

By: Senator(s) Burton

To: Public Health and Welfare

SENATE BILL NO. 2435
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 41-61-55, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE STATE MEDICAL EXAMINER SHALL BE APPOINTED BY
3 THE COMMISSIONER OF PUBLIC SAFETY SUBJECT TO THE APPROVAL OF A
4 PANEL; TO PROVIDE FOR THE MEMBERS OF THE STATE MEDICAL EXAMINER
5 ADVISORY COUNCIL; TO AMEND SECTION 41-61-53, MISSISSIPPI CODE OF
6 1972, TO CONFORM TO THE PRECEDING SECTION; TO AMEND SECTION
7 41-61-59, MISSISSIPPI CODE OF 1972, TO DELETE THE ENTITY
8 ESTABLISHED TO ADOPT REGULATIONS FOR THE ADMINISTRATION OF THE
9 MEDICAL EXAMINER ACT; TO AMEND SECTION 41-61-61, MISSISSIPPI CODE
10 OF 1972, TO REQUIRE THE COUNTY MEDICAL EXAMINER WHO IS NOTIFIED OF
11 A DEATH AFFECTING THE PUBLIC INTEREST TO NOTIFY THE STATE MEDICAL
12 EXAMINER; TO AMEND SECTION 41-61-63, MISSISSIPPI CODE OF 1972, TO
13 REQUIRE THE COUNTY MEDICAL EXAMINER IN INVESTIGATIONS OF DEATHS
14 AFFECTING THE PUBLIC INTEREST WHERE AN AUTOPSY WILL NOT BE
15 PERFORMED TO MAKE DECISIONS IN CONSULTATION WITH LAW ENFORCEMENT
16 OFFICIALS AND/OR THE STATE MEDICAL EXAMINER; TO AMEND SECTION
17 41-61-65, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN
18 INVESTIGATIONS WHERE AN AUTOPSY WILL BE PERFORMED, THE STATE
19 MEDICAL EXAMINER MAY CHOOSE A COMPETENT PATHOLOGIST TO PERFORM THE
20 AUTOPSY; TO AMEND SECTION 41-61-77, MISSISSIPPI CODE OF 1972, TO
21 PROVIDE THAT THE STATE MEDICAL EXAMINER MAY BE AN AFFILIATE OR
22 REGULAR FACULTY MEMBER OF THE DEPARTMENT OF PATHOLOGY AT THE
23 UNIVERSITY OF MISSISSIPPI MEDICAL CENTER; AND FOR RELATED
24 PURPOSES.

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

26 **SECTION 1.** Section 41-61-55, Mississippi Code of 1972, is
27 amended as follows:

28 41-61-55. (1) There is hereby created the position of State
29 Medical Examiner, to be established as herein provided under
30 the * * * supervision of the Commissioner of Public Safety. The
31 State Medical Examiner shall be appointed by the Commissioner of
32 Public Safety subject to the approval of a majority of a panel
33 composed of the following: (a) the Dean of the University of
34 Mississippi Medical Center School of Medicine; (b) the Dean of the
35 University of Mississippi School of Law; and (c) the State Health
36 Officer. The State Medical Examiner may be discharged only for



37 good cause, upon the recommendation of the Commissioner of Public
38 Safety, and by a majority of the same panel.

39 (2) Each applicant for the position of State Medical
40 Examiner shall, as a minimum, be a physician who is eligible for a
41 license to practice medicine in Mississippi and be certified in
42 forensic pathology by the American Board of Pathology.

43 (3) There is hereby created the State Medical Examiner
44 Advisory Council composed of the State Health Officer or his or
45 her designee, the Dean of the University of Mississippi Medical
46 Center School of Medicine or his or her designee, the Commissioner
47 of Public Safety, the Attorney General or his or her designee, the
48 President of the Mississippi Coroners' Association or his or her
49 designee, the President of the Mississippi Prosecutors Association
50 or his or her designee, the President of the Mississippi Public
51 Defenders Association or his or her designee, the President of the
52 Mississippi Association of Chiefs of Police or his or her
53 designee, and the President of the Mississippi Sheriff's
54 Association or his or her designee. The council shall be purely
55 advisory and serve as a liaison between the State Medical Examiner
56 and the various entities related to the Medical Examiner Act.

