

By: Representatives Arnold, Scoggin

To: Judiciary B

HOUSE BILL NO. 1084

1 AN ACT TO PROVIDE THAT A COURT SHALL CONDUCT A PRELIMINARY  
 2 HEARING WHEN A CHILD IS ALLEGED TO HAVE BEEN CONCEIVED AS A RESULT  
 3 OF A RAPE OR SEXUAL BATTERY; TO REQUIRE THE HEARING UPON  
 4 CONVICTION OF THE ALLEGED PARENT OF THE CHILD; TO REQUIRE A COURT  
 5 TO DETERMINE WHETHER THERE IS A REASONABLE CHANCE THAT A CHILD  
 6 COULD HAVE BEEN CONCEIVED FROM THE RAPE OR SEXUAL BATTERY; TO  
 7 REQUIRE THE COURT TO SEND ALL INFORMATION RELATED TO THE  
 8 CONVICTION AND THE PRELIMINARY HEARING TO THE CHANCERY COURT OF  
 9 THE COUNTY IN WHICH THE CONVICTION OCCURRED; TO REQUIRE THE  
 10 CHANCERY COURT TO DETERMINE BY CLEAR AND CONVINCING EVIDENCE THAT  
 11 A CHILD WAS CONCEIVED AS A RESULT OF THE RAPE OR SEXUAL BATTERY  
 12 FOR WHICH THE PERSON WAS CONVICTED; TO PROVIDE THAT THE COURT  
 13 SHALL TERMINATE THE PARENTAL RIGHTS OF THE CONVICTED PARENT IF THE  
 14 CHILD IS PROVEN TO HAVE BEEN CONCEIVED AS A RESULT OF THE RAPE OR  
 15 SEXUAL BATTERY; TO AMEND SECTIONS 97-3-65, 97-3-101, 93-15-105,  
 16 93-15-107, 93-15-113, 93-15-115, 93-15-117 AND 91-1-15,  
 17 MISSISSIPPI CODE OF 1972, IN CONFORMITY WITH THE PRECEDING  
 18 PROVISIONS; TO BRING FORWARD SECTION 11-7-3, MISSISSIPPI CODE OF  
 19 1972, FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** (1) Upon conviction of rape or sexual battery,  
 22 if a child is alleged to have been conceived as a result of the  
 23 rape or sexual battery, the court shall conduct a preliminary  
 24 hearing to determine whether there is a reasonable chance that a  
 25 child could have been conceived from the rape or sexual battery.  
 26 If the court finds that there is a reasonable chance that a child



27 could have been conceived from the rape or sexual battery, the  
28 court shall transfer all information related to the conviction and  
29 the preliminary hearing to the chancery court of the county in  
30 which the conviction occurred.

31 (2) Upon receipt of the information described in subsection  
32 (1) of this section, the chancery court shall determine by clear  
33 and convincing evidence that a child was conceived as a result of  
34 the rape or sexual battery for which the person was convicted. If  
35 the court makes such a determination, the court shall terminate  
36 the parental rights of the convicted person to each child  
37 conceived as a result of the rape or sexual battery.

38 (3) (a) In any action to terminate parental rights under  
39 this section, and after consultation with the victim, the court  
40 may order:

41 (i) Payment for reasonable expenses related to the  
42 pregnancy, labor, delivery, postpartum care, newborn care, or  
43 early childhood care of the child or mother, unless the mother is  
44 the person whose rights are terminated under this section; or

45 (ii) Child support.

46 (b) Each child conceived shall have all rights to  
47 inherit from the parent whose rights were terminated. Neither the  
48 parent who is convicted for rape or sexual battery under this  
49 section nor the kindred of such parent may inherit from or through  
50 the child through intestate succession or wrongful death.



51           **SECTION 2.** Section 97-3-65, Mississippi Code of 1972, is  
52 amended as follows:

53           97-3-65. (1) The crime of statutory rape is committed when:

54                   (a) Any person seventeen (17) years of age or older has  
55 sexual intercourse with a child who:

56                           (i) Is at least fourteen (14) but under sixteen  
57 (16) years of age;

58                           (ii) Is thirty-six (36) or more months younger  
59 than the person; and

60                           (iii) Is not the person's spouse; or

61                   (b) A person of any age has sexual intercourse with a  
62 child who:

63                           (i) Is under the age of fourteen (14) years;

64                           (ii) Is twenty-four (24) or more months younger  
65 than the person; and

66                           (iii) Is not the person's spouse.

