

By: Representative McLean

To: Judiciary A

HOUSE BILL NO. 1542  
(As Sent to Governor)

1 AN ACT TO ENACT THE CHRIS MCDILL LAW; TO PROVIDE THAT FOR THE  
2 PURPOSES OF INTESTATE SUCCESSION, IF THE DECEDENT DIES BEFORE THE  
3 START OF A PREGNANCY BY ASSISTED REPRODUCTION RESULTING IN THE  
4 BIRTH OF AN INDIVIDUAL WHO LIVES AT LEAST 120 HOURS AFTER BIRTH,  
5 THAT INDIVIDUAL IS DEEMED TO BE LIVING AT THE TIME OF THE  
6 DECEDENT'S DEATH UNDER CERTAIN CONDITIONS; TO PROVIDE A PROCEDURE  
7 FOR THE DESCENT AND DISTRIBUTION OF THE DECEDENT'S ESTATE; TO  
8 AMEND SECTIONS 91-1-11 AND 91-1-7, MISSISSIPPI CODE OF 1972, TO  
9 CONFORM; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** (1) This section shall be known and may be cited  
12 as the "Chris McDill Law."

13 (2) For purposes of this section, the following words shall  
14 have the meaning herein ascribed unless the context clearly  
15 requires otherwise:

16 (a) "Assisted reproductive technology" means a method  
17 of preserving fertility or attempting pregnancy through means  
18 other than by sexual intercourse, including, but not limited to,  
19 the following:

20 (i) Intrauterine, intracervical, or vaginal  
21 insemination;



- 22 (ii) Donation of gametes;
- 23 (iii) Donation of embryos;
- 24 (iv) Receiving of gametes;
- 25 (v) Receiving of embryos;
- 26 (vi) In vitro fertilization;
- 27 (vii) Embryo transfer; and
- 28 (viii) Intracytoplasmic sperm injection.

29 (b) "Personal property" means goods and chattels or  
30 personal estate.

31 (3) When any person shall die possessed of personal property  
32 not bequeathed before the start of a pregnancy by assisted  
33 reproductive technology resulting in the birth of an individual  
34 who lives at least one hundred twenty (120) hours after birth,  
35 that individual is deemed to be living at the time of the  
36 decedent's death and shall be entitled to a child's part of the  
37 decedent's personal property as provided in this section if the  
38 decedent's personal representative and the court, not later than  
39 six (6) months after the decedent's death, received notice or had  
40 actual knowledge of an intent to use the decedent's genetic  
41 material in the assisted reproduction; and

42 (a) The embryo was in utero not later than thirty-six  
43 (36) months after the decedent's death; or

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



46           (4)   (a)   This section shall only be applicable if there is a  
47 record signed by the decedent and the person who intends to use  
48 the decedent's genetic material in the assisted reproductive  
49 technology that the decedent consented to the use of the  
50 decedent's genetic material in assisted reproductive technology  
51 after the death of the decedent.

52           (b)   There shall be a rebuttable presumption that the  
53 decedent did not consent to the use of the decedent's genetic  
54 material in the assisted reproductive technology if the decedent  
55 was divorced or legally separated at the time of the decedent's  
56 death from the person who wishes to use the decedent's genetic  
57 material in the assisted reproductive technology.

58           (5)   An individual deemed to be living at the time of the  
59 decedent's death under subsection (3) of this section shall be  
60 entitled to a child's part of the decedent's personal property, or  
61 the equivalent value thereof. If more than one (1) individual is  
62 deemed to be living at the time of the decedent's death under  
63 subsection (3) of this section, each individual shall be entitled  
64 to an equal share of a child's part of the decedent's personal  
65 property, or the equivalent value thereof.

66           (6)   (a)   Upon receipt of notice or the actual knowledge  
67 required under subsection (3) of this section, the court shall:

68                   (i)   Set aside a child's part of the decedent's  
69 personal property, or the equivalent value thereof, for



70 distribution to an individual deemed to be living at the time of  
71 the decedent's death under subsection (3) of this section;

72 (ii) Distribute the remainder of the decedent's  
73 estate, except for the set-aside child's part of the decedent's  
74 personal property, or the equivalent value thereof, according to  
75 the statutes of descent and distribution; and

76 (iii) Enter an order closing the estate for all  
77 purposes except the distribution of the set-aside part of the  
78 decedent's personal property or the equivalent value thereof.

79 (b) If an individual is deemed to be living at the time  
80 of the decedent's death under subsection (3) of this section, the  
81 court shall distribute the set-aside portion of the decedent's  
82 personal estate according to subsection (5) of this section. If  
83 no individual is deemed living at the time of the decedent's death  
84 under subsection (3) of this section, the court shall distribute  
85 the set aside portion of the decedent's personal estate as is  
86 otherwise provided according to the statutes of descent and  
87 distribution.

88 (7) It is the intent of the Legislature that an individual  
89 deemed to be living at the time of the decedent's death under  
90 subsection (3) of this section shall be eligible for federal  
91 benefits under subchapter II of Chapter 7 of Title 41 of the  
92 United States Code.

93 **SECTION 2.** Section 91-1-11, Mississippi Code of 1972, is  
94 amended as follows:



95           91-1-11. (1) Except as provided in subsection (2) of this  
96 section, when any person shall die possessed of goods and chattels  
97 or personal estate not bequeathed, the same shall descend to and  
98 be distributed among his or her heirs in the same manner that real  
99 estate not devised descends.

100           (2) When any person shall die possessed of goods and  
101 chattels or personal estate not bequeathed, the provisions of  
102 Section 1 of this act are applicable in determining whether a  
103 child of a decedent is living at the time of the decedent's death.

104           **SECTION 3.** Section 91-1-7, Mississippi Code of 1972, is  
105 amended as follows:

106           91-1-7. (1) If a husband dies intestate and \* \* \* does not  
107 leave children or descendants of children, his widow shall be  
108 entitled to his entire estate, real and personal, in fee simple,  
109 after payment of his debts; but where the deceased husband \* \* \*  
110 leaves a child or children by that or a former marriage, or  
111 descendants of such child or children, his widow shall have a  
112 child's part of his estate, in either case in fee simple. If a  
113 married woman dies owning any real or personal estate not disposed  
114 of, it shall descend to her husband and her children or their  
115 descendants if she \* \* \* has any surviving her, either by a former  
116 husband or by the surviving husband, in equal parts, according to  
117 the rules of descent. If she \* \* \* has children and there  
118 also \* \* \* are descendants of other children who have died before  
119 the mother, the descendants shall inherit the share to which the



120 parent would have been entitled if living, as coheirs with the  
121 surviving children. If she \* \* \* has no children or descendants  
122 of them, then the husband shall inherit all of her property.

123 (2) The provisions of Section 1 of this act are applicable  
124 in determining whether a child of a decedent is living at the time  
125 of the decedent's death.

126 **SECTION 4.** This act shall take effect and be in force from  
127 and after its passage.

