

By: Representative Scott (80th)

To: Appropriations

HOUSE BILL NO. 1640

1 AN ACT TO BE KNOWN AS THE EMMITT LOUIS TILL VICTIMS'
 2 COMPENSATION ACT; TO PRESCRIBE THE BASIS OF CLAIMS UNDER THE ACT;
 3 TO EXPRESS THE LEGISLATIVE INTENT IN ESTABLISHING THIS ACT; TO
 4 PROVIDE CONDITIONS AND EXCEPTIONS FOR AWARDS; TO PRESCRIBE A
 5 PENALTY FOR FALSE CLAIMS; TO CREATE A SPECIAL FUND TO BE KNOWN AS
 6 THE EMMITT LOUIS TILL VICTIMS' COMPENSATION FUND; TO AMEND
 7 SECTIONS 99-41-7, 99-41-9 AND 99-41-11, MISSISSIPPI CODE OF 1972,
 8 IN CONFORMITY WITH THE PROVISIONS OF THIS ACT; AND FOR RELATED
 9 PURPOSES.

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

11 **SECTION 1.** This act shall be known and may be cited as "The
 12 Emmitt Louis Till Victims' Compensation Act."

13 **SECTION 2.** It is the intent of the Legislature to provide a
 14 method of compensating those persons who are lawful survivors of
 15 persons who were innocent victims of racially motivated criminal
 16 acts evincing racial animus or hatred that were committed between
 17 the years of 1945 and 1970. To this end, it is the Legislature's
 18 intention to provide compensation for the lawful survivors of
 19 victims of such acts, not to exceed One Hundred Thousand Dollars
 20 (\$100,000.00) per group of claimants who are lawful survivors of a
 21 single victim.

22 **SECTION 3.** As used in this act, unless the context otherwise
 23 requires, the term:

24 (a) "Claimant" means any person applying for
 25 compensation under this act who is a lawful survivor of a victim
 26 as defined by this act;

27 (b) "Racially motivated criminal conduct" means an act
 28 occurring within the geographical boundaries of this state between
 29 the years of 1945 and 1970, inclusive, which act resulted in the
 30 death of a victim, and includes, but is not limited to, lynching,



31 bombing, burning, shooting or hanging. The conduct must have
32 evinced racial animus or hatred;

33 (c) "Department" means the Department of Finance and
34 Administration;

35 (d) "Director" means the Victim Compensation Director
36 as prescribed in Section 99-41-7;

37 (e) "Lawful survivor" means the surviving spouse or any
38 direct descendant, per stirpes, of a victim;

39 (f) "Victim" means a person who suffered death in the
40 State of Mississippi between the years of 1945 and 1970 as a
41 result of racially motivated criminal conduct by Mississippi
42 citizens.

43 **SECTION 4.** (1) Compensation shall not be awarded under this
44 act:

45 (a) Unless the racially motivated criminal conduct
46 occurred between January 1, 1945, and December 31, 1970;

47 (b) Unless the claim has been filed with the Victim
48 Compensation Director within five (5) years from the date of this
49 act;

50 (c) Unless the racially motivated criminal conduct
51 resulted in death;

52 (d) If, following the filing of an application, the
53 claimant failed to take further steps as required by the director
54 to support the application, within ninety (90) days of such
55 request made by the director, or failed to otherwise cooperate
56 with requests of the director to determine eligibility unless
57 failure to provide information was beyond the control of the
58 claimant;

59 (e) In excess of One Hundred Thousand Dollars
60 (\$100,000.00) in the aggregate for all the lawful survivors of a
61 single victim.

62 (2) The director, on his own motion or on request of the
63 claimant, may reconsider a decision granting or denying an award



64 or determining its amount. An order of reconsideration of an
65 award shall not require a refund of amounts previously paid unless
66 the award was obtained by fraud. The right of reconsideration
67 does not affect the finality of the decision concerning the amount
68 of compensation for the purpose of judicial review.

69 (3) Claims shall be filed, hearings held, and appeals
70 governed by Section 99-41-1 et seq., except where to do so would
71 be inconsistent with this act.

72 **SECTION 5.** (1) Claims shall be made under oath. The filing
73 of a false claim for compensation pursuant to this act shall
74 constitute a misdemeanor and shall be punishable by a fine not to
75 exceed One Thousand Dollars (\$1,000.00), or by imprisonment in the
76 county jail for a term not to exceed one (1) year, or by both such
77 fine and imprisonment, and the person convicted shall, as part of
78 the sentence in either case, be required to repay to the Emmitt
79 Louis Till Victims' Compensation Fund the amount received pursuant
80 to the false claim.

