

By: Representative Coleman (65th)

To: Public Health and Human Services; Corrections

HOUSE BILL NO. 1037

1 AN ACT TO AMEND SECTION 41-23-1, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE INDIVIDUALS INCARCERATED IN CORRECTIONAL FACILITIES TO BE  
3 TESTED FOR HEPATITIS C; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 41-23-1, Mississippi Code of 1972, is  
6 amended as follows:

7 41-23-1. (1) The State Board of Health shall adopt rules  
8 and regulations (a) defining and classifying communicable diseases  
9 and other diseases that are a danger to health based upon the  
10 characteristics of the disease; and (b) establishing reporting,  
11 monitoring and preventive procedures for those diseases.

12 (2) Upon the death of any person who has been diagnosed as  
13 having Human Immunodeficiency Virus/Acquired Immune Deficiency  
14 Syndrome (HIV/AIDS) or any Class 1 disease as designated by the  
15 State Board of Health, in a hospital or other health care  
16 facility, in all other cases where there is an attending  
17 physician, and in cases in which the medical examiner, as defined  
18 in Section 41-61-53(f), investigates and certifies the cause of  
19 death, the attending physician, the person in charge of the  
20 hospital or health care facility, or the medical examiner, as the  
21 case may be, shall report as soon as practicable to the Executive  
22 Officer of the State Board of Health or to other authorities the  
23 cause or contributing cause of death as required by the State  
24 Board of Health. Such reporting shall be according to procedures  
25 as required by the State Board of Health.

26 (3) Upon the death of any person who has been diagnosed as  
27 having Human Immunodeficiency Virus/Acquired Immune Deficiency

28 Syndrome (HIV/AIDS), where there is not an attending physician,  
29 any family member or other person making disposition of the body  
30 who knows that such decedent had been diagnosed as having HIV/AIDS  
31 shall report this fact to the medical examiner as defined in  
32 Section 41-61-53(f), who shall report as soon as practicable to  
33 the Executive Officer of the State Board of Health or to other  
34 authorities the cause or contributing cause of death as required  
35 by the State Board of Health. Such reporting shall be according  
36 to procedures as required by the State Board of Health.

37 (4) Every practicing or licensed physician, or person in  
38 charge of a hospital, health care facility, insurance company  
39 which causes to be performed blood tests for underwriting purposes  
40 or laboratory, shall report immediately to the Executive Officer  
41 of the State Board of Health or to other authorities as required  
42 by the State Board of Health every case of such diseases as shall  
43 be required to be reported by the State Board of Health. Such  
44 reporting shall be according to procedures, and shall include such  
45 information about the case, as shall be required by the State  
46 Board of Health. Insurance companies having such blood test  
47 results shall report immediately to the Executive Officer of the  
48 State Board of Health or to other authorities as required by the  
49 State Board of Health every case of such diseases as shall be  
50 required to be reported by the State Board of Health. The  
51 insurance company shall notify the individual on whom the blood  
52 test was performed in writing by certified mail of an adverse  
53 underwriting decision based upon the results of such individual's  
54 blood test but shall not disclose the specific results of such  
55 blood tests to the individual. The insurance company shall also  
56 inform the individual on whom the blood test was performed that  
57 the results of the blood test will be sent to the physician  
58 designated by the individual at the time of application and that  
59 such physician should be contacted for information regarding the  
60 blood test results. If a physician was not designated at the time

61 of application, the insurance company shall request that the  
62 individual name a physician to whom a copy of the blood test can  
63 be sent.

64 (5) Any practicing or licensed physician, or person in  
65 charge of a hospital or health care facility, who knows that a  
66 patient has a medical condition specified by the Department of  
67 Health as requiring special precautions by health care providers,  
68 shall report this fact and the need for appropriate precautions to  
69 any other institution or provider of health care services to whom  
70 such patient is transferred or referred, according to regulations  
71 established by the State Board of Health.

72 (6) Any practicing or licensed physician or person in charge  
73 of a hospital, health care facility or laboratory who fails to  
74 make the reports required under this section regarding Human  
75 Immunodeficiency Virus/Acquired Immune Deficiency Syndrome  
76 (HIV/AIDS) or any Class 1 disease or condition as designated by  
77 the State Board of Health shall be reported to the Board of  
78 Medical Licensure, in the case of a physician, or to the  
79 applicable licensing agency in the case of institutions, and such  
80 failure shall be grounds for suspension of license.

81 (7) Any person other than a practicing or licensed  
82 physician, or person in charge of a hospital or health care  
83 facility, willfully failing to make the reports required under  
84 this section shall be guilty of a misdemeanor and, upon  
85 conviction, shall be punished by a fine of not more than Five  
86 Hundred Dollars (\$500.00) or by confinement in the county jail for  
87 not more than thirty (30) days, or both.

88 (8) The provisions of this section are cumulative and  
89 supplemental to any other provision of law, and a conviction or  
90 penalty imposed under this section shall not preclude any other  
91 action at law, proceedings for professional discipline or other  
92 criminal proceedings.

93           (9) Notwithstanding any law of this state to the contrary,  
94 the State Board of Health is authorized to establish the rules by  
95 which exceptions may be made to the confidentiality provisions of  
96 the laws of this state for the notification of third parties of an  
97 individual's infection with any Class 1 or Class 2 disease, as  
98 designated by the State Board of Health, when exposure is  
99 indicated or there exists a threat to the public health and  
100 welfare. All notifications authorized by this section shall be  
101 within the rules established according to this subsection. All  
102 persons who receive notification of the infectious condition of an  
103 individual under this subsection and the rules established under  
104 this subsection shall hold such information in the strictest of  
105 confidence and privilege, shall not reveal the information to  
106 others, and shall take only those actions necessary to protect the  
107 health of the infected person or other persons where there is a  
108 foreseeable, real or probable risk of transmission of the disease.

109           (10) Each public or private correctional facility housing  
110 state offenders, federal offenders or offenders from any other  
111 jurisdiction shall require all offenders in the facility to be  
112 tested for tuberculosis, Hepatitis C and Human Immunodeficiency  
113 Virus (HIV) in conjunction with the rules and regulations of the  
114 State Department of Health. The reporting shall be according to  
115 procedures and shall include any information about the case that  
116 is required by the State Board of Health. In order to carry out  
117 the provisions of this section, the following shall apply:

118           (a) Any such public or private correctional facility  
119 may contract with the Mississippi Department of Corrections, the  
120 Mississippi State Department of Health, or other such appropriate  
121 state, federal or local entity for the inspection, monitoring or  
122 provision of any assistance necessary or desirable to maintain  
123 appropriate facilities for the purpose of identification,  
124 prevention, and treatment of communicable diseases and other  
125 conditions considered prejudicial to public health; and

126           (b) Any such public or private correctional facility  
127 shall grant representatives of the State Department of Health, in  
128 the discharge of its duties, access to all areas of the facility  
129 and to the offenders and staff at all times. The facility shall  
130 reimburse the State Department of Health for all costs incurred  
131 for the control of communicable diseases or other conditions  
132 prejudicial to public health in the facility and for the costs  
133 incurred for the control of communicable diseases or other  
134 conditions prejudicial to public health spreading from the  
135 facility, staff or inmates to other individuals or property in the  
136 county or state.

137           **SECTION 2.** This act shall take effect and be in force from  
138 and after July 1, 2005.