67           (2) Neither the victim's consent nor the victim's lack of  
68 chastity is a defense to a charge of statutory rape.

69           (3) Upon conviction for statutory rape, the defendant shall  
70 be sentenced as follows:

71                   (a) If eighteen (18) years of age or older, but under  
72 twenty-one (21) years of age, and convicted under subsection

73 (1)(a) of this section, to imprisonment for not more than five (5)  
74 years in the State Penitentiary or a fine of not more than Five  
75 Thousand Dollars (\$5,000.00), or both;



76           (b) If twenty-one (21) years of age or older and  
77 convicted under subsection (1)(a) of this section, to imprisonment  
78 of not more than thirty (30) years in the State Penitentiary or a  
79 fine of not more than Ten Thousand Dollars (\$10,000.00), or both,  
80 for the first offense, and not more than forty (40) years in the  
81 State Penitentiary for each subsequent offense;

82           (c) If eighteen (18) years of age or older and  
83 convicted under subsection (1)(b) of this section, to imprisonment  
84 for life in the State Penitentiary or such lesser term of  
85 imprisonment as the court may determine, but not less than twenty  
86 (20) years;

87           (d) If thirteen (13) years of age or older but under  
88 eighteen (18) years of age and convicted under subsection (1)(a)  
89 or (1)(b) of this section, such imprisonment, fine or other  
90 sentence as the court, in its discretion, may determine.

91           (4) (a) Every person who shall have forcible sexual  
92 intercourse with any person, or who shall have sexual intercourse  
93 not constituting forcible sexual intercourse or statutory rape  
94 with any person without that person's consent by administering to  
95 such person any substance or liquid which shall produce such  
96 stupor or such imbecility of mind or weakness of body as to  
97 prevent effectual resistance, upon conviction, shall be imprisoned  
98 for life in the State Penitentiary if the jury by its verdict so  
99 prescribes; and in cases where the jury fails to fix the penalty  
100 at life imprisonment, the court shall fix the penalty at



101 imprisonment in the State Penitentiary for any term as the court,  
102 in its discretion, may determine.

103 (b) This subsection (4) shall apply whether the  
104 perpetrator is married to the victim or not.

105 (5) In all cases where a victim is under the age of sixteen  
106 (16) years, it shall not be necessary to prove penetration where  
107 it is shown the genitals, anus or perineum of the child have been  
108 lacerated or torn in the attempt to have sexual intercourse with  
109 the child.

110 (6) (a) Upon conviction under this section, the court may  
111 issue a criminal sexual assault protection order prohibiting the  
112 offender from any contact with the victim, without regard to the  
113 relationship between the victim and offender. The court may  
114 include in a criminal sexual assault protection order any relief  
115 available under Section 93-21-15. The term of a criminal sexual  
116 assault protection order shall be for a time period determined by  
117 the court, but all orders shall, at a minimum, remain in effect  
118 for a period of two (2) years after the expiration of any sentence  
119 of imprisonment and subsequent period of community supervision,  
120 conditional release, probation, or parole. Upon issuance of a  
121 criminal sexual assault protection order, the clerk of the issuing  
122 court shall enter the order in the Mississippi Protection Order  
123 Registry within twenty-four (24) hours of issuance, with no  
124 exceptions for weekends or holidays as provided in Section



125 93-21-25, and a copy must be provided to both the victim and  
126 offender.

127 (b) Criminal sexual assault protection orders shall be  
128 issued on the standardized form developed by the Office of the  
129 Attorney General.

130 (c) It is a misdemeanor to knowingly violate any  
131 condition of a criminal sexual assault protection order. Upon  
132 conviction for a violation, the defendant shall be punished by a  
133 fine of not more than Five Hundred Dollars (\$500.00) or by  
134 imprisonment in the county jail for not more than six (6) months,  
135 or both. Any sentence imposed for the violation of a criminal  
136 sexual assault protection order shall run consecutively to any  
137 other sentences imposed on the offender. The court shall also be  
138 empowered to extend the criminal sexual assault protection order  
139 for a period of one (1) year for each violation. The  
140 incarceration of a person at the time of the violation is not a  
141 bar to prosecution under this section. Nothing in this subsection  
142 shall be construed to prohibit the imposition of any other  
143 penalties or disciplinary action otherwise allowed by law or  
144 policy.

