

By: Representative Franks

To: Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1522

1 AN ACT TO AMEND SECTION 99-37-25, MISSISSIPPI CODE OF 1972,
2 TO REVISE SEXUAL ASSAULT TESTING PROVISIONS; TO AMEND SECTION
3 99-41-5, MISSISSIPPI CODE OF 1972, TO REVISE DEFINITIONS IN THE
4 MISSISSIPPI CRIME VICTIMS' COMPENSATION ACT; TO AMEND SECTION
5 99-41-7, MISSISSIPPI CODE OF 1972, TO REVISE DUTIES OF THE
6 DIRECTOR OF THE DIVISION OF VICTIM COMPENSATION; TO AMEND SECTION
7 99-41-11, MISSISSIPPI CODE OF 1972, TO REVISE THE TIME ALLOWED TO
8 CONTEST A DECISION OF THE DIRECTOR; TO AMEND SECTION 99-41-17,
9 MISSISSIPPI CODE OF 1972, TO ALLOW THE DIRECTOR TO EXTEND THE TIME
10 PERIOD ALLOWED FOR FILING A CLAIM; TO CLARIFY THE AWARDING OF
11 COMPENSATION; TO AMEND SECTION 99-41-23, MISSISSIPPI CODE OF 1972,
12 TO REVISE COMPENSATION AMOUNTS; TO AMEND SECTION 99-41-29,
13 MISSISSIPPI CODE OF 1972, TO REVISE PROVISIONS REGARDING THE CRIME
14 VICTIMS' COMPENSATION FUND; TO AMEND SECTION 99-43-7, MISSISSIPPI
15 CODE OF 1972, TO REVISE LAW ENFORCEMENT NOTICE REQUIREMENTS; TO
16 AMEND SECTION 99-43-35, MISSISSIPPI CODE OF 1972, TO REVISE NOTICE
17 OF RELEASE REQUIREMENTS; TO AMEND SECTION 99-43-43, MISSISSIPPI
18 CODE OF 1972, TO PROVIDE THAT VICTIMS SHALL HAVE THE RIGHT TO BE
19 NOTIFIED OF PROCEEDINGS AND TO SUBMIT A STATEMENT; TO AMEND
20 SECTION 43-21-261, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
21 DISCLOSURE OF RECORDS TO THE DIVISION OF VICTIM COMPENSATION; AND
22 FOR RELATED PURPOSES.

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

24 **SECTION 1.** Section 99-37-25, Mississippi Code of 1972, is
25 amended as follows:

26 99-37-25. (1) (a) When a person is brought into a doctor's
27 office, a hospital or a medical clinic * * * by a law enforcement
28 agency as the victim of an alleged rape or sexual assault having
29 occurred in this state, or comes into a doctor's office, a
30 hospital or a medical clinic * * * alleging rape or sexual assault
31 having occurred in this state, the bill for the medical forensic
32 examination and the preparation of the sexual assault evidence
33 collection kit will be sent to the Division of Victim
34 Compensation, Office of the Attorney General. The Division of
35 Victim Compensation shall pay for the medical examination
36 conducted for the procurement of evidence to aid in the
37 investigation and prosecution of the alleged offense. Such

38 payment shall be limited to the customary and usual hospital and
39 physician charges for such services in the area. Such payment
40 shall be made by the Division of Victim Compensation directly to
41 the health care provider. No bill for the examination will be
42 submitted to the victim, nor shall the medical facility hold the
43 victim responsible for payment. * * * The victim may be billed
44 for any further medical services not required for the
45 investigation and prosecution of the alleged offense. In cases
46 where the damage caused by the alleged sexual assault requires
47 medical treatment or diagnosis in addition to the examination, the
48 patient will be given information about the availability of victim
49 compensation and the procedure for applying for such compensation.

50 (b) Upon application submitted by the district
51 attorney, provided the proper warrant or court order has been
52 issued, the county in which an offense of sexual assault or of
53 felonious abuse or battery of a child as described in Section
54 97-5-39, touching or handling a child for lustful purposes as
55 described in Section 97-5-23, exploitation of children as
56 described in Section 97-5-33 or sexual battery as described in
57 Section 97-3-95, or statutory rape as defined in Section 97-3-65,
58 or an attempt to commit such offense has occurred shall pay for a
59 medical forensic examination of the person arrested, charged or
60 convicted of such offense to determine if the person so arrested,
61 charged or convicted has any sexually transmitted disease
62 including the immunodeficiency virus (HIV) and for the collection
63 of evidence. Such payment shall be made by the county directly to
64 the health care provider or other service performing the
65 collection of evidence and tests. The results of any such test
66 shall be made available to the victim or, if the victim is a
67 child, to the guardian of the victim.

