

By: Representatives Evans (91st), Akins, To: Judiciary B
 Bailey, Banks, Bell, Bondurant, Calhoun,
 Clarke, Currie, Dedeaux, DuVall, Eaton,
 Ellis, Fredericks, Gardner, Gibbs, Harrison,
 Hines, Holloway, Johnson, Jones (111th),
 Lane, Mayo, McBride, Middleton, Myers, Peranich, Puckett, Read,
 Reynolds, Robinson, Smith (27th), Staples, Straughter, Sullivan,
 Thomas, Upshaw, Ward, Whittington, Wooten

HOUSE BILL NO. 1456
 (As Passed the House)

1 AN ACT TO AMEND SECTION 41-61-57, MISSISSIPPI CODE OF 1972,
 2 TO REQUIRE THAT THE MEDICAL EXAMINERS USED BY CORONERS MUST BE
 3 CERTIFIED IN PATHOLOGY BY THE AMERICAN BOARD OF PATHOLOGY AND BE
 4 ON THE LIST OF APPROVED MEDICAL EXAMINERS OF THE DEPARTMENT OF
 5 PUBLIC SAFETY; TO BRING FORWARD SECTIONS 41-61-53 AND 41-61-55,
 6 MISSISSIPPI CODE OF 1972, WHICH PROVIDE DEFINITIONS FOR THE
 7 MEDICAL EXAMINER ACT AND PROVIDE FOR THE APPOINTMENT OF THE STATE
 8 MEDICAL EXAMINER, FOR THE PURPOSES OF AMENDMENT; TO PROVIDE THAT
 9 THE REVISED QUALIFICATIONS FOR THE POSITION OF COUNTY MEDICAL
 10 EXAMINER SHALL APPLY TO ANY PERSON HOLDING THAT POSITION ON JULY
 11 1, 2010; TO REQUIRE THE REVIEW OF FORENSIC EVIDENCE IN CERTAIN
 12 CAPITAL CASES TO DETERMINE IF ANY EVIDENCE IS TAINTED AND IF ANY
 13 VERDICT WAS ADVERSELY AFFECTED; TO REQUIRE THE ATTORNEY GENERAL TO
 14 PETITION FOR APPROPRIATE RELIEF WHEN NECESSARY; AND FOR RELATED
 15 PURPOSES.

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

17 **SECTION 1.** Section 41-61-57, Mississippi Code of 1972, is
 18 amended as follows:

19 41-61-57. (1) There are hereby created the positions of
 20 county medical examiners and county medical examiner
 21 investigators, to be established as herein provided through
 22 successful completion of the death investigation training school
 23 provided for in subsection (5) of this section. Each county
 24 medical examiner (CME) shall be a doctor of medicine (M.D.) or
 25 osteopathic medicine (D.O.) licensed in the State of Mississippi.
 26 Each county medical examiner investigator (CMEI) shall be a
 27 nonphysician who shall, as a minimum, possess a high school
 28 graduation diploma or its equivalent. Extra consideration for the
 29 CMEI position may be given for experience and/or training in
 30 health-related fields and medicolegal death investigations.

31 (2) Each coroner elected in the 1987 general election and
 32 thereafter, upon successful completion of the death investigation



33 training school provided for in subsection (5) of this section,
34 shall be recognized as a county medical examiner or county medical
35 examiner investigator, according to the qualifications set out in
36 subsection (1) of this section, and shall be designated the chief
37 for the county in which he was elected. If the elected or
38 appointed coroner fails to successfully complete the death
39 investigation training school, and thus is unable to take the oath
40 of office, as provided in Section 19-21-105, there shall promptly
41 be appointed a coroner pro tempore in the manner prescribed by
42 Section 9-1-27, and that person shall be designated the chief
43 county medical examiner or county medical examiner investigator
44 until the time of the next death investigation training school,
45 which he must successfully complete or be removed from office.
46 Any elected coroner who has failed to successfully complete the
47 death investigation training school may attend any subsequent
48 death investigation training school conducted during the term for
49 which he was elected, and upon the successful completion thereof,
50 he shall become the chief CME or CMEI for the county in which he
51 was elected. The coroner pro tempore then shall become a deputy
52 CME or CMEI, provided he has successfully completed the death
53 investigation training school. Notwithstanding anything in this
54 section to the contrary, each coroner holding office on July 1,
55 1986, shall be the chief CME or CMEI for the county in which he
56 was elected through the expiration of his term in January 1988
57 without having to attend the death investigation training school;
58 however, he may voluntarily attend any such school conducted prior
59 to that time.