145 (7) Upon conviction under this section, if a child is  
146 alleged to have been conceived as a result of the rape for which  
147 the person was convicted, the court shall conduct a preliminary  
148 hearing to determine whether there is a reasonable chance that a  
149 child could have been conceived from the rape. If the court finds



150 that there is a reasonable chance that a child could have been  
151 conceived from the rape, the court shall transfer all information  
152 related to the crime and the preliminary hearing to the chancery  
153 court of the county in which the conviction occurred.

154 ( \* \* \*8) For the purposes of this section, "sexual  
155 intercourse" shall mean a joining of the sexual organs of a male  
156 and female human being in which the penis of the male is inserted  
157 into the vagina of the female or the penetration of the sexual  
158 organs of a male or female human being in which the penis or an  
159 object is inserted into the genitals, anus or perineum of a male  
160 or female.

161 **SECTION 3.** Section 97-3-101, Mississippi Code of 1972, is  
162 amended as follows:

163 97-3-101. (1) Every person who shall be convicted of sexual  
164 battery under Section 97-3-95(1) (a), (b) or (2) shall be  
165 imprisoned in the State Penitentiary for a period of not more than  
166 thirty (30) years, and for a second or subsequent such offense  
167 shall be imprisoned in the Penitentiary for not more than forty  
168 (40) years.

169 (2) (a) Every person who shall be convicted of sexual  
170 battery under Section 97-3-95(1) (c) who is at least eighteen (18)  
171 but under twenty-one (21) years of age shall be imprisoned for not  
172 more than five (5) years in the State Penitentiary or fined not  
173 more than Five Thousand Dollars (\$5,000.00), or both;



174           (b) Every person who shall be convicted of sexual  
175 battery under Section 97-3-95(1)(c) who is twenty-one (21) years  
176 of age or older shall be imprisoned not more than thirty (30)  
177 years in the State Penitentiary or fined not more than Ten  
178 Thousand Dollars (\$10,000.00), or both, for the first offense, and  
179 not more than forty (40) years in the State Penitentiary for each  
180 subsequent offense.

181           (3) Every person who shall be convicted of sexual battery  
182 under Section 97-3-95(1)(d) who is eighteen (18) years of age or  
183 older shall be imprisoned for life in the State Penitentiary or  
184 such lesser term of imprisonment as the court may determine, but  
185 not less than twenty (20) years.

186           (4) Every person who shall be convicted of sexual battery  
187 who is thirteen (13) years of age or older but under eighteen (18)  
188 years of age shall be sentenced to such imprisonment, fine or  
189 other sentence as the court, in its discretion, may determine.

190           (5) (a) Upon conviction \* \* \* for sexual battery, the court  
191 may issue a criminal sexual assault protection order prohibiting  
192 the offender from any contact with the victim, without regard to  
193 the relationship between the victim and offender. The court may  
194 include in a criminal sexual assault protection order any relief  
195 available under Section 93-21-15. The term of a criminal sexual  
196 assault protection order shall be for a time period determined by  
197 the court, but all orders shall, at a minimum, remain in effect  
198 for a period of two (2) years following the expiration of any





199 sentence of imprisonment and subsequent period of community  
200 supervision, conditional release, probation, or parole. Upon  
201 issuance of a criminal sexual assault protection order, the clerk  
202 of the issuing court shall enter the order in the Mississippi  
203 Protection Order Registry within twenty-four (24) hours of  
204 issuance with no exceptions for weekends or holidays as provided  
205 in Section 93-21-25, and a copy must be provided to both the  
206 victim and offender.

207 (b) Criminal sexual assault protection orders shall be  
208 issued on the standardized form developed by the Office of the  
209 Attorney General.

