

Senate Amendments to House Bill No. 1545

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

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

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.

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

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.

SS26\HB1545A.J

John O. Gilbert
Secretary of the Senate