

By: Representative Holland

To: Judiciary A

HOUSE BILL NO. 588
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 93-17-3, 93-17-11 AND 43-15-117,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN ANY ADOPTION
3 PROCEEDING THE COURT MAY REQUIRE A HOME STUDY TO BE MADE OF THE
4 PETITIONER AND TO REQUIRE CHILD-PLACING AGENCIES TO BE LICENSED
5 BEFORE THEY ADVERTISE IN THE MEDIA MARKETS IN MISSISSIPPI SEEKING
6 BIRTH MOTHERS OR THEIR CHILDREN FOR ADOPTION PURPOSES; AND FOR
7 RELATED PURPOSES.

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

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

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

30 doctor's or nurse practitioner's certificate indicates any
31 abnormal mental or physical condition or defect, the condition or
32 defect shall not in the discretion of the chancellor bar the
33 adoption of the child if the adopting parent or parents * * * file
34 an affidavit stating full and complete knowledge of the condition
35 or defect and stating a desire to adopt the child, notwithstanding
36 the condition or defect. The court shall have the power to change
37 the name of the child as a part of the adoption proceedings. The
38 word "child" herein shall be construed to refer to the person to
39 be adopted, though an adult.

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

41 **SECTION 2.** Section 93-17-11, Mississippi Code of 1972, is
42 amended as follows:

43 93-17-11. At any time after the filing of the petition for
44 adoption and completion of process thereon, and before the
45 entering of a final decree, the court may, in its discretion, of
46 its own motion, or on motion of any party to the proceeding,
47 require an investigation, including, but not limited to, a home
48 study by a duly qualified licensed person at the petitioner's or
49 petitioners' sole expense and at no cost to the state or county,
50 and report to the court to be made by any person, officer, or home
51 as the court may designate and direct concerning the child, giving
52 the material facts upon which the court may determine whether the
53 child is a proper subject for adoption, whether the petitioners or
54 petitioner are suitable parents for the child, whether the
55 adoption is to its best interest, and any other facts or
56 circumstances that may be material to the proposed adoption. The
57 court, when an investigation and report are required by the court
58 or by this section, shall stay the proceedings in the cause for
59 such reasonable time as may be necessary or required in the
60 opinion of the court for the completion of the investigation and
61 report by the person, officer, or home designated and authorized
62 to make the same.

63 Upon the filing of that consent or the completion of the
64 process and the filing of the investigation and report, if
65 required by the court or by this section, and the presentation of
66 such other evidence as may be desired by the court, if the court
67 determines that it is to the best interests of the child that an
68 interlocutory decree of adoption be entered, the court may
69 thereupon enter an interlocutory decree upon such terms and
70 conditions as may be determined by the court, in its discretion,
71 but including therein that the complete care, custody and control
72 of the child shall be vested in the petitioner or petitioners
73 until further orders of the court and that during such time the
74 child shall be and remain a ward of the court. If the court
75 determines by decree at any time during the pendency of the
76 proceeding that it is not to the best interests of the child that
77 the adoption proceed, the petitioners shall be entitled to at
78 least five (5) days' notice upon their attorneys of record and a
79 hearing with the right of appeal as provided by law from a
80 dismissal of the petition; however, the bond perfecting the appeal
81 shall be filed within ten (10) days from the entry of the decree
82 of dismissal and the bond shall be in such amount as the
83 chancellor may determine and supersedeas may be granted by the
84 chancellor or as otherwise provided by law for appeal from final
85 decrees.

86 After the entry of the interlocutory decree and before entry
87 of the final decree, the court may require such further and
88 additional investigation and reports as it may deem proper. The
89 rights of the parties filing the consent or served with process
90 shall be subject to the decree but shall not be divested until
91 entry of the final decree.

92 **SECTION 3.** Section 43-15-117, Mississippi Code of 1972, is
93 amended as follows:

94 43-15-117. (1) Except as provided in this article, no
95 person, agency, firm, corporation, association or group children's

96 home may engage in child placing, or solicit money or other
97 assistance for child placing, without a valid license issued by
98 the division. No child-placing agency shall advertise in the
99 media markets in Mississippi seeking birth mothers or their
100 children for adoption purposes unless the agency holds a valid and
101 current license issued either by the division or the authorized
102 governmental licensing agency of another state that regulates
103 child-placing agencies.

104 (2) * * * An attorney, physician or other person may assist
105 a parent in identifying or locating a person interested in
106 adopting the parent's child, or in identifying or locating a child
107 to be adopted. However, no payment, charge, fee, reimbursement of
108 expense, or exchange of value of any kind, or promise or agreement
109 to make the same, may be made for that assistance.

110 * * *

111 (3) Nothing in this section precludes payment of reasonable
112 fees for medical, legal or other lawful services rendered in
113 connection with the care of a mother, delivery and care of a
114 child, including, but not limited to, the mother's living
115 expenses, or counseling for the parents and/or the child, and for
116 the legal proceedings related to lawful adoption proceedings; and
117 no provision of this section abrogates the right of procedures for
118 independent adoption as provided by law.

119 (4) The division is specifically authorized to promulgate
120 rules under the Administrative Procedures Law, Title 25, Chapter
121 43, Mississippi Code of 1972, to regulate fees charged by licensed
122 child-placing agencies, if it determines that the practices of
123 those licensed child-placing agencies demonstrates that the fees
124 charged are excessive or that any of the agency's practices are
125 deceptive or misleading; however, those rules regarding fees shall
126 take into account the use of any sliding fee by an agency that
127 uses a sliding fee procedure to permit prospective adoptive

128 parents of varying income levels to utilize the services of those
129 agencies or persons.

130 (5) The division shall promulgate rules under the
131 Administrative Procedures Law, Title 25, Chapter 43, Mississippi
132 Code of 1972, to require that all licensed child-placing agencies
133 provide written disclosures to all prospective adoptive parents of
134 any fees or other charges for each service performed by the agency
135 or person, and file an annual report with the division that states
136 the fees and charges for those services, and to require them to
137 inform the division in writing thirty (30) days in advance of any
138 proposed changes to the fees or charges for those services.

139 (6) The division is specifically authorized to disclose to
140 prospective adoptive parents or other interested persons any fees
141 charged by any licensed child-placing agency, attorney or
142 counseling service or counselor for all legal and counseling
143 services provided by that licensed child-placing agency, attorney
144 or counseling service or counselor.

145 **SECTION 4.** This act shall take effect and be in force from
146 and after July 1, 2004.