210 (c) It is a misdemeanor to knowingly violate any  
211 condition of a criminal sexual assault protection order. Upon  
212 conviction for a violation, the defendant shall be punished by a  
213 fine of not more than Five Hundred Dollars (\$500.00) or by  
214 imprisonment in the county jail for not more than six (6) months,  
215 or both. Any sentence imposed for the violation of a criminal  
216 sexual assault protection order shall run consecutively to any  
217 other sentences imposed on the offender. The court may extend the  
218 criminal sexual assault protection order for a period of one (1)  
219 year for each violation. The incarceration of a person at the  
220 time of the violation is not a bar to prosecution under this  
221 section. Nothing in this subsection shall be construed to  
222 prohibit the imposition of any other penalties or disciplinary  
223 action otherwise allowed by law or policy.



224       (6) Upon conviction for sexual battery, if a child is  
225 alleged to have been conceived as a result of the sexual battery,  
226 the court shall conduct a preliminary hearing to determine whether  
227 there is a reasonable chance that a child could have been  
228 conceived from the sexual battery for which he or she was  
229 convicted. If the court finds that there is a reasonable chance  
230 that a child could have been conceived from the sexual battery,  
231 the court shall transfer all information related to the crime and  
232 the preliminary hearing to the chancery court of the county in  
233 which the conviction occurred.

234       **SECTION 4.** Section 93-15-105, Mississippi Code of 1972, is  
235 amended as follows:

236       93-15-105. (1) The chancery court has original exclusive  
237 jurisdiction over all termination of parental rights proceedings  
238 except that a county court, when sitting as a youth court with  
239 jurisdiction of a child in an abuse or neglect proceeding, has  
240 original exclusive jurisdiction to hear a petition for termination  
241 of parental rights against a parent of that child.

242       (2) (a) Venue in a county court sitting as a youth court  
243 for termination of parental rights proceedings shall be in the  
244 county in which the court has jurisdiction of the child in the  
245 abuse or neglect proceedings. Venue in chancery court for  
246 termination of parental rights proceedings shall be proper either  
247 in the county in which the defendant resides, the child resides or  
248 in the county where an agency or institution having custody of the



249 child is located. However, venue in chancery court for  
250 termination of parental rights commenced by receipt of information  
251 regarding conviction of a parent as described in Section 1 of this  
252 act shall be proper in the county in which the parent was  
253 convicted of rape or sexual battery.

254 (b) Transfers of venue shall be governed by the  
255 Mississippi Rules of Civil Procedure.

256 **SECTION 5.** Section 93-15-107, Mississippi Code of 1972, is  
257 amended as follows:

258 93-15-107. (1) (a) Involuntary termination of parental  
259 rights proceedings are commenced upon the filing of a petition  
260 under this chapter or upon receipt of information from a circuit  
261 court to a chancery court regarding termination of parental rights  
262 of an alleged parent convicted of rape or sexual battery. The  
263 petition may be filed by any interested person, or any agency,  
264 institution or person holding custody of the child. The  
265 simultaneous filing of a petition for adoption is not a  
266 prerequisite for filing a petition under this chapter.

267 (b) \* \* \* Except as otherwise provided in this paragraph  
268 (b), the proceeding shall be triable, either in term time or  
269 vacation, thirty (30) days after personal service of process to  
270 any necessary party or, for a necessary party whose address is  
271 unknown after diligent search, thirty (30) days after the date of  
272 the first publication of service of process by publication that  
273 complies with the Mississippi Rules of Civil Procedure. The



274 provisions of this paragraph shall not apply when the proceeding  
275 is commenced due to receipt of information as described in Section  
276 1 of this act regarding the parent whose rights are being  
277 terminated.

278 (c) Except as otherwise provided in this paragraph,  
279 necessary parties to a termination of parental rights action shall  
280 include the mother of the child, the legal father of the child,  
281 the putative father of the child when known, and any agency,  
282 institution or person holding custody of the child. The absence  
283 of a necessary party who has been properly served does not  
284 preclude the court from conducting the hearing or rendering a  
285 final judgment. The provisions of this paragraph shall not apply  
286 when the proceeding is commenced due to receipt of information as  
287 described in Section 1 of this act regarding the parent whose  
288 rights are being terminated.

289 (d) A guardian ad litem shall be appointed to protect  
290 the best interest of the child, except that the court, in its  
291 discretion, may waive this requirement when a parent executes a  
292 written voluntary release to terminate parental rights. The  
293 guardian ad litem fees shall be determined and assessed in the  
294 discretion of the court.

