

By: Senator(s) Nunnelee

To: Public Health and
Welfare; Judiciary, Division
A

SENATE BILL NO. 2545

1 AN ACT TO ENACT THE MISSISSIPPI UNIFORM PARENTAGE ACT (2000)
2 TO GOVERN THE DETERMINATION OF PATERNITY AND MATERNITY; TO CREATE
3 NEW SECTION 93-9-101, MISSISSIPPI CODE OF 1972, TO ENACT A SHORT
4 TITLE; TO CREATE NEW SECTION 93-9-102, MISSISSIPPI CODE OF 1972,
5 TO ENACT DEFINITIONS; TO CREATE NEW SECTION 93-9-103, MISSISSIPPI
6 CODE OF 1972, TO PROVIDE THE MATTERS COVERED UNDER THE ACT AND
7 PROVIDE FOR CHOICE OF LAW; TO CREATE NEW SECTION 93-9-104,
8 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR JURISDICTION; TO CREATE
9 NEW SECTION 93-9-105, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
10 PROTECTION OF THE PARTIES; TO CREATE NEW SECTION 93-9-106,
11 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT DETERMINATION OF
12 MATERNITY IS MADE AS IS DETERMINATION OF PATERNITY; TO CREATE NEW
13 SECTION 93-9-107, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
14 OBLIGATIONS OF A FATHER; TO CREATE NEW SECTION 93-9-201,
15 MISSISSIPPI CODE OF 1972, TO ENACT STANDARDS FOR THE CREATION OF A
16 PARENTAL RELATIONSHIP; TO CREATE NEW SECTION 93-9-202, MISSISSIPPI
17 CODE OF 1972, TO DEFINE STATUS OF CHILDREN WHOSE PARENTS ARE NOT
18 MARRIED TO EACH OTHER; TO CREATE NEW SECTION 93-9-203, MISSISSIPPI
19 CODE OF 1972, TO PROVIDE FOR CONTINUITY OF AN ESTABLISHED PARENTAL
20 RELATIONSHIP; TO CREATE NEW SECTION 93-9-204, MISSISSIPPI CODE OF
21 1972, TO SPECIFY CIRCUMSTANCES UNDER WHICH PATERNITY IS PRESUMED;
22 TO CREATE NEW SECTIONS 93-9-301, 93-9-302, 93-9-303, 93-9-304,
23 93-9-305, 93-9-306, 93-9-307, 93-9-308, 93-9-309, 93-9-310,
24 93-9-311, 93-9-312, 93-9-313 AND 93-9-314, MISSISSIPPI CODE OF
25 1972, TO PROVIDE FOR VOLUNTARY ACKNOWLEDGMENT OR DENIAL OF
26 PATERNITY AND RESCISSION OF ANY ACKNOWLEDGMENT OR DENIAL, THAT NO
27 FEE SHALL BE CHARGED FOR FILING ACKNOWLEDGMENT OR DENIAL, FOR
28 PROMULGATION OF RULES, AND TO REQUIRE THAT FULL FAITH AND CREDIT
29 BE GIVEN TO OUT-OF-STATE ACKNOWLEDGMENTS; TO CREATE NEW SECTION
30 93-9-401, MISSISSIPPI CODE OF 1972, TO ESTABLISH A REGISTRY OF
31 PATERNITY; TO CREATE NEW SECTION 93-9-402, MISSISSIPPI CODE OF
32 1972, TO ALLOW A FATHER TO REGISTER TO REQUEST NOTIFICATION OF
33 PROCEEDINGS; TO CREATE NEW SECTION 93-9-403, MISSISSIPPI CODE OF
34 1972, TO REQUIRE NOTICE OF PROCEEDINGS TO BE GIVEN TO ONE WHO HAS
35 REGISTERED; TO CREATE NEW SECTIONS 93-9-404 AND 93-9-405,
36 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR TERMINATION OF PARENTAL
37 RIGHTS; TO CREATE NEW SECTION 93-9-411, MISSISSIPPI CODE OF 1972,
38 TO REQUIRE PROMULGATION OF A FORM FOR REGISTRATION WITH THE
39 REGISTRY; TO CREATE NEW SECTION 93-9-412, MISSISSIPPI CODE OF
40 1972, TO PROVIDE FOR CONFIDENTIALITY; TO CREATE NEW SECTION
41 93-9-413, MISSISSIPPI CODE OF 1972, TO CREATE A PENALTY FOR
42 UNAUTHORIZED RELEASE OF INFORMATION; TO CREATE NEW SECTION
43 93-9-414, MISSISSIPPI CODE OF 1972, TO ALLOW RESCISSION OF
44 REGISTRATION; TO CREATE NEW SECTION 93-9-415, MISSISSIPPI CODE OF
45 1972, TO INVALIDATE AN UNTIMELY REGISTRATION; TO CREATE NEW
46 SECTION 93-9-416, MISSISSIPPI CODE OF 1972, TO ALLOW REASONABLE
47 FEES; TO CREATE NEW SECTION 93-9-421, MISSISSIPPI CODE OF 1972, TO
48 REQUIRE SEARCH OF THE REGISTRY IN ADOPTIONS AND TERMINATIONS; TO
49 CREATE NEW SECTION 93-9-422, MISSISSIPPI CODE OF 1972, TO CREATE A
50 CERTIFICATE OF SEARCH; TO CREATE NEW SECTION 93-9-423, MISSISSIPPI
51 CODE OF 1972, TO PROVIDE FOR ADMISSIBILITY OF REGISTERED
52 INFORMATION; TO CREATE NEW SECTIONS 93-9-501, 93-9-502 AND

