

By: Representatives Cockerham, Gunn,
Felsher, McLean, Stamps

To: Judiciary A

HOUSE BILL NO. 672

1 AN ACT TO REQUIRE ANY MEDICAL FACILITY OR ANY OTHER FACILITY
2 THAT CONDUCTS A MEDICAL FORENSIC EXAMINATION ON AN ALLEGED RAPE OR
3 SEXUAL ASSAULT VICTIM AND PREPARES A SEXUAL ASSAULT EVIDENCE
4 COLLECTION KIT TO IMMEDIATELY CONTACT THE APPROPRIATE LAW
5 ENFORCEMENT AGENCY TO COLLECT THE KIT; TO REQUIRE THE LAW
6 ENFORCEMENT AGENCY TO IMMEDIATELY COLLECT AND STORE THE KIT IN
7 COMPLIANCE WITH CERTAIN STANDARDS; TO REQUIRE THE LAW ENFORCEMENT
8 AGENCY TO SEND THE KIT TO THE MISSISSIPPI FORENSICS LABORATORY
9 WITHIN A CERTAIN NUMBER OF DAYS; TO REQUIRE THE FORENSICS
10 LABORATORY TO PROCESS THE KIT AND ENTER DNA INFORMATION INTO THE
11 APPROPRIATE FEDERAL, STATE AND LOCAL DATABASES; TO AMEND SECTION
12 99-37-25, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE VICTIMS
13 COMPENSATION FUND SHALL PAY ALL MEDICAL COSTS ASSOCIATED WITH
14 FORENSIC MEDICAL EXAMINATION AND PREPARATION OF SEXUAL ASSAULT
15 EVIDENCE KITS; TO AMEND SECTION 99-49-1, MISSISSIPPI CODE OF 1972,
16 TO REVISE THE PROCEDURES FOR PRESERVATION OF BIOLOGICAL EVIDENCE;
17 TO AMEND SECTION 45-47-1, MISSISSIPPI CODE OF 1972, TO REQUIRE DNA
18 SAMPLES OF THOSE ARRESTED FOR THE COMMISSION OR ATTEMPTED
19 COMMISSION OF RAPE OR SEXUAL ASSAULT TO BE ENTERED INTO FEDERAL,
20 STATE AND LOCAL DATABASES FOR COMPARISON TO OTHER SAMPLES; TO
21 AMEND SECTION 73-15-20, MISSISSIPPI CODE OF 1972, TO PROVIDE
22 CERTAIN EXEMPTIONS FOR NURSE PRACTITIONER WITH MASTERS OR HIGHER
23 IN ADVANCED FORENSIC NURSING; TO BRING FORWARD SECTION 99-36-5,
24 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR VICTIMS RIGHTS, FOR
25 PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

27 **SECTION 1.** (1) The following words shall have the meanings
28 described in this act:



29 (a) "Medical facility" means any doctor's office,
30 hospital, medical clinic or nonprofit facility equipped to perform
31 forensic medical examinations and prepare sexual assault evidence
32 kits.

33 (b) "Sexual assault" means rape, sexual assault, sexual
34 battery or any other nonconsensual forcible sexual intercourse.

35 (c) "Sexual assault evidence collection kit" means a
36 sexual assault or rape kit approved by the Mississippi Association
37 of Forensic Nurses.

38 (2) (a) Any medical facility that conducts a medical
39 forensic examination and/or prepares a sexual assault evidence
40 collection kit shall immediately contact the appropriate law
41 enforcement agency to collect the kit. The medical facility shall
42 store the kit in a refrigerated manner in conformity with
43 guidelines established by the Mississippi Association of Forensic
44 Nurses until the kit is picked up by appropriate law enforcement.
45 When a law enforcement agency is contacted to collect a sexual
46 assault evidence kit, the agency shall immediately take possession
47 of the kit from the medical facility. For purposes of this
48 paragraph (a), the term "immediately" means no less than
49 twenty-four (24) hours from the time of contact.

