

By: Representative Franks

To: Judiciary A

HOUSE BILL NO. 1522
(As Sent to Governor)

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, AS AMENDED BY HOUSE
21 BILL NO. 526, 2007 REGULAR SESSION; TO PROVIDE FOR DISCLOSURE OF
22 RECORDS TO THE DIVISION OF VICTIM COMPENSATION; AND FOR RELATED
23 PURPOSES.

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

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

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

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

51 (b) Upon application submitted by the district
52 attorney, provided the proper warrant or court order has been
53 issued, the county in which an offense of sexual assault or of
54 felonious abuse or battery of a child as described in Section
55 97-5-39, touching or handling a child for lustful purposes as
56 described in Section 97-5-23, exploitation of children as
57 described in Section 97-5-33 or sexual battery as described in
58 Section 97-3-95, or statutory rape as defined in Section 97-3-65,
59 or an attempt to commit such offense has occurred shall pay for a
60 medical forensic examination of the person arrested, charged or
61 convicted of such offense to determine if the person so arrested,
62 charged or convicted has any sexually transmitted disease and for
63 the collection of evidence. Such payment shall be made by the
64 county directly to the health care provider or other service
65 performing the collection of evidence and tests. At the victim's
66 request, a test for human immunodeficiency virus (HIV) shall be
67 administered to the defendant/accused not later than forty-eight
68 (48) hours after the date on which the information or indictment
69 is presented, and the defendant/accused shall be subjected to
70 follow-up testing for HIV upon a determination that such follow-up

71 testing is medically necessary and reasonable. The results of any
72 such test shall be confidential but shall be made available to the
73 victim or, if the victim is a child, to the guardian of the
74 victim. After an indictment, if the case is dismissed, the
75 defendant is found not guilty or the case is not prosecuted within
76 three (3) years of the indictment, all records of tests shall be
77 returned to the accused or destroyed. Upon a showing of good
78 cause, the court may retain such records and allow a case to
79 remain open after the expiration of the three-year limitation
80 provided herein.

81 (2) Any defendant who is convicted of, or pleads guilty or
82 nolo contendere to, any offense * * * or an attempt to commit any
83 such offense specified in subsection (1)(b) shall be ordered by
84 the court to make restitution to the Division of Victim
85 Compensation in an amount equal to the compensation paid by the
86 Division of Victim Compensation to the victim or medical provider
87 for the medical forensic examination and to the county for tests
88 for sexually transmitted diseases. Such restitution shall be in
89 addition to any restitution which the court orders the defendant
90 to pay the victim under the provisions of Chapter 37 of Title 99,
91 (Sections 99-37-1 through 99-37-21), Mississippi Code of 1972.

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

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

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

101 (a) "Allowable expense" means reasonable charges
102 incurred for reasonably needed:

103 (i) Products, services and accommodations,
104 including, but not limited to, medical care, rehabilitation,
105 rehabilitative occupational training and other remedial treatment
106 and care, but not to exceed Fifteen Thousand Dollars (\$15,000.00);

107 (ii) Mental health counseling and care not to
108 exceed Three Thousand Five Hundred Dollars (\$3,500.00) for the
109 victim and victim's family member; provided, however, if there is
110 more than one (1) family member, the amount of compensation
111 awarded shall be prorated and not to exceed Three Thousand Five
112 Hundred Dollars (\$3,500.00); * * *

113 (iii) Expenses related to funeral, cremation or
114 burial, but not to exceed a total charge of Six Thousand Five
115 Hundred Dollars (\$6,500.00) and transportation costs to arrange or
116 attend services, but not to exceed Eight Hundred Dollars
117 (\$800.00); and

118 (iv) Necessary expenses, including, but not
119 limited to, temporary housing and relocation assistance for
120 victims of domestic violence in imminent danger, crime scene
121 cleanup, court-related travel, execution travel, property damage
122 repair and replacement costs for windows, doors, locks or other
123 security devices of a residential dwelling. The division shall
124 establish, by administrative rule, guidelines and monetary limits
125 for such expenses.