295 (2) Voluntary termination of parental rights by written  
296 voluntary release is governed by Section 93-15-111.

297 (3) In all cases involving termination of parental rights, a  
298 minor parent shall be served with process as an adult.



299 (4) The court may waive service of process if an adoptive  
300 child was born in a foreign country, put up for adoption in the  
301 birth country, and has been legally admitted into this country.

302 **SECTION 6.** Section 93-15-113, Mississippi Code of 1972, is  
303 amended as follows:

304 93-15-113. (1) A hearing on the involuntary termination of  
305 parental rights shall be conducted without a jury and in  
306 accordance with the Mississippi Rules of Evidence. The court may  
307 exclude the child from the hearing if the court determines that  
308 the exclusion of the child from the hearing is in the child's best  
309 interest.

310 (2) (a) Except as otherwise provided in paragraph (c) of  
311 this subsection (2), at the beginning of the involuntary  
312 termination of parental rights hearing, the court shall determine  
313 whether all necessary parties are present and identify all persons  
314 participating in the hearing; determine whether the notice  
315 requirements have been complied with and, if not, determine  
316 whether the affected parties intelligently waived compliance with  
317 the notice requirements; explain to the parent the purpose of the  
318 hearing, the standard of proof required for terminating parental  
319 rights, and the consequences if the parent's parental rights are  
320 terminated. The court shall also explain to the parent:

- 321 (i) The right to counsel;
- 322 (ii) The right to remain silent;
- 323 (iii) The right to subpoena witnesses;



324 (iv) The right to confront and cross-examine  
325 witnesses; and

326 (v) The right to appeal, including the right to a  
327 transcript of the proceedings.

328 (b) The court shall then determine whether the parent  
329 before the court is represented by counsel. If the parent wishes  
330 to retain counsel, the court shall continue the hearing for a  
331 reasonable time to allow the parent to obtain and consult with  
332 counsel of the parent's own choosing. If an indigent parent does  
333 not have counsel, the court shall determine whether the parent is  
334 entitled to appointed counsel under the Constitution of the United  
335 States, the Mississippi Constitution of 1890, or statutory law  
336 and, if so, appoint counsel for the parent and then continue the  
337 hearing for a reasonable time to allow the parent to consult with  
338 the appointed counsel. The setting of fees for court-appointed  
339 counsel and the assessment of those fees are in the discretion of  
340 the court.

341 (c) The requirements of this subsection (2) shall not  
342 apply when the involuntary termination of parental rights  
343 proceeding is commenced due to a transfer from the circuit court  
344 as a result of the conviction of an alleged parent as described in  
345 Section 1 of this act.

346 **SECTION 7.** Section 93-15-115, Mississippi Code of 1972, is  
347 amended as follows:



348           93-15-115. When reasonable efforts for reunification are  
349 required for a child who is in the custody of, or under the  
350 supervision of, the Department of Child Protection Services  
351 pursuant to youth court proceedings, the court hearing a petition  
352 under this chapter may terminate the parental rights of a parent  
353 if, after conducting an evidentiary hearing, the court finds by  
354 clear and convincing evidence that:

355           (a) The child has been adjudicated abused or neglected;

356           (b) The child has been in the custody and care of, or  
357 under the supervision of, the Department of Child Protection  
358 Services for at least six (6) months, and, in that time period,  
359 the Department of Child Protection Services has developed a  
360 service plan for the reunification of the parent and the child;

361           (c) A permanency hearing, or a permanency review  
362 hearing, has been conducted pursuant to the Uniform Rules of Youth  
363 Court Practice and the court has found that the Department of  
364 Child Protection Services, or a licensed child caring agency under  
365 its supervision, has made reasonable efforts over a reasonable  
366 period to diligently assist the parent in complying with the  
367 service plan but the parent has failed to substantially comply  
368 with the terms and conditions of the plan and that reunification  
369 with the abusive or neglectful parent is not in the best interests  
370 of the child; and

371           (d) Termination of the parent's parental rights is  
372 appropriate because reunification between the parent and child is



373 not desirable toward obtaining a satisfactory permanency outcome  
374 based on one or more of the grounds set out in Section 93-15-119  
375 or 93-15-121.