50 (b) Upon taking physical possession of the sexual
51 assault evidence collection kit, the law enforcement agency shall
52 transport the kit in a manner that preserves the evidence in the
53 kit, and conforms to the guidelines for transportation of sexual



54 assault evidence kits established by the Mississippi Association
55 of Forensic Nurses. The agency shall: (i) store the kit in a
56 secure, refrigerated location in the agency no more than two (2)
57 hours after taking physical possession of the kit; or (ii)
58 transport the kit directly to the Mississippi Forensics Laboratory
59 in conformity with guidelines established by the Mississippi
60 Association of Forensic Nurses if the agency is unable to store
61 the kit in a secure, refrigerated location in the agency. All
62 kits must be delivered to the Mississippi Forensics Laboratory no
63 later than seven (7) days from the date the law enforcement agency
64 took physical possession of the kit.

65 (3) (a) The Mississippi Forensics Laboratory shall test all
66 sexual assault evidence collection kits within fifteen (15) days
67 of receipt from a law enforcement agency. Testing shall be
68 performed in a manner to develop autosomal DNA profiles that are
69 eligible for entry into the Combined DNA Index System (CODIS) and
70 state or local DNA database. If the Mississippi Forensics
71 Laboratory is unable to obtain an autosomal CODIS eligible DNA
72 profile, the laboratory should evaluate the case to determine if
73 any other DNA results could be used for investigative purposes.

74 (b) When testing does result in a DNA profile, the
75 Mississippi Forensics Laboratory shall enter the full DNA profile
76 into the Combined DNA Index System (CODIS) and any other required
77 state or local DNA databases. The average completion rate for
78 this analysis and classification shall not exceed sixty (60) days.



79 (c) The Mississippi Forensics Laboratory is authorized
80 to contract with other laboratories to ensure that each kit is
81 tested and the information from such kit is entered into CODIS
82 within the time frames required by this subsection.

83 **SECTION 2.** Section 99-37-25, Mississippi Code of 1972, is
84 amended as follows:

85 99-37-25. (1) (a) When a * * * medical forensic
86 examination is performed and/or a sexual assault evidence
87 collection kit is prepared by a doctor's office, * * * hospital
88 or * * * medical clinic * * * as a result of an alleged rape or
89 sexual assault having occurred in this state, * * * the bill for
90 the medical forensic examination and the preparation of the sexual
91 assault evidence collection kit * * * shall be sent to and shall
92 be paid by the Division of Victim Compensation, Office of the
93 Attorney General. The Division of Victim Compensation shall pay
94 for the medical examination conducted for the procurement of
95 evidence to aid in the investigation and prosecution of the
96 alleged offense. Such payment shall be limited to the customary
97 and usual hospital and physician charges for such services in the
98 area. Such payment shall be made by the Division of Victim
99 Compensation directly to the health care provider. No bill for
100 the examination will be submitted to the victim, nor shall the
101 medical facility hold the victim responsible for payment. The
102 victim may be billed for any further medical services not required
103 for the investigation and prosecution of the alleged offense. In



104 cases where the damage caused by the alleged sexual assault
105 requires medical treatment or diagnosis in addition to the
106 examination, the patient will be given information about the
107 availability of victim compensation and the procedure for applying
108 for such compensation.

109 (b) Upon application submitted by the district
110 attorney, provided the proper warrant or court order has been
111 issued, the county in which an offense of sexual assault or of
112 felonious abuse or battery of a child as described in Section
113 97-5-39, touching or handling a child for lustful purposes as
114 described in Section 97-5-23, exploitation of children as
115 described in Section 97-5-33 or sexual battery as described in
116 Section 97-3-95, or statutory rape as defined in Section 97-3-65,
117 or an attempt to commit such offense has occurred shall pay for a
118 medical forensic examination of the person arrested, charged or
119 convicted of such offense to determine if the person so arrested,
120 charged or convicted has any sexually transmitted disease and for
121 the collection of evidence. Such payment shall be made by the
122 county directly to the health care provider or other service
123 performing the collection of evidence and tests. At the victim's
124 request, a test for human immunodeficiency virus (HIV) shall be
125 administered to the defendant/accused not later than forty-eight
126 (48) hours after the date on which the information or indictment
127 is presented, and the defendant/accused shall be subjected to
128 follow-up testing for HIV upon a determination that such follow-up



