

## REPORT OF CONFERENCE COMMITTEE

# 2

MR. SPEAKER AND MADAM PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1271: Vulnerable adults; authorize recovery of treble damages in civil action for taking property of.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

7       **SECTION 1.** The following shall be codified as Section  
8       11-7-165, Mississippi Code of 1972:

9       11-7-165. (1) In a civil action where it is proven that a  
10       person took property having a value of Two Hundred Fifty Dollars  
11       (\$250.00) or more belonging to a vulnerable adult by conversion,  
12       embezzlement, extortion, theft or fraud without the owner's  
13       consent, or obtained the owner's consent by intimidation,  
14       deception, undue influence or by misusing a position of trust or a  
15       confidential relationship with the owner, then whether the action  
16       is to recover the property or damages in lieu thereof, or both,  
17       damages shall be recoverable up to three (3) times the amount of  
18       the monetary damages or value of the property embezzled, converted  
19       or otherwise stolen, in addition to any other damages.

20       (2) For purposes of this section, "position of trust" shall  
21       include, but not be limited to, a person who:

22               (a) Is named the attorney-in-fact in a power of  
23       attorney, whether executed before or after the adult became  
24       vulnerable;

25               (b) Has assumed a duty to provide care to the  
26       vulnerable adult;

27           (c) Is in a fiduciary relationship with the vulnerable  
28 adult, including a de facto guardian or de facto conservator; or

29           (d) Is a joint tenant or tenant in common with the  
30 vulnerable adult.

31           (3) "Vulnerable adult" shall have the meaning defined in  
32 Section 43-47-5, Mississippi Code of 1972.

33           (4) Civil remedies provided under this section shall be  
34 supplemental and cumulative, and not exclusive of other remedies  
35 afforded under any other law. Damages awarded under this section  
36 are remedial and not punitive, and do not limit and are not  
37 limited by any criminal action or any other provision of law. Any  
38 civil damages paid by the civil defendant shall reduce the amount  
39 such defendant, upon conviction, may be ordered to pay in  
40 restitution, and any restitution paid under a criminal penalty  
41 shall reduce any civil damages owed.

42           (5) The cause of action, the right to bring a cause of  
43 action, or the right to seek treble damages pursuant to this  
44 section shall not be limited or affected by the death of the  
45 owner.

46           **SECTION 2.** This act shall take effect and be in force from  
47 and after July 1, 2007.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1           AN ACT TO CODIFY SECTION 11-7-165, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE RECOVERY OF TREBLE DAMAGES IN A CIVIL ACTION AGAINST

3 A PERSON WHO STEALS, EMBEZZLES, EXTORTS OR CONVERTS TO HIS OWN USE  
4 CERTAIN PROPERTY OF A VULNERABLE ADULT; TO DEFINE THE TERM  
5 "POSITION OF TRUST"; AND FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE

X (SIGNED)  
Blackmon

X (SIGNED)  
Simpson

X (SIGNED)  
Reynolds

CONFEREES FOR THE SENATE

X (SIGNED)  
Tollison

X (SIGNED)  
Burton

X (SIGNED)  
Lee (35th)