

By: Representative Miles

To: Judiciary A

HOUSE BILL NO. 278

1 AN ACT TO AMEND SECTION 91-5-3, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT PROVISIONS OF A WILL AFFECTING A SPOUSE SHALL BECOME
3 VOID UPON DISSOLUTION OF THE MARRIAGE; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 91-5-3, Mississippi Code of 1972, is
6 amended as follows:

7 91-5-3. (1) A devise so made, or any clause thereof, shall
8 not be revocable but by the testator or testatrix destroying,
9 canceling, or obliterating the same, or causing it to be done in
10 his or her presence, or by subsequent will, codicil, or
11 declaration, in writing, made and executed. Every last will and
12 testament made when the testator or testatrix had no child living,
13 wherein any child he or she might have is not provided for or not
14 mentioned, if at the time of his or her death he or she have a
15 child, or if the testator leave his wife enceinte of a child who
16 shall be born, shall have no effect during the life of any such
17 after-born child and shall be void unless the child die without
18 having been married, or without leaving issue capable of
19 inheriting, and before he or she shall have attained twenty-one
20 (21) years. The estate, both real and personal, so devised shall
21 descend to such child in the same manner as if the testator or
22 testatrix had died intestate, subject, nevertheless, to the
23 bequests made in the last will and testament in case of the death
24 of such child before marriage, or without issue capable of
25 inheriting, and under the age of twenty-one (21) years. When a
26 testator shall leave children born and his wife enceinte, the

27 posthumous child or children, if unprovided for by settlement and
28 neither provided for nor disinherited, but only pretermitted, by
29 the last will and testament, shall succeed to the same portion of
30 the father's estate as such child or children would have been
31 entitled to if the father had died intestate, towards raising
32 which portion the devisees and legatees shall contribute
33 proportionably out of the parts devised and bequeathed to them by
34 the same will and testament.

35 (2) Any provisions of a will executed by a married person,
36 which provision affects the spouse of that person, shall become
37 void upon the divorce of that person or upon the dissolution or
38 annulment of the marriage. After the dissolution, divorce, or
39 annulment, any such will shall be administered and construed as if
40 the former spouse had died at the time of the dissolution,
41 divorce, or annulment of the marriage, unless the will or the
42 dissolution or divorce judgment expressly provides other
43 otherwise.

44 SECTION 2. This act shall take effect and be in force from
45 and after July 1, 1999.