

**\*\*\*Adopted\*\*\***

**AMENDMENT No. 1 PROPOSED TO**

**House Bill NO. 606**

**By Senator(s) Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

7           **SECTION 1.** Section 93-17-5, Mississippi Code of 1972, is  
8 amended as follows:  
9           93-17-5. (1) There shall be made parties to the proceeding  
10 by process or by the filing therein of a consent to the adoption  
11 proposed in the petition, which consent shall be duly sworn to or  
12 acknowledged and executed only by the following persons, but not  
13 before seventy-two (72) hours after the birth of said child: (a)  
14 the parents, or parent, if only one (1) parent, though either be  
15 under the age of twenty-one (21) years; or, (b) in the event both  
16 parents are dead, then any two (2) adult kin of the child within  
17 the third degree computed according to the civil law, provided  
18 that, if one (1) of such kin is in possession of the child, he or  
19 she shall join in the petition or be made a party to the suit; or,  
20 (c) the guardian ad litem of an abandoned child, upon petition  
21 showing that the names of the parents of such child are unknown  
22 after diligent search and inquiry by the petitioners. In addition  
23 to the above, there shall be made parties to any proceeding to  
24 adopt a child, either by process or by the filing of a consent to  
25 the adoption proposed in the petition, the following:  
26           (i) Those persons having physical custody of such

27 child, except persons having such child as foster parents as a  
28 result of placement with them by the Department of Human Services  
29 of the State of Mississippi.

30 (ii) Any person to whom custody of such child may have  
31 been awarded by a court of competent jurisdiction of the State of  
32 Mississippi.

33 (iii) The agent of the county Department of Human  
34 Services of the State of Mississippi that has placed a child in  
35 foster care, either by agreement or by court order.

36 (2) Such consent may also be executed and filed by the duly  
37 authorized officer or representative of a home to whose care the  
38 child has been delivered. The child shall join the petition by  
39 its next friend.

40 (3) In the case of a child born out of wedlock, the father  
41 shall \* \* \* be a party \* \* \*. Determination of the rights of the  
42 father of a child born out of wedlock may be made in proceedings  
43 pursuant to a Petition for Determination of Rights as provided in  
44 Section 93-17-6.

45 (4) If such consent be not filed, then process shall be had  
46 upon the parties as provided by law for process in person or by  
47 publication, if they be nonresidents of the state or are not found  
48 therein, after diligent search and inquiry, or are unknown after  
49 diligent search and inquiry; provided that the court or chancellor  
50 in vacation may fix a date in termtime or in vacation to which  
51 process may be returnable and shall have power to proceed in  
52 termtime or vacation. In any event, if the child is more than  
53 fourteen (14) years of age, a consent to the adoption, sworn to or  
54 acknowledged by the child, shall also be required or personal  
55 service of process shall be had upon the child in the same manner  
56 and in the same effect as if the child were an adult.

57 **SECTION 2.** Section 93-17-7, Mississippi Code of 1972, is  
58 amended as follows:

59 93-17-7. No infant shall be adopted to any person if either  
60 parent, after having been summoned, shall appear and object  
61 thereto before the making of a decree for adoption, unless it

62 shall be made to appear to the court from evidence touching such  
63 matters that the parent so objecting had abandoned, abused or  
64 deserted such infant or is mentally, or morally, or otherwise  
65 unfit to rear and train the child \* \* \*. Provided, however, the  
66 parents shall not be summoned in the adoption proceedings nor have  
67 the right to object thereto if the parental rights of the parent  
68 or parents have been terminated by the procedure set forth in  
69 Sections 93-15-101 through 93-15-111, and such termination shall  
70 be res judicata on the question of parental abandonment or  
71 unfitness in the adoption proceedings. Appointment of a guardian  
72 ad litem by the court shall not be mandatory when the adoption is  
73 uncontested or where all necessary parties have been properly  
74 summoned and no party has filed an objection to the proceeding.

75 **SECTION 3.** The following shall be codified as Section  
76 93-17-6, Mississippi Code of 1972:

77 93-17-6. (1) Any person who would be a necessary party to  
78 an adoption proceeding under this chapter and any person alleged  
79 or claiming to be the father of a child born out of wedlock who is  
80 proposed for adoption or who has been determined to be such by any  
81 administrative or judicial procedure (the "alleged father") may  
82 file a petition for determination of rights as a preliminary  
83 pleading to a petition for adoption in any court which would have  
84 jurisdiction and venue of an adoption proceeding. A petition for  
85 determination of rights may be filed at any time after the period  
86 ending thirty (30) days after the birth of the child. Should  
87 competing petitions be filed in two (2) or more courts having  
88 jurisdiction and venue, the court in which the first such petition  
89 was properly filed shall have jurisdiction over the whole  
90 proceeding until its disposition. The prospective adopting  
91 parents need not be a party to such petition. Where the child's  
92 biological mother has surrendered the child to a home for  
93 adoption, the home may represent the biological mother and her  
94 interests in this proceeding.

95 (2) The court shall set this petition for hearing as  
96 expeditiously as possible allowing not less than ten (10) days'

97 notice from the service or completion of process on the parties to  
98 be served.

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

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

106 (a) Provided financial support, including, but not  
107 limited to, the payment of consistent support to the mother during  
108 her pregnancy, contributions to the payment of the medical  
109 expenses of pregnancy and birth, and contributions of consistent  
110 support of the child after birth; that he frequently and  
111 consistently visited the child after birth; and that he is now  
112 willing and able to assume legal and physical care of the child;  
113 or

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

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

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

127 (7) A petition for determination of rights may be used to  
128 determine the rights of alleged fathers whose identity is unknown  
129 or uncertain. In such cases the court shall determine what, if  
130 any, notice can be and is to be given such persons.

131 Determinations of rights under the procedure of this section may

132 also be made under a petition for adoption.

133 (8) Petitions for determination of rights shall be  
134 considered adoption cases and all subsequent proceedings such as a  
135 contested adoption under Section 93-17-8 and the adoption  
136 proceeding itself shall be portions of the same file.

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

140 **SECTION 4.** This act shall take effect and be in force from  
141 and after its passage.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTIONS 93-17-5 AND 93-17-7, MISSISSIPPI  
2 CODE OF 1972, TO CLARIFY THE DETERMINATION OF RIGHTS OF AN ALLEGED  
3 FATHER IN ADOPTION PROCEEDINGS; TO RECODIFY WITH AMENDMENT SECTION  
4 93-17-6, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR PETITIONS FOR  
5 DETERMINATION OF RIGHTS; AND FOR RELATED PURPOSES.