81 (2) Any person who knowingly furnishes any false information
82 or knowingly fails or omits to disclose a material fact or
83 circumstance with the intent to defraud the department for
84 compensation pursuant to this act shall be guilty of a misdemeanor
85 and shall be punished by a fine not to exceed One Thousand Dollars
86 (\$1,000.00), or by imprisonment in the county jail for a term not
87 to exceed one (1) year, or both, and the person convicted, as part
88 of the sentence in either case, shall be required to repay to the
89 Emmitt Louis Till Victims' Compensation Fund the total amount
90 received pursuant to the false claim.

91 (3) If a payment or overpayment of compensation is made
92 because of clerical error, mistaken identity, innocent
93 misrepresentation by or on behalf of the recipient of the
94 compensation award or other circumstances of a similar nature not
95 induced by fraud by or on behalf of the recipient, the recipient
96 is liable for repayment of the compensation. The department may



97 waive, decrease or adjust the amount of the repayment of the
98 compensation.

99 **SECTION 6.** (1) From and after July 1, 2002, there is
100 created in the State Treasury a special interest-bearing fund to
101 be known as the Emmitt Louis Till Victims' Compensation Fund. The
102 purpose of the fund shall be to provide for the payment of awards
103 of compensation pursuant to this act and the payment of all
104 necessary and proper expenses incurred by the department in the
105 administration of this act. Expenditures from the fund shall be
106 paid by the State Treasurer upon warrants issued by the Department
107 of Finance and Administration, and upon requisitions signed by the
108 executive director of the department or his duly designated
109 representative in the manner provided by law. The fund shall be a
110 continuing fund, not subject to fiscal-year limitations, and shall
111 consist of: (a) monies appropriated by the Legislature for the
112 purposes of compensating claimants under this act; (b) the
113 interest accruing to the fund; (c) monies received from the
114 federal government; and (d) monies received from such other
115 sources as may be provided by law.

116 (2) No compensation payments shall be made which exceed the
117 amount of money in the fund. The state shall not be liable for a
118 written order to pay compensation, except to the extent that
119 monies are available in the fund on the date the award is ordered.
120 The department shall establish such rules and regulations as shall
121 be necessary to adjust awards and payments so that the total
122 amount awarded does not exceed the amount of money on deposit in
123 the fund. Such rules and regulations may include, but shall not
124 be limited to, the authority to provide for suspension of payments
125 and proportioned reduction of benefits to all claimants; however,
126 no such reductions as provided for shall entitle claimants to
127 future retroactive reimbursements in future years.

128 **SECTION 7.** Section 99-41-7, Mississippi Code of 1972, is
129 amended as follows:



130 99-41-7. There is hereby created in the Department of
131 Finance and Administration the position of Victim Compensation
132 Director, hereafter referred to as "director." The duties of the
133 director shall include receipt, investigation, verification and
134 adjudication of a claim for compensation under the provisions of
135 this chapter and the Emmitt Louis Till Victims' Compensation Act.
136 The director shall be appointed by the executive director of the
137 department.

138 **SECTION 8.** Section 99-41-9, Mississippi Code of 1972, is
139 amended as follows:

140 99-41-9. In addition to any other powers and duties
141 specified elsewhere in this chapter, the department is hereby
142 authorized to:

143 (a) Except as otherwise provided by this chapter,
144 regulate the procedures for the director to expedite his functions
145 and adopt rules and regulations for the position of director;

146 (b) Define any term not defined in this chapter in a
147 manner not inconsistent with this chapter;

148 (c) Prescribe forms necessary to carry out the purposes
149 of this chapter and make such forms available for use in making
150 applications for compensation;

151 (d) Authorize the director to take judicial notice of
152 general, technical and scientific facts within the director's
153 specialized knowledge;

154 (e) Publicize the availability of compensation and
155 information regarding the filing of claims and ask that public
156 officials and law enforcement agencies take reasonable care that
157 victims be informed about the availability of compensation and the
158 procedure for applying for compensation;

159 (f) Apply for funds from and to submit all necessary
160 forms to any federal agency participating in a cooperative program
161 to compensate victims of crimes, and to apply for and accept any
162 gifts, bequests, grants, donations or funds from other sources,



163 public or private, for carrying out the provisions of this
164 chapter; * * *

165 (g) Adopt such rules and regulations as shall be
166 necessary for carrying out the provisions of this chapter; and

167 (h) Perform all the duties and possess all the powers
168 enumerated in this section in connection with the administration
169 of claims under the Emmitt Louis Till Victims' Compensation Act.

