reason to believe, or suspects that such  
639 deceased person came to his death by some criminal means or  
640 agency, or that the cause of justice would be promoted by having  
641 an autopsy performed upon the body of such deceased person. Said  
642 petition shall be sworn to and shall be filed in the court of the  
643 judge or chancellor who makes the order, and shall be docketed by  
644 the clerk as are other cases or suits. If the body of such  
645 deceased person has already been interred, the petition shall so  
646 state, and if an autopsy is ordered, the order shall order the  
647 disinterment of such body for such autopsy and shall order any  
648 lawful officer of the county where said body may be buried to  
649 employ suitable help to disinter said body and to keep it in a  
650 suitable place until said autopsy shall have been performed. If

651 there has been no interment of the body of such deceased person, a  
652 copy of the order ordering an autopsy upon said deceased shall be  
653 served by the sheriff of the county, or any other person  
654 authorized to serve process, upon any person who may be found in  
655 charge of any funeral home where said body may be, and such  
656 funeral home shall hold said body for autopsy. If the body of  
657 such deceased person be not found in any funeral home the sheriff  
658 of the county where it may be found shall take said body and keep  
659 it in a suitable place until said autopsy shall have been  
660 performed. If an autopsy is ordered as provided in this section,  
661 the petitioner shall immediately secure the services of a  
662 qualified person to perform such autopsy.

663 **SECTION 19.** Section 41-37-11, Mississippi Code of 1972, is  
664 brought forward as follows:

665 41-37-11. The physician performing the autopsy in criminal  
666 investigations may obtain the services of a chemist competent to  
667 make a chemical analysis, or such services may be ordered by such  
668 judge or chancellor in termtime or in vacation. The records of  
669 such chemical analysis shall be made a part of the autopsy report.

670 **SECTION 20.** Section 41-37-13, Mississippi Code of 1972, is  
671 brought forward as follows:

672 41-37-13. In all cases where an autopsy is performed as  
673 provided in Section 41-37-9, the person making said autopsy shall  
674 file a report, in duplicate, of said autopsy with the circuit  
675 clerk of the county where the death is being investigated. Such  
676 circuit clerk shall keep and preserve said report and make it  
677 available to the district attorney, county prosecuting attorney,  
678 grand jury, coroner, and to the accused.

679 **SECTION 21.** Section 41-37-15, Mississippi Code of 1972, is  
680 brought forward as follows:

681 41-37-15. The physician performing the autopsy shall be paid  
682 a fee not exceeding the sum of Two Hundred Dollars (\$200.00),  
683 which sum shall be paid out of the treasury of the county in the

684 interest of which the autopsy was ordered, upon the allowance and  
685 warrant of the board of supervisors of such county. If the  
686 physician performing the autopsy is a qualified pathologist, such  
687 fee may be increased to Four Hundred Dollars (\$400.00).

688 A chemist whose services are used pursuant to Section  
689 41-37-11 may be paid a fee not to exceed Sixty Dollars (\$60.00)  
690 for such chemical analysis. The fee of said chemist for such  
691 analysis shall be paid in like manner as that of the autopsy  
692 physician.

693 **SECTION 22.** Section 41-37-17, Mississippi Code of 1972, is  
694 brought forward as follows:

695 41-37-17. In cases where the disinterment of a body is  
696 ordered, the sheriff shall be reimbursed for all expenses incurred  
697 by him, which sum shall be paid out of the treasury of the county  
698 where the deceased came to his death, upon the allowance and  
699 warrant of the board of supervisors of such county. Said board of  
700 supervisors shall order payment of the same on the itemized claim  
701 of such sheriff.

702 **SECTION 23.** Section 41-37-19, Mississippi Code of 1972, is  
703 brought forward as follows:

704 41-37-19. No evidence obtained through any autopsy performed  
705 under the provisions of Section 41-37-9 shall be admitted over the  
706 objection of any party in the trial of any civil cause before a  
707 court or commission of this state.