68 (2) Any defendant who is convicted of, or pleads guilty or
69 nolo contendere to, any offense * * * or an attempt to commit any
70 such offense specified in subsection (1)(b) shall be ordered by

71 the court to make restitution to the Division of Victim
72 Compensation in an amount equal to the compensation paid by the
73 Division of Victim Compensation to the victim or medical provider
74 for the medical forensic examination and to the county for tests
75 for sexually transmitted diseases and HIV. Such restitution shall
76 be in addition to any restitution which the court orders the
77 defendant to pay the victim under the provisions of Chapter 37 of
78 Title 99, (Sections 99-37-1 through 99-37-21), Mississippi Code of
79 1972.

80 (3) The Division of Victim Compensation is hereby
81 authorized, in its discretion, to make application for and comply
82 with such requirements as may be necessary to qualify for any
83 federal funds as may be available as a result of services rendered
84 to crime victims under the provisions of this section.

85 **SECTION 2.** Section 99-41-5, Mississippi Code of 1972, is
86 amended as follows:

87 99-41-5. As used in this chapter, unless the context
88 otherwise requires, the term:

89 (a) "Allowable expense" means reasonable charges
90 incurred for reasonably needed:

91 (i) Products, services and accommodations,
92 including, but not limited to, medical care, rehabilitation,
93 rehabilitative occupational training and other remedial treatment
94 and care, but not to exceed Fifteen Thousand Dollars (\$15,000.00);

95 (ii) Mental health counseling and care not to
96 exceed Three Thousand Five Hundred Dollars (\$3,500.00) for the
97 victim and victim's family member; provided, however, if there is
98 more than one (1) family member, the amount of compensation
99 awarded shall be prorated and not to exceed Three Thousand Five
100 Hundred Dollars (\$3,500.00); and

101 (iii) Expenses related to funeral, cremation or
102 burial, but not to exceed a total charge of Six Thousand Five
103 Hundred Dollars (\$6,500.00) and transportation costs to arrange or

104 attend services, but not to exceed Eight Hundred Dollars
105 (\$800.00); and

106 (iv) Necessary expenses including, but not limited
107 to, crime scene cleanup, court-related travel, execution travel,
108 property damage repair and replacement costs for windows, doors,
109 locks or other security devices of a residential dwelling, and
110 temporary housing and relocation assistance for victims of
111 domestic violence in imminent danger. The division shall
112 establish, by administrative rule, guidelines and monetary limits
113 for such expenses.

114 (b) "Claimant" means any of the following persons
115 applying for compensation under this chapter:

116 (i) A victim;

117 (ii) A dependent of a victim who has died because
118 of criminally injurious conduct; * * *

119 (iii) The surviving parent, spouse, child or any
120 person who is legally obligated to pay or has paid medical,
121 funeral or other allowable expenses incurred as a result of the
122 victim's death;

123 (iv) Family members of the victim who incur mental
124 health counseling expenses as a result of the victim's death; or

125 (v) A person authorized to act on behalf of any of
126 the persons enumerated in subparagraphs (i), (ii), (iii) and (iv)
127 of this paragraph; however, "claimant" shall not include any of
128 the following: provider or creditor of victim; assignee of
129 provider or creditor, including a collection agency; or another
130 person or entity other than those enumerated in this paragraph;

131 (c) "Collateral source" means a source of benefits or
132 advantages for economic loss for which the claimant would
133 otherwise be eligible to receive compensation under this chapter
134 which the claimant has received, or which is readily available to
135 the claimant, from any one or more of the following:

136 (i) The offender;

137 (ii) The government of the United States or any
138 agency thereof, a state or any of its political subdivisions or an
139 instrumentality of two (2) or more states;

140 (iii) Social security, Medicare and Medicaid;

141 (iv) Workers' compensation;

142 (v) Wage continuation programs of any employer;

143 (vi) Proceeds of a contract of insurance payable
144 to the claimant for loss which the victim sustained because of the
145 criminally injurious conduct;

146 (vii) A contract providing prepaid hospital and
147 other health care services or benefits for disability; or

148 (viii) Any temporary nonoccupational disability
149 insurance;

150 (d) "Criminally injurious conduct" means an act
151 occurring or attempted within the geographical boundaries of this
152 state, or to a resident of Mississippi while that resident is
153 within any other state of the United States or any foreign
154 country, which state or foreign country does not provide
155 compensation for those injuries caused by an act for which
156 compensation would be available had the act occurred in
157 Mississippi, and which act results in personal injury or death to
158 a victim for which punishment by fine, imprisonment or death may
159 be imposed. For purpose of this chapter "criminally injurious
160 conduct" shall also include federal offenses committed within the
161 state which result in personal injury or death to a victim and
162 which are punishable by fine imprisonment or death, and delinquent
163 acts as defined in Section 43-21-105 which result in personal
164 injury or death to a victim and which, if committed by an adult,
165 would be a crime punishable by fine, imprisonment or death;

