

By: Representative Franks

To: Judiciary A

HOUSE BILL NO. 1545

1 AN ACT TO AMEND SECTIONS 93-15-105 AND 93-17-6, MISSISSIPPI
2 CODE OF 1972, TO ALLOW THE WAIVER OF THIRTY-DAY SERVICE IN
3 ADOPTIONS OF CHILDREN FROM FOREIGN COUNTRIES; AND FOR RELATED
4 PURPOSES.

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

6 **SECTION 1.** Section 93-15-105, Mississippi Code of 1972, is
7 amended as follows:

8 93-15-105. (1) Any person, agency or institution may file
9 for termination of parental rights in the chancery court or the
10 family or county court sitting as the youth court of the county in
11 which a defendant or the child resides, or in the county where an
12 agency or institution holding custody of the child is located.
13 The chancery court, or the chancellor in vacation, or the family
14 court, or the family court judge in vacation, or the county court
15 when sitting as the youth court, or such county court judge in
16 vacation, may set the cause for hearing in termtime or in
17 vacation. The petition shall be triable either in termtime or in
18 vacation, after personal service of process for thirty (30) days,
19 and in case of nonresident defendants, or defendants whose
20 addresses are unknown after diligent search, thirty (30) days
21 after completion of publication; such publication to be otherwise
22 as provided in the Mississippi Rules of Civil Procedure.

23 (2) In all cases involving termination of parental rights,
24 minor parents may be served with process as an adult.

25 (3) In the event that one (1) parent voluntarily releases
26 his child for adoption a copy of the summons served on the child
27 shall not be required to be served on the releasing parent.

28 (4) In an appropriate case, determination of the rights of
29 the father of a child born out of wedlock may be made in
30 proceedings pursuant to a petition for determination of rights as
31 provided in Section 93-17-6.

32 (5) In the event that child for adoption is born in a
33 foreign country, the child is put up for adoption in that country
34 and the child is legally admitted into this country, then the
35 thirty (30) days for service, either by personal service or
36 publication, required by subsection (1) of this section, may be
37 waived by the controlling court.

38 **SECTION 2.** Section 93-17-6, Mississippi Code of 1972, is
39 amended as follows:

40 93-17-6. (1) Any person who would be a necessary party to
41 an adoption proceeding under this chapter and any person alleged
42 or claiming to be the father of a child born out of wedlock who is
43 proposed for adoption or who has been determined to be such by any
44 administrative or judicial procedure (the "alleged father") may
45 file a petition for determination of rights as a preliminary
46 pleading to a petition for adoption in any court which would have
47 jurisdiction and venue of an adoption proceeding. A petition for
48 determination of rights may be filed at any time after the period
49 ending thirty (30) days after the birth of the child. Should
50 competing petitions be filed in two (2) or more courts having
51 jurisdiction and venue, the court in which the first such petition
52 was properly filed shall have jurisdiction over the whole
53 proceeding until its disposition. The prospective adopting
54 parents need not be a party to such petition. Where the child's
55 biological mother has surrendered the child to a home for
56 adoption, the home may represent the biological mother and her
57 interests in this proceeding.

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

60 notice from the service or completion of process on the parties to
61 be served.

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

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

69 (a) Provided financial support, including, but not
70 limited to, the payment of consistent support to the mother during
71 her pregnancy, contributions to the payment of the medical
72 expenses of pregnancy and birth, and contributions of consistent
73 support of the child after birth; that he frequently and
74 consistently visited the child after birth; and that he is now
75 willing and able to assume legal and physical care of the child;
76 or

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

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

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

90 (7) A petition for determination of rights may be used to
91 determine the rights of alleged fathers whose identity is unknown
92 or uncertain. In such cases the court shall determine what, if

93 any, notice can be and is to be given such persons.
94 Determinations of rights under the procedure of this section may
95 also be made under a petition for adoption.

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

100 (9) Service regarding adoption of foreign born children
101 shall be governed by Section 93-15-105(5).

102 **SECTION 3.** This act shall take effect and be in force from
103 and after July 1, 2005.