

By: Senator(s) Bryan, Jackson (11th)

To: Judiciary, Division B;
Appropriations

SENATE BILL NO. 2756

1 AN ACT TO AMEND SECTIONS 41-61-61, 41-61-63, 41-61-65,
2 41-61-75, 41-61-77 AND 41-61-79, MISSISSIPPI CODE OF 1972, TO
3 CORRECT REFERENCES IN THE CODE TO THE POSITIONS OF COUNTY MEDICAL
4 EXAMINER AND COUNTY MEDICAL EXAMINER INVESTIGATOR; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 41-61-61, Mississippi Code of 1972, is
8 amended as follows:

9 41-61-61. (1) Upon the death of any person where that death
10 affects the public interest, the medical examiner or medical
11 examiner investigator of the county in which the body of the
12 deceased is found or, if death occurs in a moving conveyance,
13 where the conveyance stops and death is pronounced, shall be
14 notified promptly by any person having knowledge or suspicion of
15 such a death, as provided in subsection (1) of Section 41-61-59.
16 The county medical examiner or county medical examiner
17 investigator shall then notify the State Medical Examiner, in
18 accordance with Section 41-61-63(2)(a). No person shall disturb
19 the body at the scene of such a death until authorized by the



20 county medical examiner or county medical examiner investigator,
21 unless the county medical examiner or county medical examiner
22 investigator is unavailable and it is determined by an appropriate
23 law enforcement officer that the presence of the body at the scene
24 would risk the integrity of the body or provide a hazard to the
25 safety of others. For the limited purposes of this section,
26 expression of an opinion that death has occurred may be made by a
27 nurse, an emergency medical technician, or any other competent
28 person, in the absence of a physician.

29 (2) The discovery of anatomical material suspected of being
30 part of the human body shall be promptly reported either (a) to
31 the medical examiner or medical examiner investigator of the
32 county in which the material is found, who shall report the
33 discovery to the State Medical Examiner, or (b) to the State
34 Medical Examiner.

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

41 (4) Upon oral or written authorization of the county medical
42 examiner or county medical examiner investigator, if an autopsy is
43 to be performed, the body shall be transported directly to an
44 autopsy facility in a suitable secure conveyance, and the expenses



of transportation shall be paid by the county for which the service is provided. The county may contract with individuals or make available a vehicle to the county medical examiner or county medical examiner investigator or law enforcement personnel for transportation of bodies.

SECTION 2. Section 41-61-63, Mississippi Code of 1972, is amended as follows:

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

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

(b) Keep complete records of all relevant information concerning deaths or crimes requiring investigation by the county medical examiners and county medical examiner investigators.

(c) Promulgate rules and regulations regarding the manner and techniques to be employed while conducting autopsies; the nature, character and extent of investigations to be made into deaths affecting the public interest to allow a county medical examiner or county medical examiner investigator to render a full and complete analysis and report; the format and matters to be contained in all reports rendered by the county medical examiners and county medical examiner investigators; and all other things necessary to carry out the purposes of Sections 41-61-51 through 41-61-79. The State Medical Examiner shall make such amendments to these rules and regulations as may be necessary. All county



70 medical examiners and county medical examiner investigators,
71 coroners and law enforcement officers shall be subject to such
72 rules.

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

77 (2) In addition, the county medical examiners and county
78 medical examiner investigators shall:

79 (a) Upon receipt of notification of a death affecting
80 the public interest, make inquiries regarding the cause and manner
81 of death, reduce the findings to writing and promptly make a full
82 report to the State Medical Examiner on forms prescribed for that
83 purpose. The medical examiner shall be authorized to inspect and
84 copy the medical reports of the decedent whose death is under
85 investigation. However, the records copied shall be maintained as
86 confidential so as to protect the doctor/patient privilege. The
87 medical examiners shall be authorized to request the issuance of
88 subpoenas, through the proper court, for the attendance of persons
89 and for the production of documents as may be required by their
90 investigation.

91 (b) Complete the medical examiner's portion of the
92 certificate of death within seventy-two (72) hours of assuming
93 jurisdiction over a death, and forward the certificate to the
94 funeral director or to the family. The medical examiner's portion



95 of the certificate of death shall include the decedent's name, the
96 date and time of death, the cause of death and the certifier's
97 signature. If determination of the cause and/or manner of death
98 are pending an autopsy or toxicological or other studies, these
99 sections on the certificate may be marked "pending," with
100 amendment and completion to follow the completion of the
101 postmortem studies. The State Medical Examiner shall be
102 authorized to amend a death certificate; however, the State
103 Medical Examiner is not authorized to change or amend any death
104 certificate after he has resigned or been removed from his office
105 as the State Medical Examiner. Where an attending physician
106 refuses to sign a certificate of death, or in case of any death,
107 the State Medical Examiner or properly qualified designee may sign
108 the death certificate.

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

111 (d) In all investigations of deaths affecting the
112 public interest where an autopsy will not be performed, obtain or
113 attempt to obtain postmortem blood, urine and/or vitreous fluids.
114 Medical examiners may also obtain rectal temperature measurements,
115 known hair samples, radiographs, gunshot residue/wiping studies,
116 fingerprints, palm prints and other noninvasive studies as the
117 case warrants and/or as directed by the State Medical Examiner.
118 Decisions shall be made in consultation with investigating law
119 enforcement officials and/or the State Medical Examiner. The cost



of all studies not performed by the Mississippi Forensics Laboratory shall be borne by the county. County medical examiner investigators shall be authorized to obtain these postmortem specimens themselves following successful completion of the death investigation training school and other requirements as determined by the State Medical Examiner.

