

By: Senator(s) Huggins

To: Public Health and
Welfare

SENATE BILL NO. 2249

1 AN ACT TO AMEND SECTIONS 41-61-63 AND 41-61-65, MISSISSIPPI
2 CODE OF 1972, TO REQUIRE CORONERS TO PERFORM A DEATH SCENE
3 INVESTIGATION FOR ALL UNEXPLAINED INFANT DEATHS; AND FOR RELATED
4 PURPOSES.

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

6 **SECTION 1.** Section 41-61-63, Mississippi Code of 1972, is
7 amended as follows:

8 41-61-63. (1) The State Medical Examiner shall:

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

12 (b) Keep complete records of all relevant information
13 concerning deaths or crimes requiring investigation by the medical
14 examiners.

15 (c) Promulgate rules and regulations regarding the
16 manner and techniques to be employed while conducting autopsies;
17 the nature, character and extent of investigations to be made into
18 deaths affecting the public interest to allow a medical examiner
19 to render a full and complete analysis and report; the format and
20 matters to be contained in all reports rendered by the medical
21 examiners; and all other things necessary to carry out the
22 purposes of Sections 41-61-51 through 41-61-79. The State Medical
23 Examiner shall make such amendments to these rules and regulations
24 as may be necessary. All medical examiners, coroners and law
25 enforcement officers shall be subject to such rules.

26 (d) Cooperate with the crime detection and medical
27 examiner laboratories authorized by Section 45-1-17, the



28 University Medical Center, the Attorney General, law enforcement
29 agencies, the courts and the State of Mississippi.

30 (2) In addition, the medical examiners shall:

31 (a) Upon receipt of notification of a death affecting
32 the public interest, make inquiries regarding the cause and manner
33 of death, reduce the findings to writing and promptly make a full
34 report to the State Medical Examiner on forms prescribed for that
35 purpose. The medical examiner shall be authorized to inspect and
36 copy the medical reports of the decedent whose death is under
37 investigation. However, the records copied shall be maintained as
38 confidential so as to protect the doctor/patient privilege. The
39 medical examiners shall be authorized to request the issuance of
40 subpoenas, through the proper court, for the attendance of persons
41 and for the production of documents as may be required by their
42 investigation.

43 (b) Complete the medical examiner's portion of the
44 certificate of death within seventy-two (72) hours of assuming
45 jurisdiction over a death, and forward the certificate to the
46 funeral director or to the family. The medical examiner's portion
47 of the certificate of death shall include the decedent's name, the
48 date and time of death, the cause of death and the certifier's
49 signature. If determination of the cause and/or manner of death
50 are pending an autopsy or toxicological or other studies, these
51 sections on the certificate may be marked "pending," with
52 amendment and completion to follow the completion of the
53 postmortem studies. The State Medical Examiner shall be
54 authorized to amend a death certificate; however, the State
55 Medical Examiner is not authorized to change or amend any death
56 certificate after he has resigned or been removed from his office
57 as the State Medical Examiner. Where an attending physician
58 refuses to sign a certificate of death, or in case of any death,
59 the State Medical Examiner or properly qualified designee may sign
60 the death certificate.



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

63 (d) In all investigations of deaths affecting the
64 public interest where an autopsy will not be performed, obtain or
65 attempt to obtain postmortem blood, urine and/or vitreous fluids.
66 Medical examiners may also obtain rectal temperature measurements,
67 known hair samples, radiographs, gunshot residue/wiping studies,
68 fingerprints, palm prints and other noninvasive studies as the
69 case warrants and/or as directed by the State Medical Examiner.
70 Decisions may be made in consultation with investigating law
71 enforcement officials and/or the State Medical Examiner. The cost
72 of all studies not performed by the Mississippi Crime Laboratory
73 shall be borne by the county. County medical examiner
74 investigators shall be authorized to obtain these postmortem
75 specimens themselves following successful completion of the death
76 investigation training school.