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

128 (i) A victim;

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

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

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

137 (v) A person authorized to act on behalf of any of
138 the persons enumerated in subparagraphs (i), (ii), (iii) and (iv)
139 of this paragraph; however, "claimant" shall not include any of
140 the following: provider or creditor of victim; assignee of
141 provider or creditor, including a collection agency; or another
142 person or entity other than those enumerated in this paragraph.

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

148 (i) The offender;

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

152 (iii) Social security, Medicare and Medicaid;

153 (iv) Workers' compensation;

154 (v) Wage continuation programs of any employer;

155 (vi) Proceeds of a contract of insurance payable
156 to the claimant for loss which the victim sustained because of the
157 criminally injurious conduct;

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

160 (viii) Any temporary nonoccupational disability
161 insurance.

162 (d) "Criminally injurious conduct" means an act
163 occurring or attempted within the geographical boundaries of this
164 state, or to a resident of Mississippi while that resident is
165 within any other state of the United States or any foreign
166 country, which state or foreign country does not provide
167 compensation for those injuries caused by an act for which

168 compensation would be available had the act occurred in
169 Mississippi, and which act results in personal injury or death to
170 a victim for which punishment by fine, imprisonment or death may
171 be imposed. For purposes of this chapter, "criminally injurious
172 conduct" shall also include federal offenses committed within the
173 state that result in personal injury or death to a victim and
174 which are punishable by fine, imprisonment or death, and
175 delinquent acts as defined in Section 43-21-105 which result in
176 personal injury or death to a victim and which, if committed by an
177 adult, would be a crime punishable by fine, imprisonment or death.

178 (e) "Dependent" means a natural person wholly or
179 partially dependent upon the victim for care or support, and
180 includes a child of the victim born after the death of the victim
181 where the death occurred as a result of criminally injurious
182 conduct.

183 (f) "Economic loss of a dependent" means loss, after
184 death of the victim, of contributions or things of economic value
185 to the dependent, not including services which would have been
186 received from the victim if he or she had not suffered the fatal
187 injury, less expenses of the dependent avoided by reason of death
188 of the victim.

189 (g) "Economic loss" means monetary detriment consisting
190 only of allowable expense, work loss and, if injury causes death,
191 economic loss of a dependent, but shall not include noneconomic
192 loss or noneconomic detriment.

193 (h) "Family member" means the victim's spouse, parent,
194 grandparent, stepparent, child, stepchild, grandchild, brother,
195 sister, half brother, half sister or spouse's parent.

196 (i) "Noneconomic loss or detriment" means pain,
197 suffering, inconvenience, physical impairment and nonpecuniary
198 damage.

199 (j) "Work loss" means loss of income from work the
200 victim or claimant would have performed if the victim had not been

201 injured, but reduced by any income from substitute work actually
202 performed by the victim or claimant or by income the victim or
203 claimant would have earned in available appropriate substitute
204 work that he or she was capable of performing, but unreasonably
205 failed to undertake. * * *

206 (k) "Victim" means a person who suffers personal injury
207 or death as a result of criminally injurious conduct, regardless
208 of whether that person was the intended victim of the criminally
209 injurious conduct. This definition may include a person who
210 suffers personal injury or death as a result of criminally
211 injurious conduct while going to the aid of another person or a
212 duly sworn law enforcement officer, or while attempting to prevent
213 a crime from occurring.

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

216 99-41-7. There is hereby created in the Attorney General's
217 Office the Division of Victim Compensation, hereafter referred to
218 as "division." In the Division of Victim Compensation there is
219 hereby created the position of Director of Victim Compensation,
220 hereafter referred to as "director." The duties of the director
221 shall include receipt, investigation, verification and
222 adjudication of a claim for compensation under the provisions of
223 this chapter. The duties shall also include facilitating
224 assistance to victims of crime through information referrals,
225 advocacy outreach programs and other victim-related services. The
226 director shall be appointed by the Attorney General.

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

229 99-41-11. (1) The director shall award compensation for
230 economic loss arising from criminally injurious conduct if
231 satisfied by a preponderance of the evidence that the requirements
232 for compensation have been met.