166 (e) "Dependent" means a natural person wholly or
167 partially dependent upon the victim for care or support, and
168 includes a child of the victim born after the death of the victim

169 where the death occurred as a result of criminally injurious
170 conduct;

171 (f) "Economic loss of a dependent" means loss, after
172 death of the victim, of contributions or things of economic value
173 to the dependent, not including services which would have been
174 received from the victim if he or she had not suffered the fatal
175 injury, less expenses of the dependent avoided by reason of death
176 of the victim;

177 (g) "Economic loss" means monetary detriment consisting
178 only of allowable expense, work loss and, if injury causes death,
179 economic loss of a dependent, but shall not include noneconomic
180 loss or noneconomic detriment;

181 (h) "Family member" means the victim's spouse, parent,
182 grandparent, stepparent, child, stepchild, grandchild, brother,
183 sister, half brother, half sister or spouse's parent;

184 (i) "Noneconomic loss or detriment" means pain,
185 suffering, inconvenience, physical impairment and nonpecuniary
186 damage;

187 (j) "Work loss" means loss of income from work the
188 victim or claimant would have performed if the victim had not been
189 injured, but reduced by any income from substitute work actually
190 performed by the victim or claimant or by income the victim or
191 claimant would have earned in available appropriate substitute
192 work that he or she was capable of performing, but unreasonably
193 failed to undertake; and

194 (k) "Victim" means a person who suffers personal injury
195 or death as a result of criminally injurious conduct, regardless
196 of whether that person was the intended victim of the criminally
197 injurious conduct. This definition may include a person who,
198 while going to the aid of another person or any duly sworn law
199 enforcement officer, or while attempting to prevent a crime from
200 occurring, suffers personal injury or death as a result of
201 criminally injurious conduct.

202 **SECTION 3.** Section 99-41-7, Mississippi Code of 1972, is
203 amended as follows:

204 99-41-7. There is hereby created in the Attorney General's
205 Office the Division of Victim Compensation, hereafter referred to
206 as "division." In the Division of Victim Compensation there is
207 hereby created the position of Director of Victim Compensation,
208 hereafter referred to as "director." The duties of the director
209 shall include receipt, investigation, verification and
210 adjudication of a claim for compensation under the provisions of
211 this chapter. The duties shall also include facilitating
212 assistance to victims of crime through information referrals,
213 advocacy outreach programs and other victim-related services. The
214 director shall be appointed by the Attorney General.

215 **SECTION 4.** Section 99-41-11, Mississippi Code of 1972, is
216 amended as follows:

217 99-41-11. (1) The director shall award compensation for
218 economic loss arising from criminally injurious conduct if
219 satisfied by a preponderance of the evidence that the requirements
220 for compensation have been met.

221 (2) The director shall make such investigations, administer
222 such oaths or affirmations and receive such evidence as he deems
223 relevant and necessary to make a determination on any application
224 received. The director shall have the power to subpoena
225 witnesses, compel their attendance and require the production of
226 records and other evidence. Application to a court for aid in
227 enforcing a subpoena may be made in the name of the director. To
228 the extent that funds are appropriated or otherwise available, the
229 Attorney General may employ such personnel, including expert
230 witnesses, as may be required in connection with particular
231 applications before the director, and the director may take
232 judicial notice of general, technical and scientific facts within
233 his specialized knowledge.

234 (3) The director may settle a claim by stipulation, agreed
235 settlement, consent order or default.

236 (4) The director may request access to and obtain from
237 prosecuting attorneys or law enforcement officers, as well as
238 state and local agencies, any reports of investigations or other
239 data necessary to assist the director in making a determination of
240 eligibility for compensation under the provisions of this chapter.

241 (5) Notwithstanding any other provision of law, every law
242 enforcement agency and prosecuting attorney in the state shall
243 provide to the director, upon request, a complete copy of the
244 report regarding the incident and any supplemental reports
245 involving the crime or incident giving rise to a claim filed
246 pursuant to this chapter within thirty (30) days of such request.

247 (6) Any statute providing for the confidentiality of a
248 claimant or victim's court record shall not be applicable under
249 this chapter, notwithstanding the provisions of any other law to
250 the contrary; provided, however, any such record or report which
251 is otherwise protected from public disclosure by the provisions of
252 any other law shall otherwise remain subject to the provisions of
253 such law.

