

By: Representative Mayo

To: Judiciary A

HOUSE BILL NO. 348

1 AN ACT TO AMEND SECTION 93-5-15, MISSISSIPPI CODE OF 1972, TO
2 ALLOW THE PARENT, SIBLING OR GUARDIAN OF A COMATOSE PERSON TO FILE
3 FOR DIVORCE FOR SUCH PERSON IF THE OFFENDING SPOUSE HAS BECOME THE
4 PARENT OF ANY CHILDREN OUTSIDE OF THE MARRIAGE; TO AMEND SECTION
5 93-5-7, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR
6 RELATED PURPOSES.

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

8 **SECTION 1.** Section 93-5-15, Mississippi Code of 1972, is
9 amended as follows:

10 93-5-15. (1) From and after March 15, 1934, any marital
11 contract heretofore or hereafter solemnized by and under which
12 parties have been duly and legally married, and one (1) of the
13 parties to said marriage contract has, or shall become insane to
14 such an extent that it is necessary for a guardian to be appointed
15 for such party, and the other party to such marital contract shall
16 have committed any act which constitutes ground for divorce under
17 the present laws, the guardian for such innocent or incompetent
18 party to such contract of marriage shall have the right to file
19 bill, as such guardian, in the name of his ward, for the
20 dissolution of such marriage, in the same way and manner, and at
21 the same place, and on the same process that said incompetent or
22 insane person could have done, had he not lost his mind.

23 (2) If one (1) of the parties to a legal marriage contract
24 shall become comatose and the other party shall become the parent
25 of any children outside of the marriage during the time that the
26 party is comatose, then a parent, sibling or guardian of the
27 nonoffending party shall have the right to file a bill in the name
28 of the comatose party for the dissolution of the marriage, in the
29 same way and manner, and at the same place, and on the same

30 process that the comatose party could have done, had the party not
31 been comatose.

32 **SECTION 2.** Section 93-5-7, Mississippi Code of 1972, is
33 amended as follows:

34 93-5-7. The proceedings to obtain a divorce shall be by
35 complaint in chancery, and shall be conducted as other suits in
36 chancery, except that (1) the defendant shall not be required to
37 answer on oath; (2) no judgment by default may be granted but a
38 divorce may be granted on the ground of irreconcilable differences
39 in termtime or vacation; (3) admissions made in the answer shall
40 not be taken as evidence; (4) the clerk shall not set down on the
41 issue docket any divorce case unless upon the request of one (1)
42 of the parties or as provided in Section 93-5-15; (5) the
43 plaintiff may allege only the statutory language as cause for
44 divorce in a separate paragraph in the complaint; provided,
45 however, the defendant shall be entitled to discover any matter,
46 not privileged, which is relevant to the issues raised by the
47 claims or defenses of the other; (6) the court shall have full
48 power in its discretion to grant continuances in such cases
49 without the compliance by the parties with any of the requirements
50 of law respecting continuances in other cases; and (7) in all
51 cases, except complaints seeking a divorce on the ground of
52 irreconcilable differences, the complaint must be accompanied with
53 an affidavit of plaintiff that it is not filed by collusion with
54 the defendant for the purpose of obtaining a divorce, but that the
55 cause or causes for divorce stated in the complaint are true as
56 stated.

57 **SECTION 3.** This act shall take effect and be in force from
58 and after July 1, 2006.