53 93-9-503, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR GENETIC TESTING
54 AND TO ENACT STANDARDS; TO CREATE NEW SECTION 93-9-504,
55 MISSISSIPPI CODE OF 1972, TO ENACT STANDARDS FOR GENETIC TESTING
56 REPORTS; TO CREATE NEW SECTION 93-9-505, MISSISSIPPI CODE OF 1972,
57 TO PROVIDE FOR REBUTTAL OF GENETIC TEST REPORTS; TO CREATE NEW
58 SECTION 93-9-506, MISSISSIPPI CODE OF 1972, TO REQUIRE ASSESSMENT
59 OF COST OF TESTING; TO CREATE NEW SECTION 93-9-507, MISSISSIPPI
60 CODE OF 1972, TO ALLOW ADDITIONAL TESTING; TO CREATE NEW SECTION
61 93-9-508, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR TESTING WHEN
62 ALLEGED PARENT IS NOT AVAILABLE; TO CREATE NEW SECTION 93-9-509,
63 MISSISSIPPI CODE OF 1972, TO ALLOW TESTING OF A DECEASED PERSON;
64 TO CREATE NEW SECTION 93-9-510, MISSISSIPPI CODE OF 1972, TO
65 PROVIDE FOR TESTING OF A PERSON WHO HAS AN IDENTICAL SIBLING; TO
66 CREATE NEW SECTION 93-9-511, MISSISSIPPI CODE OF 1972, TO PROVIDE
67 FOR CONFIDENTIALITY OF GENETIC TEST RESULTS; TO CREATE NEW SECTION
68 93-9-601, MISSISSIPPI CODE OF 1972, TO AUTHORIZE CIVIL PROCEEDINGS
69 TO ADJUDICATE PARENTAGE; TO CREATE NEW SECTION 93-9-602,
70 MISSISSIPPI CODE OF 1972, TO SPECIFY WHAT PERSONS HAVE STANDING TO
71 MAINTAIN THE ACTION; TO CREATE NEW SECTION 93-9-603, MISSISSIPPI
72 CODE OF 1972, TO SPECIFY WHO MUST BE JOINED; TO CREATE NEW SECTION
73 93-9-604, MISSISSIPPI CODE OF 1972, TO SPECIFY THE COURT'S
74 JURISDICTION; TO CREATE NEW SECTION 93-9-605, MISSISSIPPI CODE OF
75 1972, TO PROVIDE FOR VENUE OF ACTIONS; TO CREATE NEW SECTIONS
76 93-9-606 AND 93-9-607, MISSISSIPPI CODE OF 1972, TO PROVIDE A
77 STATUTE OF LIMITATIONS UNDER CERTAIN CIRCUMSTANCES; TO CREATE NEW
78 SECTION 93-9-608, MISSISSIPPI CODE OF 1972, TO ALLOW AUTHORITY TO
79 DENY A MOTION FOR GENETIC TESTING; TO CREATE NEW SECTION 93-9-609,
80 MISSISSIPPI CODE OF 1972, TO PROVIDE ADDITIONAL LIMITATIONS ON
81 TIME FOR A CHILD HAVING AN ACKNOWLEDGED OR ADJUDICATED FATHER; TO
82 CREATE NEW SECTION 93-9-610, MISSISSIPPI CODE OF 1972, TO PROVIDE
83 FOR JOINDER; TO CREATE NEW SECTION 93-9-611, MISSISSIPPI CODE OF
84 1972, TO PROVIDE FOR PROCEEDINGS BEFORE BIRTH; TO CREATE NEW
85 SECTION 93-9-612, MISSISSIPPI CODE OF 1972, TO SPECIFY PERMISSIBLE
86 PARTIES; TO CREATE NEW SECTION 93-9-621, MISSISSIPPI CODE OF 1972,
87 TO PROVIDE FOR ADMISSIBILITY OF GENETIC TEST RESULTS AND PAYMENT
88 OF EXPENSES; TO CREATE NEW SECTION 93-9-622, MISSISSIPPI CODE OF
89 1972, TO PROVIDE CONSEQUENCES FOR FAILURE TO SUBMIT TO GENETIC
90 TESTING; TO CREATE NEW SECTION 93-9-623, MISSISSIPPI CODE OF 1972,
91 TO PROVIDE FOR ADMISSION OF PATERNITY; TO CREATE NEW SECTION
92 93-9-624, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A TEMPORARY
93 ORDER; TO CREATE NEW SECTION 93-9-631, MISSISSIPPI CODE OF 1972,
94 TO ENACT RULES FOR ADJUDICATION OF PATERNITY; TO CREATE NEW
95 SECTION 93-9-632, MISSISSIPPI CODE OF 1972, TO REQUIRE TRIAL BY
96 THE COURT SITTING WITHOUT A JURY; TO CREATE NEW SECTION 93-9-633,
97 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR CLOSED HEARINGS AND OPEN
98 RECORDS; TO CREATE NEW SECTION 93-9-634, MISSISSIPPI CODE OF 1972,
99 TO PROVIDE FOR ORDER IN EVENT OF FAILURE TO APPEAR; TO CREATE NEW
100 SECTION 93-9-635, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
101 DISMISSAL UNDER CERTAIN CIRCUMSTANCES; TO CREATE NEW SECTION
102 93-9-636, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE ORDER OF
103 PARENTAGE; TO CREATE NEW SECTION 93-9-637, MISSISSIPPI CODE OF
104 1972, TO PROVIDE FOR THE EFFECT OF THE ORDER; TO CREATE NEW
105 SECTION 93-9-638, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
106 ENFORCEMENT OF THE ORDER AND THE SURNAME OF THE CHILD IN ABSENCE
107 OF ORDER; TO CREATE NEW SECTION 93-9-639, MISSISSIPPI CODE OF
108 1972, TO ENACT A LIMITATION ON RECOVERY FROM THE FATHER; TO CREATE
109 NEW SECTION 93-9-640, MISSISSIPPI CODE OF 1972, TO ENACT
110 LIMITATION ON RECOVERY FROM THE FATHER'S ESTATE; TO CREATE NEW
111 SECTION 93-9-641, MISSISSIPPI CODE OF 1972, TO ALLOW GIVING OF
112 SECURITY; TO CREATE NEW SECTION 93-9-642, MISSISSIPPI CODE OF
113 1972, TO ALLOW COMMITMENT FOR CONTEMPT UPON DEFAULT; TO CREATE NEW
114 SECTION 93-9-643, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
115 REQUIREMENT OF SUPPORT BY MOTHER; TO CREATE NEW SECTION 93-9-644,
116 MISSISSIPPI CODE OF 1972, TO PROVIDE PUNISHMENT FOR FALSE
117 DECLARATION; TO CREATE NEW SECTION 93-9-645, MISSISSIPPI CODE OF
118 1972, TO PROVIDE FOR PROBATION UPON DEFAULT; TO CREATE NEW SECTION

