

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 Sent to Governor)

1 AN ACT TO AMEND SECTION 41-61-65, MISSISSIPPI CODE OF 1972,
 2 TO REVISE THE QUALIFICATIONS OF PATHOLOGISTS ABLE TO PERFORM
 3 POSTMORTEM EXAMINATIONS AND AUTOPSIES UPON REQUEST OF A CORONER;
 4 TO AMEND SECTION 41-61-59, MISSISSIPPI CODE OF 1972, TO CONFORM;
 5 TO AMEND SECTION 41-61-77, MISSISSIPPI CODE OF 1972, TO REMOVE THE
 6 AUTHORITY OF COUNTIES TO ENTER INTO AN INTERLOCAL AGREEMENT IN
 7 ORDER TO OPERATE A MEDICAL EXAMINER DISTRICT INDEPENDENT OF THE
 8 STATE MEDICAL EXAMINER'S OFFICE; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 41-61-65, Mississippi Code of 1972, is
 11 amended as follows:

12 41-61-65. (1) If, in the opinion of the medical examiner
 13 investigating the case, it is advisable and in the public interest
 14 that an autopsy or other study be made for the purpose of
 15 determining the primary and/or contributing cause of death, an
 16 autopsy or other study shall be made by the State Medical Examiner
 17 or by a competent pathologist designated by the State Medical
 18 Examiner or the Department of Public Safety as a pathologist
 19 qualified to perform postmortem examinations and autopsies; to be
 20 eligible to be designated under this section, a pathologist must
 21 be an M.D. or D.O. who is certified in forensic pathology by the
 22 American Board of Pathology unless a certified forensic
 23 pathologist is not available to perform a postmortem examination
 24 or autopsy within a reasonable time. The State Medical Examiner
 25 or designated pathologist may retain any tissues as needed for
 26 further postmortem studies or documentation. When the medical
 27 examiner has received notification under Section 41-39-15(6) that
 28 the deceased is medically suitable to be an organ and/or tissue
 29 donor, the State Medical Examiner or designated pathologist may



30 retain any biopsy or medically approved sample of the organ and/or
31 tissue in accordance with the provisions of Section 41-39-15(6).
32 A complete autopsy report of findings and interpretations,
33 prepared on forms designated for this purpose, shall be submitted
34 promptly to the State Medical Examiner. Copies of the report
35 shall be furnished to the authorizing medical examiner, district
36 attorney and court clerk. A copy of the report shall be furnished
37 to one (1) adult member of the immediate family of the deceased or
38 the legal representative or legal guardian of members of the
39 immediate family of the deceased upon request. In determining the
40 need for an autopsy, the medical examiner may consider the request
41 from the district attorney or county prosecuting attorney, law
42 enforcement or other public officials or private persons.
43 However, if the death occurred in the manner specified in
44 subsection (2)(j) of Section 41-61-59, an autopsy shall be
45 performed by the State Medical Examiner or a designated
46 pathologist who is qualified as required by this subsection, and
47 the report of findings shall be forwarded promptly to the State
48 Medical Examiner, investigating medical examiner, the State
49 Department of Health, the infant's attending physician and the
50 local sudden infant death syndrome coordinator.

51 (2) Any medical examiner or duly licensed physician
52 performing authorized investigations and/or autopsies as provided
53 in Sections 41-61-51 through 41-61-79 who, in good faith, complies
54 with the provisions of Sections 41-61-51 through 41-61-79 in the
55 determination of the cause and/or manner of death for the purpose
56 of certification of that death, shall not be liable for damages on
57 account thereof, and shall be immune from any civil liability that
58 might otherwise be incurred or imposed.

59 (3) Family members or others who disagree with the medical
60 examiner's determination shall be able to petition and present
61 written argument to the State Medical Examiner for further review.
62 If the petitioner still disagrees, he may petition the circuit



63 court, which may, in its discretion, hold a formal hearing. In
64 all those proceedings, the State Medical Examiner and the county
65 medical examiner or county medical examiner investigator who
66 certified the information shall be made defendants. All costs of
67 the petition and hearing shall be borne by the petitioner.

