

By: Representative Barton

To: Judiciary A

HOUSE BILL NO. 549

1 AN ACT TO CREATE NEW SECTION 41-3-9, MISSISSIPPI CODE OF  
2 1972, TO PROVIDE THAT WHERE A CEMETERY OR GRAVEYARD HAS BEEN USED  
3 BY THE PUBLIC FOR 20 YEARS OR MORE AND NO PART OF THE CEMETERY OR  
4 GRAVEYARD IS ADJACENT TO ANY PUBLIC ROAD OR HIGHWAY, ANY PERSON  
5 WHO HAS RELATIVES BURIED IN THE CEMETERY OR GRAVEYARD SHALL HAVE  
6 THE RIGHT TO ACQUIRE A CONVENIENT RIGHT-OF-WAY OVER THE LANDS  
7 LYING BETWEEN THE CEMETERY OR GRAVEYARD AND THE NEAREST PUBLIC  
8 ROAD OR HIGHWAY; TO CREATE NEW SECTION 41-43-11, MISSISSIPPI CODE  
9 OF 1972, TO PROVIDE THAT OWNERS AND LESSEES OF PRIVATE LAND ON  
10 WHICH A CEMETERY, GRAVES OR BURIAL SITES ARE LOCATED SHALL HAVE A  
11 DUTY TO ALLOW REASONABLE ACCESS TO THE CEMETERY, GRAVES OR BURIAL  
12 SITES BY CERTAIN PERSONS WHO HAVE GIVEN REASONABLE NOTICE TO THE  
13 OWNER OR LESSEES; TO PROVIDE THAT ANY PERSON ENTERING ONTO PRIVATE  
14 LAND AS AUTHORIZED BY THIS SECTION SHALL BE RESPONSIBLE FOR  
15 CONDUCTING HIMSELF IN A MANNER THAT DOES NOT DAMAGE THE PRIVATE  
16 LAND, CEMETERY, GRAVESITE OR BURIAL SITE, AND SHALL BE LIABLE TO  
17 THE OWNER OR LESSEE OF THE PROPERTY FOR ANY DAMAGE CAUSED AS THE  
18 RESULT OF HIS ACCESS; TO PROVIDE IMMUNITY FROM LIABILITY TO THE  
19 LANDOWNER AND LESSEE IN ANY CIVIL ACTION ARISING OUT OF THE ACCESS  
20 GRANTED BY THIS SECTION; AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** The following shall be codified as Section  
23 41-3-9, Mississippi Code of 1972:

24 41-43-9. Where a cemetery or graveyard has been used by the  
25 public as a place for burying the dead for twenty (20) years or  
26 more and no part of the cemetery or graveyard is adjacent or  
27 contiguous to any public road or highway, any person or persons



28 who have relatives or relations buried in the cemetery or  
29 graveyard shall have the right to acquire and may acquire a  
30 convenient right-of-way, not exceeding in width fifteen (15) feet,  
31 over the lands intervening and lying between the cemetery or  
32 graveyard or body of land on which the same is situated and the  
33 public road or highway nearest or most convenient thereto.

34         **SECTION 2.** The following shall be codified as Section  
35 41-43-11, Mississippi Code of 1972:

36         41-43-11. (1) Owners and lessees of private land on which a  
37 cemetery, graves, or burial sites are located shall have a duty to  
38 allow ingress and egress to the cemetery, graves or burial sites  
39 by (a) family members, friends, or descendants of deceased persons  
40 buried there; (b) any cemetery plot owner; and (c) any person  
41 engaged in genealogical, historical or cultural research, who has  
42 given reasonable notice to the owner of record or to the lessees,  
43 or both.

44             (2) (a) The right of ingress and egress granted by this  
45 section shall be reasonable and limited to the purposes of  
46 visiting graves or burial sites, maintaining the gravesite or  
47 burial site or cemetery, or conducting genealogical, historical or  
48 cultural research, or, in the case of a plot owner, burying a  
49 deceased person in the plot.

50             (b) The owner or lessee of the land has the right to  
51 designate the frequency, hours, and duration of the access and the  
52 access route, if no traditional access route is obviously visible



53 from a view of the property, provided that the designation is  
54 reasonable for the purposes set out above.

55 (3) (a) Any person entering onto private land as provided  
56 in this section shall be responsible for conducting himself or  
57 herself in a manner that does not damage the private land,  
58 cemetery, gravesite or burial site, and shall be liable to the  
59 owner or lessee of the property for any damage caused as the  
60 result of his or her access.

61 (b) The landowner and lessee, in the absence of gross  
62 negligence or willful misconduct, shall be immune from liability  
63 in any civil suit, action or cause of action arising out of the  
64 access granted by this section.

65 **SECTION 3.** This act shall take effect and be in force from  
66 and after July 1, 2018.

