SENATE BILL NO. 2619
(As Sent to Governor)

AN ACT TO CREATE A TASK FORCE TO RECOMMEND PROCEDURES AND
PRACTICES TO IMPROVE THE PRESERVATION AND TESTING OF BIOLOGICAL
EVIDENCE; AND FOR RELATED PURPOSES.

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

SECTION 1. Findings. (1) The value of properly preserved
biological evidence has been enhanced by the discovery of modern
DNA testing methods, which, coupled with a comprehensive system of
DNA databases that store crime scene and offender profiles, allow
law enforcement to improve its crime-solving potential.

(2) Tapping the potential of preserved biological evidence
requires the proper identification, collection, preservation,
storage, cataloging and organization of such evidence.

(3) An adequately funded and staffed state crime lab is a
necessary component in the collection, storage and testing of such
evidence.

(4) Law enforcement agencies indicate that "cold" case
investigations are hindered by an inability to access biological
evidence that was collected in connection with criminal
investigations.

(5) Innocent people mistakenly convicted of the serious
crimes for which biological evidence is probative cannot prove
their innocence if such evidence is not accessible for testing in
appropriate circumstances.

(6) Victims of criminal offenses need and deserve access to
tools of law enforcement that will bring accurate closure to their
cases.
(7) It is well established that the failure to update preservation policies squanders valuable law enforcement resources, manpower hours and storage space.

(8) Simple but crucial enhancements to protocols for properly preserving biological evidence can solve old crimes, enhance public safety and settle claims of innocence.

(9) It would benefit Mississippi to create a Task Force for the Preservation and Testing of Biological Evidence to identify and recommend statewide policies and procedures to improve the preservation, cataloguing and testing of biological evidence.

SECTION 2. Definitions. For the purposes of this act:

(a) "Biological evidence" means the contents of a sexual assault examination kit or any other item that contains blood, semen, hair, saliva, skin tissue, fingernail scrapings, bone, bodily fluids or other identifiable biological material that was collected as part of a criminal investigation or may reasonably be used to incriminate or exculpate any person for an offense. This definition applies whether that material is catalogued separately, including, without limitation, on a slide, swab or in a test tube, or is present on other evidence, including, but not limited to, clothing, ligatures, bedding or other household material, drinking cups, cigarettes or any other item.

(b) "DNA" means deoxyribonucleic acid.

(c) "Statewide" refers to any governmental or public entity within Mississippi, including all private entities within any city, county, or other governmental unit that perform such functions, and its officials or employees, including, but not limited to, law enforcement agencies, prosecutors' offices, courts, hospitals, crime laboratories, and any other entity or individual charged with the collection, storage or retrieval of biological evidence.
SECTION 3. Task force composition. The Chief Justice of the Mississippi Supreme Court shall convene a Task Force for the Preservation and Testing of Biological Evidence and shall ensure that the task force is composed of the following twenty-three (23) members by ordering the following organizations or individuals to appoint or select their representatives as follows:

(a) Three (3) members shall be of law enforcement officers possessing experience in evidence handling, collection and retention:
   (i) One (1) of whom must be a representative appointed by the Mississippi Bureau of Investigation;
   (ii) One (1) of whom must be a law enforcement officer appointed by the Mississippi Association of Chiefs of Police;
   (iii) One (1) of whom shall be appointed by the Mississippi Association of Sheriffs;

(b) One (1) member shall be a representative of the Mississippi Association of Circuit Clerks who has knowledge and experience in evidence handling, collection and retention;

c) One (1) member shall be appointed by the Commissioner of Public Safety;

d) One (1) member shall be appointed by the Attorney General;

e) One (1) member shall be appointed by the Mississippi District Attorneys Association, who must be a prosecutor;

f) One (1) member shall be appointed by the Mississippi Public Defender Association, who must be a criminal defense lawyer;

g) One (1) member appointed by the Speaker of the House of Representatives who shall be a representative of an organization dedicated to investigating post-conviction claims of innocence;
(h) One (1) member appointed by the Lieutenant Governor who shall be a representative of a victims' rights organization;

(i) One (1) member appointed by the Lieutenant Governor who shall be a member of the Legislature, who shall be appointed from the Judiciary Committee, Division "A," of the Senate;

