

By: Representative Gadd

To: Judiciary A

HOUSE BILL NO. 1366

1 AN ACT TO AMEND SECTIONS 93-17-3, 93-17-12 AND 93-17-13,
2 MISSISSIPPI CODE OF 1972, TO REQUIRE A SAFE ADOPTION HOME STUDY TO
3 BE PERFORMED IN ALL ADOPTIONS; AND FOR RELATED PURPOSES.

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

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

7 93-17-3. (1) Any person may be adopted in accordance with
8 the provisions of this chapter in term time or in vacation by an
9 unmarried adult or by a married person whose spouse joins in the
10 petition, provided that the petitioner or petitioners have resided
11 in this state for ninety (90) days preceding the filing of the
12 petition. However, if the petitioner or petitioners, or one (1)
13 of them, are related to the child within the third degree
14 according to civil law, or if the adoption is presented to the
15 court by an adoption agency licensed by the State of Mississippi,
16 the residence restriction shall not apply. The adoption shall be
17 by sworn petition filed in the chancery court of the county in
18 which the adopting petitioner or petitioners reside or in which
19 the child to be adopted resides or was born, or was found when it
20 was abandoned or deserted, or in which the home is located to
21 which the child has been surrendered by a person authorized to so
22 do. The petition shall be accompanied by a doctor's or nurse
23 practitioner's certificate showing the physical and mental
24 condition of the child to be adopted and a sworn statement of all
25 property, if any, owned by the child. If the doctor's or nurse
26 practitioner's certificate indicates any abnormal mental or
27 physical condition or defect, the condition or defect shall not in

28 the discretion of the chancellor bar the adoption of the child if
29 the adopting parent or parents file an affidavit stating full and
30 complete knowledge of the condition or defect and stating a desire
31 to adopt the child, notwithstanding the condition or defect. The
32 court shall have the power to change the name of the child as a
33 part of the adoption proceedings. The word "child" herein shall
34 be construed to refer to the person to be adopted, though an
35 adult.

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

37 (3) No person may be adopted before a court ordered safe
38 adoption home study of the potential adopting parties is
39 satisfactorily completed.

40 **SECTION 2.** Section 93-17-12, Mississippi Code of 1972, is
41 amended as follows:

42 93-17-12. In any child custody matter hereafter filed in any
43 chancery or county court in which temporary or permanent custody
44 has already been placed with a parent or guardian and in all other
45 adoptions, the court shall impose a fee for any court-ordered home
46 study performed by the Department of Human Services or any other
47 entity. The fee shall be assessed upon either party or upon both
48 parties in the court's discretion. The minimum fee imposed shall
49 be not less than Three Hundred Fifty Dollars (\$350.00) for each
50 household on which a home study is performed. The fee shall be
51 paid directly to the Mississippi Department of Human Services
52 prior to the home study being conducted by the department or to
53 the court of the study is performed by another entity. The judge
54 may order the fee be paid by one or both of the parents or
55 guardian. If the court determines that both parents or the
56 guardian are unable to pay the fee, the judge shall waive the fee
57 and the cost of the home study shall be defrayed by the Department
58 of Human Services.

59 **SECTION 3.** Section 93-17-13, Mississippi Code of 1972, is
60 amended as follows:

61 93-17-13. A final decree of adoption shall not be entered
62 before the expiration of six (6) months from the entry of the
63 interlocutory decree except (a) when a child is a stepchild of a
64 petitioner or is related by blood to the petitioner within the
65 third degree according to the rules of the civil law or in any
66 case in which the chancellor in the exercise of his discretion
67 shall determine from all the proceedings and evidence in said
68 cause that the six-month waiting period is not necessary or
69 required for the benefit of the court, the petitioners or the
70 child to be adopted, and shall so adjudicate in the decree entered
71 in said cause, in either of which cases the final decree may be
72 entered immediately without any delay and without an interlocutory
73 decree, or (b) when the child has resided in the home of any
74 petitioner prior to the granting of the interlocutory decree, in
75 which case the court may, in its discretion, shorten the waiting
76 period by the length of time the child has thus resided.

77 The final decree shall adjudicate, in addition to such other
78 provisions as may be found by the court to be proper for the
79 protection of the interests of the child; and its effect, unless
80 otherwise specifically provided, shall be that (a) the child shall
81 inherit from and through the adopting parents and shall likewise
82 inherit from the other children of the adopting parents to the
83 same extent and under the same conditions as provided for the
84 inheritance between brothers and sisters of the full blood by the
85 laws of descent and distribution of the State of Mississippi, and
86 that the adopting parents and their other children shall inherit
87 from the child, just as if such child had been born to the
88 adopting parents in lawful wedlock; (b) the child and the adopting
89 parents and adoptive kindred are vested with all of the rights,
90 powers, duties and obligations, respectively, as if such child had
91 been born to the adopting parents in lawful wedlock, including all
92 rights existing by virtue of Section 11-7-13, Mississippi Code of
93 1972; provided, however, that inheritance by or from the adopted

94 child shall be governed by subsection (a) above; (c) that the name
95 of the child shall be changed if desired; and (d) that the natural
96 parents and natural kindred of the child shall not inherit by or
97 through the child except as to a natural parent who is the spouse
98 of the adopting parent, and all parental rights of the natural
99 parent, or parents, shall be terminated, except as to a natural
100 parent who is the spouse of the adopting parent. Nothing in this
101 chapter shall restrict the right of any person to dispose of
102 property under a last will and testament.

103 A final decree of adoption shall not be entered until a court
104 ordered safe adoption home study is satisfactorily completed.

105 **SECTION 4.** This act shall take effect and be in force from
106 and after July 1, 2006.