119 93-9-646, MISSISSIPPI CODE OF 1972, TO PROVIDE A PROCEDURE FOR
120 APPEALS; TO CREATE NEW SECTION 93-9-647, MISSISSIPPI CODE OF 1972,
121 TO SPECIFY THE PROSECUTING OFFICIAL; TO CREATE NEW SECTIONS
122 93-9-701, 93-9-702, 93-9-703, 93-9-704, 93-9-705, 93-9-706 AND
123 93-9-707, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
124 DETERMINATION OF PARENTAGE OF A CHILD OF ASSISTED REPRODUCTION; TO
125 CREATE NEW SECTION 93-9-801, MISSISSIPPI CODE OF 1972, TO
126 AUTHORIZE GESTATIONAL AGREEMENTS; TO CREATE NEW SECTION 93-9-802,
127 MISSISSIPPI CODE OF 1972, TO ALLOW COURT VALIDATION OF GESTATIONAL
128 AGREEMENTS; TO CREATE NEW SECTION 93-9-803, MISSISSIPPI CODE OF
129 1972, TO ALLOW A HEARING; TO CREATE NEW SECTION 93-9-804,
130 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR CONFIDENTIALITY OF
131 AGREEMENTS; TO CREATE NEW SECTION 93-9-805, MISSISSIPPI CODE OF
132 1972, TO PROVIDE FOR CONTINUING JURISDICTION; TO CREATE NEW
133 SECTION 93-9-806, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
134 TERMINATION OF GESTATIONAL AGREEMENTS; TO CREATE NEW SECTIONS
135 93-9-807, 93-9-808 AND 93-9-809, MISSISSIPPI CODE OF 1972, TO
136 PROVIDE FOR THE EFFECT OF VALIDATED AND NONVALIDATED GESTATIONAL
137 AGREEMENTS AND THE EFFECT OF MARRIAGE; TO CREATE NEW SECTION
138 93-9-901, MISSISSIPPI CODE OF 1972, TO PROVIDE SEVERABILITY OF THE
139 ACT; TO AMEND SECTIONS 41-57-14, 41-57-23 AND 93-17-8, MISSISSIPPI
140 CODE OF 1972, TO CONFORM TO THE PURPOSES OF THIS ACT; TO REPEAL
141 SECTIONS 93-9-1, 93-9-3, 93-9-5, 93-9-7, 93-9-9, 93-9-11, 93-9-13,
142 93-9-15, 93-9-17, 93-9-19, 93-9-21, 93-9-23, 93-9-25, 93-9-27,
143 93-9-28, 93-9-29, 93-9-30, 93-9-31, 93-9-33, 93-9-35, 93-9-37,
144 93-9-39, 93-9-41, 93-9-43, 93-9-45, 93-9-47 AND 93-9-49,
145 MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE THE MISSISSIPPI UNIFORM
146 LAW ON PATERNITY, AND SECTIONS 93-9-71, 93-9-73 AND 93-9-75,
147 MISSISSIPPI CODE OF 1972, DEALING WITH THE EFFECT ON A PATERNITY
148 PROCEEDING OF THE DEATH OF A MOTHER OR CHILD AND THE ADMISSIBILITY
149 OF A MOTHER'S DYING DECLARATION; AND FOR RELATED PURPOSES.

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

151 **Article 1**

152 **General Provisions**

153 **SECTION 1.** The following shall be codified as Section
154 93-9-101, Mississippi Code of 1972:

155 93-9-101. **Short title.** This chapter may be cited as the
156 Mississippi Uniform Parentage Act (2000).

157 **SECTION 2.** The following shall be codified as Section
158 93-9-102, Mississippi Code of 1972:

159 93-9-102. **Definitions.** In this chapter:

160 (1) "Acknowledged father" means a man who has
161 established a father-child relationship under Article 3.

162 (2) "Adjudicated father" means a man who has been
163 adjudicated by a court of competent jurisdiction to be the father
164 of a child.

165 (3) "Alleged father" means a man who alleges himself to
166 be, or is alleged to be, the genetic father or a possible genetic

167 father of a child, but whose paternity has not been determined.

168 The term does not include:

169 (A) A presumed father;

170 (B) A man whose parental rights have been
171 terminated or declared not to exist; or

172 (C) A male donor.

173 (4) "Assisted reproduction" means a method of causing
174 pregnancy other than sexual intercourse. The term includes:

175 (A) Intrauterine insemination;

176 (B) Donation of eggs;

177 (C) Embryo adoption;

178 (D) In-vitro fertilization and transfer of
179 embryos; and

180 (E) Intracytoplasmic sperm injection.

181 (5) "Child" means an individual of any age whose
182 parentage may be determined under Article 3 or adjudication by the
183 court.

184 (6) "Commence" means to file the initial pleading
185 seeking an adjudication of parentage in the appropriate court of
186 this state.

187 (7) "Determination of parentage" means the
188 establishment of the parent-child relationship by the signing of a
189 valid acknowledgment of paternity under Sections 93-9-301 through
190 93-9-314 or adjudication by the court.

191 (8) "Donor" means an individual who produces eggs or
192 sperm used for assisted reproduction, whether or not for
193 consideration. The term does not include:

194 (A) A husband who provides sperm, or a wife who
195 provides eggs, to be used for assisted reproduction by the wife;

196 (B) A woman who gives birth to a child by means of
197 assisted reproduction, except as otherwise provided in Article 8;

198 or

199 (C) A parent under Article 7 or an intended parent
200 under Article 8.

201 (9) "Ethnic or racial group" means, for purposes of
202 genetic testing, a recognized group that an individual identifies
203 as all or part of the individual's ancestry or that is so
204 identified by other information.

205 (10) "Genetic testing" means an analysis of genetic
206 markers to exclude or identify a man as the father or a woman as
207 the mother of a child. The term includes an analysis of one or a
208 combination of the following:

209 (A) Deoxyribonucleic acid; and

210 (B) Blood-group antigens, red-cell antigens,
211 human-leukocyte antigens, serum enzymes, serum proteins, or
212 red-cell enzymes.

213 (11) "Gestational mother" means an adult woman who
214 gives birth to a child under a gestational agreement.

215 (12) "Man" means a male individual of any age.

216 (13) "Parent" means an individual who is the father or
217 the mother of a son or daughter by virtue of one of the events
218 listed in Section 93-9-201.

219 (14) "Parent-child relationship" refers to the
220 relationship that exists prior to law and is stronger than any
221 relationship the law can create, and for the purposes of this act,
222 it means the relationship between a child and a parent of the
223 child arising out of which the law acknowledges rights,
224 privileges, duties and obligations. The term means the
225 relationship between a child and a parent of the child. The term
226 refers to either the mother-child relationship or the father-child
227 relationship. A parent-child relationship does not exist between
228 a child and more than one (1) person of the female gender or more
229 than one (1) person of the male gender.

230 (15) "Paternity index" means the likelihood of
231 paternity calculated by computing the ratio between:

232 (A) The likelihood that the tested man is the
233 father, based on the genetic markers of the tested man, mother,
234 and child, conditioned on the hypothesis that the tested man is
235 the father of the child; and

236 (B) The likelihood that the tested man is not the
237 father, based on the genetic markers of the tested man, mother,
238 and child, conditioned on the hypothesis that the tested man is
239 not the father of the child and that the father is of the same
240 ethnic or racial group as the tested man.

241 (16) "Presumed father" means a man who, by operation of
242 law under Section 93-9-204, is recognized as the father of a child
243 until that status is rebutted or confirmed in a judicial
244 proceeding.

245 (17) "Probability of paternity" means the measure, for
246 the ethnic or racial group to which the alleged father belongs, of
247 the probability that the man in question is the father of the
248 child, compared with a random, unrelated man of the same ethnic or
249 racial group, expressed as a percentage incorporating the
250 paternity index and a prior probability.

251 (18) "Record" means information that is inscribed on a
252 tangible medium or that is stored in an electronic or other medium
253 and is retrievable in perceivable form.

254 (19) "Signatory" means an individual who authenticates
255 a record and is bound by its terms.