376 (e) That the child was conceived as a result of rape or  
377 sexual battery committed by the parent whose parental rights are  
378 being terminated as described in Section 1 of this act.

379 **SECTION 8.** Section 93-15-117, Mississippi Code of 1972, is  
380 amended as follows:

381 93-15-117. When reasonable efforts for reunification are not  
382 required, a court hearing a petition under this chapter may  
383 terminate the parental rights of a parent if, after conducting an  
384 evidentiary hearing, the court finds by clear and convincing  
385 evidence:

386 (a) That the child has been adjudicated abused or  
387 neglected;

388 (b) That the child has been in the custody and care of,  
389 or under the supervision of, the Department of Child Protection  
390 Services for at least sixty (60) days and the Department of Child  
391 Protection Services is not required to make reasonable efforts for  
392 the reunification of the parent and the child pursuant to Section  
393 43-21-603(7)(c) of the Mississippi Youth Court Law;

394 (c) That a permanency hearing, or a permanency review  
395 hearing, has been conducted pursuant to the Uniform Rules of Youth  
396 Court Practice and the court has found that reunification with the





397 abusive or neglectful parent is not in the best interests of the  
398 child; and

399 (d) That termination of the parent's parental rights is  
400 appropriate because reunification between the parent and child is  
401 not desirable toward obtaining a satisfactory permanency outcome  
402 based on one or more of the following grounds:

403 (i) The basis for bypassing the reasonable efforts  
404 for reunification of the parent and child under Section  
405 43-21-603(7)(c) is established by clear and convincing evidence;  
406 or

407 (ii) Any ground listed in Section 93-15-119 or  
408 93-15-121 is established by clear and convincing evidence.

409 (e) That the child was conceived as a result of rape or  
410 sexual battery committed by the parent whose parental rights are  
411 being terminated as described in Section 1 of this act.

412 **SECTION 9.** Section 91-1-15, Mississippi Code of 1972, is  
413 brought forward as follows:

414 91-1-15. (1) The following terms shall have the meanings  
415 ascribed to them herein:

416 (a) "Remedy" means the right of an illegitimate to  
417 commence and maintain a judicial proceeding to enforce a claim to  
418 inherit property from the estate of the natural mother or father  
419 of such illegitimate, said claim having been heretofore prohibited  
420 by law, or prohibited by statutes requiring marriage between the



421 natural parents, or restrained, or enjoined by the order or  
422 process of any court in this state.

423 (b) "Claim" means the right to assert a demand on  
424 behalf of an illegitimate to inherit property, either personal or  
425 real, from the estate of the natural mother or father of such  
426 illegitimate.

427 (c) "Illegitimate" means a person who at the time of  
428 his birth was born to natural parents not married to each other  
429 and said person was not legitimized by subsequent marriage of said  
430 parents or legitimized through a proper judicial proceeding.

431 (d) "Natural parents" means the biological mother or  
432 father of the illegitimate.

433 (2) An illegitimate shall inherit from and through the  
434 illegitimate's mother and her kindred, and the mother of an  
435 illegitimate and her kindred shall inherit from and through the  
436 illegitimate according to the statutes of descent and  
437 distribution. However, if an illegitimate shall die unmarried and  
438 without issue, and shall also predecease the natural father, the  
439 natural mother or her kindred shall not inherit any part of the  
440 natural father's estate from or through the illegitimate. In the  
441 event of the death of an illegitimate, unmarried and without  
442 issue, any part of the illegitimate's estate inherited from the  
443 natural father shall be inherited according to the statutes of  
444 descent and distribution.



445           (3) An illegitimate shall inherit from and through the  
446 illegitimate's natural father and his kindred, and the natural  
447 father of an illegitimate and his kindred shall inherit from and  
448 through the illegitimate according to the statutes of descent and  
449 distribution if:

450           (a) The natural parents participated in a marriage  
451 ceremony before the birth of the child, even though the marriage  
452 was subsequently declared null and void or dissolved by a court;  
453 or

454           (b) There has been an adjudication of paternity or  
455 legitimacy before the death of the intestate; or

