

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MADAM PRESIDENT:

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

H. B. No. 1522: Victim Compensation; revise certain laws.

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:

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 arrest or charge, and the defendant/accused
69 shall be subjected to follow-up testing for HIV upon a
70 determination that such follow-up testing is medically necessary
71 and reasonable. The results of any such test shall be made
72 available to the victim or, if the victim is a child, to the
73 guardian of the victim.

74 (2) Any defendant who is convicted of, or pleads guilty or
75 nolo contendere to, any offense * * * or an attempt to commit any
76 such offense specified in subsection (1)(b) shall be ordered by
77 the court to make restitution to the Division of Victim
78 Compensation in an amount equal to the compensation paid by the

79 Division of Victim Compensation to the victim or medical provider
80 for the medical forensic examination and to the county for tests
81 for sexually transmitted diseases and HIV. Such restitution shall
82 be in addition to any restitution which the court orders the
83 defendant to pay the victim under the provisions of Chapter 37 of
84 Title 99, (Sections 99-37-1 through 99-37-21), Mississippi Code of
85 1972.

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

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

93 99-41-5. As used in this chapter, unless the context
94 otherwise requires, the term:

95 (a) "Allowable expense" means reasonable charges
96 incurred for reasonably needed:

97 (i) Products, services and accommodations,
98 including, but not limited to, medical care, rehabilitation,
99 rehabilitative occupational training and other remedial treatment
100 and care, but not to exceed Fifteen Thousand Dollars (\$15,000.00);

101 (ii) Mental health counseling and care not to
102 exceed Three Thousand Five Hundred Dollars (\$3,500.00) for the
103 victim and victim's family member; provided, however, if there is
104 more than one (1) family member, the amount of compensation
105 awarded shall be prorated and not to exceed Three Thousand Five
106 Hundred Dollars (\$3,500.00); * * *

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

110 attend services, but not to exceed Eight Hundred Dollars
111 (\$800.00); and
112 (iv) Necessary expenses, including, but not
113 limited to, temporary housing and relocation assistance for
114 victims of domestic violence in imminent danger, crime scene
115 cleanup, court-related travel, execution travel, property damage
116 repair and replacement costs for windows, doors, locks or other
117 security devices of a residential dwelling. The division shall
118 establish, by administrative rule, guidelines and monetary limits
119 for such expenses.

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

122 (i) A victim;

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

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

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

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

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

142 (i) The offender;

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

146 (iii) Social security, Medicare and Medicaid;

147 (iv) Workers' compensation;

148 (v) Wage continuation programs of any employer;

149 (vi) Proceeds of a contract of insurance payable
150 to the claimant for loss which the victim sustained because of the
151 criminally injurious conduct;

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

154 (viii) Any temporary nonoccupational disability
155 insurance.

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

172 (e) "Dependent" means a natural person wholly or
173 partially dependent upon the victim for care or support, and

174 includes a child of the victim born after the death of the victim
175 where the death occurred as a result of criminally injurious
176 conduct.

177 (f) "Economic loss of a dependent" means loss, after
178 death of the victim, of contributions or things of economic value
179 to the dependent, not including services which would have been
180 received from the victim if he or she had not suffered the fatal
181 injury, less expenses of the dependent avoided by reason of death
182 of the victim.

183 (g) "Economic loss" means monetary detriment consisting
184 only of allowable expense, work loss and, if injury causes death,
185 economic loss of a dependent, but shall not include noneconomic
186 loss or noneconomic detriment.

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

190 (i) "Noneconomic loss or detriment" means pain,
191 suffering, inconvenience, physical impairment and nonpecuniary
192 damage.

193 (j) "Work loss" means loss of income from work the
194 victim or claimant would have performed if the victim had not been
195 injured, but reduced by any income from substitute work actually
196 performed by the victim or claimant or by income the victim or
197 claimant would have earned in available appropriate substitute
198 work that he or she was capable of performing, but unreasonably
199 failed to undertake. * * *

200 (k) "Victim" means a person who suffers personal injury
201 or death as a result of criminally injurious conduct, regardless
202 of whether that person was the intended victim of the criminally
203 injurious conduct. This definition may include a person who
204 suffers personal injury or death as a result of criminally
205 injurious conduct while going to the aid of another person or a

206 duly sworn law enforcement officer, or while attempting to prevent
207 a crime from occurring.

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

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

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

223 99-41-11. (1) The director shall award compensation for
224 economic loss arising from criminally injurious conduct if
225 satisfied by a preponderance of the evidence that the requirements
226 for compensation have been met.

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

238 judicial notice of general, technical and scientific facts within
239 his specialized knowledge.

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

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

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

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

260 (7) The director may require that the claimant submit with
261 the application material substantiating the facts stated in the
262 application.

