

By: Representative Holland

To: Public Health and Human  
Services

## HOUSE BILL NO. 647

1 AN ACT TO CREATE THE PUTATIVE FATHER REGISTRY WITHIN THE  
2 DEPARTMENT OF HUMAN SERVICES; TO DEFINE CERTAIN TERMS; TO PROVIDE  
3 REGISTRATION REQUIREMENTS AND DUTIES; TO PROVIDE FOR THE DUTIES OF  
4 THE DEPARTMENT OF HUMAN SERVICES; TO PROVIDE NOTICE REQUIREMENTS;  
5 TO PROVIDE PENALTIES FOR FILING FALSE INFORMATION; TO PROVIDE FOR  
6 FEES; TO PROVIDE FORMS; TO AMEND SECTIONS 93-17-6, 93-15-103,  
7 93-15-105 AND 93-15-107, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
8 THERETO; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** The following words and phrases shall have the  
11 meanings ascribed herein, unless the context clearly indicates  
12 otherwise:

13 (a) "Child" includes an unborn child.

14 (b) "Department" means the Department of Human  
15 Services.

16 (c) "Putative father" means an individual who may be a  
17 child's father but who:

18 (i) Is not married to the child's mother on or  
19 before the date that the child is born; or

20 (ii) Has not established paternity of the child  
21 prior to the filing of a petition for termination of parental  
22 rights to the child for purposes of adoption; or

23 (iii) The term also includes an individual who is:

24 1. Less than eighteen (18) years of age; and

25 2. Not married to the child's mother even  
26 though the individual is a presumed father.

27 (d) "Registry" means the Putative Father Registry  
28 established by this act.

29           **SECTION 2.** The Putative Father Registry is established  
30 within the Department of Human Services, which shall administer  
31 the registry.

32           **SECTION 3.** The purpose of the Putative Father Registry is to  
33 protect the rights of putative fathers. Registration with the  
34 Putative Father Registry entitles the individual to notice of the  
35 hearing on termination of parental rights.

36           **SECTION 4.** (1) A person who engages in sexual relations  
37 with a member of the opposite sex is presumed to know that a  
38 pregnancy could result.

39           (2) A putative father is entitled to notice of termination  
40 of parental rights proceedings for the purposes of adoption if the  
41 putative father has complied with the requirements of the Putative  
42 Father Registry.

43           **SECTION 5.** (1) A putative father is entitled to notice of  
44 any proceedings to terminate parental rights involving a child  
45 whom he might have fathered if he timely files the following  
46 information with the department:

47                   (a) His full name and any aliases;

48                   (b) Address at which he may be served by certified  
49 mail, return receipt requested, with notice of a proceeding to  
50 terminate parental rights;

51                   (c) His social security number;

52                   (d) His date of birth;

53                   (e) Tribal affiliation, if applicable;

54                   (f) The mother's name, including all other names known  
55 to him that the mother uses, and her address, social security  
56 number and date of birth, if known;

57                   (g) The child's name and place of birth, if known; and

58                   (h) The approximate date and location of a possible  
59 conception and the approximate expected date of delivery.

60           (2) If a putative father does not have an address where he  
61 can receive notice of a termination of parental rights proceeding,

62 he may designate another person as an agent for the purpose of  
63 receiving notice. The putative father shall provide the  
64 department with the agent's name and the address at which the  
65 agent may be served. Service of notice by certified mail, return  
66 receipt requested, constitutes service of notice upon the putative  
67 father.

68 (3) A putative father shall register under this section on a  
69 registration form prescribed by the department or with a legibly  
70 typed or handwritten statement that provides the required  
71 information and that is submitted to the department pursuant to  
72 this act. The registration must be signed by the putative father  
73 and notarized.

74 (4) A putative father who registers under this section is  
75 responsible for providing written updates to the department  
76 regarding any change of the putative father's name or address.

77 **SECTION 6.** (1) In order to be entitled, because of  
78 registration, to receive notice of a termination of parental  
79 rights proceeding, a putative father's registration form complying  
80 with the requirements of this act must be received by the  
81 department not later than ninety-six (96) hours after the child's  
82 birth.