708 **SECTION 24.** Section 41-37-21, Mississippi Code of 1972, is  
709 brought forward as follows:

710 41-37-21. The physician performing the autopsy or the  
711 chemist performing such analysis in criminal investigations may be  
712 subpoenaed as a witness in any such criminal case. If subpoenaed  
713 as a prosecution witness, he shall be paid a fee of Fifty Dollars  
714 (\$50.00) per day as an expert witness for each day while in  
715 attendance at the trial, and in addition thereto he shall be paid  
716 Seven Cents (7¢) per mile for travel from his home to the location

717 of the trial and return. The fees herein provided for shall be  
718 paid to prosecution witnesses as otherwise provided for by law for  
719 the payment of such witness fees. If subpoenaed as a witness by  
720 the defense, such physician or chemist may collect a fee from the  
721 defendant not to exceed that prescribed hereunder for prosecution  
722 witnesses.

723 **SECTION 25.** Section 41-37-23, Mississippi Code of 1972, is  
724 brought forward as follows:

725 41-37-23. The executive officer of the Mississippi State  
726 Board of Health or a county health officer may petition in like  
727 manner as is provided in Section 41-37-9 a circuit judge,  
728 chancellor, or county judge in any county in which a person dies  
729 or where the body of such deceased person may be, and such circuit  
730 judge, chancellor, or county judge may order an autopsy to be  
731 performed upon the body of such deceased person in the interest of  
732 public health and welfare in cases where the cause of death is not  
733 known and cannot be determined with reasonable certainty without  
734 an autopsy and when it would appear to such judge or chancellor by  
735 such petition and evidence in support thereof that death may have  
736 been due to communicable disease or contagious disease or to  
737 poison, foreign substance, radiation or for any other reason exact  
738 knowledge as to which would be of benefit to the public health and  
739 welfare. In such cases the same fees as specified in criminal  
740 investigations to the autopsy physician and chemist shall be  
741 allowed by the board of supervisors out of the general fund of the  
742 county in which such petition is filed, except that no fee shall  
743 be allowed and paid to any physician or chemist who is a regular  
744 salaried employee of the state or county. A copy of the report of  
745 the autopsy physician and chemist in such cases shall be filed  
746 with the clerk of the court in which such order was entered, with  
747 the county health officer of such county and with the executive  
748 officer of the State Board of Health.

749           **SECTION 26.** Section 41-37-25, Mississippi Code of 1972, is  
750 brought forward as follows:

751           41-37-25. An autopsy may be performed without court order by  
752 a qualified physician when authorized by (a) the decedent, during  
753 his lifetime, or (b) any of the following persons who shall have  
754 assumed custody of the body for the purpose of burial: a  
755 surviving spouse, either parent or any person in loco parentis, a  
756 descendant over the age of eighteen (18) years, a guardian, or the  
757 next of kin. In the absence of any of the foregoing persons any  
758 friend of the deceased who has assumed responsibility for burial,  
759 or any other person charged by law with responsibility for burial,  
760 may give such consent. If two (2) or more persons have assumed  
761 custody of the body of an adult for purposes of burial, the  
762 consent of one such person shall be deemed sufficient.

763           In the case of a minor, however, the consent of either parent  
764 shall be deemed sufficient, unless the other parent gives written  
765 notice to the physician who is to perform the autopsy of such  
766 parent's objection thereto prior to the commencement of the  
767 autopsy. In the event that neither parent has legal custody of  
768 the minor, the guardian shall have the right to authorize an  
769 autopsy. The fees provided in this chapter for autopsies in  
770 criminal investigations shall not be applicable to this section.

771           No autopsy shall be held under this section over the  
772 objection of the surviving spouse, or if there be no surviving  
773 spouse, of any surviving parent, or if there be neither a  
774 surviving spouse nor parent, then of any surviving child.

775           **SECTION 27.** This act shall take effect and be in force from  
776 and after July 1, 2006.