

By: Representative McLean

To: Judiciary A

HOUSE BILL NO. 1542

1 AN ACT TO AMEND SECTION 91-1-3, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE THAT FOR THE PURPOSES OF INTESTATE SUCCESSION, IF THE
 3 DECEDENT DIES BEFORE THE START OF A PREGNANCY BY ASSISTED
 4 REPRODUCTION RESULTING IN THE BIRTH OF AN INDIVIDUAL WHO LIVES AT
 5 LEAST ONE HUNDRED TWENTY HOURS AFTER BIRTH, THAT INDIVIDUAL IS
 6 DEEMED TO BE LIVING AT THE TIME OF THE DECEDENT'S DEATH UNDER
 7 CERTAIN CONDITIONS; TO AMEND SECTION 91-1-7, MISSISSIPPI CODE OF
 8 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED
 9 PURPOSES.

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

11 **SECTION 1.** Section 91-1-3, Mississippi Code of 1972, is
 12 amended as follows:

13 91-1-3. (1) When any person * * * dies seized of any estate
 14 of inheritance in lands, tenements, and hereditaments not devised,
 15 the same shall descend to his or her children, and their
 16 descendants, in equal parts, the descendants of the deceased child
 17 or grandchild to take the share of the deceased parent in equal
 18 parts among them. When there * * * is not * * * a child or
 19 children of the intestate nor descendants of such children, then
 20 to the brothers and sisters and father and mother of the intestate
 21 and the descendants of such brothers and sisters in equal parts,



22 the descendants of a sister or brother of the intestate to have in
23 equal parts among them their deceased parent's share. If
24 there * * * is not * * * a child or children of the intestate, or
25 descendants of such children, or brothers or sisters, or
26 descendants of them, or father or mother, then such estate shall
27 descend, in equal parts, to the grandparents and uncles and aunts,
28 if * * * there * * * are any; otherwise, such estate shall descend
29 in equal parts to the next of kin of the intestate in equal
30 degree, computing by the rules of the civil law. There shall not
31 be any representation among collaterals, except among the
32 descendants of the brothers and sisters of the intestate.

33 (2) (a) As used in this subsection, the term "assisted
34 reproduction" means a method of causing pregnancy other than
35 sexual intercourse.

36 (b) Subject to the restrictions in paragraph (c) of
37 this subsection (2), for the purposes of intestate succession
38 under this chapter, if the decedent dies before the start of a
39 pregnancy by assisted reproduction resulting in the birth of an
40 individual who lives at least one hundred twenty (120) hours after
41 birth, that individual is deemed to be living at the time of the
42 decedent's death if the decedent's personal representative, not
43 later than six (6) months after the decedent's death, received
44 notice or had actual knowledge of an intent to use genetic
45 material in the assisted reproduction; and



46 (i) The embryo was in utero not later than
47 thirty-six (36) months after the decedent's death; or

48 (ii) The individual was born not later than
49 forty-five (45) months after the decedent's death.

50 (c) (i) The provisions of paragraph (b) of this
51 subsection (2) shall only be applicable if there is a written
52 document signed by the decedent and the person who wishes to start
53 a pregnancy by assisted reproduction that the decedent clearly
54 approved the start of a pregnancy by assisted reproduction after
55 the death of the decedent.

56 (ii) There shall be a rebuttable presumption that
57 the decedent did not desire to start a pregnancy by assisted
58 reproduction if the decedent was divorced or legally separated
59 from the person who wishes to start the pregnancy by assisted
60 reproduction as described in this act.

61 **SECTION 2.** Section 91-1-7, Mississippi Code of 1972, is
62 amended as follows:

63 91-1-7. (1) If a husband dies intestate and does not leave
64 children or descendants of children, his widow shall be entitled
65 to his entire estate, real and personal, in fee simple, after
66 payment of his debts; but where the deceased husband * * * leaves
67 a child or children by that or a former marriage, or descendants
68 of such child or children, his widow shall have a child's part of
69 his estate, in either case in fee simple. If a married woman dies
70 owning any real or personal estate not disposed of, it shall



71 descend to her husband and her children or their descendants if
72 she * * * has any surviving her, either by a former husband or by
73 the surviving husband, in equal parts, according to the rules of
74 descent. If she * * * has children and there also * * * are
75 descendants of other children who have died before the mother, the
76 descendants shall inherit the share to which the parent would have
77 been entitled if living, as coheirs with the surviving children.
78 If she * * * has no children or descendants of them, then the
79 husband shall inherit all of her property.

80 (2) The provisions of Section 91-1-3(2) are applicable in
81 determining whether a child of a deceased husband is living at the
82 time of the decedent's death.

83 **SECTION 3.** This act shall take effect and be in force from
84 and after July 1, 2024.