83 (2) A putative father may file all information required by  
84 this section before a child's birth even though the putative  
85 father has no actual knowledge that a pregnancy has occurred or  
86 that a pregnancy has continued through gestation.

87 **SECTION 7.** A putative father shall submit a registration  
88 form:

89 (a) In person; or

90 (b) By facsimile transmission, mail, courier or  
91 delivery service.

92 **SECTION 8.** When a putative father receives notice that a  
93 child in whom he claims a parental interest is the subject of a  
94 termination of parental rights proceeding, the putative father

95 shall appear at the hearing held on the petition to terminate  
96 parental rights and demonstrate, at a minimum, that the criteria  
97 set out in this act has been met.

98        SECTION 9. A person filing a registration form is presumed  
99 to be the father of the child for purposes of adoption. The  
100 registration is admissible in a paternity proceeding and creates a  
101 rebuttable presumption as to the paternity of the child.

102        SECTION 10. (1) The Department of Human Services shall:

103           (a) Prescribe a registration form for the information  
104 that a putative father submits under this act; and

105           (b) Make the registration forms available through:

106               (i) Any licensed adoption agency;

107               (ii) Each chancery clerk;

108               (iii) Each local health department;

109               (iv) Hospitals with maternity departments;

110               (v) Town or city clerks; and

111               (vi) Such other methods as it deems appropriate.

112        (2) A notice provided by the department that informs the  
113 public about the purpose and operation of the registry shall:

114           (a) Be posted in a conspicuous place by each:

115               (i) Chancery court;

116               (ii) Driver's examination station of the

117 Department of Public Safety;

118               (iii) Local health department;

119               (iv) Town or city clerk.

120           (b) The notice shall be made available in the major  
121 languages spoken in the state.

122           (c) The notice shall be made available through school  
123 guidance and health departments.

124        (3) The notice under subsection (2) shall include  
125 information regarding:

126           (a) Where to obtain a registration form;

127           (b) Where to register;

128           (c) The circumstances under which a putative father is  
129 required to register;

130           (d) The period under this act during which a putative  
131 father is required to register in order to entitle him to receive  
132 notice of an adoption;

133           (e) The information that must be provided to the  
134 registry and what other actions the putative father is required to  
135 take to preserve a right to notice;

136           (f) The consequences of not submitting a timely  
137 registration; and

138           (g) The penalties for filing a false claim with the  
139 Putative Father Registry.

140           **SECTION 11.** The department shall maintain the following  
141 information in the registry:

142           (a) The registration information provided by the  
143 putative father under this act;

144           (b) The date that the department receives a putative  
145 father's registration;

146           (c) The name and affiliation of any person who requests  
147 that the department search the registry to determine whether a  
148 putative father is registered in relation to a mother whose child  
149 is or may be the subject of a termination proceeding, and the date  
150 the request is submitted; and

151           (d) Any other information that the department  
152 determines is necessary to access the information in the registry.

153           **SECTION 12.** The department shall store the registry's data  
154 in a manner so that the data is accessible through:

155           (a) The putative father's name;

156           (b) The mother's name, including her maiden name and  
157 any aliases;

158           (c) The date of birth of the putative father, the  
159 mother and the child, if known;

160           (d) The child's name, if known; and

161 (e) The social security number for the putative father,  
162 the mother and the child, if known.

163 **SECTION 13.** (1) Only the following may request that the  
164 department search the registry to determine whether a putative  
165 father is registered in relation to a child who is or may be the  
166 subject of a proceeding to terminate parental rights:

167 (a) A representative of the department;

168 (b) A representative of an agency when the agency is or  
169 may be arranging an adoption;

170 (c) Any woman who is the subject of a registration or  
171 an attorney authorized to act on her behalf;

172 (d) A court that presides over a pending termination of  
173 parental rights or a pending adoption; or

174 (e) An attorney who is or may be involved in an  
175 adoption.

176 (2) A request for information about a registration from the  
177 department must be in writing.

178 **SECTION 14.** Failure of the department or other entity to  
179 post proper notice under this act does not relieve a putative  
180 father of the obligation to register with the department.