233 (2) The director shall make such investigations, administer
234 such oaths or affirmations and receive such evidence as he deems
235 relevant and necessary to make a determination on any application
236 received. The director shall have the power to subpoena
237 witnesses, compel their attendance and require the production of
238 records and other evidence. Application to a court for aid in
239 enforcing a subpoena may be made in the name of the director. To
240 the extent that funds are appropriated or otherwise available, the
241 Attorney General may employ such personnel, including expert
242 witnesses, as may be required in connection with particular
243 applications before the director, and the director may take
244 judicial notice of general, technical and scientific facts within
245 his specialized knowledge.

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

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

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

259 (6) Any statute providing for the confidentiality of a
260 claimant or victim's court record shall not be applicable under
261 this chapter, notwithstanding the provisions of any other law to
262 the contrary; provided, however, any such record or report which
263 is otherwise protected from public disclosure by the provisions of
264 any other law shall otherwise remain subject to the provisions of
265 such law.

266 (7) The director may require that the claimant submit with
267 the application material substantiating the facts stated in the
268 application.

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

272 (a) Findings of fact;

273 (b) The decision as to whether or not compensation
274 shall be awarded;

275 (c) The amount of compensation, if any, due under this
276 chapter;

277 (d) The person or persons to whom any compensation
278 should be paid;

279 (e) The percentage share of the total of any
280 compensation award and the dollar amount each person shall
281 receive; and

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

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

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

294 (11) In a contested case, all parties shall be afforded an
295 opportunity for a hearing after reasonable notice pursuant to
296 regulations promulgated pursuant to this chapter and may offer
297 evidence and argument on any issue relevant to the claim and may
298 examine witnesses and offer evidence in reply to any matter of an

299 evidentiary nature relevant to the claim. The Attorney General
300 shall have the power to subpoena witnesses, compel their
301 attendance and require the production of records and other
302 evidence. The decision of the Attorney General becomes the final
303 decision. A record of the hearing in a contested case shall be
304 made and shall be transcribed upon request of any party who shall
305 pay transcription costs unless otherwise ordered by the Attorney
306 General.

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

309 99-41-17. (1) Compensation shall not be awarded under this
310 chapter:

311 (a) Unless the criminally injurious conduct occurred
312 after July 1, 1991;

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

321 (c) To a claimant or victim who was the offender or an
322 accomplice to the offender, or, except in cases of children under
323 the age of consent as specified in Section 97-3-65, 97-3-97 or
324 97-5-23, Mississippi Code of 1972, who encouraged or in any way
325 knowingly participated in criminally injurious conduct;

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

328 (e) Unless the criminally injurious conduct resulting
329 in injury or death was reported to a law enforcement officer
330 within seventy-two (72) hours after its occurrence or unless it is

331 found that there was good cause for the failure to report within
332 such time;

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

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

344 (h) If, following the filing of an application, the
345 claimant failed to take further steps as required by the division
346 to support the application within forty-five (45) days of such
347 request made by the director or failed to otherwise cooperate with
348 requests of the director to determine eligibility, unless failure
349 to provide information was beyond the control of the claimant;

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

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

356 (k) To any claimant or victim who, at the time of the
357 criminally injurious conduct upon which the claim for compensation
358 is based, engaged in conduct unrelated to the crime upon which the
359 claim for compensation is based that either was (i) a felony, or
360 (ii) a delinquent act which, if committed by an adult, would
361 constitute a felony.

362 (2) Compensation otherwise payable to a claimant shall be
363 diminished to the extent:

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

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

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

372 (4) Compensation otherwise payable to a claimant or victim
373 may be denied or reduced to a claimant or victim who, at the time
374 of the crime upon which the claim for compensation is based, was
375 engaging in or attempting to engage in other unlawful activity
376 unrelated to the crime upon which the claim for compensation is
377 based.

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

380 99-41-23. (1) Compensation for work loss may not
381 exceed Six Hundred Dollars (\$600.00) per week, not to exceed
382 fifty-two (52) weeks; the total amount of the award may not exceed
383 the aggregate limitation of this section.

