

By: Representatives Arnold, Scoggin, Baria,
Brown

To: Judiciary B

HOUSE BILL NO. 130

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 93-15-119, MISSISSIPPI CODE OF
 17 1972, IN CONFORMITY WITH THE PRECEDING PROVISIONS; TO BRING
 18 FORWARD SECTION 11-7-3 AND 91-1-15, MISSISSIPPI CODE OF 1972, FOR
 19 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 under Section
 22 97-3-65 or sexual battery under Section 97-3-95, and if a child is
 23 alleged to have been conceived as a result of the rape or sexual
 24 battery, the court in which the conviction occurred shall conduct
 25 a preliminary hearing to determine whether there is a reasonable
 26 chance that a child could have been conceived from the rape or



27 sexual battery. If the court finds that there is a reasonable
28 chance that a child could have been conceived from the rape or
29 sexual battery, the court shall transfer all information related
30 to the conviction and the preliminary hearing to the chancery
31 court of the county in which the conviction occurred.

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

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

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

46 (ii) Child support.

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



52 (4) The provisions of this section shall not be construed to
53 change or revise the provisions of Section 93-15-119 regarding
54 termination of parental rights proceedings where there is no
55 conviction.

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

58 97-3-65. (1) The crime of statutory rape is committed when:

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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



150 (7) Upon conviction under this section, if a child is
151 alleged to have been conceived as a result of the rape for which
152 the person was convicted, the court shall conduct a preliminary
153 hearing to determine whether there is a reasonable chance that a
154 child could have been conceived from the rape. If the court finds
155 that there is a reasonable chance that a child could have been
156 conceived from the rape, the court shall transfer all information
157 related to the crime and the preliminary hearing to the chancery
158 court of the county in which the conviction occurred.

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

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

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



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

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

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

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

195 (5) (a) Upon conviction * * * for sexual battery, the court
196 may issue a criminal sexual assault protection order prohibiting
197 the offender from any contact with the victim, without regard to
198 the relationship between the victim and offender. The court may



199 include in a criminal sexual assault protection order any relief
200 available under Section 93-21-15. The term of a criminal sexual
201 assault protection order shall be for a time period determined by
202 the court, but all orders shall, at a minimum, remain in effect
203 for a period of two (2) years following the expiration of any
204 sentence of imprisonment and subsequent period of community
205 supervision, conditional release, probation, or parole. Upon
206 issuance of a criminal sexual assault protection order, the clerk
207 of the issuing court shall enter the order in the Mississippi
208 Protection Order Registry within twenty-four (24) hours of
209 issuance with no exceptions for weekends or holidays as provided
210 in Section 93-21-25, and a copy must be provided to both the
211 victim and offender.

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

215 (c) It is a misdemeanor to knowingly violate any
216 condition of a criminal sexual assault protection order. Upon
217 conviction for a violation, the defendant shall be punished by a
218 fine of not more than Five Hundred Dollars (\$500.00) or by
219 imprisonment in the county jail for not more than six (6) months,
220 or both. Any sentence imposed for the violation of a criminal
221 sexual assault protection order shall run consecutively to any
222 other sentences imposed on the offender. The court may extend the
223 criminal sexual assault protection order for a period of one (1)



224 year for each violation. The incarceration of a person at the
225 time of the violation is not a bar to prosecution under this
226 section. Nothing in this subsection shall be construed to
227 prohibit the imposition of any other penalties or disciplinary
228 action otherwise allowed by law or policy.

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

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

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

247 (2) (a) Venue in a county court sitting as a youth court
248 for termination of parental rights proceedings shall be in the



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

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

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

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

272 (b) * * * Except as otherwise provided in this
273 paragraph (b), the proceeding shall be triable, either in term



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

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

294 (d) A guardian ad litem shall be appointed to protect
295 the best interest of the child, except that the court, in its
296 discretion, may waive this requirement when a parent executes a
297 written voluntary release to terminate parental rights. The



298 guardian ad litem fees shall be determined and assessed in the
299 discretion of the court.

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

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

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

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

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

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



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

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

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

346 (c) The requirements of this subsection (2) shall not
347 apply when the involuntary termination of parental rights



348 proceeding is commenced due to a transfer from the circuit court
349 as a result of the conviction of an alleged parent as described in
350 Section 1 of this act.