181 **SECTION 15.** A putative father may revoke a registration at  
182 any time by submitting to the department a signed, notarized  
183 statement revoking the registration.

184 **SECTION 16.** The department shall furnish a certified copy of  
185 the putative father's registration form upon written request by:

186 (a) A putative father whose name appears on the  
187 registration form being requested;

188 (b) A mother whose name appears on the registration  
189 form being requested;

190 (c) The department or a licensed child-placing agency;

191 (d) A court that presides over a pending termination of  
192 parental rights or a pending adoption;

193 (e) The child support enforcement division of the  
194 Department of Revenue;

195 (f) A representative of the department or designee  
196 involved in a care and protection proceeding.

197 **SECTION 17.** Except as otherwise provided in this act,  
198 information contained within the registry is confidential.

199 **SECTION 18.** A person who purposely or knowingly registers  
200 false information or requests under false pretenses information  
201 from the Putative Father Registry commits a misdemeanor punishable  
202 by a fine of not more than One Thousand Dollars (\$1,000.00) or  
203 imprisonment for not more than six (6) months, or both, and may be  
204 civilly liable for damages.

205 **SECTION 19.** (1) The burden of establishing fraud against  
206 the putative father by clear and convincing evidence must be borne  
207 by the putative father.

208 (2) A person injured by fraudulent representations or  
209 actions in connection with an adoption is entitled to pursue civil  
210 or criminal penalties against the person who has made the  
211 fraudulent representation. A fraudulent representation is not a  
212 defense for failure to comply with the requirements of the  
213 Putative Father Registry and is not a basis for dismissal of a  
214 petition for adoption, the vacate of an adoption decree or an  
215 automatic grant of custody to the injured party.

216 (3) A putative father who resides in another state may  
217 contest an adoption prior to the issuance of a decree terminating  
218 his parental rights and may assert his interest in the child. If  
219 the termination of parental rights proceeding is contested, the  
220 court shall hold an evidentiary hearing to determine if:

221 (a) The putative father resides and has resided in  
222 another state where the unmarried mother lived or resided either  
223 at the time of conception or through a portion of the pregnancy;

224 (b) The mother left that state, concealing the location  
225 from the putative father regarding where she could be contacted or  
226 located;

227 (c) The putative father has, through every reasonable  
228 means, attempted to locate the mother but has been unable to do  
229 so; and

230 (d) The putative father has complied with the  
231 requirements of the state where the mother previously resided or  
232 was located in order to protect and preserve his parental interest  
233 and rights concerning the child.

234 **SECTION 20.** The department shall provide a person who files  
235 a document under this act with evidence of the filing within  
236 twenty-four (24) hours and shall at the same time, send notice of  
237 the filing to such mother by registered mail at her address as  
238 stated on the paternal responsibility claim or to such other  
239 address as the department determines to be correct after making  
240 every reasonable effort to locate such mother. Such filing shall  
241 constitute an acknowledgment and admission of paternity.

242 **SECTION 21.** (1) Upon request of any person or agency  
243 receiving a child for the purpose of adoption, the department  
244 shall search its records of putative father registrations.

245 (2) The department may charge a reasonable fee not to exceed  
246 Twenty-five Dollars (\$25.00) for responding to a request under  
247 this section.

248 (3) No later than twenty-four (24) hours after receiving a  
249 request for a registry search, the department shall submit an  
250 affidavit to the requestor verifying whether a putative father has  
251 registered within the period allowed under this act by fax,  
252 e-mail, prepaid courier service or regular mail.

253 (4) Whenever the department finds that one or more putative  
254 fathers are registered, the department shall submit to the  
255 requestor a copy of each registration form with an affidavit.





