Attempt to repeal ‘colored’ law makes situation worse, lawyer says

By SCOTT F. WILLIAMS
Associated Press writer

NEW ORLEANS (AP) — The Legislature’s move to repeal Louisiana’s so-called “colored blood” law is meaningless, said the lawyer for a woman fighting to change the birth certificate that says she is black.

“What we have now is the same situation as before, only worse,” said New Orleans attorney Brian Begue on Thursday. “It looks good, but it’s still a sow’s ear.”

The law, unique in the nation, was adopted in 1970. It classifies anyone with as little as 1/32 Negro ancestry as colored. Prior to that time, the state classified as black anyone with a “traceable amount” of black blood.

On Wednesday, the Senate voted final legislative approval 37-0 and sent the repeal to Gov. Treen for action.

“I see no reason why I shouldn’t sign it,” Treen said Thursday, adding that the bill had yet to reach his desk.

“Obviously it should be repealed,” Begue said. “It’s vague, unconstitutional, and discriminatory. But to repeal a law not being applied by the state without confecting a substitute is meaningless.

“It looks great for the legislators of the state to say, ‘We repeal this awful law,’ but the great sin is not to have a workable criterion (in its place).”

Begue’s client, Susie Guillory Phipps, 49, of Carlyss, is the great-great-great-granddaughter of a black slave and a white plantation owner.

A dark-haired, fair-skinned woman, Mrs. Phipps has been trying since 1977 to change the “colored” designation on her birth certificate. In May, a state judge upheld the law, and Mrs. Phipps has appealed to the state’s 4th Circuit Court of Appeal.

“I just wanted to prove a point, and I did it,” Mrs. Phipps said Thursday. “I just wanted to prove that I’m not black.”

Ironically, Begue said, the repeal measure does nothing to alter her case because it is not retroactive.

In any case, he said, the state Department of Health and Human Resources no longer applies the 1/32 criterion. Instead, DHHR relies on the statements of a newborn’s mother in designating the race of the child.

“Without having a substitute law, we are falling back on the old law, being ‘traceable amount,’ and that’s truly reprehensible,” Begue said.

He said he will be asking the entire 4th circuit to hear his appeal and expects the case will be heard sometime this summer.