

By: Senator(s) DeBar

To: Judiciary, Division B;
Appropriations

SENATE BILL NO. 2683

1 AN ACT TO AMEND SECTION 41-111-1, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE REPEAL CLAUSE ON THE CHILD DEATH REVIEW PANEL; TO
3 AMEND SECTION 41-61-59, MISSISSIPPI CODE OF 1972, TO DEFINE THE
4 DEATH OF ANY CHILD UNDER THE AGE OF 18 AS A DEATH THAT AFFECTS THE
5 PUBLIC INTEREST; TO AMEND SECTION 41-61-63, MISSISSIPPI CODE OF
6 1972, TO REVISE THE RESPONSIBILITY OF THE COUNTY MEDICAL EXAMINERS
7 AND COUNTY MEDICAL EXAMINER INVESTIGATORS TO REPORT CHILD DEATHS;
8 TO BRING FORWARD SECTION 41-61-65, MISSISSIPPI CODE OF 1972, TO
9 POSSIBLY AMEND TO CONFORM; TO AMEND SECTION 41-61-75, MISSISSIPPI
10 CODE OF 1972, TO REVISE THE PROVISIONS GOVERNING THE PAYMENT OF
11 FEES FOR DEATH REPORTS WHEN THE DECEASED IS CHILD UNDER THE AGE OF
12 18 YEARS; TO AMEND SECTION 19-3-27, MISSISSIPPI CODE OF 1972, TO
13 REQUIRE THE CLERK OF THE BOARD OF SUPERVISORS TO RECEIVE CERTAIN
14 INFORMATION BEFORE DOCKETING A REQUEST FOR PAYMENT BY A MEDICAL
15 EXAMINER FOR CERTAIN DEATH REPORTS; TO AMEND SECTION 19-3-5,
16 MISSISSIPPI CODE OF 1972, TO CLARIFY THE RESPONSIBILITY FOR
17 CERTAIN PAYMENTS MADE IN CONTRAVENTION OF STATUTORY REQUIREMENTS;
18 AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** Section 41-111-1, Mississippi Code of 1972, is
21 amended as follows:

22 41-111-1. (1) There is created the Child Death Review
23 Panel, whose primary purpose is to foster the reduction of infant
24 and child mortality and morbidity in Mississippi and to improve
25 the health status of infants and children.



(2) The Child Death Review Panel shall be composed of * * * the following voting members: the State Medical Examiner or his representative, a pathologist on staff at the University of Mississippi Medical Center, an appointee of the Lieutenant Governor, an appointee of the Speaker of the House of Representatives, and one (1) representative from each of the following: the * * * Mississippi Coroner-Medical Examiners Association, the Mississippi Chapter of the American Academy of Pediatrics, the Office of Vital Statistics in the State Department of Health, the Attorney General's office, the * * * Mississippi Sheriff's Association, the Mississippi Police Chiefs Association, the Department of * * * Child Protection Services, the Children's Advocacy Center, the State Chapter of the March of Dimes, the State SIDS Alliance, the Mississippi Children's Safe Center, Safe Kids Mississippi, the Mississippi Trauma Advisory Committee, and the Mississippi State Fire Marshal's office.

(3) The Chairman of the Child Death Review Panel shall be elected annually by the Review Panel membership. The Review Panel shall develop and implement such procedures and policies necessary for its operation, including obtaining and protecting confidential records from the agencies and officials specified in subsection (4) of this section. The Review Panel shall be assigned to the State Department of Health for administrative purposes only, and the department shall designate staff to assist the Review Panel.



(4) The Child Death Review Panel shall submit a report annually to the Chairmen of the House Public Health and Human Services Committee and the Senate Public Health and Welfare Committee on or before December 1. The report shall include the numbers, causes and relevant demographic information on child and infant deaths in Mississippi, and appropriate recommendations to the Legislature on how to most effectively direct state resources to decrease infant and child deaths in Mississippi. Data for the Review Panel's review and reporting shall be provided to the Review Panel, upon the request of the Review Panel, by the State Medical Examiner's office, State Department of Health, Department of * * * Child Protection Services, medical examiners, coroners, health care providers, law enforcement agencies, any other agencies or officials having information that is necessary for the Review Panel to carry out its duties under this section. The State Department of Health shall also be responsible for printing and distributing the annual report(s) on child and infant deaths in Mississippi.