456           (c) There has been an adjudication of paternity after  
457 the death of the intestate, based upon clear and convincing  
458 evidence, in an heirship proceeding under Sections 91-1-27 and  
459 91-1-29. However, no such claim of inheritance shall be  
460 recognized unless the action seeking an adjudication of paternity  
461 is filed within one (1) year after the death of the intestate or  
462 within ninety (90) days after the first publication of notice to  
463 creditors to present their claims, whichever is less; and such  
464 time period shall run notwithstanding the minority of a child.  
465 This one-year limitation shall be self-executing and may not be  
466 tolled for any reason, including lack of notice. If an  
467 administrator is appointed for the estate of the intestate and  
468 notice to creditors is given, then the limitation period shall be  
469 reduced to ninety (90) days after the first publication of notice,



470 if less than one (1) year from the date of the intestate's death;  
471 provided actual, written notice is given to all potential  
472 illegitimate heirs who could be located with reasonable diligence.  
473 No claim of inheritance based on an adjudication of paternity,  
474 after death of the intestate, by a court outside the State of  
475 Mississippi shall be recognized unless:

476 (i) Such court was in the state of residence of  
477 the intestate at the time of the intestate's death;

478 (ii) The action adjudicating paternity was filed  
479 within ninety (90) days after the death of the intestate;

480 (iii) All known heirs were made parties to the  
481 action; and

482 (iv) Paternity or legitimacy was established by  
483 clear and convincing evidence.

484 (d) The natural father of an illegitimate and his  
485 kindred shall not inherit:

486 (i) From or through the child unless the father  
487 has openly treated the child as his, and has not refused or  
488 neglected to support the child.

489 (ii) Any part of the natural mother's estate from  
490 or through the illegitimate if the illegitimate dies unmarried and  
491 without issue, and also predeceases the natural mother. In the  
492 event of the death of an illegitimate, unmarried and without  
493 issue, any part of the illegitimate's estate inherited from the



494 mother shall be inherited according to the statutes of descent and  
495 distribution.

496 A remedy is hereby created in favor of all illegitimates  
497 having any claim existing prior to July 1, 1981, concerning the  
498 estate of an intestate whose death occurred prior to such date by  
499 or on behalf of an illegitimate or an alleged illegitimate child  
500 to inherit from or through its natural father and any claim by a  
501 natural father to inherit from or through an illegitimate child  
502 shall be brought within three (3) years from and after July 1,  
503 1981, and such time period shall run notwithstanding the minority  
504 of a child.

505 The remedy created herein is separate, complete and distinct,  
506 but cumulative with the remedies afforded illegitimates as  
507 provided by the Mississippi Uniform Law on Paternity; provided,  
508 however, the failure of an illegitimate to seek or obtain relief  
509 under the Mississippi Uniform Law on Paternity shall not diminish  
510 or abate the remedy created herein.

511 (4) The children of illegitimates and their descendants  
512 shall inherit from and through their mother and father according  
513 to the statutes of descent and distribution.

514 (5) Nothing in this section shall preclude the establishment  
515 of paternity solely for the purpose of the illegitimate receiving  
516 social security benefits on behalf of the illegitimate's natural  
517 father after one (1) year following the natural father's death.



518           **SECTION 10.** Section 11-7-3, Mississippi Code of 1972, is  
519 brought forward as follows:

520           11-7-3. The assignee of any chose in action may sue for and  
521 recover on the same in his own name, if the assignment be in  
522 writing. In case of a transfer or an assignment of any interest  
523 in such chose in action before or after suit brought, the action  
524 may be begun, prosecuted and continued in the name of the original  
525 party, or the court may allow the person to whom the transfer or  
526 assignment of such interest has been made, upon his application  
527 therefor, to be substituted as a party plaintiff in said action.  
528 If in any case a transfer or assignment of interest in any demand  
529 or chose in action be made in writing before or after suit is  
530 filed, to an attorney or firm of attorneys, appearing in the case,  
531 it shall be sufficient notice to all parties of such assignment or  
532 transfer, if such assignment or transfer be filed with the papers  
533 in said cause, and such attorney or attorneys shall not be  
534 required to be made parties to said suit. An "assignee" for  
535 purposes of this section includes both absolute assignees, with or  
536 without recourse, and conditional or limited assignees including  
537 assignees for collection purposes.

538           **SECTION 11.** This act shall take effect and be in force from  
539 and after July 1, 2018.