129 testing is medically necessary and reasonable. The results of any
130 such test shall be confidential but shall be made available to the
131 victim or, if the victim is a child, to the guardian of the
132 victim. After an indictment, if the case is dismissed, the
133 defendant is found not guilty or the case is not prosecuted within
134 three (3) years of the indictment, all records of tests shall be
135 returned to the accused or destroyed as provided in Section
136 99-49-1. Upon a showing of good cause, the court may retain such
137 records and allow a case to remain open after the expiration of
138 the three-year limitation provided herein.

139 (2) Any defendant who is convicted of, or pleads guilty or
140 nolo contendere to, any offense or an attempt to commit any such
141 offense specified in subsection (1)(b) shall be ordered by the
142 court to make restitution to the Division of Victim Compensation
143 in an amount equal to the compensation paid by the Division of
144 Victim Compensation to the victim or medical provider for the
145 medical forensic examination and to the county for tests for
146 sexually transmitted diseases. Such restitution shall be in
147 addition to any restitution which the court orders the defendant
148 to pay the victim under the provisions of Chapter 37 * * *, Title
149 99, (Sections 99-37-1 through 99-37-21), Mississippi Code of 1972.

150 (3) The Division of Victim Compensation is hereby
151 authorized, in its discretion, to make application for and comply
152 with such requirements as may be necessary to qualify for any



153 federal funds as may be available as a result of services rendered
154 to crime victims under the provisions of this section.

155 **SECTION 3.** Section 99-49-1, Mississippi Code of 1972, is
156 amended as follows:

157 99-49-1. (1) **Legislative intent.** The Legislature finds
158 that:

159 (a) The value of properly preserved biological evidence
160 has been enhanced by the discovery of modern DNA testing methods,
161 which, coupled with a comprehensive system of DNA databases that
162 store crime scene and offender profiles, allow law enforcement to
163 improve its crime-solving potential;

164 (b) Tapping the potential of preserved biological
165 evidence requires the proper identification, collection,
166 preservation, storage, cataloguing and organization of such
167 evidence;

168 (c) Law enforcement agencies indicate that "cold" case
169 investigations are hindered by an inability to access biological
170 evidence that was collected in connection with criminal
171 investigations;

172 (d) Innocent people mistakenly convicted of the serious
173 crimes for which biological evidence is probative cannot prove
174 their innocence if such evidence is not accessible for testing in
175 appropriate circumstances;



176 (e) It is well established that the failure to update
177 policies regarding the preservation of evidence squanders valuable
178 law enforcement resources, manpower hours and storage space; and

179 (f) Simple but crucial enhancements to protocols for
180 properly preserving biological evidence can solve old crimes,
181 enhance public safety and settle claims of innocence.

182 (2) **Definitions.** For the purposes of this section:

183 (a) "Biological evidence" means the contents of a
184 sexual assault examination kit or any item that contains blood,
185 semen, hair, saliva, skin tissue, fingernail scrapings, bone,
186 bodily fluids or other identifiable biological material that was
187 collected as part of the criminal investigation or may reasonably
188 be used to incriminate or exculpate any person for the offense.
189 This definition applies whether that material is catalogued
190 separately, such as on a slide, swab or in a test tube, or is
191 present on other evidence, including, but not limited to,
192 clothing, ligatures, bedding or other household material, drinking
193 cups, cigarettes or other items.

194 (b) "DNA" means deoxyribonucleic acid.

195 (c) "Custody" means persons currently incarcerated;
196 civilly committed; on parole or probation; or subject to sex
197 offender registration for the period of the registration or for
198 the first five (5) years of the registration, whichever is the
199 shorter period.



