

House Amendments to Senate Bill No. 2835

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

11 **SECTION 1.** This act shall be known and may be cited as the
12 "Mississippi First Responders Health and Safety Act" and may also
13 be referred to as the "Arson Investigator Danny Benton and Police
14 Chief Henry Manuel, Sr., Act."

15 **SECTION 2.** For purposes of this act, the following words
16 shall have the following meanings unless the context clearly
17 indicates otherwise:

18 (a) "Cancer" means a disease caused by an uncontrolled
19 division of abnormal cells in a part of the body or a malignant
20 growth or tumor resulting from the division of abnormal cells.
21 "Cancer" is limited to cancer affecting the bladder, brain, colon,
22 liver, pancreas, skin, kidney, gastrointestinal tract,
23 reproductive tract, leukemia, lymphoma, multiple myeloma,
24 prostate, testicles and breast.

25 (b) "Firefighter" means any firefighter, having ten
26 (10) or more years of service, and employed by any political
27 subdivision of the State of Mississippi on a full-time duty

28 status, and any firefighter, having ten (10) or more years of
29 service, registered with the State of Mississippi, or a political
30 subdivision thereof, on a volunteer firefighting status.

31 (c) "Police officer" means every officer, having ten
32 (10) or more years of service, and authorized to direct or
33 regulate traffic or to make arrests for violations of traffic
34 regulations in the State of Mississippi.

35 (d) "First responder" means every firefighter and
36 police officer as defined in paragraphs (b) and (c) of this
37 section.

38 **SECTION 3.** (1) As an alternative to pursuing workers'
39 compensation benefits, upon a diagnosis of cancer, a first
40 responder is entitled to the following benefits:

41 (a) Provided the diagnosis occurs on or after the first
42 responder's effective date of coverage, a lump-sum benefit of
43 Twenty-five Thousand Dollars (\$25,000.00) of coverage for each
44 diagnosis payable to the first responder upon acceptable proof to
45 the insurance carrier or other payor of a diagnosis by a board
46 certified physician in the medical specialty appropriate for the
47 type of cancer diagnosed that there are one or more malignant
48 tumors characterized by the uncontrollable and abnormal growth and
49 spread of malignant cells with invasion of normal tissue and that
50 either:

51 (i) There is metastasis, and surgery, radiotherapy
52 or chemotherapy is medically necessary;

53 (iii) There is a tumor of the prostate, provided
54 that it is treated with radical prostatectomy or external beam
55 therapy; or

56 (iv) The first responder has terminal cancer, his
57 or her life expectancy is twenty-four (24) months or less from the
58 date of diagnosis, and will not benefit from, or has exhausted,
59 curative therapy.

60 (b) Provided the diagnosis occurs on or after the first
61 responder's effective date of coverage, a lump-sum benefit of Six
62 Thousand Two Hundred Fifty Dollars (\$6,250.00) for each diagnosis
63 payable to the first responder upon acceptable proof to the
64 insurance carrier or other payor of a diagnosis by a
65 board-certified physician in the medical specialty appropriate for
66 the type of cancer involved that:

67 (i) There is carcinoma in situ such that surgery,
68 radiotherapy, or chemotherapy has been determined to be medically
69 necessary;

70 (ii) There are malignant tumors which are treated
71 by endoscopic procedures alone; or

72 (iii) There are malignant melanomas.

73 (c) The combined total of benefits received by any
74 first responder under paragraphs (a) and (b) of this subsection
75 (1) during his or her lifetime shall not exceed Fifty Thousand
76 Dollars (\$50,000.00).

77 (d) Provided the date of disability occurs on or after
78 the first responder's effective date of coverage, a disability

79 benefit payable as a result of a specific cancer to begin six (6)
80 months after the date of disability and submission to the
81 insurance carrier or other payor of acceptable proof of disability
82 caused by the specified disease or events such that the illness
83 precludes the first responder from serving as a first responder:

84 (i) For nonvolunteer first responders, a monthly
85 benefit equal to sixty percent (60%) of the first responder's
86 monthly salary as an employed first responder with a fire or
87 police department or a monthly benefit of Five Thousand Dollars
88 (\$5,000.00), whichever is less, of which the first payment shall
89 be made six (6) months after the total disability and shall
90 continue for thirty-six (36) consecutive monthly payments unless
91 the first responder regains the ability to perform his or her
92 duties as determined by reevaluation under subparagraph (iv) of
93 this paragraph, at which time the payments shall cease the last
94 day of the month of reevaluation;

