

By: Representative Oliver

To: Judiciary B

HOUSE BILL NO. 706

1 AN ACT TO AMEND SECTION 41-61-69, MISSISSIPPI CODE OF 1972,
 2 TO PROHIBIT CREMATION OF A BODY UNTIL THE COUNTY MEDICAL EXAMINER
 3 OF THE COUNTY IN WHICH THE DEATH OCCURRED CERTIFIES THAT HE OR SHE
 4 INVESTIGATED THE CAUSE AND THE MANNER OF DEATH, HAS THE OPINION
 5 THAT NO FURTHER EXAMINATION IS NECESSARY AND APPROVES THE
 6 CREMATION OF THE BODY; TO AMEND SECTION 41-61-61, MISSISSIPPI CODE
 7 OF 1972, TO REQUIRE ANY PERSON WITH KNOWLEDGE THAT A BODY MAY BE
 8 CREMATED TO PROMPTLY INFORM THE COUNTY MEDICAL EXAMINER OF THE
 9 COUNTY IN WHICH THE DEATH OCCURRED FOR PURPOSES OF AN
 10 INVESTIGATION OF THE BODY; TO AMEND SECTION 73-11-73, MISSISSIPPI
 11 CODE OF 1972, TO PROHIBIT A LICENSED FUNERAL ESTABLISHMENT OR
 12 OTHER LICENSEE OF THE BOARD FROM CREMATING A HUMAN BODY WITHOUT
 13 APPROVAL FROM THE COUNTY MEDICAL EXAMINER OF THE COUNTY IN WHICH
 14 THE DEATH OCCURRED; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 41-61-69, Mississippi Code of 1972, is
 17 amended as follows:

18 41-61-69. (1) No person knowing or having reason to know
 19 that a death may be under the jurisdiction of the medical examiner
 20 shall embalm, bury or cremate the body without the permission of
 21 the medical examiner. Any person violating the provisions of this
 22 section shall be guilty of a misdemeanor, and may be punished by a
 23 fine of not more than Five Hundred Dollars (\$500.00), or by



24 imprisonment for not more than six (6) months in the county jail,
25 or by both such fine and imprisonment.

26 (2) A dead body shall not be * * * buried at sea unless a
27 medical examiner certifies that he or she has been informed of or
28 inquired into the cause and the manner of death and has the
29 opinion that no further examination is necessary. This subsection
30 shall not apply to deaths occurring less than twenty-four (24)
31 hours after birth or to death of patient resulting only from
32 natural disease and occurring in a licensed hospital unless the
33 death falls within the jurisdiction of the medical examiner. The
34 State Medical Examiner shall be authorized to adopt rules creating
35 additional exceptions to this subsection. For making this
36 certification, the medical examiner or his deputy shall be
37 entitled to charge a fee of Twenty-five Dollars (\$25.00), to be
38 paid by the applicant, unless such medical examiner or his deputy
39 has * * * received a fee * * * paid by the county.

40 (3) A dead body shall not be cremated unless the medical
41 examiner of the county in which the death occurred certifies that
42 he or she investigated the cause and the manner of death, has the
43 opinion that no further examination is necessary and approves the
44 cremation of the body. For making this certification, the medical
45 examiner or his deputy shall be entitled to charge the normal,
46 applicable fee for the investigation to be paid by the county.

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



49 41-61-61. (1) (a) Upon the death of any person where that
50 death affects the public interest, the medical examiner of the
51 county in which the body of the deceased is found or, if death
52 occurs in a moving conveyance, where the conveyance stops and
53 death is pronounced, shall be notified promptly by any person
54 having knowledge or suspicion of such a death, as provided in
55 subsection (1) of Section 41-61-59. The medical examiner shall
56 then notify the State Medical Examiner, in accordance with Section
57 41-61-63(2) (a). No person shall disturb the body at the scene of
58 such a death until authorized by the medical examiner, unless the
59 medical examiner is unavailable and it is determined by an
60 appropriate law enforcement officer that the presence of the body
61 at the scene would risk the integrity of the body or provide a
62 hazard to the safety of others. For the limited purposes of this
63 section, expression of an opinion that death has occurred may be
64 made by a nurse, an emergency medical technician, or any other
65 competent person, in the absence of a physician.

66 (b) Upon the death of any person where the method of
67 disposition of the body will be cremation, the medical examiner of
68 the county in which the death occurred shall be notified promptly
69 by any person having knowledge or belief that the body will be
70 cremated.

71 (2) The discovery of anatomical material suspected of being
72 part of the human body shall be promptly reported either (a) to
73 the medical examiner of the county in which the material is found,



74 who shall report the discovery to the State Medical Examiner, or
75 (b) to the State Medical Examiner.

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

82 (4) Upon oral or written authorization of the medical
83 examiner, if an autopsy is to be performed, the body shall be
84 transported directly to an autopsy facility in a suitable secure
85 conveyance, and the expenses of transportation shall be paid by
86 the county for which the service is provided. The county may
87 contract with individuals or make available a vehicle to the
88 medical examiner or law enforcement personnel for transportation
89 of bodies.

90 **SECTION 3.** Section 73-11-73, Mississippi Code of 1972, is
91 amended as follows:

92 73-11-73. (1) A funeral establishment and its employees,
93 licensees and/or representatives shall not respond to a death call
94 unless properly contacted and requested to so respond. No person
95 or entity subject to regulation under this chapter shall remove or
96 cause to be removed any dead human body from the place of death or
97 take or cause to take custody of a dead human body without the



98 permission of the next of kin or authorized representative, in the
99 order of priority specified in Section 73-11-58, of the deceased.

100 (2) Dead human bodies may be picked up on first call or
101 removed by a funeral director or funeral service practitioner
102 licensed by the board or under the direction of the licensed
103 funeral director or funeral service practitioner. When a licensed
104 funeral director or funeral service practitioner directs another
105 to make a first call or removal of a dead human body, he accepts,
106 in every manner, full responsibility for all aspects of the first
107 call or removal.

108 (3) (a) A licensed funeral establishment or other licensee
109 of the board shall not embalm * * * a dead human body without the
110 prior written or oral consent of the next of kin or authorizing
111 agent or representative of the deceased for each body that is
112 placed under its care and custody. In determining who the proper
113 next of kin is or authorizing agent or representative of the
114 deceased, the order of priority is the same as provided in Section
115 73-11-58.

116 (b) A licensed funeral establishment or other licensee
117 of the board shall not cremate a dead human body without the
118 certification described in Section 41-61-69 from the county
119 medical examiner of the county in which the death occurred
120 approving such cremation. If the funeral establishment or other
121 licensee does not have authorization, the establishment or
122 licensee shall notify the county medical examiner to receive the



123 certification described in Section 41-61-69 before the body is
124 cremated.

125 (4) The licensed funeral establishment or licensee
126 responsible for the embalming or cremation of the dead human body
127 shall create a written record of an oral consent given under this
128 section that includes all of the following:

- 129 (a) The name of the authorizing agent;
130 (b) The relation of the authorizing agent to the
131 deceased;
132 (c) The date and time that consent was given;
133 (d) The name of the person who obtained the consent;

134 and

- 135 (e) Any other information required by the board.

136 **SECTION 4.** This act shall take effect and be in force from
137 and after July 1, 2019.