289 Signed by \_\_\_\_\_ (name of person denying paternity)  
290 as (his) freely executed consent in the presence of each of us,  
291 and of each other, who thereafter have hereunto signed our names  
292 as witnesses.

|     |         |         |
|-----|---------|---------|
| 293 | Witness | Witness |
| 294 | _____   | _____   |
| 295 | Address | Address |
| 296 | _____   | _____   |

297 (4) Execution of a notarized denial of paternity may occur  
298 prior to the birth of the child. A prebirth notarized denial of  
299 paternity shall use the following form:

300 DENIAL OF PATERNITY

301 I, \_\_\_\_\_ voluntarily and unconditionally deny that I  
302 am the father of a child expected to be born to \_\_\_\_\_, on  
303 or about \_\_\_\_\_ (expected date of birth) and I waive notice  
304 of any legal proceeding affecting the custody, guardianship,  
305 adoption or other disposition of (child).

306 I UNDERSTAND THAT THIS DENIAL OF PATERNITY IS FINAL AND  
307 CANNOT BE REVOKED.

308 \_\_\_\_\_/s/  
309 (person denying paternity)

310 On this day of \_\_\_\_\_ (insert year), before me  
311 personally came and appeared \_\_\_\_\_ and in my presence duly  
312 executed the foregoing instrument, and (he) acknowledged to me  
313 that (he) executed the same as (his) free act and deed, fully  
314 cognizant of its irrevocability.

315 Date \_\_\_\_\_ State of \_\_\_\_\_

316 Notary Public \_\_\_\_\_ County of \_\_\_\_\_

317 Signed by \_\_\_\_\_ (name of person denying paternity)  
318 as (his) freely executed consent in the presence of each of us,  
319 and of each other, who thereafter have hereunto signed our names  
320 as witnesses.

|     |         |         |
|-----|---------|---------|
| 321 | Witness | Witness |
|-----|---------|---------|

322 \_\_\_\_\_  
323 Address Address  
324 \_\_\_\_\_

325 **SECTION 24.** (1) Notice of the mother's plan for adoption  
326 shall be served upon the registered putative father of the child  
327 or expected child.

328 (2) Written notice shall be sent by the agency via certified  
329 and regular mail to the address as listed in the Putative Father  
330 Registry.

331 (3) The written notice shall include at minimum the plan for  
332 adoption, the name, address and telephone number of the agency  
333 responsible for permanency planning and the putative father's  
334 rights and responsibilities for permanency planning.

335 **SECTION 25.** Section 93-17-6, Mississippi Code of 1972, is  
336 amended as follows:

337 93-17-6. (1) Any person who would be a necessary party to  
338 an adoption proceeding under this chapter and any person alleged  
339 or claiming to be the father of a child born out of wedlock who is  
340 proposed for adoption or who has been determined to be such by any  
341 administrative or judicial procedure (the "alleged father") may  
342 file a petition for determination of rights as a preliminary  
343 pleading to a petition for adoption in any court which would have  
344 jurisdiction and venue of an adoption proceeding. A petition for  
345 determination of rights may be filed at any time after the period  
346 ending thirty (30) days after the birth of the child. Should  
347 competing petitions be filed in two (2) or more courts having  
348 jurisdiction and venue, the court in which the first such petition  
349 was properly filed shall have jurisdiction over the whole  
350 proceeding until its disposition. The prospective adopting  
351 parents need not be a party to such petition. Where the child's  
352 biological mother has surrendered the child to a home for  
353 adoption, the home may represent the biological mother and her  
354 interests in this proceeding.

355           (2) The court shall set this petition for hearing as  
356 expeditiously as possible allowing not less than ten (10) days'  
357 notice from the service or completion of process on the parties to  
358 be served.

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

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

366                 (a) Provided financial support, including, but not  
367 limited to, the payment of consistent support to the mother during  
368 her pregnancy, contributions to the payment of the medical  
369 expenses of pregnancy and birth, and contributions of consistent  
370 support of the child after birth; that he frequently and  
371 consistently visited the child after birth; and that he is now  
372 willing and able to assume legal and physical care of the child;  
373 or

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

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

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

387 (7) A petition for determination of rights may be used to  
388 determine the rights of alleged fathers whose identity is unknown  
389 or uncertain. In such cases the court shall determine what, if  
390 any, notice can be and is to be given such persons. The court  
391 shall review the Putative Father Registry for assistance in such  
392 determination. Determinations of rights under the procedure of  
393 this section may also be made under a petition for adoption.