200 (d) "Profile" means a unique identifier of an
201 individual, derived from DNA.

202 (e) "State" refers to any governmental or public entity
203 within Mississippi, including all private entities that perform
204 such functions, and its officials or employees, including, but not
205 limited to, law enforcement agencies, prosecutors' offices,
206 courts, public hospitals, forensics laboratories, and any other
207 entity or individual charged with the collection, storage or
208 retrieval of biological evidence.

209 (3) **Preservation of evidence procedures.** (a) The state
210 shall preserve all biological evidence:

211 (i) That is secured in relation to an
212 investigation or prosecution of a crime for * * * a period
213 of * * * no less than fifty (50) years; or

214 (ii) That is secured in relation to an
215 investigation or prosecution of a crime for * * * a period
216 of * * * no less than fifty (50) years.

217 (b) This section applies to evidence that:

218 (i) Was in the possession of the state during the
219 investigation and prosecution of the case; and

220 (ii) At the time of conviction was likely to
221 contain biological material.

222 (c) The state shall not destroy biological evidence
223 should one or more additional co-defendants, convicted of the same



224 crime, remain in custody, and shall preserve the evidence for the
225 period of time * * * described in this act.

226 (d) The state shall retain evidence in the amount and
227 manner sufficient to develop a DNA profile from the biological
228 material contained in or included on the evidence.

229 (e) * * * The state shall prepare an inventory of
230 biological evidence that has been preserved in connection with the
231 defendant's criminal case.

232 (f) The state may destroy evidence that includes
233 biological material before the expiration of the time period
234 specified in paragraph (a) of this subsection if all of the
235 following apply:

236 (i) No other provision of federal or state law
237 requires the state to preserve the evidence.

238 (ii) The state sends certified delivery of notice
239 of intent to destroy the evidence to:

240 1. All persons who remain in custody as a
241 result of the criminal conviction, delinquency adjudication, or
242 commitment related to evidence in question;

243 2. The attorney of record for each person in
244 custody;

245 3. The Mississippi Office of Indigent
246 Appeals;

247 4. The district attorney in the county of
248 conviction; and



249 5. The Mississippi Attorney General.
250 (iii) No person who is notified under subparagraph
251 (ii) of this paragraph (f) does either of the following within
252 sixty (60) days after the date on which the person received the
253 notice:

- 254 1. Files a motion for testing of evidence
255 under * * * Chapter 39, Title 99, Mississippi Code of 1972; or
256 2. Submits a written request for retention of
257 evidence to the state entity which provided notice of its intent
258 to destroy evidence under subparagraph (ii) of this paragraph (f).

259 (g) If, after providing notice under paragraph (f)(ii)
260 of this subsection of its intent to destroy evidence, the state
261 receives a written request for retention of the evidence, the
262 state shall retain the evidence while the person remains in
263 custody.

264 (h) * * * When such retention is impracticable, the
265 state shall remove and preserve portions of the material evidence
266 likely to contain biological evidence related to the offense, in a
267 quantity sufficient to permit future DNA testing, before returning
268 or disposing of the physical evidence.

269 (i) Should the state be called upon to produce
270 biological evidence that could not be located and whose
271 preservation was required under the provisions of this statute,
272 the chief evidence custodian assigned to the entity charged with
273 the preservation of the evidence shall provide an affidavit in



274 which the custodian stipulates, under penalty of perjury, an
275 accurate description of the efforts taken to locate that evidence
276 and that the evidence could not be located.

277 (4) This section does not require or otherwise authorize the
278 state to preserve the biological evidence that is obtained in
279 performing the test required by Section 99-3-41 and is required to
280 be destroyed under that section.

281 (5) Any evidence in a murder, manslaughter or felony sexual
282 assault case in the possession of the state on July 1, 2009,
283 whether biological or not, shall be preserved by the state
284 consistent with the legislative intent expressed in subsection (1)
285 and subject to compliance with subsection (3)(f).