95 (ii) For volunteer firefighters, a monthly benefit
96 of One Thousand Five Hundred Dollars (\$1,500.00) of which the
97 first payment shall be made six (6) months after the total
98 disability and shall continue for thirty-six (36) consecutive
99 monthly payments unless the first responder regains the ability to
100 perform his or her duties as determined by reevaluation under
101 subparagraph (iv) of this paragraph, at which time the payments
102 shall cease the last day of the month of reevaluation;

103 (iii) Such monthly benefit shall be subordinate to
104 any other benefit actually paid to the first responder solely for

105 such disability from any other source, not including private
106 insurance purchased solely by the first responder;

107 (iv) Any first responder receiving the monthly
108 benefits may be required to have his or her condition reevaluated.
109 In the event any such reevaluation reveals that such person has
110 regained the ability to perform duties as a first responder, then
111 his or her monthly benefits shall cease the last day of the month
112 of reevaluation; and

113 (v) In the event that there is a subsequent
114 recurrence of a disability caused by a specified cancer, which
115 precludes the first responder from serving as a first responder,
116 he or she shall be entitled to receive any remaining monthly
117 payments.

118 (e) If a first responder who qualifies for benefits
119 under this section dies, and he or she shall be considered to have
120 been killed in the line of duty under Section 45-2-1, his or her
121 beneficiary or beneficiaries shall be eligible for the line of
122 duty death benefits as set forth in Section 45-2-1.

123 (f) An eligible first responder who dies as a result of
124 a compensable type of cancer, or circumstances arising out of the
125 treatment of a compensable type of cancer, but does not submit
126 sufficient proof of claim prior to the first responder's death, is
127 entitled to receive benefits specified in paragraphs (a) and (b)
128 of this subsection (1) and made available to the deceased first
129 responder's beneficiary or beneficiaries.

130 (g) Any first responder who was simultaneously a member
131 of more than one (1) fire or police department at the time of
132 diagnosis shall not be entitled to receive benefits from or on
133 behalf of more than one (1) fire or police department. The first
134 responder's primary place of employment shall maintain coverage
135 for the eligible first responder; and

136 (h) An otherwise eligible first responder shall be
137 precluded from the benefits listed under this section if he or she
138 has filed for workers' compensation for the same diagnosis of
139 cancer.

140 **SECTION 4.** The costs of purchasing an insurance policy that
141 provides for cancer coverage in compliance with this act, or the
142 costs of providing such benefits through a self-funded system in
143 compliance with this act, must be borne solely by the employer
144 that employs the eligible first responder and may not be funded
145 partially or wholly by individual first responders. In addition to
146 any other purpose authorized, county governing authorities and
147 municipal governing authorities may use proceeds from county and
148 municipal taxes for the purposes of providing insurance in
149 compliance with this act. The computation of premium amounts by an
150 insurer for the coverage under this act shall be subject to
151 generally accepted adjustments from insurance underwriting.

152 **SECTION 5.** (1) The state, municipality, county or fire
153 protection district shall, no later than January 1, 2020, show
154 proof of insurance coverage to the Commissioner of Insurance that
155 meets the requirements of this act, or shall show satisfactory

156 proof of the ability to pay such compensation to ensure adequate
157 coverage for all eligible first responders. Such coverage shall
158 remain in effect until a fire or police department no longer has
159 any first responders who could qualify for these benefits.

160 (2) The Commissioner of Insurance shall adopt such rules and
161 regulations as are reasonable and necessary to implement the
162 provisions of this act. Such regulations shall include the
163 process by which a first responder files a claim for cancer and
164 the process by which claimants can appeal a denial of benefits.

165 (3) The Commissioner of Insurance shall adopt rules to
166 establish firefighter cancer prevention best practices as it
167 relates to personal protective equipment, decontamination, fire
168 suppression, apparatus and fire stations.

169 **SECTION 6.** Section 71-3-9, Mississippi Code of 1972, is
170 amended as follows:

171 71-3-9. (1) * * * Except as provided under subsection (2)
172 of this section, the liability of an employer to pay compensation
173 shall be exclusive and in place of all other liability of such
174 employer to the employee, his legal representative, husband or
175 wife, parents, dependents, next-of-kin, and anyone otherwise
176 entitled to recover damages at common law or otherwise from such
177 employer on account of such injury or death, except that if an
178 employer fails to secure payment of compensation as required by
179 this chapter, an injured employee, or his legal representative in
180 case death results from the injury, may elect to claim
181 compensation under this chapter, or to maintain an action at law

182 for damages on account of such injury or death. In such action
183 the defendant may not plead as a defense that the injury was
184 caused by the negligence of a fellow servant, nor that the
185 employee assumed the risk of his employment, nor that the injury
186 was due to the contributory negligence of the employee.

