

By: Representative Franks

To: Judiciary A

HOUSE BILL NO. 1545  
(As Sent to Governor)

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, thirty (30) days after personal service of  
19 process \* \* \*, and in case of nonresident defendants, or  
20 defendants whose addresses are unknown after diligent search,  
21 thirty (30) days after completion of publication; such publication  
22 to be otherwise as provided in the Mississippi Rules of Civil  
23 Procedure.

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

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

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

33           (5) In the event that an adoptive child was born in a  
34 foreign country, the child was put up for adoption in the birth  
35 country, and the child has been legally admitted into this  
36 country, the thirty (30) days' service of process required by  
37 subsection (1) of this section, whether by personal service or  
38 publication, may be waived by the controlling court.

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

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

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

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

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

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

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

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

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

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

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

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

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

101 (9) Service of process in the adoption of a foreign born  
102 child shall be governed by Section 93-15-105(5).

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