286 (6) **Remedies for noncompliance.** If the court finds that
287 biological evidence was destroyed in violation of the provisions
288 of this section, it may impose appropriate sanctions and order
289 appropriate remedies.

290 **SECTION 4.** Section 45-47-1, Mississippi Code of 1972, is
291 amended as follows:

292 45-47-1. (1) Every person who is arrested for the
293 commission or attempted commission of a crime of violence as
294 defined in Section 97-3-2 shall provide a biological sample for
295 DNA testing to jail or detention center personnel upon booking.
296 The analysis shall be performed by the Mississippi Forensics * * *
297 Laboratory or other entity designated by the Department of Public
298 Safety, and the results shall be maintained by the Forensics * * *



299 Laboratory according to standard protocols adopted for maintenance
300 of DNA records in conformity to federal guidelines for the
301 maintenance of such records. If the person is arrested for the
302 commission or attempted commission of rape or sexual assault, the
303 results shall be entered into federal, state or local databases
304 for the purpose of comparing the DNA sample to other samples in
305 the database.

306 (2) (a) A DNA sample shall be collected by an individual
307 who is trained in the collection procedures that the Forensics
308 Laboratory uses.

309 (b) Upon motion of one (1) of the parties, or sua
310 sponte by the court, the court may direct the Forensics * * *
311 Laboratory to destroy the sample and delete from the database all
312 records thereof if there is no other pending qualifying warrant or
313 capias for an arrest or felony conviction that would require that
314 the sample remain in the DNA data bank if:

315 (i) The charge for which the sample was taken is
316 dismissed;

317 (ii) The defendant is acquitted at trial or
318 convicted of a lesser included misdemeanor offense that is not an
319 offense listed in this section;

320 (iii) No charge was filed within the statute of
321 limitations, if any; or



322 (iv) No conviction has occurred, at least three
323 (3) years have passed since the date of arrest, and there is no
324 active prosecution.

325 (3) (a) Any person who, without authority, disseminates
326 information contained in the DNA data bank shall be guilty of a
327 misdemeanor.

328 (b) Any person who disseminates, receives, or otherwise
329 uses or attempts to use information in the DNA data bank, knowing
330 that the dissemination, receipt or use is for a purpose other than
331 as authorized by law, shall be guilty of a * * * felony.

332 (c) Except as authorized by law, any person who obtains
333 or attempts to obtain any sample for purposes of having DNA
334 analysis performed shall be guilty of a felony.

335 (4) (a) Any person convicted under subsection (3)(a) shall
336 be * * * subject to a fine not to exceed Five Hundred Dollars
337 (\$500.00) or confinement in the county jail not to exceed thirty
338 (30) days, or both.

339 (b) Any person convicted under subsection (3)(b) shall
340 be * * * subject to a fine not * * * less than One Thousand
341 Dollars (\$1,000.00) or confinement in the * * * custody of the
342 Mississippi Department of Corrections not to exceed * * * five (5)
343 years, or both.

344 (c) Any person convicted under subsection (3)(c) shall
345 be sentenced to a fine not to exceed One Thousand Dollars



346 (\$1,000.00) or commitment to the custody of the Department of
347 Corrections not to exceed two (2) years, or both.

348 **SECTION 5.** Section 73-15-20, Mississippi Code of 1972, is
349 amended as follows:

350 73-15-20. (1) **Advanced practice registered nurses.** Any
351 nurse desiring to be certified as an advanced practice registered
352 nurse shall apply to the board and submit proof that he or she
353 holds a current license to practice professional nursing and that
354 he or she meets one or more of the following requirements:

355 (a) Satisfactory completion of a formal post-basic
356 educational program of at least one (1) academic year, the primary
357 purpose of which is to prepare nurses for advanced or specialized
358 practice.

