

Senate Amendments to House Bill No. 1522

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

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

24 **SECTION 1.** Section 99-37-25, Mississippi Code of 1972, is
25 amended as follows:
26 99-37-25. (1) (a) When a person is brought into a doctor's
27 office, a hospital or a medical clinic * * * by a law enforcement
28 agency as the victim of an alleged rape or sexual assault having
29 occurred in this state, or comes into a doctor's office, a
30 hospital or a medical clinic * * * alleging rape or sexual assault
31 having occurred in this state, the bill for the medical forensic
32 examination and the preparation of the sexual assault evidence
33 collection kit will be sent to the Division of Victim
34 Compensation, Office of the Attorney General. The Division of
35 Victim Compensation shall pay for the medical examination
36 conducted for the procurement of evidence to aid in the
37 investigation and prosecution of the alleged offense. Such
38 payment shall be limited to the customary and usual hospital and
39 physician charges for such services in the area. Such payment
40 shall be made by the Division of Victim Compensation directly to
41 the health care provider. No bill for the examination will be
42 submitted to the victim, nor shall the medical facility hold the
43 victim responsible for payment. * * * The victim may be billed
44 for any further medical services not required for the
45 investigation and prosecution of the alleged offense. In cases
46 where the damage caused by the alleged sexual assault requires
47 medical treatment or diagnosis in addition to the examination, the
48 patient will be given information about the availability of victim
49 compensation and the procedure for applying for such compensation.

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

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

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

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

92 99-41-5. As used in this chapter, unless the context
93 otherwise requires, the term:

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

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

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

106 (iii) Expenses related to funeral, cremation or
107 burial, but not to exceed a total charge of Six Thousand Five
108 Hundred Dollars (\$6,500.00) and transportation costs to arrange or
109 attend services, but not to exceed Eight Hundred Dollars
110 (\$800.00); and

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

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

121 (i) A victim;

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

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

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

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

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

141 (i) The offender;

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

145 (iii) Social security, Medicare and Medicaid;

146 (iv) Workers' compensation;

147 (v) Wage continuation programs of any employer;

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

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

153 (viii) Any temporary nonoccupational disability
154 insurance.

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

171 (e) "Dependent" means a natural person wholly or
172 partially dependent upon the victim for care or support, and
173 includes a child of the victim born after the death of the victim
174 where the death occurred as a result of criminally injurious
175 conduct.

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

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

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

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

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

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

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

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

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

222 99-41-11. (1) The director shall award compensation for
223 economic loss arising from criminally injurious conduct if
224 satisfied by a preponderance of the evidence that the requirements
225 for compensation have been met.

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

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

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

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

252 (6) Any statute providing for the confidentiality of a
253 claimant or victim's court record shall not be applicable under
254 this chapter, notwithstanding the provisions of any other law to

255 the contrary; provided, however, any such record or report which
256 is otherwise protected from public disclosure by the provisions of
257 any other law shall otherwise remain subject to the provisions of
258 such law.

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

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

265 (a) Findings of fact;

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

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

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

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

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

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

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

287 (11) In a contested case, all parties shall be afforded an
288 opportunity for a hearing after reasonable notice pursuant to
289 regulations promulgated pursuant to this chapter and may offer

290 evidence and argument on any issue relevant to the claim and may
291 examine witnesses and offer evidence in reply to any matter of an
292 evidentiary nature relevant to the claim. The Attorney General
293 shall have the power to subpoena witnesses, compel their
294 attendance and require the production of records and other
295 evidence. The decision of the Attorney General becomes the final
296 decision. A record of the hearing in a contested case shall be
297 made and shall be transcribed upon request of any party who shall
298 pay transcription costs unless otherwise ordered by the Attorney
299 General.

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

302 99-41-17. (1) Compensation shall not be awarded under this
303 chapter:

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

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

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

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

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

324 found that there was good cause for the failure to report within
325 such time;

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

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

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

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

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

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

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

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

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

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

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

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

373 99-41-23. (1) Compensation for work loss may not
374 exceed Six Hundred Dollars (\$600.00) per week, not to exceed
375 fifty-two (52) weeks; the total amount of the award may not exceed
376 the aggregate limitation of this section.

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

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

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

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

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

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

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

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

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

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

423 (b) An assignment for any award for allowable expense
424 to the extent that the benefits are for the cost of products,
425 services or accommodations necessitated by the injury or death on
426 which the claim is based and which are provided or are to be
427 provided by the assignee.

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

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

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

457 (2) No compensation payments shall be made which exceed the
458 amount of money in the fund. The state shall not be liable for a
459 written order to pay compensation, except to the extent that
460 monies are available in the fund on the date the award is ordered.
461 The Attorney General shall establish such rules and regulations as
462 shall be necessary to adjust awards and payments so that the total

463 amount awarded does not exceed the amount of money on deposit in
464 the fund. Such rules and regulations may include, but shall not
465 be limited to, the authority to provide for suspension of payments
466 and proportioned reduction of benefits to all claimants; provided,
467 however, no such reductions as provided for shall entitle
468 claimants to future retroactive reimbursements in future years.

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

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

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

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

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

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

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

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

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

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

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

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

509 99-43-35. The victim has the right to the following
510 information:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

596 (2) Any records involving children which are disclosed under
597 an order of the youth court and the contents thereof shall be kept
598 confidential by the person or agency to whom the record is
599 disclosed except as provided in the order. Any further disclosure

600 of any records involving children shall be made only under an
601 order of the youth court as provided in this section.

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

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

615 (5) (a) The youth court prosecutor or prosecutors, the
616 county attorney, the district attorney, the youth court defender
617 or defenders, or any attorney representing a child shall have the
618 right to inspect any law enforcement record involving children.

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

625 (c) Agency records made confidential under the
626 provisions of this section may be disclosed to a court of
627 competent jurisdiction.

628 (d) Records involving children shall be disclosed to
629 the Division of Victim Compensation of the Office of the Attorney
630 General upon the division's request without order of the youth
631 court for purposes of determination of eligibility for victim
632 compensation benefits, if the parent, guardian or custodian of the
633 child to whom the records pertain has executed a written waiver.

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

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

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

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

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

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

667 (12) A classification hearing officer of the State
668 Department of Corrections, as provided in Section 47-5-103, shall

669 have the right to inspect any youth court records, excluding abuse
670 and neglect records, of any offender in the custody of the
671 department who as a child or minor was a juvenile offender or was
672 the subject of a youth court cause of action, and the State Parole
673 Board, as provided in Section 47-7-17, shall have the right to
674 inspect such records when the offender becomes eligible for
675 parole.

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

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

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

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

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

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

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

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

SS01\HB1522A.J

John O. Gilbert
Secretary of the Senate