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

266 (a) Findings of fact;

267 (b) The decision as to whether or not compensation
268 shall be awarded;

269 (c) The amount of compensation, if any, due under this
270 chapter;

271 (d) The person or persons to whom any compensation
272 should be paid;

273 (e) The percentage share of the total of any
274 compensation award and the dollar amount each person shall
275 receive; and

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

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

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

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

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

303 99-41-17. (1) Compensation shall not be awarded under this
304 chapter:

305 (a) Unless the criminally injurious conduct occurred
306 after July 1, 1991;

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

315 (c) To a claimant or victim who was the offender or an
316 accomplice to the offender, or, except in cases of children under
317 the age of consent as specified in Section 97-3-65, 97-3-97 or
318 97-5-23, Mississippi Code of 1972, who encouraged or in any way
319 knowingly participated in criminally injurious conduct;

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

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

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

330 (g) If the victim was injured as a result of the
331 operation of a motor vehicle, boat or airplane, unless the vehicle
332 was used by the offender (i) while under the influence of alcohol

333 or drugs, * * * (ii) as a weapon in the deliberate attempt to
334 injure or cause the death of the victim, (iii) in a hit-and-run
335 accident by leaving the scene of an accident as specified in
336 Section 63-3-401, or (iv) to flee apprehension by law enforcement
337 as specified in Sections 97-9-72 and 97-9-73;

338 (h) If, following the filing of an application, the
339 claimant failed to take further steps as required by the division
340 to support the application within forty-five (45) days of such
341 request made by the director or failed to otherwise cooperate with
342 requests of the director to determine eligibility, unless failure
343 to provide information was beyond the control of the claimant;

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

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

350 (k) To any claimant or victim who, at the time of the
351 criminally injurious conduct upon which the claim for compensation
352 is based, engaged in conduct unrelated to the crime upon which the
353 claim for compensation is based that either was (i) a felony, or
354 (ii) a delinquent act which, if committed by an adult, would
355 constitute a felony.

356 (2) Compensation otherwise payable to a claimant shall be
357 diminished to the extent:

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

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

362 (3) Upon a finding that the claimant or victim has not fully
363 cooperated with appropriate law enforcement agencies and

364 prosecuting attorneys, an award of compensation may be denied,
365 withdrawn or reduced.

366 (4) Compensation otherwise payable to a claimant or victim
367 may be denied or reduced to a claimant or victim who, at the time
368 of the crime upon which the claim for compensation is based, was
369 engaging in or attempting to engage in other unlawful activity
370 unrelated to the crime upon which the claim for compensation is
371 based.

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

374 99-41-23. (1) Compensation for work loss may not
375 exceed Six Hundred Dollars (\$600.00) per week, not to exceed
376 fifty-two (52) weeks; the total amount of the award may not exceed
377 the aggregate limitation of this section.

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

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

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

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

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

404 (b) That the present value of all future economic loss,
405 other than allowable expense, does not exceed One Thousand Dollars
406 (\$1,000.00).

407 (6) An award payable in installments for future economic
408 loss may be made only for a period as to which the future economic
409 loss can reasonably be determined. An award payable in
410 installments for future economic loss may be modified upon
411 findings that a material and substantial change of circumstances
412 has occurred.

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

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

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

424 (b) An assignment for any award for allowable expense
425 to the extent that the benefits are for the cost of products,
426 services or accommodations necessitated by the injury or death on

427 which the claim is based and which are provided or are to be
428 provided by the assignee.

429 (9) Subsections (7) and (8) of this section prevail over
430 Sections 75-9-406 and 75-9-408 of Article 9 of the Uniform
431 Commercial Code to the extent, if any, that Sections 75-9-406 and
432 75-9-408 may otherwise be applicable.

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

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

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

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

472 99-43-7. (1) Unless the victim is unavailable or
473 incapacitated as a result of the crime, within seventy-two (72)
474 hours after the law enforcement agency becomes responsible for
475 investigating the crime, the law enforcement agency shall provide
476 to the victim in a manner and form prescribed by the Attorney
477 General the following information:

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

479 (b) The availability of victims' compensation benefits
480 and the * * *, address and telephone number of the Victim
481 Compensation Division.

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

487 (d) The procedural steps involved in a criminal
488 prosecution.

489 (e) The rights authorized by the Mississippi
490 Constitution on rights of victims, including a form to invoke
491 these rights.

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

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

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

499 (2) In the event a victim initiates proceedings against a
500 person by filing an affidavit, petition or complaint in a court of
501 competent jurisdiction, the clerk of the court shall provide the
502 victim with the information set forth in subsection (1); however,
503 in lieu of the information set forth in subsection (1)(c), the
504 clerk shall advise the victim of the name and telephone number of
505 the law enforcement agency to which the complaint will be
506 referred. This information shall be provided on a form prescribed
507 by the Attorney General.

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

510 99-43-35. The victim has the right to the following
511 information:

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

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

518 (c) The status of any post-conviction court review or
519 appellate proceeding or any decisions arising from those
520 proceedings shall be furnished to the victim by the Office of the

521 Attorney General or the office of the district attorney, whichever
522 is appropriate, within five (5) business days after the status is
523 known.

524 (d) Upon any post-arrest release of the defendant, the
525 sheriff or municipal jailer shall, upon request, notify the victim
526 of the release * * * of the defendant. In the case of domestic
527 violence or sexual assault, the appropriate law enforcement agency
528 shall make a reasonable attempt to notify the victim of the
529 defendant's post-arrest release, regardless of the victim's
530 exercise of the right to receive this information.