* * *

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

41-61-59. (1) A person's death that affects the public interest as specified in subsection (2) of this section shall be promptly reported to the medical examiner by the physician in attendance, any hospital employee, any law enforcement officer



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

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

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

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

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

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

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



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

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

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

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

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

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

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



terminal or bedfast condition, unless a physician was in attendance within thirty (30) days preceding presentation to the hospital.

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

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

(o) Death of a child under the age of eighteen (18) years where death results from an unknown cause or where the circumstances surrounding the death indicate that the cause of death may be related to abuse, neglect or accident.

(3) The State Medical Examiner is empowered to investigate deaths, under the authority hereinafter conferred, in any and all political subdivisions of the state. The county medical examiners and county medical examiner investigators, while appointed for a specific county, may serve other counties on a regular basis with written authorization by the State Medical Examiner, or may serve other counties on an as-needed basis upon the request of the ranking officer of the investigating law enforcement agency. If a death affecting the public interest takes place in a county other than the one where injuries or other substantial causal factors leading to the death have occurred, jurisdiction for investigation of the death may be transferred, by mutual agreement of the



149 respective medical examiners of the counties involved, to the
150 county where the injuries or other substantial causal factors
151 occurred, and the costs of autopsy or other studies necessary to
152 the further investigation of the death shall be borne by the
153 county assuming jurisdiction.

154 (4) The chief county medical examiner or chief county
155 medical examiner investigator may receive from the county in which
156 he serves a salary of Nine Hundred Dollars (\$900.00) per month, in
157 addition to the fees specified in Sections 41-61-69 and 41-61-75,
158 provided that no county shall pay the chief county medical
159 examiner or chief county medical examiner investigator less than
160 One Hundred Dollars (\$100.00) per month as a salary, in addition
161 to other compensation provided by law. In any county having one
162 or more deputy medical examiners or deputy medical examiner
163 investigators, each deputy may receive from the county in which he
164 serves, in the discretion of the board of supervisors, a salary of
165 not more than Nine Hundred Dollars (\$900.00) per month, in
166 addition to the fees specified in Sections 41-61-69 and 41-61-75.
167 For this salary the chief shall assure twenty-four-hour daily and
168 readily available death investigators for the county, and shall
169 maintain copies of all medical examiner death investigations for
170 the county for at least the previous five (5) years. He shall
171 coordinate his office and duties and cooperate with the State
172 Medical Examiner, and the State Medical Examiner shall cooperate
173 with him.



174 **SECTION 3.** Section 41-61-63, Mississippi Code of 1972, is
175 amended as follows:

176 41-61-63. (1) The State Medical Examiner shall:

177 (a) Provide assistance, consultation and training to
178 county medical examiners, county medical examiner investigators
179 and law enforcement officials.

180 (b) Keep complete records of all relevant information
181 concerning deaths or crimes requiring investigation by the medical
182 examiners.

183 (c) Promulgate rules and regulations regarding the
184 manner and techniques to be employed while conducting autopsies;
185 the nature, character and extent of investigations to be made into
186 deaths affecting the public interest to allow a medical examiner
187 to render a full and complete analysis and report; the format and
188 matters to be contained in all reports rendered by the medical
189 examiners; and all other things necessary to carry out the
190 purposes of Sections 41-61-51 through 41-61-79. The State Medical
191 Examiner shall make such amendments to these rules and regulations
192 as may be necessary. All medical examiners, coroners and law
193 enforcement officers shall be subject to such rules.

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



198 (2) In addition, the county medical examiners and county
199 medical examiner investigators shall:

200 (a) Upon receipt of notification of a death affecting
201 the public interest, make inquiries regarding the cause and manner
202 of death, reduce the findings to writing and promptly make a full
203 report to the State Medical Examiner on forms prescribed for that
204 purpose. The medical examiner shall be authorized to inspect and
205 copy the medical reports of the decedent whose death is under
206 investigation. However, the records copied shall be maintained as
207 confidential so as to protect the doctor/patient privilege. The
208 medical examiners shall be authorized to request the issuance of
209 subpoenas, through the proper court, for the attendance of persons
210 and for the production of documents as may be required by their
211 investigation.