68 **SECTION 2.** Section 41-61-59, Mississippi Code of 1972, is
69 amended as follows:

70 41-61-59. (1) A person's death that affects the public
71 interest as specified in subsection (2) of this section shall be
72 promptly reported to the medical examiner by the physician in
73 attendance, any hospital employee, any law enforcement officer
74 having knowledge of the death, the embalmer or other funeral home
75 employee, any emergency medical technician, any relative or any
76 other person present. The appropriate medical examiner shall
77 notify the municipal or state law enforcement agency or sheriff
78 and take charge of the body. When the medical examiner has
79 received notification under Section 41-39-15(6) that the deceased
80 is medically suitable to be an organ and/or tissue donor, the
81 medical examiner's authority over the body shall be subject to the
82 provisions of Section 41-39-15(6). The appropriate medical
83 examiner shall notify the Mississippi Bureau of Narcotics within
84 twenty-four (24) hours of receipt of the body in cases of death as
85 described in subsection (2)(m) or (n) of this section.

86 (2) A death affecting the public interest includes, but is
87 not limited to, any of the following:

88 (a) Violent death, including homicidal, suicidal or
89 accidental death.

90 (b) Death caused by thermal, chemical, electrical or
91 radiation injury.

92 (c) Death caused by criminal abortion, including
93 self-induced abortion, or abortion related to or by sexual abuse.

94 (d) Death related to disease thought to be virulent or
95 contagious that may constitute a public hazard.



96 (e) Death that has occurred unexpectedly or from an
97 unexplained cause.

98 (f) Death of a person confined in a prison, jail or
99 correctional institution.

100 (g) Death of a person where a physician was not in
101 attendance within thirty-six (36) hours preceding death, or in
102 prediagnosed terminal or bedfast cases, within thirty (30) days
103 preceding death.

104 (h) Death of a person where the body is not claimed by
105 a relative or a friend.

106 (i) Death of a person where the identity of the
107 deceased is unknown.

108 (j) Death of a child under the age of two (2) years
109 where death results from an unknown cause or where the
110 circumstances surrounding the death indicate that sudden infant
111 death syndrome may be the cause of death.

112 (k) Where a body is brought into this state for
113 disposal and there is reason to believe either that the death was
114 not investigated properly or that there is not an adequate
115 certificate of death.

116 (l) Where a person is presented to a hospital emergency
117 room unconscious and/or unresponsive, with cardiopulmonary
118 resuscitative measures being performed, and dies within
119 twenty-four (24) hours of admission without regaining
120 consciousness or responsiveness, unless a physician was in
121 attendance within thirty-six (36) hours preceding presentation to
122 the hospital, or in cases in which the decedent had a prediagnosed
123 terminal or bedfast condition, unless a physician was in
124 attendance within thirty (30) days preceding presentation to the
125 hospital.

126 (m) Death that is caused by drug overdose or which is
127 believed to be caused by drug overdose.



128 (n) When a stillborn fetus is delivered and the cause
129 of the demise is medically believed to be from the use by the
130 mother of any controlled substance as defined in Section
131 41-29-105.

132 (3) The State Medical Examiner is empowered to investigate
133 deaths, under the authority hereinafter conferred, in any and all
134 political subdivisions of the state. The county medical examiners
135 and county medical examiner investigators, while appointed for a
136 specific county, may serve other counties on a regular basis with
137 written authorization by the State Medical Examiner, or may serve
138 other counties on an as-needed basis upon the request of the
139 ranking officer of the investigating law enforcement agency. * * *
140 If a death affecting the public interest takes place in a county
141 other than the one where injuries or other substantial causal
142 factors leading to the death have occurred, jurisdiction for
143 investigation of the death may be transferred, by mutual agreement
144 of the respective medical examiners of the counties involved, to
145 the county where the injuries or other substantial causal factors
146 occurred, and the costs of autopsy or other studies necessary to
147 the further investigation of the death shall be borne by the
148 county assuming jurisdiction.