256 (20) "State" means a state of the United States, the
257 District of Columbia, Puerto Rico, the United States Virgin
258 Islands, or any territory or insular possession subject to the
259 jurisdiction of the United States.

260 (21) "Support-enforcement agency" means a public
261 official or agency authorized to seek:

262 (A) Enforcement of support orders or laws relating
263 to the duty of support;

264 (B) Establishment or modification of child
265 support;
266 (C) Determination of parentage; or
267 (D) Location of child-support obligors and their
268 income and assets.

269 **SECTION 3.** The following shall be codified as Section
270 93-9-103, Mississippi Code of 1972:

271 93-9-103. **Scope of chapter; choice of law.** (a) This
272 chapter applies to determination of parentage in this state as to
273 a child born out-of-wedlock or born in wedlock but either party to
274 the marriage filed a complaint for divorce and has not abandoned
275 or dismissed the action for divorce.

276 (b) The court shall apply the law of this state to
277 adjudicate the parent-child relationship. The applicable law does
278 not depend on:

279 (1) The place of birth of the child; or

280 (2) The past or present residence of the child.

281 (c) This chapter does not create, enlarge, or diminish
282 parental rights or duties under other law of this state.

283 (d) If a birth results under an agreement between a wife and
284 her husband and another woman in which the woman relinquishes all
285 rights as a parent of a child conceived by means of assisted
286 reproduction and which provides that the husband and wife become
287 the parents of the child, and the agreement is unenforceable under
288 the law of Mississippi, the parent-child relationship is
289 determined as provided in this chapter.

290 **SECTION 4.** The following shall be codified as Section
291 93-9-104, Mississippi Code of 1972:

292 93-9-104. **Court exercising jurisdiction.** The chancery,
293 youth, circuit, and county courts are authorized to adjudicate
294 parentage under this chapter. Nothing herein contained shall be
295 construed as abridging the power and jurisdiction of the chancery
296 courts of the State of Mississippi exercised over the estates of

297 minors, nor as an abridgment of the power and authority of said
298 chancery courts or the chancellor in vacation or chancery clerk in
299 vacation to appoint guardians for minors. These courts also have
300 jurisdiction of support actions, and all remedies for the
301 enforcement of orders for expenses of pregnancy and confinement
302 for a wife, or for education, necessary support and maintenance,
303 or funeral expenses for legitimate children shall apply. The
304 court has continuing jurisdiction to modify or revoke an order and
305 to increase or decrease amounts fixed by order for future
306 education and necessary support and maintenance. All remedies
307 under the Uniform Interstate Family Support Act, and amendments
308 thereto, are available for enforcement of duties of support and
309 maintenance under this chapter. In all youth court cases, the
310 section of any orders or an abstract of the section containing
311 paternity or support shall be sent to either the chancery or
312 county court for registration, modification, and enforcement.

313 **SECTION 5.** The following shall be codified as Section
314 93-9-105, Mississippi Code of 1972:

315 93-9-105. **Protection of participants.** Proceedings under
316 this chapter are subject to other laws of this state governing the
317 health, safety, privacy, and liberty of a child or other
318 individual who could be jeopardized by disclosure of identifying
319 information, including address, telephone number, place of
320 employment, social security number, and the child's day care
321 facility and school, except as provided by Section 41-57-14.

322 **SECTION 6.** The following shall be codified as Section
323 93-9-106, Mississippi Code of 1972:

324 93-9-106. **Determination of maternity.** Provisions of this
325 chapter relating to determination of paternity apply to
326 determinations of maternity.

327 **SECTION 7.** The following shall be codified as Section
328 93-9-107, Mississippi Code of 1972:

329 93-9-107. **Obligations of father.** The father of a child born
330 outside lawful matrimony is liable to the same extent as the
331 father of a child born of lawful matrimony, whether or not the
332 child is born alive, for the reasonable expense of the mother's
333 pregnancy and confinement, and for the education, necessary
334 support and maintenance, and medical and funeral expenses of the
335 child.

336 **Article 2**

337 **Parent-Child Relationship**

338 **SECTION 8.** The following shall be codified as Section
339 93-9-201, Mississippi Code of 1972:

340 93-9-201. **Establishment of parent-child relationship.** (a)
341 The mother-child relationship is established between a woman and a
342 child by:

343 (1) The woman's having given birth to the child, except
344 as otherwise provided in Article 8;

345 (2) An adjudication of the woman's maternity;

346 (3) Adoption of the child by the woman; or

347 (4) An adjudication confirming the woman as the mother
348 of a child born to a gestational mother if the agreement was
349 validated under Article 8 or is enforceable under other law.

350 (b) The father-child relationship is established between a
351 man and a child by:

352 (1) An un rebutted presumption of the man's paternity of
353 the child under Section 93-9-204;

354 (2) An effective acknowledgment of paternity by the man
355 under Article 3, unless the acknowledgment has been rescinded or
356 successfully challenged;

357 (3) An adjudication of the man's paternity;

358 (4) Adoption of the child by the man;

359 (5) The man's having consented to assisted reproduction
360 by his wife under Article 7 which resulted in the birth of the
361 child; or

362 (6) An adjudication confirming the man as the father of
363 a child born to a gestational mother if the agreement was
364 validated under Article 8 or is enforceable under other law.

365 **SECTION 9.** The following shall be codified as Section
366 93-9-202, Mississippi Code of 1972:

367 93-9-202. **No discrimination based on marital status.** A
368 child born to parents who are not married to each other has the
369 same rights under the law as a child born to parents who are
370 married to each other, except that the privilege of a child born
371 in a marriage to enjoy the benefits and advantages of growing up
372 under the exclusive care of his mother and the man who is married
373 to her so long as he is willing to raise the child as his own,
374 shall not be put in jeopardy by granting standing in any court of
375 this state to a nonparty to the marriage to claim that the
376 marriage was adulterated.

377 **SECTION 10.** The following shall be codified as Section
378 93-9-203, Mississippi Code of 1972:

379 93-9-203. **Consequences of establishment of parentage.**
380 Unless parental rights are terminated, a parent-child relationship
381 established under this chapter applies for all purposes, except as
382 otherwise specifically provided by other law of this state.

383 **SECTION 11.** The following shall be codified as Section
384 93-9-204, Mississippi Code of 1972:

385 93-9-204. **Presumption of paternity.** (a) A man is presumed
386 to be the father of a child if:

387 (1) He and the mother of the child are married to each
388 other and the child is born during the marriage;

389 (2) He and the mother of the child were married to each
390 other and the child is born within three hundred (300) days after
391 the marriage is terminated by death, annulment, declaration of
392 invalidity, divorce, or entry of a decree of separate maintenance;

393 (3) Before the birth of the child, he and the mother of
394 the child married each other in apparent compliance with law, even

395 if the attempted marriage is or could be declared invalid, and the
396 child is born during the invalid marriage or within three hundred
397 (300) days after its termination by death, annulment, declaration
398 of invalidity, divorce, or entry of a decree of separate
399 maintenance;

400 (4) After the birth of the child, he and the mother of
401 the child married each other in apparent compliance with law,
402 whether or not the marriage is or could be declared invalid, and
403 he voluntarily asserted his paternity of the child, and:

404 (A) The assertion is in a record filed with the
405 Office of Vital Records Registration of the State Department of
406 Health;

407 (B) He agreed to be and is named as the child's
408 father on the child's birth certificate; or

409 (C) He promised in a record to support the child
410 as his own; or

411 (5) For the first two (2) years of the child's life, he
412 resided in the same household with the child and openly held out
413 the child as his own.