212 (b) Complete the medical examiner's portion of the
213 certificate of death within seventy-two (72) hours of assuming
214 jurisdiction over a death, and forward the certificate to the
215 funeral director or to the family. The medical examiner's portion
216 of the certificate of death shall include the decedent's name, the
217 date and time of death, the cause of death and the certifier's
218 signature. If determination of the cause and/or manner of death
219 are pending an autopsy or toxicological or other studies, these
220 sections on the certificate may be marked "pending," with
221 amendment and completion to follow the completion of the
222 postmortem studies. The State Medical Examiner shall be



223 authorized to amend a death certificate; however, the State
224 Medical Examiner is not authorized to change or amend any death
225 certificate after he has resigned or been removed from his office
226 as the State Medical Examiner. Where an attending physician
227 refuses to sign a certificate of death, or in case of any death,
228 the State Medical Examiner or properly qualified designee may sign
229 the death certificate.

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

232 (d) In all investigations of deaths affecting the
233 public interest where an autopsy will not be performed, obtain or
234 attempt to obtain postmortem blood, urine and/or vitreous fluids.
235 Medical examiners may also obtain rectal temperature measurements,
236 known hair samples, radiographs, gunshot residue/wiping studies,
237 fingerprints, palm prints and other noninvasive studies as the
238 case warrants and/or as directed by the State Medical Examiner.
239 Decisions shall be made in consultation with investigating law
240 enforcement officials and/or the State Medical Examiner. The cost
241 of all studies not performed by the Mississippi Forensics
242 Laboratory shall be borne by the county. County medical examiner
243 investigators shall be authorized to obtain these postmortem
244 specimens themselves following successful completion of the death
245 investigation training school.

246 (e) In all investigations of deaths occurring in the
247 manner specified in subsection (2)(j) of Section 41-61-59, a death



investigation shall be performed by the medical examiners in accordance with the child death investigation protocol established by the State Medical Examiner. The results of the death investigation shall be reported to the State Medical Examiner on forms prescribed for that purpose by the State Medical Examiner and to appropriate authorities, including * * * law enforcement, Department of Child * * * Protection Services and the Child Death Review Panel at the Mississippi State Department of Health, within three (3) days of the conclusion of the death investigation.

(f) In all investigations of the death of any child under the age of eighteen (18) years, for which a report under paragraph (e) of this subsection is not required, a death investigation shall be performed by the medical examiner, and the results of the death investigation shall be reported to the State Medical Examiner and to appropriate authorities, including law enforcement, the Department of Child Protection Services, and the Child Death Review Panel at the Mississippi State Department of Public Health.

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

SECTION 4. Section 41-61-65, Mississippi Code of 1972, is brought forward as follows:

41-61-65. (1) If, in the opinion of the medical examiner investigating the case, it is advisable and in the public interest that an autopsy or other study be made for the purpose of



273 determining the primary and/or contributing cause of death, an
274 autopsy or other study shall be made by the State Medical
275 Examiner, or the State Medical Examiner may choose a competent
276 pathologist who is designated by the State Medical Examiner or the
277 Department of Public Safety as a pathologist qualified to perform
278 postmortem examinations and autopsies to perform the autopsy or
279 study. To be eligible to be designated under this section, a
280 pathologist must be an M.D. or D.O. who is certified in forensic
281 pathology by the American Board of Pathology unless a certified
282 forensic pathologist is not available to perform a postmortem
283 examination or autopsy within a reasonable time. The State
284 Medical Examiner or designated pathologist may retain any tissues
285 as needed for further postmortem studies or documentation. When
286 the medical examiner has received notification under Section
287 41-39-15(6) that the deceased is medically suitable to be an organ
288 and/or tissue donor, the State Medical Examiner or designated
289 pathologist may retain any biopsy or medically approved sample of
290 the organ and/or tissue in accordance with the provisions of
291 Section 41-39-15(6). A complete autopsy report of findings and
292 interpretations, prepared on forms designated for this purpose,
293 shall be submitted promptly to the State Medical Examiner. Copies
294 of the report shall be furnished to the authorizing medical
295 examiner, district attorney and court clerk. A copy of the report
296 shall be furnished to one (1) adult member of the immediate family
297 of the deceased or the legal representative or legal guardian of



members of the immediate family of the deceased upon request. In determining the need for an autopsy, the medical examiner may consider the request from the district attorney or county prosecuting attorney, law enforcement or other public officials or private persons. However, if the death occurred in the manner specified in subsection (2)(j) of Section 41-61-59, an autopsy shall be performed by the State Medical Examiner or a designated pathologist who is qualified as required by this subsection, and the report of findings shall be forwarded promptly to the State Medical Examiner, investigating medical examiner, the State Department of Health, the infant's attending physician and the local sudden infant death syndrome coordinator.

