

By: Representative Ford

To: Judiciary A

HOUSE BILL NO. 546
(As Passed the House)

1 AN ACT TO REENACT AND AMEND SECTION 93-17-6, MISSISSIPPI CODE
2 OF 1972, WHICH PROVIDES FOR THE PETITION FOR DETERMINATION OF
3 PATERNAL RIGHTS; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 93-17-6, Mississippi Code of 1972, is
6 reenacted and amended as follows:

7 93-17-6. (1) Any person who would be a necessary party to
8 an adoption proceeding under this chapter and any person alleged
9 or claiming to be the father of a child born out of wedlock who is
10 proposed for adoption or who has been determined to be such by any
11 administrative or judicial procedure (the "alleged father") may
12 file a petition for determination of rights as a preliminary
13 pleading to a petition for adoption in any court which would have
14 jurisdiction and venue of an adoption proceeding. A petition for
15 determination of rights may be filed at any time after the period
16 ending thirty (30) days after the birth of the child. Should
17 competing petitions be filed in two (2) or more courts having
18 jurisdiction and venue, the court in which the first such petition
19 was properly filed shall have jurisdiction over the whole
20 proceeding until its disposition. The prospective adopting
21 parents need not be a party to such petition. Where the child's
22 biological mother has surrendered the child to a home for
23 adoption, the home may represent the biological mother and her
24 interests in this proceeding.

25 (2) The court shall set this petition for hearing as
26 expeditiously as possible allowing not less than ten (10) days'
27 notice from the service or completion of process on the parties to

28 be served.

29 (3) The sole matter for determination under a petition for
30 determination of rights is whether the alleged father has a right
31 to object to an adoption as set out in Section 93-17-5(3).

32 (4) Proof of an alleged father's full commitment to the
33 responsibilities of parenthood would be shown by proof that, in
34 accordance with his means and knowledge of the mother's pregnancy
35 or the child's birth, that he either:

36 (a) Provided financial support, including, but not
37 limited to, the payment of consistent support to the mother during
38 her pregnancy, contributions to the payment of the medical
39 expenses of pregnancy and birth, and contributions of consistent
40 support of the child after birth; that he frequently and
41 consistently visited the child after birth; and that he is now
42 willing and able to assume legal and physical care of the child;
43 or

44 (b) Was willing to provide such support and to visit
45 the child and that he made reasonable attempts to manifest such a
46 parental commitment, but was thwarted in his efforts by the mother
47 or her agents, and that he is now willing and able to assume legal
48 and physical care of the child.

49 (5) If the court determines that the alleged father has not
50 met his full responsibilities of parenthood, it shall enter an
51 order terminating his parental rights and he shall have no right
52 to object to an adoption under Section 93-17-7.

53 (6) If the court determines that the alleged father has met
54 his full responsibilities of parenthood and that he objects to the
55 child's adoption, the court shall set the matter as a contested
56 adoption in accord with Section 93-17-8.

57 (7) A petition for determination of rights may be used to
58 determine the rights of alleged fathers whose identity is unknown
59 or uncertain. In such cases the court shall determine what, if
60 any, notice can be and is to be given such persons.
61 Determinations of rights under the procedure of this section may
62 also be made under a petition for adoption.

63 (8) Petitions for determination of rights shall be
64 considered adoption cases and all subsequent proceedings such as a
65 contested adoption under Section 93-17-8 and the adoption

66 proceeding itself shall be portions of the same file.

67 (9) A petition for determination of rights may not be filed
68 after a final decree of adoption has become incontestable under
69 Section 93-17-15.

70 (10) This Section 93-17-6 shall stand repealed from and
71 after July 1, 2002.

72 SECTION 2. This act shall take effect and be in force from
73 and after July 1, 1999.