77 (e) In all investigations of deaths occurring in the
78 manner specified in subsection (2)(j) of Section 41-61-59, a death
79 investigation shall be performed by the medical examiners in
80 accordance with the child death investigation protocol established
81 by the State Medical Examiner. The results of the death
82 investigation shall be reported to the State Medical Examiner on
83 forms prescribed for that purpose by the State Medical Examiner
84 and to appropriate authorities, including police and child
85 protective services, within three (3) days of the conclusion of
86 the death investigation.

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

89 (4) The State Medical Examiner shall obtain such liability
90 insurance as deemed appropriate to the needs of the office, and
91 may be sued by anyone affected to the extent of such insurance
92 carried; however, immunity from suit is only waived to the extent
93 of such liability insurance carried, and a judgment creditor shall



94 have recourse only to the proceeds or right to proceeds of such
95 liability insurance. No attempt shall be made in the trial of any
96 case to suggest the existence of any insurance which covers in
97 whole or in part any judgment or award rendered in favor of a
98 claimant, but if the verdict rendered by the jury exceeds the
99 limit of applicable insurance, the court on motion shall reduce
100 the amount of the judgment to a sum equal to the applicable limit
101 stated in the insurance policy. This subsection (4) shall stand
102 repealed from and after July 1, 1993, by operation of law.

103 **SECTION 2.** Section 41-61-65, Mississippi Code of 1972, is
104 amended as follows:

105 41-61-65. (1) If, in the opinion of the medical examiner
106 investigating the case, it is advisable and in the public interest
107 that an autopsy or other study be made for the purpose of
108 determining the primary and/or contributing cause of death, an
109 autopsy or other study shall be made by the State Medical Examiner
110 or by a competent pathologist designated by the State Medical
111 Examiner. The State Medical Examiner or designated pathologist
112 may retain any tissues as needed for further postmortem studies or
113 documentation. A complete autopsy report of findings and
114 interpretations, prepared on forms designated for this purpose,
115 shall be submitted promptly to the State Medical Examiner. Copies
116 of the report shall be furnished to the authorizing medical
117 examiner, district attorney and court clerk. A copy of the report
118 shall be furnished to one (1) adult member of the immediate family
119 of the deceased or the legal representative or legal guardian of
120 members of the immediate family of the deceased upon request. In
121 determining the need for an autopsy, the medical examiner may
122 consider the request from the district attorney or county
123 prosecuting attorney, law enforcement or other public officials or
124 private persons. However, if the death occurred in the manner
125 specified in subsection (2)(j) of Section 41-61-59, an autopsy
126 shall be performed by the State Medical Examiner or his designated



127 pathologist, and the report of findings shall be forwarded
128 promptly to the State Medical Examiner, investigating medical
129 examiner, the Mississippi State Department of Health, the infant's
130 attending physician and the local sudden infant death syndrome
131 coordinator.

132 (2) Any medical examiner or duly licensed physician
133 performing authorized investigations and/or autopsies as provided
134 in Sections 41-61-51 through 41-61-79 who, in good faith, complies
135 with the provisions of Sections 41-61-51 through 41-61-79 in the
136 determination of the cause and/or manner of death for the purpose
137 of certification of that death, shall not be liable for damages on
138 account thereof, and shall be immune from any civil liability that
139 might otherwise be incurred or imposed.

140 (3) Family members or others who disagree with the medical
141 examiner's determination shall be able to petition and present
142 written argument to the State Medical Examiner for further review.
143 If the petitioner still disagrees, he may petition the circuit
144 court which may, in its discretion, hold a formal hearing. In all
145 such proceedings, the State Medical Examiner and the county
146 medical examiner or county medical examiner investigator who
147 certified the information shall be made defendants. All costs of
148 the petitioning and hearing shall be borne by the petitioner.

149 **SECTION 3.** This act shall take effect and be in force from
150 and after July 1, 2003.