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

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

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

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

366 (c) A permanency hearing, or a permanency review
367 hearing, has been conducted pursuant to the Uniform Rules of Youth
368 Court Practice and the court has found that the Department of
369 Child Protection Services, or a licensed child caring agency under
370 its supervision, has made reasonable efforts over a reasonable
371 period to diligently assist the parent in complying with the
372 service plan but the parent has failed to substantially comply



373 with the terms and conditions of the plan and that reunification
374 with the abusive or neglectful parent is not in the best interests
375 of the child; * * *

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

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

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

386 93-15-117. When reasonable efforts for reunification are not
387 required, a court hearing a petition under this chapter may
388 terminate the parental rights of a parent if, after conducting an
389 evidentiary hearing, the court finds by clear and convincing
390 evidence:

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

393 (b) That the child has been in the custody and care of,
394 or under the supervision of, the Department of Child Protection
395 Services for at least sixty (60) days and the Department of Child
396 Protection Services is not required to make reasonable efforts for



397 the reunification of the parent and the child pursuant to Section
398 43-21-603(7) (c) of the Mississippi Youth Court Law;

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

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

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

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

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 93-15-119, Mississippi Code of 1972, is
419 amended as follows:

420 93-15-119. (1) A court hearing a petition under this
421 chapter may terminate the parental rights of a parent when, after



422 conducting an evidentiary hearing, the court finds by clear and
423 convincing evidence:

424 (a) (i) That the parent has engaged in conduct
425 constituting abandonment or desertion of the child, as defined in
426 Section 93-15-103, or is mentally, morally, or otherwise unfit to
427 raise the child, which shall be established by showing past or
428 present conduct of the parent that demonstrates a substantial risk
429 of compromising or endangering the child's safety and welfare; and

430 (ii) That termination of the parent's parental
431 rights is appropriate because reunification between the parent and
432 child is not desirable toward obtaining a satisfactory permanency
433 outcome; or

434 (b) That a parent has committed against the other
435 parent a sexual act that is unlawful under Section 97-3-65 or
436 97-3-95, or under a similar law of another state, territory,
437 possession or Native American tribe where the offense occurred,
438 and that the child was conceived as a result of the unlawful
439 sexual act. A criminal conviction of the unlawful sexual act is
440 not required to terminate the offending parent's parental rights
441 under this paragraph (b); however, the parental rights of any
442 person who is convicted of an unlawful sexual act under Section
443 97-3-65 or 97-3-95 shall be terminated under this paragraph (b).
444 The provisions of this subsection shall not be construed to change
445 or revise the provisions of Section 1 of this act regarding the



446 preliminary hearing conducted when a person is convicted of rape
447 or sexual battery as described in that section.

448 (2) An allegation of desertion may be fully rebutted by
449 proof that the parent, in accordance with the parent's means and
450 knowledge of the mother's pregnancy or the child's birth, either:

451 (a) Provided financial support, including, but not
452 limited to, the payment of consistent support to the mother during
453 her pregnancy, contributions to the payment of the medical
454 expenses of the pregnancy and birth, and contributions of
455 consistent support of the child after birth; frequently and
456 consistently visited the child after birth; and is now willing and
457 able to assume legal and physical care of the child; or

458 (b) Was willing to provide financial support and to
459 make visitations with the child, but reasonable attempts to do so
460 were thwarted by the mother or her agents, and that the parent is
461 now willing and able to assume legal and physical care of the
462 child.

463 (3) The court shall inquire as to the military status of an
464 absent parent before conducting an evidentiary hearing under this
465 section.

466 **SECTION 10.** Section 91-1-15, Mississippi Code of 1972, is
467 brought forward as follows:

468 91-1-15. (1) The following terms shall have the meanings
469 ascribed to them herein:



470 (a) "Remedy" means the right of an illegitimate to
471 commence and maintain a judicial proceeding to enforce a claim to
472 inherit property from the estate of the natural mother or father
473 of such illegitimate, said claim having been heretofore prohibited
474 by law, or prohibited by statutes requiring marriage between the
475 natural parents, or restrained, or enjoined by the order or
476 process of any court in this state.

477 (b) "Claim" means the right to assert a demand on
478 behalf of an illegitimate to inherit property, either personal or
479 real, from the estate of the natural mother or father of such
480 illegitimate.

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

485 (d) "Natural parents" means the biological mother or
486 father of the illegitimate.

