

By: Senator(s) Tollison, Fillingane,
Albritton, Harden, Blount, Jackson (32nd)

To: Judiciary, Division B

SENATE BILL NO. 2619
(As Sent to Governor)

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

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

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

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

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

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

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

24 (6) Victims of criminal offenses need and deserve access to
25 tools of law enforcement that will bring accurate closure to their
26 cases.



27 (7) It is well established that the failure to update
28 preservation policies squanders valuable law enforcement
29 resources, manpower hours and storage space.

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

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

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

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

50 (b) "DNA" means deoxyribonucleic acid.

51 (c) "Statewide" refers to any governmental or public
52 entity within Mississippi, including all private entities within
53 any city, county, or other governmental unit that perform such
54 functions, and its officials or employees, including, but not
55 limited to, law enforcement agencies, prosecutors' offices,
56 courts, hospitals, crime laboratories, and any other entity or
57 individual charged with the collection, storage or retrieval of
58 biological evidence.



59 **SECTION 3. Task force composition.** The Chief Justice of the
60 Mississippi Supreme Court shall convene a Task Force for the
61 Preservation and Testing of Biological Evidence and shall ensure
62 that the task force is composed of the following twenty-three (23)
63 members by ordering the following organizations or individuals to
64 appoint or select their representatives as follows:

65 (a) Three (3) members shall be of law enforcement
66 officers possessing experience in evidence handling, collection
67 and retention:

68 (i) One (1) of whom must be a representative
69 appointed by the Mississippi Bureau of Investigation;

70 (ii) One (1) of whom must be a law enforcement
71 officer appointed by the Mississippi Association of Chiefs of
72 Police;

73 (iii) One (1) of whom shall be appointed by
74 the Mississippi Association of Sheriffs;

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

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

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

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

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

88 (g) One (1) member appointed by the Speaker of the
89 House of Representatives who shall be a representative of an
90 organization dedicated to investigating post-conviction claims of
91 innocence;



92 (h) One (1) member appointed by the Lieutenant
93 Governor who shall be a representative of a victims' rights
94 organization;

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

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

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

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

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

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

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

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

121 (q) One (1) member shall be chosen by the Lieutenant
122 Governor from the state at large;



123 (r) One (1) member shall be appointed by the
124 Chairman of the Judiciary "A" Committee of the Senate from the
125 membership of the Judiciary "A" Committee of the Senate;

126 (s) One (1) member shall be appointed by the
127 Chairman of the Judiciary "B" Committee of the Senate from the
128 membership of the Judiciary "B" Committee of the Senate;

129 (t) One (1) member shall be appointed by the
130 Chairman of the Judiciary "A" Committee of the House of
131 Representatives from the membership of the Judiciary "A" Committee
132 of the House of Representatives; and

133 (u) One (1) member shall be appointed by the
134 Chairman of the Judiciary "B" Committee of the House of
135 Representatives from the membership of the Judiciary "B" Committee
136 of the House of Representatives.

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

139 (a) Recommend statewide standards regarding proper
140 identification, collection, preservation, storage, cataloguing and
141 organization of biological evidence;

142 (b) Seek out sources of funding, including, but not
143 limited to, federally earmarked funds to satisfy some or all of
144 the associated costs of implementing reform;

145 (c) Recommend essential components of training programs
146 for law enforcement officers and other relevant employees who are
147 charged with preserving and retrieving biological evidence
148 regarding the methods and procedures referenced in this act;

149 (d) Issue recommendations regarding the creation of a
150 centralized tracking system through which laboratories, facilities
151 and other related entities may locate biological evidence
152 connected to felony cases, which recommendations shall include:

153 (i) Protocol for the retrieval of biological
154 evidence for cases that have already resulted in felony
155 convictions; and



156 (ii) Protocol for the retrieval of biological
157 evidence for unsolved felony cases;

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

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

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

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

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



189 Force for the Preservation and Testing of Biological Evidence
190 shall stand dissolved on December 31, 2008.

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