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

390 (3) In the event of the victim's death, compensation for
391 work loss of claimant may not exceed Six Hundred Dollars (\$600.00)
392 per week not to exceed one (1) week; provided, however, if there
393 is more than one (1) claimant per victim, the amount of
394 compensation awarded shall be prorated among the claimants and the
395 total amount of the award may not exceed Six Hundred Dollars
396 (\$600.00).

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

401 (5) A determination that compensation shall be awarded may
402 provide for payment to a claimant in a lump sum or in
403 installments. All medical bills may be paid directly to affected
404 health care providers. At the request of the claimant, the
405 director may convert future economic loss, other than allowable
406 expense, to a lump sum, but only upon a finding of either of the
407 following:

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

410 (b) That the present value of all future economic loss,
411 other than allowable expense, does not exceed One Thousand Dollars
412 (\$1,000.00).

413 (6) An award payable in installments for future economic
414 loss may be made only for a period as to which the future economic
415 loss can reasonably be determined. An award payable in
416 installments for future economic loss may be modified upon
417 findings that a material and substantial change of circumstances
418 has occurred.

419 (7) An award shall not be subject to execution, attachment,
420 garnishment or other process, except that an award shall not be
421 exempt from orders for the withholding of support for minor
422 children, and except that an award for allowable expense shall not
423 be exempt from a claim of a creditor to the extent that such
424 creditor has provided products, services or accommodations, the
425 costs of which are included in the award.

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

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

430 (b) An assignment for any award for allowable expense
431 to the extent that the benefits are for the cost of products,
432 services or accommodations necessitated by the injury or death on
433 which the claim is based and which are provided or are to be
434 provided by the assignee.

435 (9) Subsections (7) and (8) of this section prevail over
436 Sections 75-9-406 and 75-9-408 of Article 9 of the Uniform
437 Commercial Code to the extent, if any, that Sections 75-9-406 and
438 75-9-408 may otherwise be applicable.

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

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

462 received from the federal government; and (e) monies received from
463 such other sources as may be provided by law.

464 (2) No compensation payments shall be made which exceed the
465 amount of money in the fund. The state shall not be liable for a
466 written order to pay compensation, except to the extent that
467 monies are available in the fund on the date the award is ordered.
468 The Attorney General shall establish such rules and regulations as
469 shall be necessary to adjust awards and payments so that the total
470 amount awarded does not exceed the amount of money on deposit in
471 the fund. Such rules and regulations may include, but shall not
472 be limited to, the authority to provide for suspension of payments
473 and proportioned reduction of benefits to all claimants; provided,
474 however, no such reductions as provided for shall entitle
475 claimants to future retroactive reimbursements in future years.

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

478 99-43-7. (1) Unless the victim is unavailable or
479 incapacitated as a result of the crime, within seventy-two (72)
480 hours after the law enforcement agency becomes responsible for
481 investigating the crime, the law enforcement agency shall provide
482 to the victim in a manner and form prescribed by the Attorney
483 General the following information:

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

485 (b) The availability of victims' compensation benefits
486 and the * * * address and telephone number of the Victim
487 Compensation Division.

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

493 (d) The procedural steps involved in a criminal
494 prosecution.

495 (e) The rights authorized by the Mississippi
496 Constitution on rights of victims, including a form to invoke
497 these rights.

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

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

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

505 (2) In the event a victim initiates proceedings against a
506 person by filing an affidavit, petition or complaint in a court of
507 competent jurisdiction, the clerk of the court shall provide the
508 victim with the information set forth in subsection (1); however,
509 in lieu of the information set forth in subsection (1)(c), the
510 clerk shall advise the victim of the name and telephone number of
511 the law enforcement agency to which the complaint will be
512 referred. This information shall be provided on a form prescribed
513 by the Attorney General. Failure of the clerk of court to provide
514 such information shall not subject the clerk to any criminal or
515 civil liability.

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

518 99-43-35. The victim has the right to the following
519 information:

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

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

526 (c) The status of any post-conviction court review or
527 appellate proceeding or any decisions arising from those

528 proceedings shall be furnished to the victim by the Office of the
529 Attorney General or the office of the district attorney, whichever
530 is appropriate, within five (5) business days after the status is
531 known.