60 (3) There shall be at least one (1) county medical examiner
61 and/or county medical examiner investigator for each county, and
62 one (1) county medical examiner or county medical examiner
63 investigator shall be designated as the chief for each county,
64 except as otherwise provided in subsection (4) of this section.
65 Any county may have deputy county medical examiners or deputy



66 county medical examiner investigators as deemed necessary who
67 shall be appointed jointly by the board of supervisors and the CME
68 or CMEI. However, when the population of a county reaches a total
69 of twenty thousand (20,000) or greater, there shall be one or more
70 officially appointed deputies. Deputies shall be subject to the
71 same qualifications, training and certification requirements, and
72 shall possess the same authority and discharge the same duties, as
73 other county medical examiners or county medical examiner
74 investigators, and shall receive fees and expenses as provided in
75 Sections 41-61-69 and 41-61-75. Any CME or CMEI may be removed by
76 the State Medical Examiner prior to the expiration of his term as
77 CME or CMEI for inefficiency, or other good cause, after written
78 notice and a hearing in compliance with due process law.

79 (4) One (1) person may serve as the chief CME or CMEI for
80 two (2) or more adjacent counties when that person consents and
81 the boards of supervisors of each county involved and the State
82 Medical Examiner consent in writing. Each respective county
83 involved shall be responsible for payment for the services given
84 to that county by the chief CME or CMEI.

85 (5) Chief and deputy CME's and CMEI's shall attend the death
86 investigation training school provided by the Mississippi Crime
87 Laboratory and the State Medical Examiner, and shall successfully
88 complete subsequent testing on the subject material by the State
89 Medical Examiner at least once every four (4) years. Room, board
90 and transportation expenses for attending the school shall be
91 borne by the county in which the CME or CMEI is serving. In
92 addition to the above training, the individual shall receive at
93 least twenty-four (24) hours annually of continuing education as
94 prescribed and certified by the State Medical Examiner. If the
95 above requirements for training or continuing education are not
96 met, the individual immediately shall be disqualified and removed
97 from office as CME and/or CMEI. Reapplication for the office may
98 be made the following year after removal.



99 (6) If a coroner uses a medical examiner for any purpose,
100 the medical examiner shall possess the qualifications provided for
101 county medical examiners in subsection (1) and he shall be
102 certified in pathology by the American Board of Pathology and he
103 must be on the list of approved medical examiners of the
104 Department of Public Safety.

105 **SECTION 2.** Section 41-61-53, Mississippi Code of 1972, is
106 brought forward as follows:

107 41-61-53. For the purposes of Sections 41-61-51 through
108 41-61-79, the following definitions shall apply:

109 (a) "Certification of death" means signing the death
110 certificate.

111 (b) "Coroner" means the elected county official
112 provided for in Sections 19-21-101 through 19-21-107.

113 (c) "County medical examiner investigator" means a
114 nonphysician trained and appointed to investigate and certify
115 deaths affecting the public interest.

116 (d) "County medical examiner" means a licensed
117 physician appointed to investigate and certify deaths affecting
118 the public interest.

119 (e) "Death affecting the public interest" means any
120 death of a human being where the circumstances are sudden,
121 unexpected, violent, suspicious or unattended.

122 (f) "Medical examiner" means the State Medical
123 Examiner, county medical examiners and county medical examiner
124 investigators collectively, unless otherwise specified.

125 (g) "Pronouncement of death" means the statement of
126 opinion that life has ceased for an individual.

127 (h) "State medical examiner" means the board certified
128 forensic pathologist/physician appointed by the Commissioner of
129 Public Safety to investigate and certify deaths which affect the
130 public interest.



131 **SECTION 3.** Section 41-61-55, Mississippi Code of 1972, is
132 brought forward as follows:

133 41-61-55. There is hereby created the position of State
134 Medical Examiner, to be established as herein provided under the
135 appointment by and supervision of the Commissioner of Public
136 Safety.

137 Each applicant for the position of State Medical Examiner
138 shall, as a minimum, be a physician who is eligible for a license
139 to practice medicine in Mississippi and be certified in forensic
140 pathology by the American Board of Pathology.

141 The State Medical Examiner may be removed by the commissioner
142 only for inefficiency or other good cause, after written notice
143 and a hearing complying with due process of law.

144 **SECTION 4.** The amendments to Section 41-61-57 in Section 1
145 of this act shall be applicable to any person who is holding the
146 position of county medical examiner on July 1, 2010. If any such
147 person does not meet the qualifications required for county
148 medical examiner by the amendments to Section 41-61-57 in Section
149 1 of this act on July 1, 2010, that person shall not be authorized
150 to hold the position of county medical examiner after July 1,
151 2010.

152 **SECTION 5.** The Attorney General shall review the forensic
153 evidence in all capital cases prosecuted since 1980 to determine
154 if such forensic evidence is accurate and to determine whether the
155 verdict in any of the cases was adversely affected by the use of
156 such evidence. If the Attorney General makes a determination that
157 a case was adversely affected by the use of tainted forensic
158 evidence, then he shall petition the court for appropriate relief.

159 **SECTION 6.** This act shall take effect and be in force from
160 and after July 1, 2010.