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

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



all those proceedings, the State Medical Examiner and the county medical examiner or county medical examiner investigator who certified the information shall be made defendants. All costs of the petition and hearing shall be borne by the petitioner.

SECTION 5. Section 41-61-75, Mississippi Code of 1972, is amended as follows:

41-61-75. (1) For each investigation with the preparation and submission of the required reports, the following fees shall be billed to and paid by the county for which the service is provided:

(a) (i) A medical examiner or his deputy shall receive One Hundred Twenty-five Dollars (\$125.00) for each completed report of investigation of death, plus the examiner's actual expenses. In addition to that fee, in cases where the cause of death was sudden infant death syndrome (SIDS) and the medical examiner provides a SIDS Death Scene Investigation report, or the death was of a child under the age of eighteen (18) years, the medical examiner shall receive for completing that report an additional Fifty Dollars (\$50.00), or an additional One Hundred Dollars (\$100.00) if the medical examiner has received advanced training in child death investigations and presents to the county a certificate of completion of that advanced training. The State Medical Examiner shall develop and prescribe a uniform format and list of matters to be contained in SIDS/Child Death Scene



Investigation reports, which shall be used by all county medical examiners and county medical examiner investigators in the state.

(ii) If the report of investigation of death is of the death of a child under the age of eighteen (18) years, the county medical examiner or county medical examiner investigator shall not receive any fee or compensation unless the medical examiner's submits therewith a written statement to the clerk of the board of supervisors that the report to the State Medical Examiner required under Section 41-61-63(2) (e) or (f) has been submitted to the State Medical Examiner.

(b) The pathologist performing autopsies as provided in Section 41-61-65 shall receive One Thousand Dollars (\$1,000.00) per completed autopsy, plus mileage expenses to and from the site of the autopsy, and shall be reimbursed for any out-of-pocket expenses for third-party testing, not to exceed One Hundred Dollars (\$100.00) per autopsy.

(2) Any medical examiner, physician or pathologist who is subpoenaed for appearance and testimony before a grand jury, courtroom trial or deposition shall be entitled to an expert witness hourly fee to be set by the court and mileage expenses to and from the site of the testimony, and such amount shall be paid by the jurisdiction or party issuing the subpoena.

(3) This section shall stand repealed on July 1, 2020.

SECTION 6. Section 19-3-27, Mississippi Code of 1972, is amended as follows:



19-3-27. (1) It shall be the duty of the clerk of the board of supervisors to keep and preserve a complete and correct record of all the proceedings and orders of the board. He shall enter on the minutes the names of the members who attend at each meeting, and the names of those who fail to attend. He shall safely keep and preserve all records, books, and papers pertaining to his office, and deliver them to his successor when required. The minutes of each day's proceedings shall either (a) be read and signed by the president or the vice president, if the president is absent or disabled so as to prevent his signing of the minutes, on or before the first Monday of the month following the day of adjournment of any term of the board of supervisors; or (b) be adopted and approved by the board of supervisors as the first order of business on the first day of the next monthly meeting of the board.

(2) It shall be the further duty of the clerk of the board of supervisors to verify before submission to the board of supervisors of a request for payment to a county medical examiner or medical examiner investigator for a report of the death of a child under the age of eighteen (18) years that the medical examiner has stated in writing that the report required under Section 41-61-63(2) (e) or (f) has been submitted to the State Medical Examiner as required.

SECTION 7. Section 19-3-5, Mississippi Code of 1972, is amended as follows:



19-3-5. (1) Each member of the board of supervisors, before entering upon the duties of his office, shall give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to five percent (5%) of the sum of all the state and county taxes shown by the assessment rolls and the levies to have been collectible in the county for the year immediately preceding the commencement of the term of office of said member; however, such bond shall not exceed the amount of One Hundred Thousand Dollars (\$100,000.00). Furthermore, any taxpayer of the county may sue on such bond for the use of the county, and such taxpayer shall be liable for all costs in case his suit shall fail. No member of the board shall be surety for any other member.

(2) A member of the board of supervisors who voted to approve the payment of any fee to the county medical examiner or county medical examiner investigator that is not substantiated as required by Section 41-61-75(a)(ii) shall be liable to the county on the bond required by this section. The Child Death Review Panel created in Section 41-111-1 shall report any such instance to the State Auditor for investigation and possible enforcement.

SECTION 8. This act shall take effect and be in force from and after July 1, 2018.

