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Chapter No. 499
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SENATE BILL NO. 2435

Originated in Senate *Jennell Hughes* Secretary

SENATE BILL NO. 2435

AN ACT TO AMEND SECTION 41-61-55, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE MEDICAL EXAMINER SHALL BE APPOINTED BY THE COMMISSIONER OF PUBLIC SAFETY SUBJECT TO THE APPROVAL OF A PANEL; TO PROVIDE FOR THE MEMBERS OF THE STATE MEDICAL EXAMINER ADVISORY COUNCIL; TO AMEND SECTION 41-61-53, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO AMEND SECTION 41-61-59, MISSISSIPPI CODE OF 1972, TO DELETE THE ENTITY ESTABLISHED TO ADOPT REGULATIONS FOR THE ADMINISTRATION OF THE MEDICAL EXAMINER ACT; TO AMEND SECTION 41-61-61, MISSISSIPPI CODE OF 1972, TO REQUIRE THE COUNTY MEDICAL EXAMINER WHO IS NOTIFIED OF A DEATH AFFECTING THE PUBLIC INTEREST TO NOTIFY THE STATE MEDICAL EXAMINER; TO AMEND SECTION 41-61-63, MISSISSIPPI CODE OF 1972, TO REQUIRE THE COUNTY MEDICAL EXAMINER IN INVESTIGATIONS OF DEATHS AFFECTING THE PUBLIC INTEREST WHERE AN AUTOPSY WILL NOT BE PERFORMED TO MAKE DECISIONS IN CONSULTATION WITH LAW ENFORCEMENT OFFICIALS AND/OR THE STATE MEDICAL EXAMINER; TO AMEND SECTION 41-61-65, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN INVESTIGATIONS WHERE AN AUTOPSY WILL BE PERFORMED, THE STATE MEDICAL EXAMINER MAY CHOOSE A COMPETENT PATHOLOGIST TO PERFORM THE AUTOPSY; TO AMEND SECTION 41-61-77, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE MEDICAL EXAMINER MAY BE AN AFFILIATE OR REGULAR FACULTY MEMBER OF THE DEPARTMENT OF PATHOLOGY AT THE UNIVERSITY OF MISSISSIPPI MEDICAL CENTER; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 41-61-55, Mississippi Code of 1972, is amended as follows:

41-61-55. (1) There is hereby created the position of State Medical Examiner, to be established as herein provided under the * * * supervision of the Commissioner of Public Safety. The State Medical Examiner shall be appointed by the Commissioner of Public Safety subject to the approval of a majority of a panel composed of the following: (a) the Dean of the University of Mississippi Medical Center School of Medicine; (b) the Dean of the University of Mississippi School of Law; and (c) the State Health Officer. The State Medical Examiner may be discharged only for

good cause, upon the recommendation of the Commissioner of Public Safety, and by a majority of the same panel.

(2) Each applicant for the position of State Medical Examiner shall, as a minimum, be a physician who is eligible for a license to practice medicine in Mississippi and be certified in forensic pathology by the American Board of Pathology.

(3) There is hereby created the State Medical Examiner Advisory Council composed of the State Health Officer or his or her designee, the Dean of the University of Mississippi Medical Center School of Medicine or his or her designee, the Commissioner of Public Safety, the Attorney General or his or her designee, the President of the Mississippi Coroners' Association or his or her designee, the President of the Mississippi Prosecutors Association or his or her designee, the President of the Mississippi Public Defenders Association or his or her designee, the President of the Mississippi Association of Chiefs of Police or his or her designee, and the President of the Mississippi Sheriff's Association or his or her designee. The council shall be purely advisory and serve as a liaison between the State Medical Examiner and the various entities related to the Medical Examiner Act.

* * *

SECTION 2. Section 41-61-53, Mississippi Code of 1972, is amended as follows:

41-61-53. For the purposes of Sections 41-61-51 through 41-61-79, the following definitions shall apply:

(a) "Certification of death" means signing the death certificate.

(b) "Coroner" means the elected county official provided for in Sections 19-21-101 through 19-21-107.

(c) "County medical examiner investigator" means a nonphysician trained and appointed to investigate and certify deaths affecting the public interest.

(d) "County medical examiner" means a licensed physician appointed to investigate and certify deaths affecting the public interest.

(e) "Death affecting the public interest" means any death of a human being where the circumstances are sudden, unexpected, violent, suspicious or unattended.

(f) "Medical examiner" means the State Medical Examiner, county medical examiners and county medical examiner investigators collectively, unless otherwise specified.