149 (4) The chief county medical examiner or chief county
150 medical examiner investigator may receive from the county in which
151 he serves a salary of Nine Hundred Dollars (\$900.00) per month, in
152 addition to the fees specified in Sections 41-61-69 and 41-61-75,
153 provided that no county shall pay the chief county medical
154 examiner or chief county medical examiner investigator less than
155 One Hundred Dollars (\$100.00) per month as a salary, in addition
156 to other compensation provided by law. In any county having one
157 or more deputy medical examiners or deputy medical examiner
158 investigators, each deputy may receive from the county in which he
159 serves, in the discretion of the board of supervisors, a salary of
160 not more than Nine Hundred Dollars (\$900.00) per month, in



161 addition to the fees specified in Sections 41-61-69 and 41-61-75.
162 For this salary the chief shall assure twenty-four-hour daily and
163 readily available death investigators for the county, and shall
164 maintain copies of all medical examiner death investigations for
165 the county for at least the previous five (5) years. He shall
166 coordinate his office and duties and cooperate with the State
167 Medical Examiner, and the State Medical Examiner shall cooperate
168 with him.

169 (5) A body composed of the State Medical Examiner, whether
170 appointed on a permanent or interim basis, the Director of the
171 State Board of Health or his designee, the Attorney General or his
172 designee, the President of the Mississippi Coroners' Association
173 (or successor organization) or his designee, and a certified
174 pathologist appointed by the Mississippi State Medical Association
175 shall adopt, promulgate, amend and repeal rules and regulations as
176 may be deemed necessary by them from time to time for the proper
177 enforcement, interpretation and administration of Sections
178 41-61-51 through 41-61-79, in accordance with the provisions of
179 the Mississippi Administrative Procedures Law, being Section
180 25-43-1 et seq.

181 **SECTION 3.** Section 41-61-77, Mississippi Code of 1972, is
182 amended as follows:

183 41-61-77. (1) The Department of Public Safety shall
184 establish and maintain a central office for the Mississippi Crime
185 Laboratory and the State Medical Examiner with appropriate
186 facilities and personnel for postmortem medicolegal examinations.
187 District offices, with appropriate facilities and personnel, may
188 also be established and maintained if considered necessary by the
189 department for the proper management of postmortem examinations.

190 The facilities of the central and district offices and their
191 staff services may be available to the medical examiners and
192 designated pathologists in their investigations.



193 (2) In order to provide proper facilities for investigating
194 deaths as authorized in Sections 41-61-51 through 41-61-79, the
195 State Medical Examiner may arrange for the use of existing public
196 or private laboratory facilities. The State Medical Examiner may
197 contract with qualified persons to perform or to provide support
198 services for autopsies, studies and investigations not
199 inconsistent with other applicable laws. Such laboratory
200 facilities may be located at the University of Mississippi Medical
201 Center or any other suitable location. The State Medical Examiner
202 may also serve as a member of the faculty at the University of
203 Mississippi Medical Center and other institutions of higher
204 learning. He shall be authorized to employ, with the approval of
205 the Commissioner of Public Safety, such additional scientific,
206 technical, administrative and clerical assistants as are necessary
207 for performance of his duties. Such employees in the office of
208 the State Medical Examiner shall be subject to the rules,
209 regulations and policies of the state personnel system in their
210 employment.

211 (3) The State Medical Examiner shall be authorized to
212 appoint and/or employ qualified pathologists as additional
213 associate and assistant state medical examiners as are necessary
214 to carry out the duties of his office. The associate and
215 assistant state medical examiners shall be licensed to practice
216 medicine in Mississippi and, insofar as practicable, shall be
217 trained in the field of forensic pathology. The State Medical
218 Examiner may delegate specific duties to competent and qualified
219 medical examiners within the scope of the express authority
220 granted to him by law or regulation. Employees of the office of
221 the State Medical Examiner shall have the authority to enter any
222 political subdivisions of this state for the purpose of carrying
223 out medical investigations.

224 * * *



225 **SECTION 4.** This act shall take effect and be in force from
226 and after July 1, 2010.