414 (b) A presumption of paternity established under this
415 section may be rebutted only by an adjudication under Article 6.

416 **Article 3**

417 **Voluntary Acknowledgement of Paternity**

418 **SECTION 12.** The following shall be codified as Section
419 93-9-301, Mississippi Code of 1972:

420 93-9-301. **Acknowledgment of paternity.** The mother of a
421 child and a man claiming to be the genetic father of the child may
422 sign an acknowledgment of paternity with intent to establish the
423 man's paternity.

424 **SECTION 13.** The following shall be codified as Section
425 93-9-302, Mississippi Code of 1972:

426 93-9-302. **Execution of acknowledgment of paternity.** (a) An
427 acknowledgment of paternity must:

428 (1) Be in a record;

429 (2) Be signed, or otherwise authenticated, under
430 penalty of perjury by the mother and by the man seeking to
431 establish his paternity, and be notarized by a notary public or
432 witnessed by a competent adult who is not a party to an
433 acknowledgment or a denial of paternity as to the same child;

434 (3) State that the child whose paternity is being
435 acknowledged:

436 (A) Does not have a presumed father, or has a
437 presumed father whose full name is stated; and

438 (B) Does not have another acknowledged or
439 adjudicated father;

440 (4) State whether there has been genetic testing and,
441 if so, that the acknowledging man's claim of paternity is
442 consistent with the results of the testing; and

443 (5) State that the signatories understand that the
444 acknowledgment is the equivalent of a judicial adjudication of
445 paternity of the child and that a challenge to the acknowledgment
446 is permitted only under limited circumstances and is barred after
447 two (2) years.

448 (b) An acknowledgment of paternity is void if it:

449 (1) States that another man is a presumed father,
450 unless a denial of paternity signed or otherwise authenticated by
451 the presumed father and notarized by a notary public is filed with
452 the State Board of Health State Registrar of Vital Records;

453 (2) States that another man is an acknowledged or
454 adjudicated father; or

455 (3) Falsely denies the existence of a presumed,
456 acknowledged, or adjudicated father of the child.

457 (c) A presumed father may sign or otherwise authenticate an
458 acknowledgment of paternity.

459 **SECTION 14.** The following shall be codified as Section
460 93-9-303, Mississippi Code of 1972:

461 93-9-303. **Denial of paternity.** A presumed father may sign a
462 denial of his paternity. The denial is valid only if:

463 (1) An acknowledgment of paternity signed, or otherwise
464 authenticated, by another man is filed pursuant to Section
465 93-9-305;

466 (2) The denial is in a record, and is signed, or
467 otherwise authenticated, under penalty of perjury otherwise
468 authenticated, under penalty of perjury, and is notarized by a
469 notary public; and

470 (3) The presumed father has not previously:

471 (A) Acknowledged his paternity, unless the
472 previous acknowledgment has been rescinded pursuant to Section
473 93-9-307 or successfully challenged pursuant to Section 93-9-308;
474 or

475 (B) Been adjudicated to be the father of the
476 child.

477 **SECTION 15.** The following shall be codified as Section
478 93-9-304, Mississippi Code of 1972:

479 93-9-304. **Rules for acknowledgment and denial of paternity.**

480 (a) An acknowledgment of paternity and a denial of paternity may
481 be contained in a single document or may be signed in
482 counterparts, and may be filed separately or simultaneously. If
483 the acknowledgement and denial are both necessary, neither is
484 valid until both are filed.

485 (b) An acknowledgment of paternity or a denial of paternity
486 may be signed before the birth of the child.

487 (c) Subject to subsection (a), an acknowledgment of
488 paternity or denial of paternity takes effect on the birth of the
489 child or the filing of the document with the Bureau of Vital
490 Statistics, whichever occurs later.

491 (d) An acknowledgment of paternity or denial of paternity
492 signed by a minor is valid if it is otherwise in compliance with
493 this chapter.

494 **SECTION 16.** The following shall be codified as Section
495 93-9-305, Mississippi Code of 1972:

496 93-9-305. **Effect of acknowledgment or denial of paternity.**

497 (a) Except as otherwise provided in Sections 93-9-307 and
498 93-9-308, a valid acknowledgment of paternity filed with the
499 Bureau of Vital Statistics is equivalent to an adjudication of
500 paternity of a child and confers upon the acknowledged father all
501 of the rights and duties of a parent.

502 (b) Except as otherwise provided in Sections 93-9-307 and
503 93-9-308, a valid denial of paternity by a presumed father filed
504 with the Bureau of Vital Statistics in conjunction with a valid
505 acknowledgment of paternity is equivalent to an adjudication of
506 the nonpaternity of the presumed father and discharges the
507 presumed father from all rights and duties of a parent.

508 **SECTION 17.** The following shall be codified as Section
509 93-9-306, Mississippi Code of 1972:

510 93-9-306. **No filing fee.** The Bureau of Vital Statistics may
511 not charge for filing an acknowledgment of paternity or denial of
512 paternity.

513 **SECTION 18.** The following shall be codified as Section
514 93-9-307, Mississippi Code of 1972:

515 93-9-307. **Proceeding for rescission.** A signatory may
516 rescind an acknowledgment of paternity or denial of paternity by
517 commencing a proceeding to rescind before the earlier of:

518 (1) Sixty (60) days after the effective date of the
519 acknowledgment or denial, as provided in Section 93-9-304; or

520 (2) The date of the first hearing, in a proceeding to
521 which the signatory is a party, before a court to adjudicate an
522 issue relating to the child, including a proceeding that
523 establishes support.

524 **SECTION 19.** The following shall be codified as Section
525 93-9-308, Mississippi Code of 1972:

526 93-9-308. **Challenge after expiration of period for**
527 **rescission.** (a) After the period for rescission under Section
528 93-9-307 has expired, a signatory of an acknowledgment of
529 paternity or denial of paternity may commence a proceeding to
530 challenge the acknowledgment or denial only:

531 (1) On the basis of fraud, duress, or material mistake
532 of fact; and

533 (2) Within two (2) years after the acknowledgment or
534 denial is filed with the Bureau of Vital Statistics.

535 (b) A party challenging an acknowledgment of paternity or
536 denial of paternity has the burden of proof.

