

By: Representatives Arnold, Scoggin, Sykes,
Brown, Boyd

To: Judiciary B

HOUSE BILL NO. 1084
(As Passed the House)

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 GENETIC TESTING THAT A CHILD WAS
11 CONCEIVED AS A RESULT OF THE RAPE OR SEXUAL BATTERY FOR WHICH THE
12 PERSON WAS CONVICTED; TO PROVIDE THAT THE COURT SHALL TERMINATE
13 THE PARENTAL RIGHTS OF THE CONVICTED PARENT IF THE CHILD IS PROVEN
14 TO HAVE BEEN CONCEIVED AS A RESULT OF THE RAPE OR SEXUAL BATTERY;
15 TO AMEND SECTIONS 97-3-65, 97-3-101, 93-15-105, 93-15-107,
16 93-15-113, 93-15-115, 93-15-117 AND 91-1-15, MISSISSIPPI CODE OF
17 1972, IN CONFORMITY WITH THE PRECEDING PROVISIONS; TO BRING
18 FORWARD SECTION 11-7-3, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF
19 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 genetic
33 testing that a child was conceived as a result of the rape or
34 sexual battery for which the person was convicted. If the court
35 makes such a determination, the court shall terminate the parental
36 rights of the convicted person to each child conceived as a result
37 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 (4) The provisions of this section shall not be construed to
52 change or revise the provisions of Section 93-15-119 regarding
53 termination of parental rights proceedings where there is no
54 conviction.

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

57 97-3-65. (1) The crime of statutory rape is committed when:

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

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

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

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

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

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

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

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

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

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



75 (a) If eighteen (18) years of age or older, but under
76 twenty-one (21) years of age, and convicted under subsection
77 (1)(a) of this section, to imprisonment for not more than five (5)
78 years in the State Penitentiary or a fine of not more than Five
79 Thousand Dollars (\$5,000.00), or both;

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

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

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

95 (4) (a) Every person who shall have forcible sexual
96 intercourse with any person, or who shall have sexual intercourse
97 not constituting forcible sexual intercourse or statutory rape
98 with any person without that person's consent by administering to
99 such person any substance or liquid which shall produce such



100 stupor or such imbecility of mind or weakness of body as to
101 prevent effectual resistance, upon conviction, shall be imprisoned
102 for life in the State Penitentiary if the jury by its verdict so
103 prescribes; and in cases where the jury fails to fix the penalty
104 at life imprisonment, the court shall fix the penalty at
105 imprisonment in the State Penitentiary for any term as the court,
106 in its discretion, may determine.

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

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

114 (6) (a) Upon conviction under this section, the court may
115 issue a criminal sexual assault protection order prohibiting the
116 offender from any contact with the victim, without regard to the
117 relationship between the victim and offender. The court may
118 include in a criminal sexual assault protection order any relief
119 available under Section 93-21-15. The term of a criminal sexual
120 assault protection order shall be for a time period determined by
121 the court, but all orders shall, at a minimum, remain in effect
122 for a period of two (2) years after the expiration of any sentence
123 of imprisonment and subsequent period of community supervision,
124 conditional release, probation, or parole. Upon issuance of a



125 criminal sexual assault protection order, the clerk of the issuing
126 court shall enter the order in the Mississippi Protection Order
127 Registry within twenty-four (24) hours of issuance, with no
128 exceptions for weekends or holidays as provided in Section
129 93-21-25, and a copy must be provided to both the victim and
130 offender.

131 (b) Criminal sexual assault protection orders shall be
132 issued on the standardized form developed by the Office of the
133 Attorney General.

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



149 (7) Upon conviction under this section, if a child is
150 alleged to have been conceived as a result of the rape for which
151 the person was convicted, the court shall conduct a preliminary
152 hearing to determine whether there is a reasonable chance that a
153 child could have been conceived from the rape. If the court finds
154 that there is a reasonable chance that a child could have been
155 conceived from the rape, the court shall transfer all information
156 related to the crime and the preliminary hearing to the chancery
157 court of the county in which the conviction occurred. The
158 provisions of this section shall not be applicable to statutory
159 rape as described in Section 97-3-65(1)(a).