254 (7) The director may require that the claimant submit with
255 the application material substantiating the facts stated in the
256 application.

257 (8) After processing an application for compensation filed
258 under rules and regulations promulgated by the Attorney General,
259 the director shall enter an order stating:

260 (a) Findings of fact;

261 (b) The decision as to whether or not compensation
262 shall be awarded;

263 (c) The amount of compensation, if any, due under this
264 chapter;

265 (d) The person or persons to whom any compensation
266 should be paid;

267 (e) The percentage share of the total of any
268 compensation award and the dollar amount each person shall
269 receive; and

270 (f) Whether disbursement of any compensation awarded
271 shall be made in a lump sum or in periodic payments.

272 (9) The director on his own motion or on request of the
273 claimant may reconsider a decision granting or denying an award or
274 determining its amount. An order on reconsideration of an award
275 shall not require a refund of amounts previously paid unless the
276 award was obtained by fraud.

277 (10) If a claimant disagrees with the decision of the
278 director, he may contest such decision to the Attorney General
279 within thirty (30) days after notification of issuance of the
280 decision. There shall be no appeal of a decision of the director
281 except as set forth in this subsection.

282 (11) In a contested case, all parties shall be afforded an
283 opportunity for a hearing after reasonable notice pursuant to
284 regulations promulgated pursuant to this chapter and may offer
285 evidence and argument on any issue relevant to the claim and may
286 examine witnesses and offer evidence in reply to any matter of an
287 evidentiary nature relevant to the claim. The Attorney General
288 shall have the power to subpoena witnesses, compel their
289 attendance and require the production of records and other
290 evidence. The decision of the Attorney General becomes the final
291 decision. A record of the hearing in a contested case shall be
292 made and shall be transcribed upon request of any party who shall
293 pay transcription costs unless otherwise ordered by the Attorney
294 General.

295 **SECTION 5.** Section 99-41-17, Mississippi Code of 1972, is
296 amended as follows:

297 99-41-17. (1) Compensation shall not be awarded under this
298 chapter:

299 (a) Unless the criminally injurious conduct occurred
300 after July 1, 1991;

301 (b) Unless the claim has been filed with the director
302 within thirty-six (36) months after the crime occurred, or in
303 cases of child sexual abuse, within thirty-six (36) months after
304 the crime was reported to law enforcement or the Department of
305 Human Services, but in no event later than the child's
306 twenty-first birthday. For good cause, the director may extend
307 the time period allowed for filing a claim for an additional
308 period not to exceed twelve (12) months;

309 (c) To a claimant or victim who was the offender or an
310 accomplice to the offender, or, except in cases of children under
311 the age of consent as specified in Section 97-3-65, 97-3-97 or
312 97-5-23, Mississippi Code of 1972, who encouraged or in any way
313 knowingly participated in criminally injurious conduct;

314 (d) To another person, if the award would unjustly
315 benefit the offender or accomplice;

316 (e) Unless the criminally injurious conduct resulting
317 in injury or death was reported to a law enforcement officer
318 within seventy-two (72) hours after its occurrence or unless it is
319 found that there was good cause for the failure to report within
320 such time;

321 (f) To any claimant or victim when the injury or death
322 occurred while the victim was confined in any federal, state,
323 county or city jail or correctional facility;

324 (g) If the victim was injured as a result of the
325 operation of a motor vehicle, boat or airplane, unless the vehicle
326 was used by the offender (i) while under the influence of alcohol
327 or drugs, * * * (ii) as a weapon in the deliberate attempt to
328 injure or cause the death of the victim, (iii) in a hit and run
329 accident by leaving the scene of an accident as specified in
330 Section 63-3-401 or (iv) to flee apprehension by law enforcement
331 as specified in Sections 97-9-72 and 97-9-73;

332 (h) If, following the filing of an application, the
333 claimant failed to take further steps as required by the division
334 to support the application within forty-five (45) days of such
335 request made by the director or failed to otherwise cooperate with
336 requests of the director to determine eligibility, unless failure
337 to provide information was beyond the control of the claimant;

338 (i) To a claimant or victim who, subsequent to the
339 injury for which application is made, is convicted of any
340 felony * * *, and the conviction becomes known to the director;

341 (j) To any claimant or victim who has been previously
342 convicted as, or otherwise meets the definition of a habitual
343 criminal as defined in Section 99-19-81;

344 (k) If the claimant or victim, at the time of the
345 criminally injurious conduct upon which the claim for compensation
346 is based, engaged in conduct that was a felony or delinquent act
347 (as defined in Section 43-21-105 which, if committed by an adult,
348 would constitute a felony) unrelated to the crime upon which the
349 claim for compensation is based.