531 (e) The agency having physical custody of a prisoner
532 shall, if provided a request for notice, and as soon as
533 practicable, give notice to the victim of the escape and,
534 subsequently, the return of the prisoner into custody.

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

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

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

547 (3) The victim shall have the right to be notified and
548 allowed to submit a written or recorded statement when any change
549 in custodial status, criminal history, registration status,
550 expunction or restoration of rights is considered, whether such
551 action be by executive order or judicial action.

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

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

565 (a) The judge of another youth court or member of
566 another youth court staff;

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

569 (c) A judge of any other court or members of another
570 court staff;

571 (d) Representatives of a public or private agency
572 providing supervision or having custody of the child under order
573 of the youth court;

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

580 (f) The Mississippi Department of Employment
581 Security * * *, or its duly authorized representatives, for the
582 purpose of a child's enrollment into the Job Corps Training
583 Program as authorized by Title IV of the Comprehensive Employment

584 Training Act of 1973 (29 USCS Section 923 et seq.). However, no
585 records, reports, investigations or information derived therefrom
586 pertaining to child abuse or neglect shall be disclosed; and

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

591 Law enforcement agencies may disclose information to the
592 public concerning the taking of a child into custody for the
593 commission of a delinquent act without the necessity of an order
594 from the youth court. The information released shall not identify
595 the child or his address unless the information involves a child
596 convicted as an adult.

597 (2) Any records involving children which are disclosed under
598 an order of the youth court or pursuant to the terms of this
599 section and the contents thereof shall be kept confidential by the
600 person or agency to whom the record is disclosed unless otherwise
601 provided in the order. Any further disclosure of any records
602 involving children shall be made only under an order of the youth
603 court as provided in this section.

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

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

616 youth court or which is to be considered by the youth court at a
617 hearing.

618 (5) (a) The youth court prosecutor or prosecutors, the
619 county attorney, the district attorney, the youth court defender
620 or defenders, or any attorney representing a child shall have the
621 right to inspect and copy any law enforcement record involving
622 children.

623 (b) The Department of Human Services shall disclose to
624 a county prosecuting attorney or district attorney any and all
625 records resulting from an investigation into suspected child abuse
626 or neglect when the case has been referred by the Department of
627 Human Services to the county prosecuting attorney or district
628 attorney for criminal prosecution.

629 (c) Agency records made confidential under the
630 provisions of this section may be disclosed to a court of
631 competent jurisdiction.

632 (d) Records involving children shall be disclosed to
633 the Division of Victim Compensation of the Office of the Attorney
634 General upon the division's request without order of the youth
635 court for purposes of determination of eligibility for victim
636 compensation benefits.

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

647 (7) Information concerning an investigation into a report of
648 child abuse or child neglect may be disclosed without further
649 order of the youth court to any interagency child abuse task force
650 established in any county or municipality by order of the youth
651 court of that county or municipality.

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

656 (9) Names and addresses of juveniles adjudicated as
657 delinquent for murder, manslaughter, burglary, arson, armed
658 robbery, aggravated assault, any sex offense as defined in Section
659 45-33-23, for any violation of Section 41-29-139(a)(1) or for any
660 violation of Section 63-11-30, shall not be held confidential and
661 shall be made available to the public.

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

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

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

679 (13) The youth court shall notify the Department of Public
680 Safety of the name, and any other identifying information such
681 department may require, of any child who is adjudicated delinquent
682 as a result of a violation of the Uniform Controlled Substances
683 Law.

684 (14) The Administrative Office of Courts shall have the
685 right to inspect any youth court records in order that the number
686 of youthful offenders, abused, neglected, truant and dependent
687 children, as well as children in need of special care and children
688 in need of supervision, may be tracked with specificity through
689 the youth court and adult justice system, and to utilize tracking
690 forms for such purpose.

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

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

707 (17) In every case where there is any indication or
708 suggestion of either abuse or neglect and a child's physical
709 condition is medically labeled as medically "serious" or
710 "critical" or a child dies, the confidentiality provisions of this

711 section shall not apply. In cases of child deaths, the following
712 information may be released by the Mississippi Department of Human
713 Services: (a) child's name; (b) address or location; (c)
714 verification from the Department of Human Services of case status
715 (no case or involvement, case exists, open or active case, case
716 closed); (d) if a case exists, the type of report or case
717 (physical abuse, neglect, etc.), date of intake(s) and
718 investigation(s), and case disposition (substantiated or
719 unsubstantiated). Notwithstanding the aforesaid, the
720 confidentiality provisions of this section shall continue if there
721 is a pending or planned investigation by any local, state or
722 federal governmental agency or institution.

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

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

733 **SECTION 12.** This act shall take effect and be in force from
734 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 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 AWARDED 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.

CONFEREES FOR THE HOUSE

X (SIGNED)
Blackmon

X (SIGNED)
Fredericks

X (SIGNED)
Reynolds

CONFEREES FOR THE SENATE

X (SIGNED)
Tollison

X (SIGNED)
Albritton

X (SIGNED)
Davis