359 (b) Certification by a board-approved certifying body.
360 Such certification shall be required for initial state
361 certification and any recertification as a registered nurse
362 anesthetist, nurse practitioner or nurse midwife. The board may
363 by rule provide for provisional or temporary state certification
364 of graduate nurse practitioners for a period of time determined to
365 be appropriate for preparing and passing the National
366 Certification Examination. Those with provisional or temporary
367 certifications must practice under the direct supervision of a
368 licensed physician or a certified nurse practitioner or certified
369 nurse midwife with at least five (5) years of experience.



370 (c) Graduation from a program leading to a master's or
371 post-master's degree in a nursing clinical specialty area with
372 preparation in specialized practitioner skills.

373 (2) **Rulemaking.** The board shall provide by rule the
374 appropriate requirements for advanced practice registered nurses
375 in the categories of certified registered nurse anesthetist,
376 certified nurse midwife and advanced practice registered nurse.

377 (3) **Collaboration.** An advanced practice registered nurse
378 shall perform those functions authorized in this section within a
379 collaborative/consultative relationship with a dentist or
380 physician with an unrestricted license to practice dentistry or
381 medicine in this state and within an established protocol or
382 practice guidelines, as appropriate, that is filed with the board
383 upon license application, license renewal, after entering into a
384 new collaborative/consultative relationship or making changes to
385 the protocol or practice guidelines or practice site. The board
386 shall review and approve the protocol to ensure compliance with
387 applicable regulatory standards. The advanced practice registered
388 nurse may not practice as an APRN if there is no
389 collaborative/consultative relationship with a physician or
390 dentist and a board-approved protocol or practice guidelines.

391 (4) **Renewal.** The board shall renew a license for an
392 advanced practice registered nurse upon receipt of the renewal
393 application, fees and protocol or practice guidelines. The board
394 shall adopt rules establishing procedures for license renewals.



395 The board shall by rule prescribe continuing education
396 requirements for advanced practice nurses not to exceed forty (40)
397 hours biennially as a condition for renewal of a license or
398 certificate.

399 (5) **Reinstatement.** Advanced practice registered nurses may
400 reinstate a lapsed privilege to practice upon submitting
401 documentation of a current active license to practice professional
402 nursing, a reinstatement application and fee, a protocol or
403 practice guidelines, documentation of current certification as an
404 advanced practice nurse in a designated area of practice by a
405 national certification organization recognized by the board and
406 documentation of at least forty (40) hours of continuing education
407 related to the advanced clinical practice of the nurse
408 practitioner within the previous two-year period. The board shall
409 adopt rules establishing the procedure for reinstatement.

410 (6) **Changes in status.** The advanced practice registered
411 nurse shall notify the board immediately regarding changes in the
412 collaborative/consultative relationship with a licensed physician
413 or dentist. If changes leave the advanced practice registered
414 nurse without a board-approved collaborative/consultative
415 relationship with a physician or dentist, the advanced practice
416 nurse may not practice as an advanced practice registered nurse.

417 (7) **Practice requirements.** The advanced practice registered
418 nurse shall practice:



419 (a) According to standards and guidelines of the
420 National Certification Organization.

421 (b) In a collaborative/consultative relationship with a
422 licensed physician whose practice is compatible with that of the
423 nurse practitioner. Certified registered nurse anesthetists may
424 collaborate/consult with licensed dentists. The advanced practice
425 nurse must be able to communicate reliably with a
426 collaborating/consulting physician or dentist while practicing.

427 (c) According to a board-approved protocol or practice
428 guidelines.

429 (d) Advanced practice registered nurses practicing as
430 nurse anesthetists must practice according to board-approved
431 practice guidelines that address pre-anesthesia preparation and
432 evaluation; anesthesia induction, maintenance, and emergence;
433 post-anesthesia care; peri-anesthetic and clinical support
434 functions.

435 (e) Advanced practice registered nurses practicing in
436 other specialty areas must practice according to a board-approved
437 protocol that has been mutually agreed upon by the nurse
438 practitioner and a Mississippi licensed physician or dentist whose
439 practice or prescriptive authority is not limited as a result of
440 voluntary surrender or legal/regulatory order.

