

By: Moody

To: Judiciary A

HOUSE BILL NO. 970

1 AN ACT TO CODIFY SECTION 93-17-32, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE CHANCERY COURT TO APPROVE A POST-ADOPTION
3 CONTRACT BETWEEN THE ADOPTIVE PARENT(S) AND THE BIRTH PARENT(S) OF
4 CHILDREN WHOSE PARENTS VOLUNTARILY RELINQUISHED THEIR PARENTAL
5 RIGHTS, WITH EXCEPTIONS, FOR POST-ADOPTION VISITS AND
6 COMMUNICATION WITH THE ADOPTED CHILD; AND FOR RELATED PURPOSES.

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

8 SECTION 1. The following provision shall be codified as

9 Section 93-17-32, Mississippi Code of 1972:

10 93-17-32. (1) The purpose of this section is to give to
11 children who have been adopted in the State of Mississippi access
12 to continuing contact with their birth parents and/or other
13 entities as so set out within this section.

14 (2) If a child, adopted through a court of competent
15 jurisdiction in the State of Mississippi, was removed from the
16 home of his or her birth parent, or parents, due to any cause
17 other than physical or sexual abuse of the child, the child's
18 siblings, half-siblings or step-siblings, the court which
19 terminated the birth parent's, or parents', parental rights in
20 accordance with Section 93-15-103, or which granted an adoption in
21 accordance with Section 93-17-3 et seq., pursuant to the birth
22 parent's or parents', voluntary relinquishment of parental rights,
23 may, at its discretion, approve a post-adoption contract between
24 the adoptive parent, or parents, and the birth parent, or parents,
25 or between the adoptive parent, or parents, and any relatives of
26 the birth parent, or parents, or between the adoptive parent, or
27 parents, and anyone with whom the adopted child lived prior to his
28 adoption, including a foster parent, or parents, if the contract

29 is determined by the court to be in the best interest of the
30 adopted child. The contract may contain provisions for contact
31 between the adoptive parent, or parents, and the entities with
32 whom they contract, ranging from communication to visits with the
33 adopted child. A post-adoption contract shall not be enforceable
34 without the court's approval.

35 (3) The adoptive parent, or parents, shall not enter into a
36 post-adoption contract with anyone who has been substantiated as a
37 sexual or physical abuser by the Mississippi Department of Human
38 Services, or the child protection agency of another state, or
39 convicted by a court of competent jurisdiction in any state of the
40 sexual or physical abuse of any child, regardless of what legal
41 designation the crime carries. The contract shall specifically
42 exclude any contact whatsoever between the adopted child and any
43 of the birth parent's, or parents', relatives who have been
44 substantiated as sexual or physical abusers by the Department of
45 Human Services, or by another state's child protective agency, or
46 convicted of the sexual or physical abuse of any child.

47 (4) The contract shall be void, and the contract shall
48 contain language mandating the voidance of the contract, upon
49 breach of any of the conditions as set out in this section and/or
50 if the entity with whom the adoptive parents contract are
51 subsequently substantiated, or convicted, as sexual or physical
52 abusers of a child. The contract may be voided if the relatives
53 of the entities with whom the adoptive parent, or parents,
54 contract commit physical and/or sexual abuse upon a child, and the
55 contracting entity, or entities, knew, or should have known, of
56 said abuse.

57 (5) The factors which the court shall consider prior to its
58 approval of a post-adoption contract are:

59 (a) The distance between the residence of the adoptive
60 parent, or parents, and the person or persons with whom they are
61 contracting;

62 (b) The reasons that the child was removed from the
63 home of the birth parent, or parents;

64 (c) The desire of the child to maintain contact with
65 his or her birth parent, or parents, and their relatives. If the

66 adopted child has reached his or her twelfth birthday, prior to
67 the execution of the contract, unless the adopted child is under a
68 disability other than that of minority of age, said child shall be
69 a necessary party to the contract, and his or her wishes shall be
70 considered in determining with whom the adoptive parent, or
71 parents, will contract;

72 (d) The recommendations of a child psychologist, or
73 other qualified mental health professional, appointed by the court
74 to evaluate whether or not continued contact with the birth
75 parent, or parents, or their relatives is in the best interest of
76 the child;

77 (e) The willingness and the compatibility of the
78 potential parties to said contract; and

79 (f) Any other criteria that the court deems necessary
80 in order to make such a determination.

81 (6) The post-adoption contract shall be reviewed by the
82 court when so requested by the adoptive parent, or parents, or the
83 child or the entity with whom the adoptive parent, or parents,
84 contract and shall be reviewed at the minimum of once every year
85 until the child has reached his or her eighteenth birthday. The
86 court may appoint a guardian ad litem or a court-appointed special
87 advocate (CASA) to monitor the contract.

88 (7) The contract may be modified, or set aside, by any party
89 to the contract, without penalty to any party. The existence of a
90 contract, or the modification or the setting aside of said
91 contract, shall have no impact upon the finality or the
92 irrevocability of the adoption, including the right of the adopted
93 child to inherit from and through his or her adopted parent, or
94 parents, or of the adoptive parent, or parents, inheriting from
95 and through the adopted child in accordance with Section 93-17-13.

96 Nor does the entry of a post-adoption contract authorize the
97 disclosure of adoption records sealed in accordance with Section
98 93-17-25.

99 (8) All costs associated with the entry, monitoring, and/or
100 enforcement, of a post-adoption contract shall be assessed to, and
101 borne by, the parties to the contract as set out in subsection (2)
102 hereof.

103 SECTION 2. This act shall take effect and be in force from
104 and after July 1, 2000.