

By: Senator(s) Nunnelee

To: Judiciary; County
Affairs

SENATE BILL NO. 2906

1 AN ACT TO AMEND SECTION 93-17-8, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THAT THE COUNTY MAY PAY THE FEE OF A GUARDIAN AD LITEM WHO
3 IS AN ATTORNEY IN CERTAIN PROCEEDINGS IN CHANCERY COURT; AND FOR
4 RELATED PURPOSES. BE IT ENACTED BY THE LEGISLATURE OF THE STATE
5 OF MISSISSIPPI:

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7 SECTION 1. Section 93-17-8, Mississippi Code of 1972, is
8 brought forward as follows:

9 93-17-8. (1) Whenever an adoption becomes a contested
10 matter, whether after a hearing on a petition for determination of
11 rights under Section 92-17-6 or otherwise, the court:

12 (a) Shall, on motion of any party or on its own motion,
13 issue an order for immediate blood or tissue sampling in
14 accordance with the provisions of Section 93-9-21 et seq., if
15 paternity is at issue. The court shall order an expedited report
16 of such testing and shall hold the hearing resolving this matter
17 at the earliest time possible.

18 (b) Shall appoint a guardian ad litem to represent the
19 child. Such guardian ad litem shall be an attorney, however his
20 duties are as guardian ad litem and not as attorney for the child.

21 The reasonable costs of the guardian ad litem shall be taxed as
22 costs of court unless the chancellor, in his discretion, shall
23 order those costs paid by the county, which order may be entered
24 at any time. Neither the child nor anyone purporting to act on
25 his behalf may waive the appointment of a guardian ad litem.

26 (c) Shall determine first whether or not the objecting
27 parent is entitled to so object under the criteria of Section
28 93-17-7 and then shall determine the custody of the child in
29 accord with the best interests of the child and the rights of the

30 parties as established by the hearings and judgments.

31 (d) Shall schedule all hearings concerning the
32 contested adoption as expeditiously as possible for prompt
33 conclusion of the matter.

34 (2) In determining the custody of the child after a finding
35 that the adoption will not be granted, the fact of the surrender
36 of the child for adoption by a parent shall not be taken as any
37 evidence of that parent's abandonment or desertion of the child or
38 of that parent's unfitness as a parent.

39 (3) In contested adoptions arising through petitions for
40 determination of rights where the prospective adopting parents
41 were not parties to that proceeding, they need not be made parties
42 to the contested adoption until there has been a ruling that the
43 objecting parent is not entitled to enter a valid objection to the
44 adoption. At that point the prospective adopting parents shall be
45 made parties by joinder which shall show their suitability to be
46 adopting parents as would a petition for adoption. The identity
47 and suitability of the prospective adopting parents shall be made
48 known to the court and the guardian ad litem, but shall not be
49 made known to other parties to the proceeding unless the court
50 determines that the interests of justice or the best interests of
51 the child require it.

52 (4) No birth parent or alleged parent shall be permitted to
53 contradict statements given in a proceeding for the adoption of
54 their child in any other proceeding concerning that child or his
55 ancestry.

56 (5) Appointment of a guardian ad litem is not automatically
57 required in any proceeding under this chapter except (a) as
58 provided in subsection (1)(b) above * * * (b) for an abandoned
59 child * * * (c) where an adoption agency is involved in the
60 proceeding. No final decree of adoption heretofore granted shall
61 be set aside or modified because a guardian ad litem was not
62 appointed unless as the result of a direct appeal not now barred.

63 (6) The provisions of Chapter 15 of this Title 93,
64 Mississippi Code of 1972, are not applicable to proceedings under
65 this chapter except as specifically provided by reference herein.

66 (7) The court may order a child's birth father, identified
67 as such in the proceedings, to reimburse the Department of Human

68 Services, the foster parents, the adopting parents, the home, any
69 other agency or person who has assumed liability for such child,
70 all or part of the costs of the medical expenses incurred for the
71 mother and the child in connection with the birth of the child, as
72 well as reasonable support for the child after his birth.

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