187 (2) An employer shall not be liable under this chapter to a
188 first responder, as defined in Section 2 of this act, if such
189 first responder elects to receive benefits under the "Mississippi
190 First Responders Health and Safety Act."

191 **SECTION 7.** Section 43-15-201, Mississippi Code of 1972, is
192 amended as follows:

193 43-15-201. (1) An emergency medical services provider,
194 without a court order, shall take possession of a child who
195 is * * * seven (7) days old or younger if the child is voluntarily
196 delivered to the provider by the child's parent and the parent did
197 not express an intent to return for the child.

198 (2) The parent who surrenders the baby shall not be required
199 to provide any information pertaining to his or her identity, nor
200 shall the emergency medical services provider inquire as to same.
201 If the identity of the parent is known to the emergency medical
202 services provider, the emergency medical services provider shall
203 keep the identity confidential.

204 (3) A female presenting herself to a hospital through the
205 emergency room or otherwise, who is subsequently admitted for
206 purposes of labor and delivery, does not give up the legal
207 protections or anonymity guaranteed under this section. If the

208 mother clearly expresses a desire to voluntarily surrender custody
209 of the newborn after birth, the emergency medical services
210 provider can take possession of the child, without further action
211 by the mother, as if the child had been presented to the emergency
212 medical services provider in the same manner outlined above in
213 subsection (1) of this section.

214 (a) If the mother expresses a desire to remain
215 anonymous, identifying information may be obtained for purposes of
216 securing payment of labor and delivery costs only. If the birth
217 mother is a minor, the hospital may use the identifying
218 information to secure payment through Medicaid, but shall not
219 notify the minor's parent or guardian without the minor's consent.

220 (b) The identity of the birth mother shall not be
221 placed on the birth certificate or disclosed to the Department of
222 Human Services.

223 (4) There is a presumption that by relinquishing a child in
224 accordance with this section, the parent consents to the
225 termination of his or her parental rights with respect to the
226 child. As such, the parent waives the right to notification
227 required by subsequent court proceedings.

228 (5) An emergency medical services provider who takes
229 possession of a child under this section shall perform any act
230 necessary to protect the physical health or safety of the child.

231 **SECTION 8.** Section 43-15-207, Mississippi Code of 1972, is
232 amended as follows:

233 43-15-207. For the purposes of this article, an emergency
234 medical services provider shall mean a licensed hospital, as
235 defined in Section 41-9-3, which operates an emergency
236 department * * *, an adoption agency duly licensed by the
237 Department of Human Services, or fire station or mobile ambulance
238 staffed with full-time firefighters, emergency medical technicians
239 or paramedics. An emergency medical services provider does not
240 include the offices, clinics, surgeries or treatment facilities of
241 private physicians or dentists. No individual licensed healthcare
242 provider, including physicians, dentists, nurses, physician
243 assistants or other health professionals shall be deemed to be an
244 emergency medical services provider under this article unless such
245 individual voluntarily assumes responsibility for the custody of
246 the child.

247 **SECTION 9.** This act shall take effect and be in force from
248 and after January 1, 2020, and shall stand repealed from and after
249 December 31, 2019.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO CREATE THE "MISSISSIPPI FIRST RESPONDERS HEALTH AND
2 SAFETY ACT"; TO PROVIDE THAT WHEN A FIRST RESPONDER WHO HAS
3 COMPLETED A CERTAIN NUMBER OF YEARS OF SERVICE IS UNABLE TO
4 PERFORM HIS OR HER REGULAR DUTIES BY REASON OF CANCER, THE
5 AFFECTED FIRST RESPONDER OR HIS BENEFICIARIES SHALL BE ENTITLED TO
6 ALL RIGHTS AND BENEFITS AS GRANTED BY THIS ACT; TO AMEND SECTION
7 71-3-9, MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTIONS
8 43-15-201 AND 43-15-207, MISSISSIPPI CODE OF 1972, TO REVISE
9 CERTAIN DEFINITIONS UNDER THE BABY DROP-OFF LAW; AND FOR RELATED
10 PURPOSES.

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Andrew Ketchings
Clerk of the House of Representatives