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

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

400 **SECTION 26.** Section 93-15-103, Mississippi Code of 1972, is  
401 amended as follows:

402 93-15-103. (1) When a child has been removed from the home  
403 of its natural parents and cannot be returned to the home of his  
404 natural parents within a reasonable length of time because  
405 returning to the home would be damaging to the child or the parent  
406 is unable or unwilling to care for the child, relatives are not  
407 appropriate or are unavailable, and when adoption is in the best  
408 interest of the child, taking into account whether the adoption is  
409 needed to secure a stable placement for the child and the strength  
410 of the child's bonds to his natural parents and the effect of  
411 future contacts between them, the grounds listed in subsections  
412 (2) and (3) of this section shall be considered as grounds for the  
413 termination of parental rights. The grounds may apply singly or  
414 in combination in any given case.

415 (2) The rights of a parent with reference to a child,  
416 including parental rights to control or withhold consent to an  
417 adoption, and the right to receive notice of a hearing on a  
418 petition for adoption, may be relinquished and the relationship of  
419 the parent and child terminated by the execution of a written

420 voluntary release, signed by the parent, regardless of the age of  
421 the parent.

422 (3) Grounds for termination of parental rights shall be  
423 based on one or more of the following factors:

424 (a) A parent has deserted without means of  
425 identification or abandoned a child as defined in Section 97-5-1;  
426 or

427 (b) A parent has made no contact with a child under the  
428 age of three (3) for six (6) months or a child three (3) years of  
429 age or older for a period of one (1) year; or

430 (c) A parent has been responsible for a series of  
431 abusive incidents concerning one or more children; or

432 (d) When the child has been in the care and custody of  
433 a licensed child caring agency or the Department of Human Services  
434 for at least one (1) year, that agency or the department has made  
435 diligent efforts to develop and implement a plan for return of the  
436 child to its parents, and:

437 (i) The parent has failed to exercise reasonable  
438 available visitation with the child; or

439 (ii) The parent, having agreed to a plan to effect  
440 placement of the child with the parent, fails to implement the  
441 plan so that the child caring agency is unable to return the child  
442 to said parent; or

443 (e) The parent exhibits ongoing behavior which would  
444 make it impossible to return the child to the parent's care and  
445 custody:

446 (i) Because the parent has a diagnosable condition  
447 unlikely to change within a reasonable time such as alcohol or  
448 drug addiction, severe mental deficiencies or mental illness, or  
449 extreme physical incapacitation, which condition makes the parent  
450 unable to assume minimally, acceptable care of the child; or

451 (ii) Because the parent fails to eliminate  
452 behavior, identified by the child caring agency or the court,

453 which prevents placement of said child with the parent in spite of  
454 diligent efforts of the child caring agency to assist the parent;  
455 or

456 (f) When there is an extreme and deep-seated antipathy  
457 by the child toward the parent or when there is some other  
458 substantial erosion of the relationship between the parent and  
459 child which was caused at least in part by the parent's serious  
460 neglect, abuse, prolonged and unreasonable absence, unreasonable  
461 failure to visit or communicate, or prolonged imprisonment; or

462 (g) When a parent has been convicted of any of the  
463 following offenses against any child: (i) rape of a child under  
464 the provisions of Section 97-3-65, (ii) sexual battery of a child  
465 under the provisions of Section 97-3-95(c), (iii) touching a child  
466 for lustful purposes under the provisions of Section 97-5-23, (iv)  
467 exploitation of a child under the provisions of Section 97-5-31,  
468 (v) felonious abuse or battery of a child under the provisions of  
469 Section 97-5-39(2), (vi) carnal knowledge of a step or adopted  
470 child or a child of a cohabitating partner under the provisions of  
471 Section 97-5-41, or (vii) murder of another child of such parent,  
472 voluntary manslaughter of another child of such parent, aided or  
473 abetted, attempted, conspired or solicited to commit such murder  
474 or voluntary manslaughter, or a felony assault that results in the  
475 serious bodily injury to the surviving child or another child of  
476 such parent; or

477 (h) The child has been adjudicated to have been abused  
478 or neglected and custody has been transferred from the child's  
479 parent(s) for placement pursuant to Section 43-15-13, and a court  
480 of competent jurisdiction has determined that reunification shall  
481 not be in the child's best interest; or

482 (i) The parent has not registered with the Putative  
483 Father Registry.

