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Chapter No. 436
10/HR40/R959SG
EW / JP

HOUSE BILL NO. 1456

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1456

AN ACT TO AMEND SECTION 41-61-65, MISSISSIPPI CODE OF 1972, TO REVISE THE QUALIFICATIONS OF PATHOLOGISTS ABLE TO PERFORM POSTMORTEM EXAMINATIONS AND AUTOPSIES UPON REQUEST OF A CORONER; TO AMEND SECTION 41-61-59, MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION 41-61-77, MISSISSIPPI CODE OF 1972, TO REMOVE THE AUTHORITY OF COUNTIES TO ENTER INTO AN INTERLOCAL AGREEMENT IN ORDER TO OPERATE A MEDICAL EXAMINER DISTRICT INDEPENDENT OF THE STATE MEDICAL EXAMINER'S OFFICE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 41-61-65, Mississippi Code of 1972, is amended as follows:

41-61-65. (1) If, in the opinion of the medical examiner investigating the case, it is advisable and in the public interest that an autopsy or other study be made for the purpose of determining the primary and/or contributing cause of death, an autopsy or other study shall be made by the State Medical Examiner or by a competent pathologist designated by the State Medical Examiner or the Department of Public Safety as a pathologist qualified to perform postmortem examinations and autopsies; to be eligible to be designated under this section, a pathologist must be an M.D. or D.O. who is certified in forensic pathology by the American Board of Pathology unless a certified forensic pathologist is not available to perform a postmortem examination or autopsy within a reasonable time. The State Medical Examiner or designated pathologist may retain any tissues as needed for further postmortem studies or documentation. When the medical examiner has received notification under Section 41-39-15(6) that the deceased is medically suitable to be an organ and/or tissue donor, the State Medical Examiner or designated pathologist may

retain any biopsy or medically approved sample of the organ and/or tissue in accordance with the provisions of Section 41-39-15(6). A complete autopsy report of findings and interpretations, prepared on forms designated for this purpose, shall be submitted promptly to the State Medical Examiner. Copies of the report shall be furnished to the authorizing medical examiner, district attorney and court clerk. A copy of the report shall be furnished to one (1) adult member of the immediate family of the deceased or the legal representative or legal guardian of members of the immediate family of the deceased upon request. In determining the need for an autopsy, the medical examiner may consider the request from the district attorney or county prosecuting attorney, law enforcement or other public officials or private persons. However, if the death occurred in the manner specified in subsection (2)(j) of Section 41-61-59, an autopsy shall be performed by the State Medical Examiner or a designated pathologist who is qualified as required by this subsection, and the report of findings shall be forwarded promptly to the State Medical Examiner, investigating medical examiner, the State Department of Health, the infant's attending physician and the local sudden infant death syndrome coordinator.

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

(3) Family members or others who disagree with the medical examiner's determination shall be able to petition and present written argument to the State Medical Examiner for further review. If the petitioner still disagrees, he may petition the circuit

court, which may, in its discretion, hold a formal hearing. In all those proceedings, the State Medical Examiner and the county medical examiner or county medical examiner investigator who certified the information shall be made defendants. All costs of the petition and hearing shall be borne by the petitioner.

SECTION 2. Section 41-61-59, Mississippi Code of 1972, is amended as follows:

41-61-59. (1) A person's death that affects the public interest as specified in subsection (2) of this section shall be promptly reported to the medical examiner by the physician in attendance, any hospital employee, any law enforcement officer having knowledge of the death, the embalmer or other funeral home employee, any emergency medical technician, any relative or any other person present. The appropriate medical examiner shall notify the municipal or state law enforcement agency or sheriff and take charge of the body. When the medical examiner has received notification under Section 41-39-15(6) that the deceased is medically suitable to be an organ and/or tissue donor, the medical examiner's authority over the body shall be subject to the provisions of Section 41-39-15(6). The appropriate medical examiner shall notify the Mississippi Bureau of Narcotics within twenty-four (24) hours of receipt of the body in cases of death as described in subsection (2)(m) or (n) of this section.

(2) A death affecting the public interest includes, but is not limited to, any of the following:

(a) Violent death, including homicidal, suicidal or accidental death.

(b) Death caused by thermal, chemical, electrical or radiation injury.

(c) Death caused by criminal abortion, including self-induced abortion, or abortion related to or by sexual abuse.

(d) Death related to disease thought to be virulent or contagious that may constitute a public hazard.

(e) Death that has occurred unexpectedly or from an unexplained cause.

(f) Death of a person confined in a prison, jail or correctional institution.

(g) Death of a person where a physician was not in attendance within thirty-six (36) hours preceding death, or in prediagnosed terminal or bedfast cases, within thirty (30) days preceding death.

(h) Death of a person where the body is not claimed by a relative or a friend.

(i) Death of a person where the identity of the deceased is unknown.

(j) Death of a child under the age of two (2) years where death results from an unknown cause or where the circumstances surrounding the death indicate that sudden infant death syndrome may be the cause of death.