170 **SECTION 9.** Section 99-41-11, Mississippi Code of 1972, is
171 amended as follows:

172 99-41-11. (1) The director shall award compensation for
173 economic loss arising from criminally injurious conduct if
174 satisfied by a preponderance of the evidence that the requirements
175 for compensation have been met.

176 (2) The director shall make such investigations, administer
177 such oaths or affirmations and receive such evidence as he deems
178 relevant and necessary to make a determination on any application
179 received. The director shall have the power to subpoena
180 witnesses, compel their attendance and require the production of
181 records and other evidence. Application to a court for aid in
182 enforcing a subpoena may be made in the name of the director. To
183 the extent that funds are appropriated or otherwise available, the
184 department may employ such personnel, including expert witnesses,
185 as may be required in connection with particular applications
186 before the director, and the director may take judicial notice of
187 general, technical and scientific facts within his specialized
188 knowledge.

189 (3) The director may settle a claim by stipulation, agreed
190 settlement, consent order or default.

191 (4) The director may request access to and obtain from
192 prosecuting attorneys or law enforcement officers, as well as
193 state and local agencies, any reports of investigations or other
194 data necessary to assist the director in making a determination of
195 eligibility for compensation under the provisions of this chapter.



196 (5) Notwithstanding any other provision of law, every law
197 enforcement agency and prosecuting attorney in the state shall
198 provide to the director, upon request, a complete copy of the
199 report regarding the incident and any supplemental reports
200 involving the crime or incident giving rise to a claim filed
201 pursuant to this chapter within thirty (30) days of such request.

202 (6) Any statute providing for the confidentiality of a
203 claimant or victim's court record shall not be applicable under
204 this chapter, notwithstanding the provisions of any other law to
205 the contrary; provided, however, any such record or report which
206 is otherwise protected from public disclosure by the provisions of
207 any other law shall otherwise remain subject to the provisions of
208 such law.

209 (7) The director may require that the claimant submit with
210 the application material substantiating the facts stated in the
211 application.

212 (8) After processing an application for compensation filed
213 under rules and regulations promulgated by the department, the
214 director shall enter an order stating:

215 (a) Findings of fact;

216 (b) The decision as to whether or not compensation
217 shall be awarded;

218 (c) The amount of compensation, if any, due under this
219 chapter;

220 (d) The person or persons to whom any compensation
221 should be paid;

222 (e) The percentage share of the total of any
223 compensation award and the dollar amount each person shall
224 receive; and

225 (f) Whether disbursement of any compensation awarded
226 shall be made in a lump sum or in periodic payments.

227 (9) The director on his own motion or on request of the
228 claimant may reconsider a decision granting or denying an award or



229 determining its amount. An order on reconsideration of an award
230 shall not require a refund of amounts previously paid unless the
231 award was obtained by fraud.

232 (10) If a claimant disagrees with the decision of the
233 director, he may contest such decision to the deputy director of
234 the department within fifteen (15) days after notification of
235 issuance of the decision. There shall be no appeal of a decision
236 of the director except as set forth in this subsection.

237 (11) In a contested case, all parties shall be afforded an
238 opportunity for a hearing after reasonable notice pursuant to
239 regulations promulgated pursuant to this chapter and may offer
240 evidence and argument on any issue relevant to the claim and may
241 examine witnesses and offer evidence in reply to any matter of an
242 evidentiary nature relevant to the claim. The deputy director
243 shall have the power to subpoena witnesses, compel their
244 attendance and require the production of records and other
245 evidence. The decision of the deputy director becomes the final
246 decision of the department. A record of the hearing in a
247 contested case shall be made and shall be transcribed upon request
248 of any party who shall pay transcription costs unless otherwise
249 ordered by the deputy director.

250 (12) The director shall award compensation for racially
251 motivated criminal conduct pursuant to Section 99-42-1 et seq.,
252 and shall exercise all the duties and privileges conferred by this
253 section in the conduct of that responsibility where not
254 inconsistent with the terms and conditions of awards from the
255 fund.

256 **SECTION 10.** This act shall take effect and be in force from
257 and after July 1, 2002.