(g) "Pronouncement of death" means the statement of opinion that life has ceased for an individual.

(h) "State medical examiner" means the board certified forensic pathologist/physician appointed by the Commissioner of Public Safety pursuant to Section 41-61-55 to investigate and certify deaths that affect the public interest.

SECTION 3. 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.

* * *

SECTION 4. Section 41-61-61, Mississippi Code of 1972, is amended as follows:

41-61-61. (1) Upon the death of any person where that death affects the public interest, the medical examiner of the county in which the body of the deceased is found or, if death occurs in a moving conveyance, where the conveyance stops and death is pronounced, shall be notified promptly by any person having knowledge or suspicion of such a death, as provided in subsection (1) of Section 41-61-59. The medical examiner shall then notify the State Medical Examiner, in accordance with Section 41-61-63(2)(a). No person shall disturb the body at the scene of such a death until authorized by the medical examiner, unless the medical examiner is unavailable and it is determined by an appropriate law enforcement officer that the presence of the body at the scene would risk the integrity of the body or provide a

hazard to the safety of others. For the limited purposes of this section, expression of an opinion that death has occurred may be made by a nurse, an emergency medical technician, or any other competent person, in the absence of a physician.

(2) The discovery of anatomical material suspected of being part of the human body shall be promptly reported either (a) to the medical examiner of the county in which the material is found, who shall report the discovery to the State Medical Examiner, or (b) to the State Medical Examiner.

(3) A person who willfully moves, distributes or conceals a body or body part in violation of this section is guilty of a misdemeanor, and may be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment for not more than six (6) months in the county jail, or by both such fine and imprisonment.

(4) Upon oral or written authorization of the medical examiner, if an autopsy is to be performed, the body shall be transported directly to an autopsy facility in a suitable secure conveyance, and the expenses of transportation shall be paid by the county for which the service is provided. The county may contract with individuals or make available a vehicle to the medical examiner or law enforcement personnel for transportation of bodies.

SECTION 5. Section 41-61-63, Mississippi Code of 1972, is amended as follows:

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

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

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

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

(d) Cooperate with the crime detection and medical examiner laboratories authorized by Section 45-1-17, the University of Mississippi Medical Center, the Attorney General, law enforcement agencies, the courts and the State of Mississippi.

(2) In addition, the medical examiners shall:

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

(b) Complete the medical examiner's portion of the certificate of death within seventy-two (72) hours of assuming jurisdiction over a death, and forward the certificate to the funeral director or to the family. The medical examiner's portion of the certificate of death shall include the decedent's name, the

date and time of death, the cause of death and the certifier's signature. If determination of the cause and/or manner of death are pending an autopsy or toxicological or other studies, these sections on the certificate may be marked "pending," with amendment and completion to follow the completion of the postmortem studies. The State Medical Examiner shall be authorized to amend a death certificate; however, the State Medical Examiner is not authorized to change or amend any death certificate after he has resigned or been removed from his office as the State Medical Examiner. Where an attending physician refuses to sign a certificate of death, or in case of any death, the State Medical Examiner or properly qualified designee may sign the death certificate.

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

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

(e) In all investigations of deaths occurring in the manner specified in subsection (2)(j) of Section 41-61-59, a death investigation shall be performed by the medical examiners in accordance with the child death investigation protocol established

by the State Medical Examiner. The results of the death investigation shall be reported to the State Medical Examiner on forms prescribed for that purpose by the State Medical Examiner and to appropriate authorities, including police and child protective services, within three (3) days of the conclusion of the death investigation.

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

SECTION 6. 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 the State Medical Examiner may choose a competent pathologist who is designated by the State Medical Examiner or the Department of Public Safety as a pathologist qualified to perform postmortem examinations and autopsies to perform the autopsy or study. 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 7. 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 be an affiliate or regular faculty member of the Department of Pathology at the University of Mississippi Medical Center and may serve as a member of the faculty of 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.

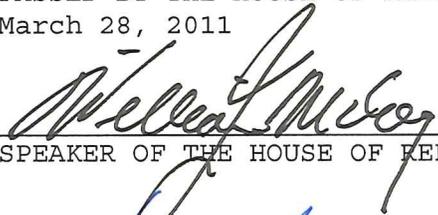
SECTION 8. This act shall take effect and be in force from and after July 1, 2011.

PASSED BY THE SENATE
March 28, 2011



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 28, 2011



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

4/6/11

4/10/11