537 **SECTION 20.** The following shall be codified as Section
538 93-9-309, Mississippi Code of 1972:

539 93-9-309. **Procedure for rescission or challenge.** (a) Every
540 signatory to an acknowledgment of paternity and any related denial
541 of paternity must be made a party to a proceeding to rescind or
542 challenge the acknowledgment or denial.

543 (b) For the purpose of rescission of, or challenge to, an
544 acknowledgment of paternity or denial of paternity, a signatory
545 submits to personal jurisdiction of this state by signing the
546 acknowledgment or denial, effective upon the filing of the
547 document with the Bureau of Vital Statistics.

548 (c) Except for good cause shown, during the pendency of a
549 proceeding to rescind or challenge an acknowledgment of paternity
550 or denial of paternity, the court may not suspend the legal
551 responsibilities of a signatory arising from the acknowledgment,
552 including the duty to pay child support.

553 (d) A proceeding to rescind or to challenge an
554 acknowledgment of paternity or denial of paternity must be
555 conducted in the same manner as a proceeding to adjudicate
556 parentage under Article 6.

557 (e) At the conclusion of a proceeding to rescind or
558 challenge an acknowledgment of paternity or denial of paternity,

559 the court shall order the Bureau of Vital Statistics to amend the
560 birth record of the child, if appropriate.

561 **SECTION 21.** The following shall be codified as Section
562 93-9-310, Mississippi Code of 1972:

563 93-9-310. **Ratification barred.** A court or administrative
564 agency conducting a judicial or administrative proceeding is not
565 required or permitted to ratify an unchallenged acknowledgment of
566 paternity.

567 **SECTION 22.** The following shall be codified as Section
568 93-9-311, Mississippi Code of 1972:

569 93-9-311. **Full faith and credit.** A court of this state
570 shall give full faith and credit to an acknowledgment of paternity
571 effective in another state if the acknowledgment has been signed
572 and is otherwise in compliance with the law of the other state,
573 and shall give credit to a denial of paternity effective in
574 another state if the denial has been signed and notarized by a
575 notary public and is otherwise in compliance with the law of this
576 state.

577 **SECTION 23.** The following shall be codified as Section
578 93-9-312, Mississippi Code of 1972:

579 93-9-312. **Forms for acknowledgment and denial of paternity.**

580 (a) To facilitate compliance with this article, the Bureau of
581 Vital Statistics shall prescribe forms for the acknowledgment of
582 paternity and the denial of paternity.

583 (b) A valid acknowledgment of paternity or denial of
584 paternity is not affected by a later modification of the
585 prescribed form.

586 (c) The Mississippi Department of Health and the Mississippi
587 Department of Human Services shall cooperate to establish
588 procedures to facilitate the voluntary acknowledgement of
589 paternity by both father and mother at the time of the birth of
590 any child born out-of-wedlock. Such procedures shall establish
591 responsibilities for each of the departments and for hospitals,

592 birthing centers, midwives, or other birth attendants to seek and
593 report voluntary acknowledgements of paternity. In establishing
594 such procedures, the departments shall provide for obtaining the
595 social security account numbers of both the father and mother on
596 voluntary acknowledgements.

597 (d) Upon the birth of a child out of wedlock, the hospital,
598 birthing center, midwife or other birth attendant shall provide an
599 opportunity for the child's mother and natural father to complete
600 an acknowledgement of paternity by giving the mother and natural
601 father the appropriate forms and information developed through the
602 procedures established in subsection (c) of this section. The
603 hospital, birthing center, midwife or other birth attendant shall
604 be responsible for providing printed information, and audio visual
605 material if available, related to the acknowledgement of
606 paternity, and shall be required to provide notary services needed
607 for the completion of acknowledgements of paternity. The
608 information described above shall be provided to the mother and
609 natural father, if present and identifiable, within twenty-four
610 (24) hours of birth or before the mother is released. Such
611 information, including forms, brochures, pamphlets, video tapes
612 and other media, shall be provided at no cost to the hospital,
613 birthing center or midwife by the Mississippi State Department of
614 Health, the Department of Human Services or other appropriate
615 agency.

616 **SECTION 24.** The following shall be codified as Section
617 93-9-313, Mississippi Code of 1972:

618 93-9-313. **Release of information.** The Bureau of Vital
619 Statistics may release information relating to the acknowledgment
620 of paternity or denial of paternity to a signatory of the
621 acknowledgment or denial and to courts, appropriate state agencies
622 of this or another state, or appropriate federal agencies.

623 **SECTION 25.** The following shall be codified as Section
624 93-9-314, Mississippi Code of 1972:

625 93-9-314. **Adoption of rules.** The Office of Vital Records
626 Registration of the State Department of Health may adopt rules to
627 implement this article.

628 **Article 4**

629 **Registry of Paternity**

630 **Part 1**

631 **General Provisions**

632 **SECTION 26.** The following shall be codified as Section
633 93-9-401, Mississippi Code of 1972:

634 93-9-401. **Establishment of registry.** A registry of
635 paternity is established in the Bureau of Vital Statistics.

636 **SECTION 27.** The following shall be codified as Section
637 93-9-402, Mississippi Code of 1972:

638 93-9-402. **Registration for notification.** (a) Except as
639 otherwise provided in subsection (b) or Section 93-9-405, a man
640 who desires to be notified of a proceeding for adoption of, or
641 termination of parental rights regarding, a child that he may have
642 fathered must register in the registry of paternity before the
643 birth of the child or within thirty (30) days after the birth.

644 (b) A man is not required to register if:

645 (1) A father-child relationship between the man and the
646 child has been established under this article or other law; or

647 (2) The man commences a proceeding to adjudicate his
648 paternity before the court has terminated his parental rights.

649 (c) A registrant shall promptly notify the registry in a
650 record of any change in the information registered. The Bureau of
651 Vital Statistics shall incorporate all new information received
652 into its records but need not affirmatively seek to obtain current
653 information for incorporation in the registry.

654 **SECTION 28.** The following shall be codified as Section
655 93-9-403, Mississippi Code of 1972:

656 93-9-403. **Notice of proceeding.** Notice of a proceeding for
657 the adoption of, or termination of parental rights regarding, a

658 child must be given to a registrant who has timely registered.
659 Notice must be given in a manner prescribed for service of process
660 in a civil action.

661 **SECTION 29.** The following shall be codified as Section
662 93-9-404, Mississippi Code of 1972:

663 93-9-404. **Termination of parental rights: child under one**
664 **year of age.** The parental rights of a man who may be the father
665 of a child may be terminated without notice if:

666 (1) The child has not attained one (1) year of age at
667 the time of the termination of parental rights;

668 (2) The man did not register timely with the Bureau of
669 Vital Statistics; and

670 (3) The man is not exempt from registration under
671 Section 93-9-402.