(k) Where a body is brought into this state for disposal and there is reason to believe either that the death was not investigated properly or that there is not an adequate certificate of death.

(l) Where a person is presented to a hospital emergency room unconscious and/or unresponsive, with cardiopulmonary resuscitative measures being performed, and dies within twenty-four (24) hours of admission without regaining consciousness or responsiveness, unless a physician was in attendance within thirty-six (36) hours preceding presentation to the hospital, or in cases in which the decedent had a prediagnosed terminal or bedfast condition, unless a physician was in attendance within thirty (30) days preceding presentation to the hospital.

(m) Death that is caused by drug overdose or which is believed to be caused by drug overdose.

(n) When a stillborn fetus is delivered and the cause of the demise is medically believed to be from the use by the mother of any controlled substance as defined in Section 41-29-105.

(3) The State Medical Examiner is empowered to investigate deaths, under the authority hereinafter conferred, in any and all political subdivisions of the state. The county medical examiners and county medical examiner investigators, while appointed for a specific county, may serve other counties on a regular basis with written authorization by the State Medical Examiner, or may serve other counties on an as-needed basis upon the request of the ranking officer of the investigating law enforcement agency. * * * If a death affecting the public interest takes place in a county other than the one where injuries or other substantial causal factors leading to the death have occurred, jurisdiction for investigation of the death may be transferred, by mutual agreement of the respective medical examiners of the counties involved, to the county where the injuries or other substantial causal factors occurred, and the costs of autopsy or other studies necessary to the further investigation of the death shall be borne by the county assuming jurisdiction.

(4) The chief county medical examiner or chief county medical examiner investigator may receive from the county in which he serves a salary of Nine Hundred Dollars ($900.00) per month, in addition to the fees specified in Sections 41-61-69 and 41-61-75, provided that no county shall pay the chief county medical examiner or chief county medical examiner investigator less than One Hundred Dollars ($100.00) per month as a salary, in addition to other compensation provided by law. In any county having one or more deputy medical examiners or deputy medical examiner investigators, each deputy may receive from the county in which he serves, in the discretion of the board of supervisors, a salary of not more than Nine Hundred Dollars ($900.00) per month, in

addition to the fees specified in Sections 41-61-69 and 41-61-75. For this salary the chief shall assure twenty-four-hour daily and readily available death investigators for the county, and shall maintain copies of all medical examiner death investigations for the county for at least the previous five (5) years. He shall coordinate his office and duties and cooperate with the State Medical Examiner, and the State Medical Examiner shall cooperate with him.

(5) A body composed of the State Medical Examiner, whether appointed on a permanent or interim basis, the Director of the State Board of Health or his designee, the Attorney General or his designee, the President of the Mississippi Coroners' Association (or successor organization) or his designee, and a certified pathologist appointed by the Mississippi State Medical Association shall adopt, promulgate, amend and repeal rules and regulations as may be deemed necessary by them from time to time for the proper enforcement, interpretation and administration of Sections 41-61-51 through 41-61-79, in accordance with the provisions of the Mississippi Administrative Procedures Law, being Section 25-43-1 et seq.

SECTION 3. Section 41-61-77, Mississippi Code of 1972, is amended as follows:

41-61-77. (1) The Department of Public Safety shall establish and maintain a central office for the Mississippi Crime Laboratory and the State Medical Examiner with appropriate facilities and personnel for postmortem medicolegal examinations. District offices, with appropriate facilities and personnel, may also be established and maintained if considered necessary by the department for the proper management of postmortem examinations.

The facilities of the central and district offices and their staff services may be available to the medical examiners and designated pathologists in their investigations.

(2) In order to provide proper facilities for investigating deaths as authorized in Sections 41-61-51 through 41-61-79, the State Medical Examiner may arrange for the use of existing public or private laboratory facilities. The State Medical Examiner may contract with qualified persons to perform or to provide support services for autopsies, studies and investigations not inconsistent with other applicable laws. Such laboratory facilities may be located at the University of Mississippi Medical Center or any other suitable location. The State Medical Examiner may also serve as a member of the faculty at the University of Mississippi Medical Center and other institutions of higher learning. He shall be authorized to employ, with the approval of the Commissioner of Public Safety, such additional scientific, technical, administrative and clerical assistants as are necessary for performance of his duties. Such employees in the office of the State Medical Examiner shall be subject to the rules, regulations and policies of the state personnel system in their employment.

(3) The State Medical Examiner shall be authorized to appoint and/or employ qualified pathologists as additional associate and assistant state medical examiners as are necessary to carry out the duties of his office. The associate and assistant state medical examiners shall be licensed to practice medicine in Mississippi and, insofar as practicable, shall be trained in the field of forensic pathology. The State Medical Examiner may delegate specific duties to competent and qualified medical examiners within the scope of the express authority granted to him by law or regulation. Employees of the office of the State Medical Examiner shall have the authority to enter any political subdivisions of this state for the purpose of carrying out medical investigations.

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SECTION 4. This act shall take effect and be in force from and after July 1, 2010.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 10, 2010

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 3, 2010

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

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