57 * * *

58 **SECTION 2.** Section 41-61-53, Mississippi Code of 1972, is
59 amended as follows:

60 41-61-53. For the purposes of Sections 41-61-51 through
61 41-61-79, the following definitions shall apply:

62 (a) "Certification of death" means signing the death
63 certificate.

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

66 (c) "County medical examiner investigator" means a
67 nonphysician trained and appointed to investigate and certify
68 deaths affecting the public interest.



69 (d) "County medical examiner" means a licensed
70 physician appointed to investigate and certify deaths affecting
71 the public interest.

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

75 (f) "Medical examiner" means the State Medical
76 Examiner, county medical examiners and county medical examiner
77 investigators collectively, unless otherwise specified.

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

80 (h) "State medical examiner" means the board certified
81 forensic pathologist/physician appointed by the Commissioner of
82 Public Safety pursuant to Section 41-61-55 to investigate and
83 certify deaths that affect the public interest.

84 **SECTION 3.** Section 41-61-59, Mississippi Code of 1972, is
85 amended as follows:

86 41-61-59. (1) A person's death that affects the public
87 interest as specified in subsection (2) of this section shall be
88 promptly reported to the medical examiner by the physician in
89 attendance, any hospital employee, any law enforcement officer
90 having knowledge of the death, the embalmer or other funeral home
91 employee, any emergency medical technician, any relative or any
92 other person present. The appropriate medical examiner shall
93 notify the municipal or state law enforcement agency or sheriff
94 and take charge of the body. When the medical examiner has
95 received notification under Section 41-39-15(6) that the deceased
96 is medically suitable to be an organ and/or tissue donor, the
97 medical examiner's authority over the body shall be subject to the
98 provisions of Section 41-39-15(6). The appropriate medical
99 examiner shall notify the Mississippi Bureau of Narcotics within
100 twenty-four (24) hours of receipt of the body in cases of death as
101 described in subsection (2) (m) or (n) of this section.



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

104 (a) Violent death, including homicidal, suicidal or
105 accidental death.

106 (b) Death caused by thermal, chemical, electrical or
107 radiation injury.

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

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

112 (e) Death that has occurred unexpectedly or from an
113 unexplained cause.

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

116 (g) Death of a person where a physician was not in
117 attendance within thirty-six (36) hours preceding death, or in
118 prediagnosed terminal or bedfast cases, within thirty (30) days
119 preceding death.

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

122 (i) Death of a person where the identity of the
123 deceased is unknown.

124 (j) Death of a child under the age of two (2) years
125 where death results from an unknown cause or where the
126 circumstances surrounding the death indicate that sudden infant
127 death syndrome may be the cause of death.

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

132 (l) Where a person is presented to a hospital emergency
133 room unconscious and/or unresponsive, with cardiopulmonary
134 resuscitative measures being performed, and dies within



135 twenty-four (24) hours of admission without regaining
136 consciousness or responsiveness, unless a physician was in
137 attendance within thirty-six (36) hours preceding presentation to
138 the hospital, or in cases in which the decedent had a prediagnosed
139 terminal or bedfast condition, unless a physician was in
140 attendance within thirty (30) days preceding presentation to the
141 hospital.

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

144 (n) When a stillborn fetus is delivered and the cause
145 of the demise is medically believed to be from the use by the
146 mother of any controlled substance as defined in Section
147 41-29-105.

148 (3) The State Medical Examiner is empowered to investigate
149 deaths, under the authority hereinafter conferred, in any and all
150 political subdivisions of the state. The county medical examiners
151 and county medical examiner investigators, while appointed for a
152 specific county, may serve other counties on a regular basis with
153 written authorization by the State Medical Examiner, or may serve
154 other counties on an as-needed basis upon the request of the
155 ranking officer of the investigating law enforcement agency. If a
156 death affecting the public interest takes place in a county other
157 than the one where injuries or other substantial causal factors
158 leading to the death have occurred, jurisdiction for investigation
159 of the death may be transferred, by mutual agreement of the
160 respective medical examiners of the counties involved, to the
161 county where the injuries or other substantial causal factors
162 occurred, and the costs of autopsy or other studies necessary to
163 the further investigation of the death shall be borne by the
164 county assuming jurisdiction.