350 (2) Compensation otherwise payable to a claimant shall be
351 diminished to the extent:

352 (a) That the economic loss is recouped from other
353 sources, including collateral sources; and

354 (b) Of the degree of responsibility for the cause of
355 injury or death attributable to the victim or claimant.

356 (3) Upon a finding that the claimant or victim has not fully
357 cooperated with appropriate law enforcement agencies and
358 prosecuting attorneys, an award of compensation may be denied,
359 withdrawn or reduced.

360 (4) Compensation otherwise payable to a claimant or victim
361 may be denied or reduced to a claimant or victim who, at the time
362 of the crime upon which the claim for compensation is based, was
363 engaging in or attempting to engage in other unlawful activity

364 unrelated to the crime upon which the claim for compensation is
365 based.

366 **SECTION 6.** Section 99-41-23, Mississippi Code of 1972, is
367 amended as follows:

368 99-41-23. (1) Compensation for work loss may not
369 exceed Six Hundred Dollars (\$600.00) per week, not to exceed
370 fifty-two (52) weeks; the total amount of the award may not exceed
371 the aggregate limitation of this section.

372 (2) Compensation for economic loss of a dependent may not
373 exceed Six Hundred Dollars (\$600.00) per week not to exceed
374 fifty-two (52) weeks; provided, however, if there is more than one
375 (1) dependent per victim the amount of compensation awarded shall
376 be prorated among the dependents and the total amount of the award
377 may not exceed the aggregate limitation of this section.

378 (3) In the event of the victim's death, compensation for
379 work loss of claimant may not exceed Six Hundred Dollars (\$600.00)
380 per week not to exceed one (1) week; provided, however, if there
381 is more than one (1) claimant per victim, the amount of
382 compensation awarded shall be prorated among the claimants and the
383 total amount of the award may not exceed Six Hundred Dollars
384 (\$600.00).

385 (4) Compensation payable to a victim and to all other
386 claimants sustaining economic loss because of injury to or death
387 of that victim may not exceed Twenty Thousand Dollars (\$20,000.00)
388 in the aggregate.

389 (5) A determination that compensation shall be awarded may
390 provide for payment to a claimant in a lump sum or in
391 installments. All medical bills may be paid directly to affected
392 health care providers. At the request of the claimant, the
393 director may convert future economic loss, other than allowable
394 expense, to a lump sum, but only upon a finding of either of the
395 following:

396 (a) That the award in a lump sum will promote the
397 interests of the claimant; or

398 (b) That the present value of all future economic loss,
399 other than allowable expense, does not exceed One Thousand Dollars
400 (\$1,000.00).

401 (6) An award payable in installments for future economic
402 loss may be made only for a period as to which the future economic
403 loss can reasonably be determined. An award payable in
404 installments for future economic loss may be modified upon
405 findings that a material and substantial change of circumstances
406 has occurred.

407 (7) An award shall not be subject to execution, attachment,
408 garnishment or other process, except that an award shall not be
409 exempt from orders for the withholding of support for minor
410 children, and except that an award for allowable expense shall not
411 be exempt from a claim of a creditor to the extent that such
412 creditor has provided products, services or accommodations, the
413 costs of which are included in the award.

414 (8) An assignment by the claimant to any future award under
415 the provisions of this chapter is unenforceable, except:

416 (a) An assignment of any award for work loss to assure
417 payment of court-ordered alimony, maintenance or child support; or

418 (b) An assignment for any award for allowable expense
419 to the extent that the benefits are for the cost of products,
420 services or accommodations necessitated by the injury or death on
421 which the claim is based and which are provided or are to be
422 provided by the assignee.

423 (9) Subsections (7) and (8) of this section prevail over
424 Sections 75-9-406 and 75-9-408 of Article 9 of the Uniform
425 Commercial Code to the extent, if any, that Sections 75-9-406 and
426 75-9-408 may otherwise be applicable.

