

HOUSE BILL NO. 624

1 AN ACT TO AMEND SECTIONS 91-5-1 AND 91-5-3, MISSISSIPPI CODE
2 OF 1972, TO CLARIFY THAT THE LAST WISHES OF A TESTATOR OR
3 TESTATRIX SHALL BE HONORED; AND FOR RELATED PURPOSES.

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

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

7 91-5-1. Every person eighteen (18) years of age or older,
8 being of sound and disposing mind, shall have power, by last will
9 and testament, or codicil in writing, to devise all the estate,
10 right, title and interest in possession, reversion, or remainder,
11 which he or she hath, or at the time of his or her death shall
12 have, of, in, or to lands, tenements, hereditaments, or annuities,
13 or rents charged upon or issuing out of them, or goods and
14 chattels, and personal estate of any description whatever,
15 provided such last will and testament, or codicil, be signed by
16 the testator or testatrix, or by some other person in his or her
17 presence and by his or her express direction. Moreover, if not
18 wholly written and subscribed by himself or herself, it shall be
19 attested by two (2) or more credible witnesses in the presence of
20 the testator or testatrix. All surviving family members shall
21 honor the last will and testament of the testator or testatrix,
22 provided that such last will and testament is properly executed.

23 **SECTION 2.** Section 91-5-3, Mississippi Code of 1972, is
24 amended as follows:

25 91-5-3. A devise so made, or any clause thereof, shall not
26 be revocable but by the testator or testatrix destroying,
27 canceling, or obliterating the same, or causing it to be done in



28 his or her presence, or by subsequent will, codicil, or
29 declaration, in writing, made and executed and the surviving
30 family members of the testator or testatrix shall honor the last
31 action of the testator or testatrix, provided that such last
32 action is properly executed. Every last will and testament made
33 when the testator or testatrix had no child living, wherein any
34 child he or she might have is not provided for or not mentioned,
35 if at the time of his or her death he or she have a child, or if
36 the testator leave his wife enceinte of a child who shall be born,
37 shall have no effect during the life of any such after-born child
38 and shall be void unless the child die without having been
39 married, or without leaving issue capable of inheriting, and
40 before he or she shall have attained twenty-one years. The
41 estate, both real and personal, so devised shall descend to such
42 child in the same manner as if the testator or testatrix had died
43 intestate, subject, nevertheless, to the bequests made in the last
44 will and testament in case of the death of such child before
45 marriage, or without issue capable of inheriting, and under the
46 age of twenty-one (21) years. When a testator shall leave
47 children born and his wife enceinte, the posthumous child or
48 children, if unprovided for by settlement and neither provided for
49 nor disinherited, but only pretermitted, by the last will and
50 testament, shall succeed to the same portion of the father's
51 estate as such child or children would have been entitled to if
52 the father had died intestate, towards raising which portion the
53 devisees and legatees shall contribute proportionably out of the
54 parts devised and bequeathed to them by the same will and
55 testament.

56 **SECTION 3.** This act shall take effect and be in force from
57 and after July 1, 2003.

