

By: Representative Zuber

To: Judiciary A

HOUSE BILL NO. 1107

1 AN ACT TO AMEND SECTIONS 93-17-3 AND 93-17-5, MISSISSIPPI
2 CODE OF 1972, TO PROHIBIT FACILITATORS FROM HANDLING ADOPTIONS;
3 AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 93-17-3, Mississippi Code of 1972, is
6 amended as follows:

7 93-17-3. (1) Any person may be adopted in accordance with
8 the provisions of this chapter in term time or in vacation by an
9 unmarried adult or by a married person whose spouse joins in the
10 petition, provided that the petitioner or petitioners shall have
11 resided in this state for ninety (90) days preceding the filing of
12 the petition. However, if (a) the petitioner or petitioners, or
13 one (1) of them, be related to the child within the third degree
14 according to civil law, or if (b) the adoption is presented to the
15 court by an adoption agency licensed by the State of Mississippi,
16 said residence restriction shall not apply. Such adoption shall
17 be by sworn petition filed in the chancery court of the county in
18 which the adopting petitioner or petitioners reside or in which
19 the child to be adopted resides or was born, or was found when it
20 was abandoned or deserted, or in which the home is located to
21 which the child shall have been surrendered by a person authorized
22 to so do. The petition shall be accompanied by a doctor's or
23 nurse practitioner's certificate showing the physical and mental
24 condition of the child to be adopted and a sworn statement of all
25 property, if any owned by the child. Should the doctor's or nurse
26 practitioner's certificate indicate any abnormal mental or
27 physical condition or defect, such condition or defect shall not



28 in the discretion of the chancellor bar the adoption of the child
29 if the adopting parent or parents shall file an affidavit stating
30 full and complete knowledge of such condition or defect and
31 stating a desire to adopt the child, notwithstanding such
32 condition or defect. The court shall have the power to change the
33 name of the child as a part of the adoption proceedings. The word
34 "child" herein shall be construed to refer to the person to be
35 adopted, though an adult.

36 (2) Adoption by couples of the same gender is prohibited.

37 (3) A facilitator shall not handle an adoption.

38 "Facilitator" means any adoption agency, its employees or any
39 other person who provides information to persons interested in an
40 adoption. A facilitator may only provide information to
41 interested parties.

42 **SECTION 2.** Section 93-17-5, Mississippi Code of 1972, is
43 amended as follows:

44 93-17-5. (1) There shall be made parties to the proceeding
45 by process or by the filing therein of a consent to the adoption
46 proposed in the petition, which consent shall be duly sworn to or
47 acknowledged and executed only by the following persons, but not
48 before seventy-two (72) hours after the birth of said child: (a)
49 the parents, or parent, if only one (1) parent, though either be
50 under the age of twenty-one (21) years; or, (b) in the event both
51 parents are dead, then any two (2) adult kin of the child within
52 the third degree computed according to the civil law, provided
53 that, if one of such kin is in possession of the child, he or she
54 shall join in the petition or be made a party to the suit; or, (c)
55 the guardian ad litem of an abandoned child, upon petition showing
56 that the names of the parents of such child are unknown after
57 diligent search and inquiry by the petitioners. In addition to
58 the above, there shall be made parties to any proceeding to adopt
59 a child, either by process or by the filing of a consent to the
60 adoption proposed in the petition, the following:



61 (i) Those persons having physical custody of such
62 child, except persons having such child as foster parents as a
63 result of placement with them by the Department of Human Services
64 of the State of Mississippi.

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

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

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

75 (3) In the case of a child born out of wedlock, the father
76 shall not have a right to object to an adoption unless he has
77 demonstrated, within the period ending thirty (30) days after the
78 birth of the child, a full commitment to the responsibilities of
79 parenthood. Determination of the rights of the father of a child
80 born out of wedlock may be made in proceedings pursuant to a
81 petition for determination of rights as provided in Section
82 93-17-6.

83 (4) If such consent be not filed, then process shall be had
84 upon the parties as provided by law for process in person or by
85 publication, if they be nonresidents of the state or are not found
86 therein, after diligent search and inquiry, or are unknown after
87 diligent search and inquiry; provided that the court or chancellor
88 in vacation may fix a date in termtime or in vacation to which
89 process may be returnable and shall have power to proceed in
90 termtime or vacation. In any event, if the child is more than
91 fourteen (14) years of age, a consent to the adoption, sworn to or
92 acknowledged by the child, shall also be required or personal



93 service of process shall be had upon the child in the same manner
94 and in the same effect as if it were an adult.

95 (5) A facilitator shall be restricted to the duties
96 prescribed in subsection (3) of Section 93-17-3.

97 **SECTION 3.** This act shall take effect and be in force from
98 and after its passage.