427 **SECTION 7.** Section 99-41-29, Mississippi Code of 1972, is
428 amended as follows:

429 99-41-29. (1) From and after July 1, 1990, there is hereby
430 created in the State Treasury a special interest-bearing fund to
431 be known as the Crime Victims' Compensation Fund. The monies
432 contained in the fund shall be held in trust for the sole purpose
433 of payment of awards of compensation to victims and claimants
434 pursuant to this chapter, the payment of all necessary and proper
435 expenses incurred by the division in the administration of this
436 chapter, payment of sexual assault examinations pursuant to
437 Section 99-37-25 and payment of other expenses in furtherance of
438 providing assistance to victims of crime through information
439 referrals, advocacy outreach programs and victim-related services.
440 Expenditures from the fund shall be paid by the State Treasurer
441 upon warrants issued by the Department of Finance and
442 Administration, and upon requisitions signed by the Attorney
443 General or his duly designated representative in the manner
444 provided by law. The fund shall be a continuing fund, not subject
445 to fiscal-year limitations, and shall consist of: (a) monies
446 appropriated by the Legislature for the purposes of compensating
447 the victims of crime and other claimants under this chapter; (b)
448 the interest accruing to the fund; (c) monies recovered by the
449 director under the provisions of Section 99-41-21; (d) monies
450 received from the federal government; and (e) monies received from
451 such other sources as may be provided by law.

452 (2) No compensation payments shall be made which exceed the
453 amount of money in the fund. The state shall not be liable for a
454 written order to pay compensation, except to the extent that
455 monies are available in the fund on the date the award is ordered.
456 The Attorney General shall establish such rules and regulations as
457 shall be necessary to adjust awards and payments so that the total
458 amount awarded does not exceed the amount of money on deposit in
459 the fund. Such rules and regulations may include, but shall not
460 be limited to, the authority to provide for suspension of payments
461 and proportioned reduction of benefits to all claimants; provided,

462 however, no such reductions as provided for shall entitle
463 claimants to future retroactive reimbursements in future years.

464 **SECTION 8.** Section 99-43-7, Mississippi Code of 1972, is
465 amended as follows:

466 99-43-7. (1) Unless the victim is unavailable or
467 incapacitated as a result of the crime, within seventy-two (72)
468 hours after the law enforcement agency becomes responsible for
469 investigating the crime, the law enforcement agency shall provide
470 to the victim in a manner and form prescribed by the Attorney
471 General the following information:

472 (a) The availability of emergency and crisis services.

473 (b) The availability of victims' compensation benefits
474 and the * * *, address and telephone number of the Victim
475 Compensation Division.

476 (c) The name of the law enforcement officer and
477 telephone number of the law enforcement agency with the following
478 statement attached: "If within sixty (60) days you are not
479 notified of an arrest in your case, you may call the telephone
480 number of the law enforcement agency for the status of the case."

481 (d) The procedural steps involved in a criminal
482 prosecution or youth court proceeding.

483 (e) The rights authorized by the Mississippi
484 Constitution on rights of victims, including a form to invoke
485 these rights.

486 (f) The existence of and eligibility requirements for
487 restitution and compensation pursuant to Section 99-37-1 et seq.
488 and Section 99-41-1 et seq., Mississippi Code of 1972.

489 (g) A recommended procedure if the victim is subjected
490 to threats or intimidation.

491 (h) The name and telephone number of the office of the
492 prosecuting attorney to contact for further information.

493 (2) In the event a victim initiates proceedings against a
494 person by filing an affidavit, petition or complaint in a court of

495 competent jurisdiction, the clerk of the court shall provide the
496 victim with the information set forth in subsection (1); however,
497 in lieu of the information set forth in subsection (1)(c), the
498 clerk shall advise the victim of the name and telephone number of
499 the law enforcement agency to which the complaint will be
500 referred. This information shall be provided on a form prescribed
501 by the Attorney General.

502 **SECTION 9.** Section 99-43-35, Mississippi Code of 1972, is
503 amended as follows:

504 99-43-35. The victim has the right to the following
505 information:

506 (a) As soon as practicable after the date of
507 sentencing, the office of the prosecuting attorney shall notify
508 the victim of the sentence imposed on the defendant.

509 (b) The names, addresses and telephone numbers of the
510 appropriate agencies and departments to whom request for notice
511 should be provided.

512 (c) The status of any post-conviction court review or
513 appellate proceeding or any decisions arising from those
514 proceedings shall be furnished to the victim by the Office of the
515 Attorney General or the office of the district attorney, whichever
516 is appropriate, within five (5) business days after the status is
517 known.

518 (d) Upon any post-arrest release of the defendant, the
519 sheriff or municipal jailer shall, upon request, notify the victim
520 of the release * * * of the defendant. In the case of domestic
521 violence or sexual assault, the appropriate law enforcement agency
522 shall make a reasonable attempt to notify the victim of the
523 defendant's post-arrest release, regardless of the victim's
524 exercise of his or her right to receive this information.

525 (e) The agency having physical custody of a prisoner
526 shall, if provided a request for notice, and as soon as

527 practicable, give notice to the victim of the escape and,
528 subsequently, the return of the prisoner into custody.