672 **SECTION 30.** The following shall be codified as Section
673 93-9-405, Mississippi Code of 1972:

674 93-9-405. **Termination of parental rights: child at least**
675 **one year of age.** (a) If a child has attained one (1) year of
676 age, notice of a proceeding for adoption of, or termination of
677 parental rights regarding, the child must be given to every
678 alleged father of the child, whether or not he has registered with
679 the Bureau of Vital Statistics.

680 (b) Notice must be given in a manner prescribed for service
681 of process in a civil action.

682 **Part 2**

683 **Operation of Registry**

684 **SECTION 31.** The following shall be codified as Section
685 93-9-411, Mississippi Code of 1972:

686 93-9-411. **Required form.** The Bureau of Vital Statistics
687 shall prepare a form for registering with the agency. The form
688 must require the signature of the registrant. The form must state
689 that the form is signed under penalty of perjury. The form must
690 also state that:

691 (1) A timely registration entitles the registrant to
692 notice of a proceeding for adoption of the child or termination of
693 the registrant's parental rights;

694 (2) A timely registration does not commence a
695 proceeding to establish paternity;

696 (3) The information disclosed on the form may be used
697 against the registrant to establish paternity;

698 (4) Services to assist in establishing paternity are
699 available to the registrant through the support-enforcement
700 agency;

701 (5) The registrant should also register in another
702 state if conception or birth of the child occurred in the other
703 state;

704 (6) Information on registries of other states is
705 available from the Bureau of Vital Statistics; and

706 (7) Procedures exist to rescind the registration of a
707 claim of paternity.

708 **SECTION 32.** The following shall be codified as Section
709 93-9-412, Mississippi Code of 1972:

710 93-9-412. **Furnishing of information; confidentiality.** (a)
711 The Bureau of Vital Statistics need not seek to locate the mother
712 of a child who is the subject of a registration, but the Bureau of
713 Vital Statistics shall send a copy of the notice of registration
714 to a mother if she has provided an address.

715 (b) Information contained in the registry is confidential
716 and may be released on request only to:

717 (1) A court or a person designated by the court;

718 (2) The mother of the child who is the subject of the
719 registration;

720 (3) An agency authorized by other law to receive the
721 information;

722 (4) A licensed child-placing agency;

723 (5) A support-enforcement agency;

724 (6) A party or the party's attorney of record in a
725 proceeding under this chapter or in a proceeding for adoption of,
726 or for termination of parental rights regarding, a child who is
727 the subject of the registration; and

728 (7) The registry of paternity in another state.

729 **SECTION 33.** The following shall be codified as Section
730 93-9-413, Mississippi Code of 1972:

731 93-9-413. **Penalty for releasing information.** An individual
732 commits a misdemeanor if the individual intentionally releases
733 information from the registry to another individual or agency not
734 authorized to receive the information under Section 93-9-412.

735 **SECTION 34.** The following shall be codified as Section
736 93-9-414, Mississippi Code of 1972:

737 93-9-414. **Rescission of registration.** A registrant may
738 rescind his registration at any time by sending to the registry a
739 rescission in a record signed or otherwise authenticated by him,
740 and witnessed or notarized.

741 **SECTION 35.** The following shall be codified as Section
742 93-9-415, Mississippi Code of 1972:

743 93-9-415. **Untimely registration.** If a man registers more
744 than thirty (30) days after the birth of the child, the Bureau of
745 Vital Statistics shall notify the registrant that on its face his
746 registration was not filed timely.

747 **SECTION 36.** The following shall be codified as Section
748 93-9-416, Mississippi Code of 1972:

749 93-9-416. **Fees for registry.** (a) A fee may not be charged
750 for filing a registration or a rescission of registration.

751 (b) Except as otherwise provided in subsection (c), the
752 Bureau of Vital Statistics may charge a reasonable fee for making
753 a search of the registry and for furnishing a certificate.

754 (c) A support-enforcement agency is not required to pay a
755 fee authorized by subsection (b).

756 **Part 3**

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Search of Registries

SECTION 37. The following shall be codified as Section 93-9-421, Mississippi Code of 1972:

93-9-421. **Search of appropriate registry.** (a) If a father-child relationship has not been established under this chapter for a child under one (1) year of age, a petitioner for adoption of, or termination of parental rights regarding, the child, must obtain a certificate of search of the registry of paternity.

(b) If a petitioner for adoption of, or termination of parental rights regarding, a child has reason to believe that the conception or birth of the child may have occurred in another state, the petitioner must also obtain a certificate of search from the registry of paternity, if any, in that state.

SECTION 38. The following shall be codified as Section 93-9-422, Mississippi Code of 1972:

93-9-422. **Certificate of search of registry.** (a) The Bureau of Vital Statistics shall furnish to the requester a certificate of search of the registry on request of an individual, court, or agency identified in Section 93-9-412.

(b) A certificate provided by the Bureau of Vital Statistics must be signed on behalf of the bureau and state that:

- (1) A search has been made of the registry; and
- (2) A registration containing the information required

to identify the registrant:

(A) Has been found and is attached to the certificate of search; or

(B) Has not been found.

(c) A petitioner must file the certificate of search with the court before a proceeding for adoption of, or termination of parental rights regarding, a child may be concluded.

SECTION 39. The following shall be codified as Section 93-9-423, Mississippi Code of 1972:

790 93-9-423. **Admissibility of registered information.** A
791 certificate of search of the registry of paternity in this or
792 another state is admissible in a proceeding for adoption of, or
793 termination of parental rights regarding, a child and, if
794 relevant, in other legal proceedings.

795 **Article 5**

796 **Genetic Testing**

797 **SECTION 40.** The following shall be codified as Section
798 93-9-501, Mississippi Code of 1972:

799 93-9-501. **Scope of article.** This article governs genetic
800 testing of an individual to determine parentage, whether the
801 individual:

- 802 (1) Voluntarily submits to testing; or
803 (2) Is tested pursuant to an order of the court or a
804 support-enforcement agency.

805 **SECTION 41.** The following shall be codified as Section
806 93-9-502, Mississippi Code of 1972:

807 93-9-502. **Order for testing.** (a) Except as otherwise
808 provided in this article and Article 6, particularly Section
809 93-9-621(c), and except as to a child born in wedlock where the
810 mother and presumed father remain married and neither files a
811 complaint for divorce, the court shall order the child and other
812 designated individuals to submit to genetic testing if the request
813 for testing is supported by the sworn statement of a party to the
814 proceeding:

- 815 (1) Alleging paternity and stating facts establishing a
816 reasonable probability of the requisite sexual contact between the
817 individuals; or

- 818 (2) Denying paternity and stating facts establishing a
819 possibility that sexual contact between the individuals, if any,
820 did not result in the conception of the child.

821 (b) A support-enforcement agency may order genetic testing
822 only if there is no presumed, acknowledged, or adjudicated father.