532 (d) Upon any post-arrest release of the defendant, the
533 sheriff or municipal jailer shall, upon request, notify the victim
534 of the release * * * of the defendant. In the case of domestic
535 violence or sexual assault, the appropriate law enforcement agency
536 shall make a reasonable attempt to notify the victim of the
537 defendant's post-arrest release, regardless of the victim's
538 exercise of the right to receive this information.

539 (e) The agency having physical custody of a prisoner
540 shall, if provided a request for notice, and as soon as
541 practicable, give notice to the victim of the escape and,
542 subsequently, the return of the prisoner into custody.

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

545 99-43-43. (1) Upon written request, the victim shall have
546 the right to be notified that he or she may submit a written
547 statement, or audio or video recording, which shall be entered
548 into the prisoner's Department of Corrections records. The
549 statement or recording shall be considered during any review for
550 community status of the prisoner or prior to release of the
551 prisoner.

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

555 (3) The victim shall have the right to be notified and
556 allowed to submit a written or recorded statement when any change
557 in custodial status is considered, whether such action be by
558 executive order or judicial action.

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

561 43-21-261. (1) Except as otherwise provided in this
562 section, records involving children shall not be disclosed, other
563 than to necessary staff of the youth court, except pursuant to an
564 order of the youth court specifying the person or persons to whom
565 the records may be disclosed, the extent of the records which may
566 be disclosed and the purpose of the disclosure. Such court orders
567 for disclosure shall be limited to those instances in which the
568 youth court concludes, in its discretion, that disclosure is
569 required for the best interests of the child, the public safety or
570 the functioning of the youth court and then only to the following
571 persons:

572 (a) The judge of another youth court or member of
573 another youth court staff;

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

576 (c) A judge of any other court or members of another
577 court staff;

578 (d) Representatives of a public or private agency
579 providing supervision or having custody of the child under order
580 of the youth court;

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

587 (f) The Mississippi Department of Employment
588 Security * * *, or its duly authorized representatives, for the
589 purpose of a child's enrollment into the Job Corps Training
590 Program as authorized by Title IV of the Comprehensive Employment
591 Training Act of 1973 (29 USCS Section 923 et seq.). However, no
592 records, reports, investigations or information derived therefrom
593 pertaining to child abuse or neglect shall be disclosed; and

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

598 Law enforcement agencies may disclose information to the
599 public concerning the taking of a child into custody for the
600 commission of a delinquent act without the necessity of an order
601 from the youth court. The information released shall not identify
602 the child or his address unless the information involves a child
603 convicted as an adult.

604 (2) Any records involving children which are disclosed under
605 an order of the youth court or pursuant to the terms of this
606 section and the contents thereof shall be kept confidential by the
607 person or agency to whom the record is disclosed unless otherwise
608 provided in the order. Any further disclosure of any records
609 involving children shall be made only under an order of the youth
610 court as provided in this section.

611 (3) Upon request, the parent, guardian or custodian of the
612 child who is the subject of a youth court cause or any attorney
613 for such parent, guardian or custodian, shall have the right to
614 inspect any record, report or investigation which is to be
615 considered by the youth court at a hearing, except that the
616 identity of the reporter shall not be released, nor the name of
617 any other person where the person or agency making the information
618 available finds that disclosure of the information would be likely
619 to endanger the life or safety of such person.

620 (4) Upon request, the child who is the subject of a youth
621 court cause shall have the right to have his counsel inspect and
622 copy any record, report or investigation which is filed with the
623 youth court or which is to be considered by the youth court at a
624 hearing.

625 (5) (a) The youth court prosecutor or prosecutors, the
626 county attorney, the district attorney, the youth court defender

627 or defenders, or any attorney representing a child shall have the
628 right to inspect and copy any law enforcement record involving
629 children.

630 (b) The Department of Human Services shall disclose to
631 a county prosecuting attorney or district attorney any and all
632 records resulting from an investigation into suspected child abuse
633 or neglect when the case has been referred by the Department of
634 Human Services to the county prosecuting attorney or district
635 attorney for criminal prosecution.