165 (4) The chief county medical examiner or chief county
166 medical examiner investigator may receive from the county in which
167 he serves a salary of Nine Hundred Dollars (\$900.00) per month, in



168 addition to the fees specified in Sections 41-61-69 and 41-61-75,
169 provided that no county shall pay the chief county medical
170 examiner or chief county medical examiner investigator less than
171 One Hundred Dollars (\$100.00) per month as a salary, in addition
172 to other compensation provided by law. In any county having one
173 or more deputy medical examiners or deputy medical examiner
174 investigators, each deputy may receive from the county in which he
175 serves, in the discretion of the board of supervisors, a salary of
176 not more than Nine Hundred Dollars (\$900.00) per month, in
177 addition to the fees specified in Sections 41-61-69 and 41-61-75.
178 For this salary the chief shall assure twenty-four-hour daily and
179 readily available death investigators for the county, and shall
180 maintain copies of all medical examiner death investigations for
181 the county for at least the previous five (5) years. He shall
182 coordinate his office and duties and cooperate with the State
183 Medical Examiner, and the State Medical Examiner shall cooperate
184 with him.

185 * * *

186 **SECTION 4.** Section 41-61-61, Mississippi Code of 1972, is
187 amended as follows:

188 41-61-61. (1) Upon the death of any person where that death
189 affects the public interest, the medical examiner of the county in
190 which the body of the deceased is found or, if death occurs in a
191 moving conveyance, where the conveyance stops and death is
192 pronounced, shall be notified promptly by any person having
193 knowledge or suspicion of such a death, as provided in subsection
194 (1) of Section 41-61-59. The medical examiner shall then notify
195 the State Medical Examiner, in accordance with Section
196 41-61-63(2) (a). No person shall disturb the body at the scene of
197 such a death until authorized by the medical examiner, unless the
198 medical examiner is unavailable and it is determined by an
199 appropriate law enforcement officer that the presence of the body
200 at the scene would risk the integrity of the body or provide a



201 hazard to the safety of others. For the limited purposes of this
202 section, expression of an opinion that death has occurred may be
203 made by a nurse, an emergency medical technician, or any other
204 competent person, in the absence of a physician.

205 (2) The discovery of anatomical material suspected of being
206 part of the human body shall be promptly reported either (a) to
207 the medical examiner of the county in which the material is found,
208 who shall report the discovery to the State Medical Examiner, or
209 (b) to the State Medical Examiner.

210 (3) A person who willfully moves, distributes or conceals a
211 body or body part in violation of this section is guilty of a
212 misdemeanor, and may be punished by a fine of not more than Five
213 Hundred Dollars (\$500.00), or by imprisonment for not more than
214 six (6) months in the county jail, or by both such fine and
215 imprisonment.

216 (4) Upon oral or written authorization of the medical
217 examiner, if an autopsy is to be performed, the body shall be
218 transported directly to an autopsy facility in a suitable secure
219 conveyance, and the expenses of transportation shall be paid by
220 the county for which the service is provided. The county may
221 contract with individuals or make available a vehicle to the
222 medical examiner or law enforcement personnel for transportation
223 of bodies.

224 **SECTION 5.** Section 41-61-63, Mississippi Code of 1972, is
225 amended as follows:

226 41-61-63. (1) The State Medical Examiner shall:

227 (a) Provide assistance, consultation and training to
228 county medical examiners, county medical examiner investigators
229 and law enforcement officials.

230 (b) Keep complete records of all relevant information
231 concerning deaths or crimes requiring investigation by the medical
232 examiners.



233 (c) Promulgate rules and regulations regarding the
234 manner and techniques to be employed while conducting autopsies;
235 the nature, character and extent of investigations to be made into
236 deaths affecting the public interest to allow a medical examiner
237 to render a full and complete analysis and report; the format and
238 matters to be contained in all reports rendered by the medical
239 examiners; and all other things necessary to carry out the
240 purposes of Sections 41-61-51 through 41-61-79. The State Medical
241 Examiner shall make such amendments to these rules and regulations
242 as may be necessary. All medical examiners, coroners and law
243 enforcement officers shall be subject to such rules.