160 (* * *8) For the purposes of this section, "sexual
161 intercourse" shall mean a joining of the sexual organs of a male
162 and female human being in which the penis of the male is inserted
163 into the vagina of the female or the penetration of the sexual
164 organs of a male or female human being in which the penis or an
165 object is inserted into the genitals, anus or perineum of a male
166 or female.

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

169 97-3-101. (1) Every person who shall be convicted of sexual
170 battery under Section 97-3-95(1)(a), (b) or (2) shall be
171 imprisoned in the State Penitentiary for a period of not more than
172 thirty (30) years, and for a second or subsequent such offense



173 shall be imprisoned in the Penitentiary for not more than forty
174 (40) years.

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

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

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

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

196 (5) (a) Upon conviction * * * for sexual battery, the court
197 may issue a criminal sexual assault protection order prohibiting



198 the offender from any contact with the victim, without regard to
199 the relationship between the victim and offender. The court may
200 include in a criminal sexual assault protection order any relief
201 available under Section 93-21-15. The term of a criminal sexual
202 assault protection order shall be for a time period determined by
203 the court, but all orders shall, at a minimum, remain in effect
204 for a period of two (2) years following the expiration of any
205 sentence of imprisonment and subsequent period of community
206 supervision, conditional release, probation, or parole. Upon
207 issuance of a criminal sexual assault protection order, the clerk
208 of the issuing court shall enter the order in the Mississippi
209 Protection Order Registry within twenty-four (24) hours of
210 issuance with no exceptions for weekends or holidays as provided
211 in Section 93-21-25, and a copy must be provided to both the
212 victim and offender.

213 (b) Criminal sexual assault protection orders shall be
214 issued on the standardized form developed by the Office of the
215 Attorney General.

216 (c) It is a misdemeanor to knowingly violate any
217 condition of a criminal sexual assault protection order. Upon
218 conviction for a violation, the defendant shall be punished by a
219 fine of not more than Five Hundred Dollars (\$500.00) or by
220 imprisonment in the county jail for not more than six (6) months,
221 or both. Any sentence imposed for the violation of a criminal
222 sexual assault protection order shall run consecutively to any



223 other sentences imposed on the offender. The court may extend the
224 criminal sexual assault protection order for a period of one (1)
225 year for each violation. The incarceration of a person at the
226 time of the violation is not a bar to prosecution under this
227 section. Nothing in this subsection shall be construed to
228 prohibit the imposition of any other penalties or disciplinary
229 action otherwise allowed by law or policy.

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

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

242 93-15-105. (1) The chancery court has original exclusive
243 jurisdiction over all termination of parental rights proceedings
244 except that a county court, when sitting as a youth court with
245 jurisdiction of a child in an abuse or neglect proceeding, has
246 original exclusive jurisdiction to hear a petition for termination
247 of parental rights against a parent of that child.



248 (2) (a) Venue in a county court sitting as a youth court
249 for termination of parental rights proceedings shall be in the
250 county in which the court has jurisdiction of the child in the
251 abuse or neglect proceedings. Venue in chancery court for
252 termination of parental rights proceedings shall be proper either
253 in the county in which the defendant resides, the child resides or
254 in the county where an agency or institution having custody of the
255 child is located. However, venue in chancery court for
256 termination of parental rights commenced by receipt of information
257 regarding conviction of a parent as described in Section 1 of this
258 act shall be proper in the county in which the parent was
259 convicted of rape or sexual battery.

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

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

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



273 (b) * * * Except as otherwise provided in this paragraph
274 (b), the proceeding shall be triable, either in term time or
275 vacation, thirty (30) days after personal service of process to
276 any necessary party or, for a necessary party whose address is
277 unknown after diligent search, thirty (30) days after the date of
278 the first publication of service of process by publication that
279 complies with the Mississippi Rules of Civil Procedure. The
280 provisions of this paragraph shall not apply when the proceeding
281 is commenced due to receipt of information as described in Section
282 1 of this act regarding the parent whose rights are being
283 terminated.