(j) One (1) member appointed by the Lieutenant Governor who shall be a member of the Legislature, who shall be appointed from the Judiciary Committee, Division "B," of the Senate;

(k) One (1) member appointed by the Speaker of the House of Representatives who shall be a member of the Legislature, who shall be appointed from the Judiciary "A" Committee of the House of Representatives;

(l) One (1) member appointed by the Speaker of the House of Representatives who shall be a member of the Legislature, who shall be appointed from the Judiciary "B" Committee of the House of Representatives;

(m) One (1) member shall be appointed by the Dean of the University of Mississippi School of Law who shall have expertise in criminology, criminal justice, or both;

(n) One (1) member shall be appointed by the Dean of the Mississippi College School of Law who shall have expertise in criminology, criminal justice, or both;

(o) One (1) member shall be chosen by the Chief Justice from the state at large;

(p) One (1) member shall be chosen by the Speaker of the House of Representatives from the state at large;

(q) One (1) member shall be chosen by the Lieutenant Governor from the state at large;
(r) One (1) member shall be appointed by the Chairman of the Judiciary "A" Committee of the Senate from the membership of the Judiciary "A" Committee of the Senate; (s) One (1) member shall be appointed by the Chairman of the Judiciary "B" Committee of the Senate from the membership of the Judiciary "B" Committee of the Senate; (t) One (1) member shall be appointed by the Chairman of the Judiciary "A" Committee of the House of Representatives from the membership of the Judiciary "A" Committee of the House of Representatives; and (u) One (1) member shall be appointed by the Chairman of the Judiciary "B" Committee of the House of Representatives from the membership of the Judiciary "B" Committee of the House of Representatives.

SECTION 4. Duties. The Task Force for the Preservation and Testing of Biological Evidence shall:

(a) Recommend statewide standards regarding proper identification, collection, preservation, storage, cataloguing and organization of biological evidence;
(b) Seek out sources of funding, including, but not limited to, federally earmarked funds to satisfy some or all of the associated costs of implementing reform;
(c) Recommend essential components of training programs for law enforcement officers and other relevant employees who are charged with preserving and retrieving biological evidence regarding the methods and procedures referenced in this act;
(d) Issue recommendations regarding the creation of a centralized tracking system through which laboratories, facilities and other related entities may locate biological evidence connected to felony cases, which recommendations shall include:
   (i) Protocol for the retrieval of biological evidence for cases that have already resulted in felony convictions; and
(ii) Protocol for the retrieval of biological evidence for unsolved felony cases;

(e) Review practices, protocols, models and resources for the cataloguing and accessibility of preserved biological evidence already in the possession of local, county and state entities that preserve such evidence; and

(f) Review practices, protocols, models and resources for medicolegal death investigation officers, including the collection and preservation of biological samples that can be a source of DNA for testing, as well as adherence to the standards promulgated by the National Association of Medical Examiners, especially as to caseloads.

SECTION 5. Reimbursement. (1) Members of the Task Force shall receive a per diem as provided in Section 25-3-69 for actual attendance upon meetings of the study committee, together with reimbursement for traveling and subsistence expenses incurred as provided in Section 25-3-41, Mississippi Code of 1972, except that members of the study committee who are members of the Legislature shall not receive per diem for attendance while the Legislature is in session and no member whose regular compensation is payable by the state or any political subdivision of the state shall receive per diem for attendance upon meetings of the study committee.

(2) The committee is authorized and empowered to receive and expend any funds appropriated to it by the Legislature and any funds received by it from any other source in carrying out the objectives and purposes of this act.

SECTION 6. Reporting. On or before December 1, 2008, the Task Force for the Preservation and Testing of Biological Evidence shall submit a report of its findings and recommendations for future practice. Minority reports may also be issued. These reports shall be presented to the Governor, the Chief Justice, the Speaker of the House, the Lieutenant Governor, and the Chairs of the four (4) judiciary committees of the Legislature. The Task
Force for the Preservation and Testing of Biological Evidence shall stand dissolved on December 31, 2008.

SECTION 7. This act shall take effect and be in force from and after its passage.