244 (d) Cooperate with the crime detection and medical
245 examiner laboratories authorized by Section 45-1-17, the
246 University of Mississippi Medical Center, the Attorney General,
247 law enforcement agencies, the courts and the State of Mississippi.

248 (2) In addition, the medical examiners shall:

249 (a) Upon receipt of notification of a death affecting
250 the public interest, make inquiries regarding the cause and manner
251 of death, reduce the findings to writing and promptly make a full
252 report to the State Medical Examiner on forms prescribed for that
253 purpose. The medical examiner shall be authorized to inspect and
254 copy the medical reports of the decedent whose death is under
255 investigation. However, the records copied shall be maintained as
256 confidential so as to protect the doctor/patient privilege. The
257 medical examiners shall be authorized to request the issuance of
258 subpoenas, through the proper court, for the attendance of persons
259 and for the production of documents as may be required by their
260 investigation.

261 (b) Complete the medical examiner's portion of the
262 certificate of death within seventy-two (72) hours of assuming
263 jurisdiction over a death, and forward the certificate to the
264 funeral director or to the family. The medical examiner's portion
265 of the certificate of death shall include the decedent's name, the



266 date and time of death, the cause of death and the certifier's
267 signature. If determination of the cause and/or manner of death
268 are pending an autopsy or toxicological or other studies, these
269 sections on the certificate may be marked "pending," with
270 amendment and completion to follow the completion of the
271 postmortem studies. The State Medical Examiner shall be
272 authorized to amend a death certificate; however, the State
273 Medical Examiner is not authorized to change or amend any death
274 certificate after he has resigned or been removed from his office
275 as the State Medical Examiner. Where an attending physician
276 refuses to sign a certificate of death, or in case of any death,
277 the State Medical Examiner or properly qualified designee may sign
278 the death certificate.

279 (c) Cooperate with other agencies as provided for the
280 State Medical Examiner in subsection (1)(d) of this section.

281 (d) In all investigations of deaths affecting the
282 public interest where an autopsy will not be performed, obtain or
283 attempt to obtain postmortem blood, urine and/or vitreous fluids.
284 Medical examiners may also obtain rectal temperature measurements,
285 known hair samples, radiographs, gunshot residue/wiping studies,
286 fingerprints, palm prints and other noninvasive studies as the
287 case warrants and/or as directed by the State Medical Examiner.
288 Decisions shall be made in consultation with investigating law
289 enforcement officials and/or the State Medical Examiner. The cost
290 of all studies not performed by the Mississippi Crime Laboratory
291 shall be borne by the county. County medical examiner
292 investigators shall be authorized to obtain these postmortem
293 specimens themselves following successful completion of the death
294 investigation training school.

295 (e) In all investigations of deaths occurring in the
296 manner specified in subsection (2)(j) of Section 41-61-59, a death
297 investigation shall be performed by the medical examiners in
298 accordance with the child death investigation protocol established



299 by the State Medical Examiner. The results of the death
300 investigation shall be reported to the State Medical Examiner on
301 forms prescribed for that purpose by the State Medical Examiner
302 and to appropriate authorities, including police and child
303 protective services, within three (3) days of the conclusion of
304 the death investigation.

305 (3) The medical examiner shall not use his position or
306 authority to favor any particular funeral home or funeral homes.

307 **SECTION 6.** Section 41-61-65, Mississippi Code of 1972, is
308 amended as follows:

309 41-61-65. (1) If, in the opinion of the medical examiner
310 investigating the case, it is advisable and in the public interest
311 that an autopsy or other study be made for the purpose of
312 determining the primary and/or contributing cause of death, an
313 autopsy or other study shall be made by the State Medical
314 Examiner, or the State Medical Examiner may choose a competent
315 pathologist who is designated by the State Medical Examiner or the
316 Department of Public Safety as a pathologist qualified to perform
317 postmortem examinations and autopsies to perform the autopsy or
318 study. To be eligible to be designated under this section, a
319 pathologist must be an M.D. or D.O. who is certified in forensic
320 pathology by the American Board of Pathology unless a certified
321 forensic pathologist is not available to perform a postmortem
322 examination or autopsy within a reasonable time. The State
323 Medical Examiner or designated pathologist may retain any tissues
324 as needed for further postmortem studies or documentation. When
325 the medical examiner has received notification under Section
326 41-39-15(6) that the deceased is medically suitable to be an organ
327 and/or tissue donor, the State Medical Examiner or designated
328 pathologist may retain any biopsy or medically approved sample of
329 the organ and/or tissue in accordance with the provisions of
330 Section 41-39-15(6). A complete autopsy report of findings and
331 interpretations, prepared on forms designated for this purpose,