636 (c) Agency records made confidential under the
637 provisions of this section may be disclosed to a court of
638 competent jurisdiction.

639 (d) Records involving children shall be disclosed to
640 the Division of Victim Compensation of the Office of the Attorney
641 General upon the division's request without order of the youth
642 court for purposes of determination of eligibility for victim
643 compensation benefits.

644 (6) Information concerning an investigation into a report of
645 child abuse or child neglect may be disclosed by the Department of
646 Human Services without order of the youth court to any attorney,
647 physician, dentist, intern, resident, nurse, psychologist, social
648 worker, family protection worker, family protection specialist,
649 child caregiver, minister, law enforcement officer, public or
650 private school employee making that report pursuant to Section
651 43-21-353(1) if the reporter has a continuing professional
652 relationship with the child and a need for such information in
653 order to protect or treat the child.

654 (7) Information concerning an investigation into a report of
655 child abuse or child neglect may be disclosed without further
656 order of the youth court to any interagency child abuse task force
657 established in any county or municipality by order of the youth
658 court of that county or municipality.

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

663 (9) Names and addresses of juveniles adjudicated as
664 delinquent for murder, manslaughter, burglary, arson, armed
665 robbery, aggravated assault, any sex offense as defined in Section
666 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
667 violation of Section 63-11-30, shall not be held confidential and
668 shall be made available to the public.

669 (10) The judges of the circuit and county courts, and
670 presentence investigators for the circuit courts, as provided in
671 Section 47-7-9, shall have the right to inspect any youth court
672 records of a person convicted of a crime for sentencing purposes
673 only.

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

677 (12) A classification hearing officer of the State
678 Department of Corrections, as provided in Section 47-5-103, shall
679 have the right to inspect any youth court records, excluding abuse
680 and neglect records, of any offender in the custody of the
681 department who as a child or minor was a juvenile offender or was
682 the subject of a youth court cause of action, and the State Parole
683 Board, as provided in Section 47-7-17, shall have the right to
684 inspect such records when the offender becomes eligible for
685 parole.

686 (13) The youth court shall notify the Department of Public
687 Safety of the name, and any other identifying information such
688 department may require, of any child who is adjudicated delinquent
689 as a result of a violation of the Uniform Controlled Substances
690 Law.

691 (14) The Administrative Office of Courts shall have the
692 right to inspect any youth court records in order that the number
693 of youthful offenders, abused, neglected, truant and dependent
694 children, as well as children in need of special care and children
695 in need of supervision, may be tracked with specificity through
696 the youth court and adult justice system, and to utilize tracking
697 forms for such purpose.

698 (15) Upon a request by a youth court, the Administrative
699 Office of Courts shall disclose all information at its disposal
700 concerning any previous youth court intakes alleging that a child
701 was a delinquent child, child in need of supervision, child in
702 need of special care, truant child, abused child or neglected
703 child, as well as any previous youth court adjudications for the
704 same and all dispositional information concerning a child who at
705 the time of such request comes under the jurisdiction of the youth
706 court making such request.

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

714 (17) In every case where there is any indication or
715 suggestion of either abuse or neglect and a child's physical
716 condition is medically labeled as medically "serious" or
717 "critical" or a child dies, the confidentiality provisions of this
718 section shall not apply. In cases of child deaths, the following
719 information may be released by the Mississippi Department of Human
720 Services: (a) child's name; (b) address or location; (c)
721 verification from the Department of Human Services of case status
722 (no case or involvement, case exists, open or active case, case
723 closed); (d) if a case exists, the type of report or case

724 (physical abuse, neglect, etc.), date of intake(s) and
725 investigation(s), and case disposition (substantiated or
726 unsubstantiated). Notwithstanding the aforesaid, the
727 confidentiality provisions of this section shall continue if there
728 is a pending or planned investigation by any local, state or
729 federal governmental agency or institution.

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

734 (19) Information concerning an investigation into a report
735 of child abuse or child neglect may be disclosed without further
736 order of the youth court in any administrative or due process
737 hearing held, pursuant to Section 43-21-257, by the Department of
738 Human Services for individuals whose names will be placed on the
739 central registry as substantiated perpetrators.

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