

By: Representative Barton

To: Judiciary A

HOUSE BILL NO. 281

1 AN ACT TO CREATE A PROCEDURE TO AUTHORIZE A PERSON TO ENTER
 2 AND EXIT PROPERTY UPON WHICH A GRAVE OR ABANDONED PUBLIC CEMETERY
 3 IS LOCATED, WHEN THE PERSON CANNOT OBTAIN THE PERMISSION OF THE
 4 LANDOWNER; TO REQUIRE A PETITION TO BE FILED IN CHANCERY COURT; TO
 5 PRESCRIBE THE GROUNDS UPON WHICH THE CHANCERY COURT SHALL ALLOW
 6 ACCESS TO ENTER AND EXIT SUCH; TO PROVIDE THE OPTIONS FOR GRANTING
 7 SUCH A PETITION; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** (1) Any person who desires to enter or exit
 10 property for the purpose of visiting a grave or abandoned public
 11 cemetery, but is unable to obtain the consent of the landowner
 12 upon which the grave is located, may petition the chancery court
 13 of the county in which the petitioner has reasonable grounds to
 14 believe the deceased is buried, or in the case of an abandoned
 15 public cemetery, in the county in which the abandoned public
 16 cemetery is located for an order to allow the petitioner to enter
 17 and exit the property to discover, restore, maintain, or visit the
 18 grave or abandoned public cemetery.

19 (2) The petition shall be verified. The petition shall name
 20 the owner(s) of the property at issue, all lienholders and any



21 other person having any interest therein as defendants. Process
22 shall be issued to all defendants in accordance with Rule 81 of
23 the Mississippi Rules of Civil Procedure. The matter of the
24 petition shall be triable within seven (7) days after completion
25 of service of process in any manner other than by publication, or
26 thirty (30) days after the first publication where process is by
27 publication. At the conclusion of the hearing on the petition,
28 the chancellor may issue an order allowing the petitioner to enter
29 the property if the chancellor finds all of the following:

30 (a) There are reasonable grounds to believe that the
31 grave or abandoned public cemetery is located on the property or
32 that it is reasonably necessary to enter or cross the landowner's
33 property to reach the grave or abandoned public cemetery;

34 (b) The petitioner, or his or her designee, is a
35 descendant of the deceased, or that the petitioner has a special
36 interest in the grave or abandoned public cemetery; and

37 (c) Entry on the property would not unreasonably
38 interfere with the enjoyment of the property by the landowner.

39 (3) In granting the petition, the court's order may:

40 (a) Specify the dates and the daylight hours that the
41 petitioner may enter and remain on the property;

42 (b) Grant to the petitioner the right to enter the
43 landowner's property periodically, as specified in the order,
44 after the time needed for initial restoration of the grave or
45 abandoned public cemetery;



46 (c) Specify a reasonable route from which the
47 petitioner may not deviate in all entries and exits from the
48 property;

49 (d) Include such other provisions as determined by the
50 court necessary and reasonable to preserve and protect the
51 interests of the parties, including requiring the petitioner to
52 post sufficient surety as determined by the court to protect the
53 landowner against any damages sustained or claims asserted against
54 the landowner arising from the conduct of the petitioner.

55 (4) The court may also direct the petitioner to pay
56 reasonable damages to the landowner, if any, and costs regardless
57 of the outcome of the petition.

58 **SECTION 2.** This act shall take effect and be in force from
59 and after July 1, 2020.