332 shall be submitted promptly to the State Medical Examiner. Copies
333 of the report shall be furnished to the authorizing medical
334 examiner, district attorney and court clerk. A copy of the report
335 shall be furnished to one (1) adult member of the immediate family
336 of the deceased or the legal representative or legal guardian of
337 members of the immediate family of the deceased upon request. In
338 determining the need for an autopsy, the medical examiner may
339 consider the request from the district attorney or county
340 prosecuting attorney, law enforcement or other public officials or
341 private persons. However, if the death occurred in the manner
342 specified in subsection (2)(j) of Section 41-61-59, an autopsy
343 shall be performed by the State Medical Examiner or a designated
344 pathologist who is qualified as required by this subsection, and
345 the report of findings shall be forwarded promptly to the State
346 Medical Examiner, investigating medical examiner, the State
347 Department of Health, the infant's attending physician and the
348 local sudden infant death syndrome coordinator.

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

357 (3) Family members or others who disagree with the medical
358 examiner's determination shall be able to petition and present
359 written argument to the State Medical Examiner for further review.
360 If the petitioner still disagrees, he may petition the circuit
361 court, which may, in its discretion, hold a formal hearing. In
362 all those proceedings, the State Medical Examiner and the county
363 medical examiner or county medical examiner investigator who



364 certified the information shall be made defendants. All costs of
365 the petition and hearing shall be borne by the petitioner.

366 **SECTION 7.** Section 41-61-77, Mississippi Code of 1972, is
367 amended as follows:

368 41-61-77. (1) The Department of Public Safety shall
369 establish and maintain a central office for the Mississippi Crime
370 Laboratory and the State Medical Examiner with appropriate
371 facilities and personnel for postmortem medicolegal examinations.
372 District offices, with appropriate facilities and personnel, may
373 also be established and maintained if considered necessary by the
374 department for the proper management of postmortem examinations.

375 The facilities of the central and district offices and their
376 staff services may be available to the medical examiners and
377 designated pathologists in their investigations.

378 (2) In order to provide proper facilities for investigating
379 deaths as authorized in Sections 41-61-51 through 41-61-79, the
380 State Medical Examiner may arrange for the use of existing public
381 or private laboratory facilities. The State Medical Examiner may
382 contract with qualified persons to perform or to provide support
383 services for autopsies, studies and investigations not
384 inconsistent with other applicable laws. Such laboratory
385 facilities may be located at the University of Mississippi Medical
386 Center or any other suitable location. The State Medical Examiner
387 may be an affiliate or regular faculty member of the Department of
388 Pathology at the University of Mississippi Medical Center and may
389 serve as a member of the faculty of other institutions of higher
390 learning. He shall be authorized to employ, with the approval of
391 the Commissioner of Public Safety, such additional scientific,
392 technical, administrative and clerical assistants as are necessary
393 for performance of his duties. Such employees in the office of
394 the State Medical Examiner shall be subject to the rules,
395 regulations and policies of the state personnel system in their
396 employment.



397 (3) The State Medical Examiner shall be authorized to
398 appoint and/or employ qualified pathologists as additional
399 associate and assistant state medical examiners as are necessary
400 to carry out the duties of his office. The associate and
401 assistant state medical examiners shall be licensed to practice
402 medicine in Mississippi and, insofar as practicable, shall be
403 trained in the field of forensic pathology. The State Medical
404 Examiner may delegate specific duties to competent and qualified
405 medical examiners within the scope of the express authority
406 granted to him by law or regulation. Employees of the office of
407 the State Medical Examiner shall have the authority to enter any
408 political subdivisions of this state for the purpose of carrying
409 out medical investigations.

410 **SECTION 8.** This act shall take effect and be in force from
411 and after July 1, 2011.