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

295 (d) A guardian ad litem shall be appointed to protect
296 the best interest of the child, except that the court, in its
297 discretion, may waive this requirement when a parent executes a



298 written voluntary release to terminate parental rights. The
299 guardian ad litem fees shall be determined and assessed in the
300 discretion of the court.

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

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

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

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

310 93-15-113. (1) A hearing on the involuntary termination of
311 parental rights shall be conducted without a jury and in
312 accordance with the Mississippi Rules of Evidence. The court may
313 exclude the child from the hearing if the court determines that
314 the exclusion of the child from the hearing is in the child's best
315 interest.

316 (2) (a) Except as otherwise provided in paragraph (c) of
317 this subsection (2), at the beginning of the involuntary
318 termination of parental rights hearing, the court shall determine
319 whether all necessary parties are present and identify all persons
320 participating in the hearing; determine whether the notice
321 requirements have been complied with and, if not, determine
322 whether the affected parties intelligently waived compliance with



323 the notice requirements; explain to the parent the purpose of the
324 hearing, the standard of proof required for terminating parental
325 rights, and the consequences if the parent's parental rights are
326 terminated. The court shall also explain to the parent:

- 327 (i) The right to counsel;
328 (ii) The right to remain silent;
329 (iii) The right to subpoena witnesses;
330 (iv) The right to confront and cross-examine
331 witnesses; and
332 (v) The right to appeal, including the right to a
333 transcript of the proceedings.

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



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

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

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

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

362 (b) The child has been in the custody and care of, or
363 under the supervision of, the Department of Child Protection
364 Services for at least six (6) months, and, in that time period,
365 the Department of Child Protection Services has developed a
366 service plan for the reunification of the parent and the child;

367 (c) A permanency hearing, or a permanency review
368 hearing, has been conducted pursuant to the Uniform Rules of Youth
369 Court Practice and the court has found that the Department of
370 Child Protection Services, or a licensed child caring agency under
371 its supervision, has made reasonable efforts over a reasonable



372 period to diligently assist the parent in complying with the
373 service plan but the parent has failed to substantially comply
374 with the terms and conditions of the plan and that reunification
375 with the abusive or neglectful parent is not in the best interests
376 of the child; and

377 (d) Termination of the parent's parental rights is
378 appropriate because reunification between the parent and child is
379 not desirable toward obtaining a satisfactory permanency outcome
380 based on one or more of the grounds set out in Section 93-15-119
381 or 93-15-121.

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

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

387 93-15-117. When reasonable efforts for reunification are not
388 required, a court hearing a petition under this chapter may
389 terminate the parental rights of a parent if, after conducting an
390 evidentiary hearing, the court finds by clear and convincing
391 evidence:

392 (a) That the child has been adjudicated abused or
393 neglected;

394 (b) That the child has been in the custody and care of,
395 or under the supervision of, the Department of Child Protection
396 Services for at least sixty (60) days and the Department of Child



397 Protection Services is not required to make reasonable efforts for
398 the reunification of the parent and the child pursuant to Section
399 43-21-603(7) (c) of the Mississippi Youth Court Law;

400 (c) That a permanency hearing, or a permanency review
401 hearing, has been conducted pursuant to the Uniform Rules of Youth
402 Court Practice and the court has found that reunification with the
403 abusive or neglectful parent is not in the best interests of the
404 child; and

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

409 (i) The basis for bypassing the reasonable efforts
410 for reunification of the parent and child under Section
411 43-21-603(7) (c) is established by clear and convincing evidence;
412 or

413 (ii) Any ground listed in Section 93-15-119 or
414 93-15-121 is established by clear and convincing evidence.

