WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1999

ENROLLED
Committee Substitute for
SENATE BILL NO. 600

(By Senator 

PASSED March 11, 1999
In Effect NINETY DAYS FROM Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 600

(SENIOR PLYMALE, original sponsor)

[Passed March 11, 1999; in effect ninety days from passage.]

AN ACT to amend and reenact section five, article one, chapter forty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to recognizing the right of a child born out of wedlock to inherit from his or her mother and father; means of establishing paternity; and exempting situations where the child has been adopted by another male or where the putative father has expressly disinherited the child.

Be it enacted by the Legislature of West Virginia:

That section five, article one, chapter forty-two of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 1. DESCENT.

§42-1-5. From whom children born out of wedlock inherit.

(a) Children born out of wedlock shall be capable of inheriting and transmitting inheritance on the part of their mother and father.

(b) Prior to the death of the father, paternity shall be established by:

(1) Acknowledgment that he is the child's father;

(2) Adjudication on the merits pursuant to the provisions of section four, article six, chapter forty-eight-a of this code; or

(3) By order of a court of competent jurisdiction issued in another state.

(c) After the death of the father, paternity shall be established if, after a hearing on the merits, the court shall find, by clear and convincing evidence that the man is the father of the child. The civil action shall be filed in the circuit court of the county where the administration of the decedent's estate has been filed or could be filed:

(1) Within six months of the date of the final order of the county commission admitting the decedent's will to probate or commencing intestate administration of the estate; or

(2) If none of the above apply, within six months from the date of decedent's death.

(d) Any putative child who at the time of the decedent's death is under the age of eighteen years, a convict or a mentally incapacitated person may file such civil action within six months after he or she becomes of age or the disability ceases.

(e) The provisions of this section do not apply where the putative child has been lawfully adopted by another man and stands to inherit property or assets through his adopted father.
33 (f) The provisions of this section do not apply where the
34 father or putative father has expressly disinherited the
35 child in a provision of his will.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within.............. approved........ this the 25th Day of March, 1987

Governor
PRESENTED TO THE GOVERNOR
Date 3/23/99
Time 10:47am