441 (f) Each collaborative/consultative relationship shall
442 include and implement a formal quality assurance/quality
443 improvement program which shall be maintained on site and shall be



444 available for inspection by representatives of the board. This
445 quality assurance/quality improvement program must be sufficient
446 to provide a valid evaluation of the practice and be a valid basis
447 for change, if any.

448 (g) Nurse practitioners may not write prescriptions
449 for, dispense or order the use of or administration of any
450 schedule of controlled substances except as contained in this
451 chapter.

452 (8) **Prescribing controlled substances and medications.**

453 Certified nurse midwives and certified nurse practitioners may
454 apply for controlled substance prescriptive authority after
455 completing a board-approved educational program. Certified nurse
456 midwives and certified nurse practitioners who have completed the
457 program and received prescription authority from the board may
458 prescribe Schedules II-V. The words "administer," "controlled
459 substances" and "ultimate user," shall have the same meaning as
460 set forth in Section 41-29-105, unless the context otherwise
461 requires. The board shall promulgate rules governing prescribing
462 of controlled substances, including distribution, record keeping,
463 drug maintenance, labeling and distribution requirements and
464 prescription guidelines for controlled substances and all
465 medications. Prescribing any controlled substance in violation of
466 the rules promulgated by the board shall constitute a violation of
467 Section 73-15-29(1)(f), (k) and (l) and shall be grounds for
468 disciplinary action. The prescribing, administering or



469 distributing of any legend drug or other medication in violation
470 of the rules promulgated by the board shall constitute a violation
471 of Section 73-15-29(1)(f), (k) and (l) and shall be grounds for
472 disciplinary action.

473 (9) Any nurse practitioner who holds a Masters degree or
474 higher in Advanced Forensic Nursing and whose practice is limited
475 to medical forensic examinations and the treatment of health
476 matters related to such examinations shall be exempt from the
477 requirement in this section to have a collaborative/consultative
478 relationship. The exemption provided in this subsection (9) shall
479 be limited to the performance of examinations and health related
480 matters described in this subsection.

481 **SECTION 6.** Section 99-36-5, Mississippi Code of 1972, is
482 brought forward as follows:

483 99-36-5. (1) A victim, guardian of a victim, or close
484 relative of a deceased victim is entitled to the following rights
485 within the criminal justice system:

486 (a) The right to receive from law enforcement agencies
487 adequate protection from harm and threats of harm arising from
488 cooperation with prosecution efforts, including, but not limited
489 to, the filing of criminal charges where the perpetrator is known;

490 (b) The right to have a circuit or county court judge
491 take the safety of the victim or his family into consideration as
492 an element in fixing the amount of bail for the accused;



493 (c) The right to be informed of relevant court
494 proceedings and to be informed if those court proceedings have
495 been canceled or rescheduled prior to the event;

496 (d) The right to be informed, when requested, by the
497 district attorney's office concerning the general procedures in
498 the criminal justice system, including general procedures in
499 guilty plea negotiations and arrangements;

500 (e) The right to provide a victim impact statement
501 prior to any sentencing of the offender; and

502 (f) The right to receive information regarding
503 compensation to victims of crime as may be provided by law.

504 (2) A victim, guardian of a victim or close relative of a
505 deceased victim has the right to be present at all public court
506 proceedings related to the prosecution of the accused, consistent
507 with the rules of evidence.

508 (3) A judge, attorney for the state, peace officer or law
509 enforcement agency is not liable for a failure or inability to
510 provide a right enumerated in this chapter. The failure or
511 inability of any person to provide a right or service enumerated
512 in this chapter may not be used by a defendant in a criminal case
513 as a ground for appeal. A victim, guardian of a victim, or close
514 relative of a deceased victim does not have standing to
515 participate as a party in a criminal proceeding or to contest the
516 disposition of any charge.



517 **SECTION 7.** This act shall take effect and be in force from
518 and after July 1, 2022.