487 (2) An illegitimate shall inherit from and through the
488 illegitimate's mother and her kindred, and the mother of an
489 illegitimate and her kindred shall inherit from and through the
490 illegitimate according to the statutes of descent and
491 distribution. However, if an illegitimate shall die unmarried and
492 without issue, and shall also predecease the natural father, the
493 natural mother or her kindred shall not inherit any part of the
494 natural father's estate from or through the illegitimate. In the



495 event of the death of an illegitimate, unmarried and without
496 issue, any part of the illegitimate's estate inherited from the
497 natural father shall be inherited according to the statutes of
498 descent and distribution.

499 (3) An illegitimate shall inherit from and through the
500 illegitimate's natural father and his kindred, and the natural
501 father of an illegitimate and his kindred shall inherit from and
502 through the illegitimate according to the statutes of descent and
503 distribution if:

504 (a) The natural parents participated in a marriage
505 ceremony before the birth of the child, even though the marriage
506 was subsequently declared null and void or dissolved by a court;
507 or

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

510 (c) There has been an adjudication of paternity after
511 the death of the intestate, based upon clear and convincing
512 evidence, in an heirship proceeding under Sections 91-1-27 and
513 91-1-29. However, no such claim of inheritance shall be
514 recognized unless the action seeking an adjudication of paternity
515 is filed within one (1) year after the death of the intestate or
516 within ninety (90) days after the first publication of notice to
517 creditors to present their claims, whichever is less; and such
518 time period shall run notwithstanding the minority of a child.
519 This one-year limitation shall be self-executing and may not be



520 tolled for any reason, including lack of notice. If an
521 administrator is appointed for the estate of the intestate and
522 notice to creditors is given, then the limitation period shall be
523 reduced to ninety (90) days after the first publication of notice,
524 if less than one (1) year from the date of the intestate's death;
525 provided actual, written notice is given to all potential
526 illegitimate heirs who could be located with reasonable diligence.
527 No claim of inheritance based on an adjudication of paternity,
528 after death of the intestate, by a court outside the State of
529 Mississippi shall be recognized unless:

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

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

534 (iii) All known heirs were made parties to the
535 action; and

536 (iv) Paternity or legitimacy was established by
537 clear and convincing evidence.

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

540 (i) From or through the child unless the father
541 has openly treated the child as his, and has not refused or
542 neglected to support the child.

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



545 without issue, and also predeceases the natural mother. In the
546 event of the death of an illegitimate, unmarried and without
547 issue, any part of the illegitimate's estate inherited from the
548 mother shall be inherited according to the statutes of descent and
549 distribution.

550 A remedy is hereby created in favor of all illegitimates
551 having any claim existing prior to July 1, 1981, concerning the
552 estate of an intestate whose death occurred prior to such date by
553 or on behalf of an illegitimate or an alleged illegitimate child
554 to inherit from or through its natural father and any claim by a
555 natural father to inherit from or through an illegitimate child
556 shall be brought within three (3) years from and after July 1,
557 1981, and such time period shall run notwithstanding the minority
558 of a child.

559 The remedy created herein is separate, complete and distinct,
560 but cumulative with the remedies afforded illegitimates as
561 provided by the Mississippi Uniform Law on Paternity; provided,
562 however, the failure of an illegitimate to seek or obtain relief
563 under the Mississippi Uniform Law on Paternity shall not diminish
564 or abate the remedy created herein.

565 (4) The children of illegitimates and their descendants
566 shall inherit from and through their mother and father according
567 to the statutes of descent and distribution.

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



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

572 **SECTION 11.** Section 11-7-3, Mississippi Code of 1972, is
573 brought forward as follows:

574 11-7-3. The assignee of any chose in action may sue for and
575 recover on the same in his own name, if the assignment be in
576 writing. In case of a transfer or an assignment of any interest
577 in such chose in action before or after suit brought, the action
578 may be begun, prosecuted and continued in the name of the original
579 party, or the court may allow the person to whom the transfer or
580 assignment of such interest has been made, upon his application
581 therefor, to be substituted as a party plaintiff in said action.
582 If in any case a transfer or assignment of interest in any demand
583 or chose in action be made in writing before or after suit is
584 filed, to an attorney or firm of attorneys, appearing in the case,
585 it shall be sufficient notice to all parties of such assignment or
586 transfer, if such assignment or transfer be filed with the papers
587 in said cause, and such attorney or attorneys shall not be
588 required to be made parties to said suit. An "assignee" for
589 purposes of this section includes both absolute assignees, with or
590 without recourse, and conditional or limited assignees including
591 assignees for collection purposes.

592 **SECTION 12.** This act shall take effect and be in force from
593 and after July 1, 2019.