484 (4) Legal custody and guardianship by persons other than the  
485 parent as well as other permanent alternatives which end the

486 supervision by the Department of Human Services should be  
487 considered as alternatives to the termination of parental rights,  
488 and these alternatives should be selected when, in the best  
489 interest of the child, parental contacts are desirable and it is  
490 possible to secure such placement without termination of parental  
491 rights.

492 (5) When a parent has been convicted of rape of a child  
493 under the provisions of Section 97-3-65, sexual battery of a child  
494 under the provisions of Section 97-3-95(c), touching a child for  
495 lustful purposes under the provisions of Section 97-5-23,  
496 exploitation of a child under the provisions of Section 97-5-31,  
497 felonious abuse or battery of a child under the provisions of  
498 Section 97-5-39(2), or carnal knowledge of a step or adopted child  
499 or a child of a cohabitating partner under the provisions of  
500 Section 97-5-41, notice of the conviction shall be forwarded by  
501 the circuit clerk of the county in which the conviction occurred  
502 to the Mississippi Department of Human Services, Division of  
503 Social Services.

504 (6) In any case where a child has been removed from the  
505 parent's home due to sexual abuse or serious bodily injury to the  
506 child, the court shall treat such case for termination of parental  
507 rights as a preference case to be determined with all reasonable  
508 expedition.

509 **SECTION 27.** Section 93-15-105, Mississippi Code of 1972, is  
510 amended as follows:

511 93-15-105. (1) Any person, agency or institution may file  
512 for termination of parental rights in the chancery court or the  
513 family or county court sitting as the youth court of the county in  
514 which a defendant or the child resides, or in the county where an  
515 agency or institution holding custody of the child is located.  
516 The chancery court, or the chancellor in vacation, or the family  
517 court, or the family court judge in vacation, or the county court  
518 when sitting as the youth court, or such county court judge in



519 vacation, may set the cause for hearing in termtime or in  
520 vacation. The petition shall be triable either in termtime or in  
521 vacation, thirty (30) days after personal service of process, and  
522 in case of nonresident defendants, or defendants whose addresses  
523 are unknown after diligent search, thirty (30) days after  
524 completion of publication; such publication to be otherwise as  
525 provided in the Mississippi Rules of Civil Procedure.

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

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

531 (4) In an appropriate case, determination of the rights of  
532 the father of a child born out of wedlock may be made in  
533 proceedings pursuant to a petition for determination of rights as  
534 provided in Section 93-17-6 and upon compliance with Sections 1  
535 through 24 of House Bill No. \_\_\_\_, 2006 Regular Session.

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

542 **SECTION 28.** Section 93-15-107, Mississippi Code of 1972, is  
543 amended as follows:

544 93-15-107. (1) In an action to terminate parental rights,  
545 the mother of the child, the legal father of the child, and the  
546 putative father of the child, when known, after searching the  
547 Putative Father Registry, shall be parties defendant. A guardian  
548 ad litem shall be appointed to protect the interest of the child  
549 in the termination of parental rights. A child may be made party  
550 plaintiff, and any agency holding custody of a minor shall act as  
551 party plaintiff.

552           (2) The Department of Human Services shall initiate  
553 proceedings to terminate parental rights in accordance with  
554 Section 93-15-101 et seq. in cases where a child has been placed  
555 in the physical custody of a relative and the department has been  
556 given legal custody of the child. The department may provide  
557 necessary funds to defray the costs and attorney fees for any  
558 adoption proceedings brought by the relative of such child in  
559 cases where the relative is unable to pay such costs and fees  
560 based on criteria established by the department in compliance with  
561 federal law and the availability of funds to the department to pay  
562 such costs and fees.

563           **SECTION 29.** This act shall take effect and be in force from  
564 and after July 1, 2006.