(e) In all investigations of deaths occurring in the manner specified in subsection (2)(j) of Section 41-61-59, a death investigation shall be performed by the county medical examiners and county medical examiner investigators 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 police and child protective services, within three (3) days of the conclusion of the death investigation.

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

SECTION 3. Section 41-61-65, Mississippi Code of 1972, is amended as follows:

41-61-65. (1) If, in the opinion of the county medical examiner or county medical examiner investigator investigating the case, it is advisable and in the public interest that an autopsy



or other study be made for the purpose of determining the primary and/or contributing cause of death, an autopsy or other study shall be made by the State Medical Examiner, or the State Medical Examiner may choose a competent pathologist who is designated by the State Medical Examiner or the Department of Public Safety as a pathologist qualified to perform postmortem examinations and autopsies to perform the autopsy or study. To be eligible to be designated under this section, a pathologist must be an M.D. or D.O. who is certified in forensic pathology by the American Board of Pathology unless a certified forensic pathologist is not available to perform a postmortem examination or autopsy within a reasonable time. The State Medical Examiner or designated pathologist may retain any tissues as needed for further postmortem studies or documentation. When the county medical examiner or county medical examiner investigator has received notification under Section 41-39-15(6) that the deceased is medically suitable to be an organ and/or tissue donor, the State Medical Examiner or designated pathologist may retain any biopsy or medically approved sample of the organ and/or tissue in accordance with the provisions of Section 41-39-15(6). A complete autopsy report of findings and interpretations, prepared on forms designated for this purpose, shall be submitted promptly to the State Medical Examiner. Copies of the report shall be furnished to the authorizing medical examiner, district attorney and court clerk. A copy of the report shall be furnished to one (1) adult



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

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

193 (3) Family members or others who disagree with the medical
194 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 4. 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) A county medical examiner or county medical examiner investigator 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, 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 county medical examiner or county medical examiner investigator 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.

(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 5. Section 41-61-77, Mississippi Code of 1972, is amended as follows:

41-61-77. (1) The Department of Public Safety shall establish and maintain a central office for the Mississippi Forensics Laboratory and the State Medical Examiner with appropriate facilities and personnel for postmortem medicolegal examinations. District offices, with appropriate facilities and



personnel, may also be established and maintained if considered necessary by the department for the proper management of postmortem examinations.

The facilities of the central and district offices and their staff services may be available to the county medical examiners or county medical examiner investigators and designated pathologists in their investigations.

(2) In order to provide proper facilities for investigating deaths as authorized in Sections 41-61-51 through 41-61-79, the State Medical Examiner may arrange for the use of existing public or private laboratory facilities. The State Medical Examiner may contract with qualified persons to perform or to provide support services for autopsies, studies and investigations not inconsistent with other applicable laws. Such laboratory facilities may be located at the University of Mississippi Medical Center or any other suitable location. The State Medical Examiner may be an affiliate or regular faculty member of the Department of Pathology at the University of Mississippi Medical Center and may serve as a member of the faculty of other institutions of higher learning. He shall be authorized to employ, with the approval of the Commissioner of Public Safety, such additional scientific, technical, administrative and clerical assistants as are necessary for performance of his duties. Such employees in the office of the State Medical Examiner shall be subject to the rules,



269 regulations and policies of the state personnel system in their
270 employment.

271 (3) The State Medical Examiner shall be authorized to
272 appoint and/or employ qualified pathologists as additional
273 associate and assistant state medical examiners as are necessary
274 to carry out the duties of his office. The associate and
275 assistant state medical examiners shall be licensed to practice
276 medicine in Mississippi and, insofar as practicable, shall be
277 trained in the field of forensic pathology. The State Medical
278 Examiner may delegate specific duties to competent and qualified
279 medical examiners within the scope of the express authority
280 granted to him by law or regulation. Employees of the Office of
281 the State Medical Examiner shall have the authority to enter any
282 political subdivisions of this state for the purpose of carrying
283 out medical investigations.

284 **SECTION 6.** Section 41-61-79, Mississippi Code of 1972, is
285 amended as follows:

286 41-61-79. (1) The county medical examiner, county medical
287 examiner investigator or deputies thereof may be furnished by the
288 board of supervisors of the county:

289 (a) A two-way radio for countywide communication, using
290 similar frequencies to those used by the sheriff. The
291 responsibility for the installation, maintenance and removal of
292 such equipment may be vested in the sheriff by the board of
293 supervisors.



294 (b) A pager/beeper which can be employed countywide.

295 (c) A morgue or morgue facilities with proper
296 examination equipment as directed by the State Medical Examiner.
297 The facility may be at a hospital, funeral home or other suitable
298 location. The county may contract with an individual or
299 establishment to provide these facilities.

300 (d) A camera suitable for crime-scene or death-scene
301 photography, plus film and processing.

302 (e) Body bags and cloth sheets, as needed.

303 (2) The county medical examiner or county medical examiner
304 investigator may be furnished by the board of supervisors of the
305 county with:

306 (a) A vehicle.

307 (b) Any other equipment, facilities or personnel deemed
308 necessary by the medical examiners and by the board of supervisors
309 of that county.

310 (3) The vehicle used by a county medical examiner or county
311 medical examiner investigator in the performance of his duties
312 shall be considered to be an emergency vehicle and may be equipped
313 with standard emergency flashing lights, siren and a two-way radio
314 for countywide communication, using similar frequencies to those
315 used by the County Emergency Communications District.

316 (4) The costs of any equipment or facilities purchased and
317 the compensation of any persons employed under the authority of
318 this section shall be paid from the general county fund or any



319 other funds which may be made available to the board of
320 supervisors for such purchases or employment of personnel.

321 **SECTION 7.** This act shall take effect and be in force from
322 and after July 1, 2018.