529 **SECTION 10.** Section 99-43-43, Mississippi Code of 1972, is
530 amended as follows:

531 99-43-43. (1) Upon written request, the victim shall have
532 the right to be notified that he or she may submit a written
533 statement, or audio or video recording, which shall be entered
534 into the prisoner's Department of Corrections records. The
535 statement or recording shall be considered during any review for
536 community status of the prisoner or prior to release of the
537 prisoner.

538 (2) The victim shall have the right to be notified and
539 allowed to submit a written or recorded statement when parole or
540 pardon is considered.

541 (3) The victim shall have the right to be notified and
542 allowed to submit a written or recorded statement when any change
543 in custodial status, criminal history, registration status,
544 expungement or restoration of rights is considered, whether such
545 action be by executive order or judicial action.

546 **SECTION 11.** Section 43-21-261, Mississippi Code of 1972, is
547 amended as follows:

548 43-21-261. (1) Except as otherwise provided in this
549 section, records involving children shall not be disclosed, other
550 than to necessary staff of the youth court, except pursuant to an
551 order of the youth court specifying the person or persons to whom
552 the records may be disclosed, the extent of the records which may
553 be disclosed and the purpose of the disclosure. Such court orders
554 for disclosure shall be limited to those instances in which the
555 youth court concludes, in its discretion, that disclosure is
556 required for the best interests of the child, the public safety or
557 the functioning of the youth court and then only to the following
558 persons:

559 (a) The judge of another youth court or member of
560 another youth court staff;

561 (b) The court of the parties in a child custody or
562 adoption cause in another court;

563 (c) A judge of any other court or members of another
564 court staff;

565 (d) Representatives of a public or private agency
566 providing supervision or having custody of the child under order
567 of the youth court;

568 (e) Any person engaged in a bona fide research purpose,
569 provided that no information identifying the subject of the
570 records shall be made available to the researcher unless it is
571 absolutely essential to the research purpose and the judge gives
572 prior written approval, and the child, through his or her
573 representative, gives permission to release the information;

574 (f) The Mississippi Employment Security Commission, or
575 its duly authorized representatives, for the purpose of a child's
576 enrollment into the Job Corps Training Program as authorized by
577 Title IV of the Comprehensive Employment Training Act of 1973 (29
578 USCS Section 923 et seq.). However, no records, reports,
579 investigations or information derived therefrom pertaining to
580 child abuse or neglect shall be disclosed; and

581 (g) To any person pursuant to a finding by a judge of
582 the youth court of compelling circumstances affecting the health
583 or safety of a child and that such disclosure is in the best
584 interests of the child.

585 Law enforcement agencies may disclose information to the
586 public concerning the taking of a child into custody for the
587 commission of a delinquent act without the necessity of an order
588 from the youth court. The information released shall not identify
589 the child or his address unless the information involves a child
590 convicted as an adult.

591 (2) Any records involving children which are disclosed under
592 an order of the youth court and the contents thereof shall be kept
593 confidential by the person or agency to whom the record is
594 disclosed except as provided in the order. Any further disclosure
595 of any records involving children shall be made only under an
596 order of the youth court as provided in this section.

597 (3) Upon request, the parent, guardian or custodian of the
598 child who is the subject of a youth court cause or any attorney
599 for such parent, guardian or custodian, shall have the right to
600 inspect any record, report or investigation which is to be
601 considered by the youth court at a hearing, except that the
602 identity of the reporter shall not be released, nor the name of
603 any other person where the person or agency making the information
604 available finds that disclosure of the information would be likely
605 to endanger the life or safety of such person.

606 (4) Upon request, the child who is the subject of a youth
607 court cause shall have the right to have his counsel inspect and
608 copy any record, report or investigation which is filed with the
609 youth court.

610 (5) (a) The youth court prosecutor or prosecutors, the
611 county attorney, the district attorney, the youth court defender
612 or defenders, or any attorney representing a child shall have the
613 right to inspect any law enforcement record involving children.

614 (b) The Department of Human Services shall disclose to
615 a county prosecuting attorney or district attorney any and all
616 records resulting from an investigation into suspected child abuse
617 or neglect when the case has been referred by the Department of
618 Human Services to the county prosecuting attorney or district
619 attorney for criminal prosecution.

620 (c) Agency records made confidential under the
621 provisions of this section may be disclosed to a court of
622 competent jurisdiction.

623 (d) Upon request, records involving children shall be
624 disclosed to the Division of Victim Compensation of the Office of
625 the Attorney General without order of the youth court for purposes
626 of determination of eligibility for victim compensation benefits.

