

By: Representatives Brown, Mayo

To: Judiciary En Banc

## HOUSE BILL NO. 620

1 AN ACT TO AMEND SECTION 99-17-20, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE DNA TESTING IN DEATH PENALTY CASES BASED ON THE  
3 AVAILABILITY OF EVIDENCE; TO ESTABLISH PROCEDURE FOR OBTAINING DNA  
4 SAMPLES; TO AMEND SECTION 47-5-183, MISSISSIPPI CODE OF 1972, IN  
5 CONFORMITY; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 99-17-20, Mississippi Code of 1972, is  
8 amended as follows:

9 99-17-20. (1) No person shall be tried for capital murder,  
10 or any other crime punishable by death as provided by law, unless  
11 such offense was specifically cited in the indictment returned  
12 against the accused by setting forth the section and subsection  
13 number of the code defining the offense alleged to have been  
14 committed by the accused. The judge, in cases where the offense  
15 cited in the indictment is punishable by death, may grant an  
16 instruction for the state or the defendant which instructs the  
17 jury as to their discretion to convict the accused of the  
18 commission of an offense not specifically set forth in the  
19 indictment returned against the accused. Any conviction of the  
20 accused for an offense punishable by death shall not be valid  
21 unless the offense for which the accused is convicted shall have  
22 been set forth in the indictment by section and subsection number  
23 of the code which defined the offense allegedly committed by the  
24 accused.

25 (2) The Mississippi Department of Corrections or law  
26 enforcement agency shall administer DNA (deoxyribonucleic acid)  
27 tests to any person indicted or convicted of a crime punishable by  
28 death as provided by law. Any person currently serving a death

29 sentence, and who has not previously submitted a biological sample  
30 under Section 47-5-183, may request a post-conviction DNA test be  
31 administered upon the discovery and availability of new evidence.  
32 The accused or convicted shall have a sample of his or her blood,  
33 an oral swab, or a sample obtained from a noninvasive procedure  
34 taken at the time of indictment or if such person is incarcerated  
35 in a state correctional facility, shall at the time of entering  
36 the prison system have the sample taken for purposes of DNA  
37 identification analysis. The DNA evidence shall be preserved by  
38 the department or the law enforcement agency in possession of such  
39 evidence. The DNA evidence shall be made available to the  
40 indicted or convicted person for use in any legal proceeding.

41 **SECTION 2.** Section 47-5-183, Mississippi Code of 1972, is  
42 amended as follows:

43 47-5-183. Except as provided in Section 99-17-20, the  
44 Mississippi Department of Corrections is authorized, subject to  
45 the availability of funds, to secure a biological sample for  
46 purposes of DNA identification analysis from every individual  
47 convicted of a felony or in its custody before release from or  
48 transfer to a state correctional facility or county jail or other  
49 detention facility.

50 **SECTION 3.** This act shall take effect and be in force from  
51 and after its passage.