

By: Representative Moore

To: Judiciary A

HOUSE BILL NO. 185

1 AN ACT TO AMEND SECTION 93-5-1, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE GROUNDS FOR DIVORCE OF HABITUAL CRUEL AND INHUMAN  
3 TREATMENT TO INCLUDE EXCESSIVE VERBAL, MENTAL, PSYCHOLOGICAL OR  
4 EMOTIONAL ABUSE; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 93-5-1, Mississippi Code of 1972, is  
7 amended as follows:

8 93-5-1. Divorces from the bonds of matrimony may be decreed  
9 to the injured party for any one or more of the following twelve  
10 (12) causes:

11 First. Natural impotency.

12 Second. Adultery, unless it should appear that it was  
13 committed by collusion of the parties for the purpose of procuring  
14 a divorce, or unless the parties cohabited after a knowledge by  
15 complainant of the adultery.

16 Third. Being sentenced to any penitentiary, and not pardoned  
17 before being sent there.

18 Fourth. Willful, continued and obstinate desertion for the  
19 space of one (1) year.



20 Fifth. Habitual drunkenness.

21 Sixth. Habitual and excessive use of opium, morphine or  
22 other like drug.

23 Seventh. Habitual cruel and inhuman treatment, including  
24 excessive verbal, mental, psychological or emotional abuse.

25 Eighth. Having mental illness or an intellectual disability  
26 at the time of marriage, if the party complaining did not know of  
27 that infirmity.

28 Ninth. Marriage to some other person at the time of the  
29 pretended marriage between the parties.

30 Tenth. Pregnancy of the wife by another person at the time  
31 of the marriage, if the husband did not know of the pregnancy.

32 Eleventh. Either party may have a divorce if they are  
33 related to each other within the degrees of kindred between whom  
34 marriage is prohibited by law.

35 Twelfth. Incurable mental illness. However, no divorce  
36 shall be granted upon this ground unless the party with mental  
37 illness has been under regular treatment for mental illness and  
38 causes thereof, confined in an institution for persons with mental  
39 illness for a period of at least three (3) years immediately  
40 preceding the commencement of the action. However, transfer of a  
41 party with mental illness to his or her home for treatment or a  
42 trial visit on prescription or recommendation of a licensed  
43 physician, which treatment or trial visit proves unsuccessful  
44 after a bona fide effort by the complaining party to effect a



45 cure, upon the reconfinement of the party with mental illness in  
46 an institution for persons with mental illness, shall be regular  
47 treatment for mental illness and causes thereof, and the period of  
48 time so consumed in seeking to effect a cure or while on a trial  
49 visit home shall be added to the period of actual confinement in  
50 an institution for persons with mental illness in computing the  
51 required period of three (3) years confinement immediately  
52 preceding the beginning of the action. No divorce shall be  
53 granted because of mental illness until after a thorough  
54 examination of the person with mental illness by two (2)  
55 physicians who are recognized authorities on mental diseases. One  
56 (1) of those physicians shall be either the superintendent of a  
57 state psychiatric hospital or institution or a veterans hospital  
58 for persons with mental illness in which the patient is confined,  
59 or a member of the medical staff of that hospital or institution  
60 who has had the patient in charge. Before incurable mental  
61 illness can be successfully proven as a ground for divorce, it  
62 shall be necessary that both of those physicians make affidavit  
63 that the patient is a person with mental illness at the time of  
64 the examination, and both affidavits shall be made a part of the  
65 permanent record of the divorce proceedings and shall create the  
66 prima facie presumption of incurable mental illness, such as would  
67 justify a divorce based on that ground. Service of process shall  
68 be made on the superintendent of the hospital or institution in  
69 which the defendant is a patient. If the patient is in a hospital



70 or institution outside the state, process shall be served by  
71 publication, as in other cases of service by publication, together  
72 with the sending of a copy by registered mail to the  
73 superintendent of the hospital or institution. In addition,  
74 process shall be served upon the next blood relative and guardian,  
75 if any. If there is no legal guardian, the court shall appoint a  
76 guardian ad litem to represent the interest of the person with  
77 mental illness. The relative or guardian and superintendent of  
78 the hospital or institution shall be entitled to appear and be  
79 heard upon any and all issues. The status of the parties as to  
80 the support and maintenance of the person with mental illness  
81 shall not be altered in any way by the granting of the divorce.

82 However, in the discretion of the chancery court, and in  
83 those cases as the court may deem it necessary and proper, before  
84 any such decree is granted on the ground of incurable mental  
85 illness, the complainant, when ordered by the court, shall enter  
86 into bond, to be approved by the court, in such an amount as the  
87 court may think just and proper, conditioned for the care and  
88 keeping of the person with mental illness during the remainder of  
89 his or her natural life, unless the person with mental illness has  
90 a sufficient estate in his or her own right for that purpose.

91 **SECTION 2.** This act shall take effect and be in force from  
92 and after July 1, 2015.