627 (6) Information concerning an investigation into a report of
628 child abuse or child neglect may be disclosed by the Department of
629 Human Services without order of the youth court to any attorney,
630 physician, dentist, intern, resident, nurse, psychologist, social
631 worker, family protection worker, family protection specialist,
632 child caregiver, minister, law enforcement officer, public or
633 private school employee making that report pursuant to Section
634 43-21-353(1) if the reporter has a continuing professional
635 relationship with the child and a need for such information in
636 order to protect or treat the child.

637 (7) Information concerning an investigation into a report of
638 child abuse or child neglect may be disclosed without further
639 order of the youth court to any interagency child abuse task force
640 established in any county or municipality by order of the youth
641 court of that county or municipality.

642 (8) Names and addresses of juveniles twice adjudicated as
643 delinquent for an act which would be a felony if committed by an
644 adult or for the unlawful possession of a firearm shall not be
645 held confidential and shall be made available to the public.

646 (9) Names and addresses of juveniles adjudicated as
647 delinquent for murder, manslaughter, burglary, arson, armed
648 robbery, aggravated assault, any sex offense as defined in Section
649 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
650 violation of Section 63-11-30, shall not be held confidential and
651 shall be made available to the public.

652 (10) The judges of the circuit and county courts, and
653 presentence investigators for the circuit courts, as provided in
654 Section 47-7-9, shall have the right to inspect any youth court

655 records of a person convicted of a crime for sentencing purposes
656 only.

657 (11) The victim of an offense committed by a child who is
658 the subject of a youth court cause shall have the right to be
659 informed of the child's disposition by the youth court.

660 (12) A classification hearing officer of the State
661 Department of Corrections, as provided in Section 47-5-103, shall
662 have the right to inspect any youth court records, excluding abuse
663 and neglect records, of any offender in the custody of the
664 department who as a child or minor was a juvenile offender or was
665 the subject of a youth court cause of action, and the State Parole
666 Board, as provided in Section 47-7-17, shall have the right to
667 inspect such records when the offender becomes eligible for
668 parole.

669 (13) The youth court shall notify the Department of Public
670 Safety of the name, and any other identifying information such
671 department may require, of any child who is adjudicated delinquent
672 as a result of a violation of the Uniform Controlled Substances
673 Law.

674 (14) The Administrative Office of Courts shall have the
675 right to inspect any youth court records in order that the number
676 of youthful offenders, abused, neglected, truant and dependent
677 children, as well as children in need of special care and children
678 in need of supervision, may be tracked with specificity through
679 the youth court and adult justice system, and to utilize tracking
680 forms for such purpose.

681 (15) Upon a request by a youth court, the Administrative
682 Office of Courts shall disclose all information at its disposal
683 concerning any previous youth court intakes alleging that a child
684 was a delinquent child, child in need of supervision, child in
685 need of special care, truant child, abused child or neglected
686 child, as well as any previous youth court adjudications for the
687 same and all dispositional information concerning a child who at

688 the time of such request comes under the jurisdiction of the youth
689 court making such request.

690 (16) In every case where an abuse or neglect allegation has
691 been made, the confidentiality provisions of this section shall
692 not apply to prohibit access to a child's records by any state
693 regulatory agency, any state or local prosecutorial agency or law
694 enforcement agency; however, no identifying information concerning
695 the child in question may be released to the public by such agency
696 except as otherwise provided herein.

697 (17) In every case where there is any indication or
698 suggestion of either abuse or neglect and a child's physical
699 condition is medically labeled as medically "serious" or
700 "critical" or a child dies, the confidentiality provisions of this
701 section shall not apply. In cases of child deaths, the following
702 information may be released by the Mississippi Department of Human
703 Services: (a) child's name; (b) address or location; (c)
704 verification from the Department of Human Services of case status
705 (no case or involvement, case exists, open or active case, case
706 closed); (d) if a case exists, the type of report or case
707 (physical abuse, neglect, etc.), date of intake(s) and
708 investigation(s), and case disposition (substantiated or
709 unsubstantiated). Notwithstanding the aforesaid, the
710 confidentiality provisions of this section shall continue if there
711 is a pending or planned investigation by any local, state or
712 federal governmental agency or institution.

713 (18) Any member of a foster care review board designated by
714 the Department of Human Services shall have the right to inspect
715 youth court records relating to the abuse, neglect or child in
716 need of supervision cases assigned to such member for review.

717 (19) Information concerning an investigation into a report
718 of child abuse or child neglect may be disclosed without further
719 order of the youth court in any administrative or due process
720 hearing held, pursuant to Section 43-21-257, by the Department of

721 Human Services for individuals whose names will be placed on the
722 central registry as substantiated perpetrators.

723 **SECTION 12.** This act shall take effect and be in force from
724 and after July 1, 2007.