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

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

420 91-1-15. (1) The following terms shall have the meanings
421 ascribed to them herein:



422 (a) "Remedy" means the right of an illegitimate to
423 commence and maintain a judicial proceeding to enforce a claim to
424 inherit property from the estate of the natural mother or father
425 of such illegitimate, said claim having been heretofore prohibited
426 by law, or prohibited by statutes requiring marriage between the
427 natural parents, or restrained, or enjoined by the order or
428 process of any court in this state.

429 (b) "Claim" means the right to assert a demand on
430 behalf of an illegitimate to inherit property, either personal or
431 real, from the estate of the natural mother or father of such
432 illegitimate.

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

437 (d) "Natural parents" means the biological mother or
438 father of the illegitimate.

439 (2) An illegitimate shall inherit from and through the
440 illegitimate's mother and her kindred, and the mother of an
441 illegitimate and her kindred shall inherit from and through the
442 illegitimate according to the statutes of descent and
443 distribution. However, if an illegitimate shall die unmarried and
444 without issue, and shall also predecease the natural father, the
445 natural mother or her kindred shall not inherit any part of the
446 natural father's estate from or through the illegitimate. In the



447 event of the death of an illegitimate, unmarried and without
448 issue, any part of the illegitimate's estate inherited from the
449 natural father shall be inherited according to the statutes of
450 descent and distribution.

451 (3) An illegitimate shall inherit from and through the
452 illegitimate's natural father and his kindred, and the natural
453 father of an illegitimate and his kindred shall inherit from and
454 through the illegitimate according to the statutes of descent and
455 distribution if:

456 (a) The natural parents participated in a marriage
457 ceremony before the birth of the child, even though the marriage
458 was subsequently declared null and void or dissolved by a court;
459 or

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

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



472 tolled for any reason, including lack of notice. If an
473 administrator is appointed for the estate of the intestate and
474 notice to creditors is given, then the limitation period shall be
475 reduced to ninety (90) days after the first publication of notice,
476 if less than one (1) year from the date of the intestate's death;
477 provided actual, written notice is given to all potential
478 illegitimate heirs who could be located with reasonable diligence.
479 No claim of inheritance based on an adjudication of paternity,
480 after death of the intestate, by a court outside the State of
481 Mississippi shall be recognized unless:

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

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

486 (iii) All known heirs were made parties to the
487 action; and

488 (iv) Paternity or legitimacy was established by
489 clear and convincing evidence.

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

492 (i) From or through the child unless the father
493 has openly treated the child as his, and has not refused or
494 neglected to support the child.

495 (ii) Any part of the natural mother's estate from
496 or through the illegitimate if the illegitimate dies unmarried and



497 without issue, and also predeceases the natural mother. In the
498 event of the death of an illegitimate, unmarried and without
499 issue, any part of the illegitimate's estate inherited from the
500 mother shall be inherited according to the statutes of descent and
501 distribution.

502 A remedy is hereby created in favor of all illegitimates
503 having any claim existing prior to July 1, 1981, concerning the
504 estate of an intestate whose death occurred prior to such date by
505 or on behalf of an illegitimate or an alleged illegitimate child
506 to inherit from or through its natural father and any claim by a
507 natural father to inherit from or through an illegitimate child
508 shall be brought within three (3) years from and after July 1,
509 1981, and such time period shall run notwithstanding the minority
510 of a child.

511 The remedy created herein is separate, complete and distinct,
512 but cumulative with the remedies afforded illegitimates as
513 provided by the Mississippi Uniform Law on Paternity; provided,
514 however, the failure of an illegitimate to seek or obtain relief
515 under the Mississippi Uniform Law on Paternity shall not diminish
516 or abate the remedy created herein.

517 (4) The children of illegitimates and their descendants
518 shall inherit from and through their mother and father according
519 to the statutes of descent and distribution.

520 (5) Nothing in this section shall preclude the establishment
521 of paternity solely for the purpose of the illegitimate receiving



522 social security benefits on behalf of the illegitimate's natural
523 father after one (1) year following the natural father's death.

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

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

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