823 Except as provided in Section 93-9-502, in all cases brought
824 pursuant to Title IV-D of the Social Security Act, upon sworn
825 documentation by the mother, alleged father, or the Department of
826 Human Services alleging paternity, the department may issue an
827 administrative order for paternity testing which requires the
828 mother, alleged father and minor child to submit themselves for
829 paternity testing. The department shall send the alleged father a
830 copy of the Administrative Order and a Notice for Genetic Testing
831 which shall include the date, time and place for collection of the
832 alleged father's genetic sample. The department shall also send
833 the alleged father a Notice and Complaint to Establish Paternity
834 which shall specify the date and time certain of the court hearing
835 by certified mail, restricted delivery, return receipt requested.
836 Notice shall be deemed complete as of the date of delivery as
837 evidenced by the return receipt. The required notice may also be
838 delivered by personal service upon the alleged father in
839 accordance with Rule 4 of the Mississippi Rules of Civil Procedure
840 insofar as service of an administrative order or notice is
841 concerned.

842 (c) If a request for genetic testing of a child is made
843 before birth, the court or support-enforcement agency may not
844 order in-utero testing.

845 (d) If two (2) or more men are subject to court-ordered
846 genetic testing, the testing may be ordered concurrently or
847 sequentially.

848 (e) The court shall ensure that all parties are aware of the
849 right to request genetic tests under this section.

850 (f) Any statute of limitations notwithstanding, a court may
851 at any time order the child and other designated individuals to
852 submit to genetic testing upon petition by or on behalf of the
853 child whose parentage is to be determined solely for the purpose
854 of informing medical diagnosis, treatment, and transplants for the
855 child or the descendants of his body, and not for the purpose of

856 fixing the obligation of support or the right of visitation or
857 custody.

858 **SECTION 42.** The following shall be codified as Section
859 93-9-503, Mississippi Code of 1972:

860 93-9-503. **Requirements for genetic testing.** (a) Genetic
861 testing shall be made by experts qualified as examiners of genetic
862 tests and must be of a type reasonably relied upon by experts in
863 the field of genetic testing and performed in a testing laboratory
864 accredited by:

865 (1) The American Association of Blood Banks, or a
866 successor to its functions;

867 (2) The American Society for Histocompatibility and
868 Immunogenetics, or a successor to its functions; or

869 (3) An accrediting body designated by the federal
870 Secretary of Health and Human Services.

871 (b) A specimen used in genetic testing may consist of one or
872 more samples, or a combination of samples, of blood, buccal cells,
873 bone, hair, or other body tissue or fluid. The specimen used in
874 the testing need not be of the same kind for each individual
875 undergoing genetic testing.

876 (c) Based on the ethnic or racial group of an individual,
877 the testing laboratory shall determine the databases from which to
878 select frequencies for use in calculation of the probability of
879 paternity. If there is disagreement as to the testing
880 laboratory's choice, the following rules apply:

881 (1) The individual objecting may require the testing
882 laboratory, within thirty (30) days after receipt of the report of
883 the test, to recalculate the probability of paternity using an
884 ethnic or racial group different from that used by the laboratory.

885 (2) The individual objecting to the testing
886 laboratory's initial choice shall:

887 (A) If the frequencies are not available to the
888 testing laboratory for the ethnic or racial group requested,

889 provide the requested frequencies compiled in a manner recognized
890 by accrediting bodies; or

891 (B) Engage another testing laboratory to perform
892 the calculations.

893 (3) The testing laboratory may use its own statistical
894 estimate if there is a question regarding which ethnic or racial
895 group is appropriate. If available, the testing laboratory shall
896 calculate the frequencies using statistics for any other ethnic or
897 racial group requested.

898 (d) If, after recalculation using a different ethnic or
899 racial group, genetic testing does not rebuttably identify a man
900 as the father of a child under Section 93-9-505, an individual who
901 has been tested may be required to submit to additional genetic
902 testing.

903 (e) Genetic tests performed pursuant to administrative order
904 issued by the Department of Human Services shall be performed by a
905 laboratory selected from the approved list as prepared and
906 maintained by the Department of Human Services.

907 (f) The Department of Human Services shall publicly issue a
908 request for proposals, and such requests for proposals when issued
909 shall contain terms and conditions relating to price, technology
910 and such other matters as are determined by the department to be
911 appropriate for inclusion or required by law. After responses to
912 the request for proposals have been duly received, the department
913 shall select the lowest and best bid or bids on the basis of
914 price, technology and other relevant factors and from such
915 proposals, but not limited to the terms thereof, negotiate and
916 enter into contracts with one or more of the laboratories
917 submitting proposals. The department shall prepare a list of all
918 laboratories with which it has contracted on these terms. The
919 list and any updates thereto shall be distributed to all chancery
920 clerks. To be eligible to appear on the list, a laboratory must
921 meet the following requirements:

922 (1) The laboratory is qualified to do business within
923 the State of Mississippi;

924 (2) The laboratory can provide test results in less
925 than fourteen (14) days; and

926 (3) The laboratory has participated in the competitive
927 procurement process.

928 **SECTION 43.** The following shall be codified as Section
929 93-9-504, Mississippi Code of 1972:

930 93-9-504. **Report of genetic testing.** (a) A report of
931 genetic testing must be in a record and signed under penalty of
932 perjury by a designee of the testing laboratory. The report must
933 state the amount of the fee for performing the test and the
934 procedures performed to obtain the test results. A report made
935 under the requirements of this article is self-authenticating.

936 (b) Documentation from the testing laboratory of the
937 following information is sufficient to establish a reliable chain
938 of custody that allows the results of genetic testing to be
939 admissible without testimony:

940 (1) The names and photographs of the individuals whose
941 specimens have been taken;

942 (2) The names of the individuals who collected the
943 specimens;

944 (3) The places and dates the specimens were collected;

945 (4) The names of the individuals who received the
946 specimens in the testing laboratory; and

947 (5) The dates the specimens were received.

948 **SECTION 44.** The following shall be codified as Section
949 93-9-505, Mississippi Code of 1972:

950 93-9-505. **Genetic testing results; rebuttal.** (a) Under
951 this chapter, a man is rebuttably identified as the father of a
952 child if the genetic testing complies with this article and the
953 results disclose that:

954 (1) The man has at least a ninety-nine percent (99%)
955 probability of paternity, using a prior probability of one-half
956 (0.50), as calculated by using the combined paternity index
957 obtained in the testing; and

958 (2) A combined paternity index of at least one hundred
959 to one (100 to 1).

960 (b) A man identified under subsection (a) as the father of
961 the child may rebut the genetic testing results only by other
962 genetic testing satisfying the requirements of this article which:

963 (1) Excludes the man as a genetic father of the child;
964 or

965 (2) Identifies another man as the possible father of
966 the child.

967 (c) Except as otherwise provided in Section 93-9-510, if
968 more than one man is identified by genetic testing as the possible
969 father of the child, the court shall order them to submit to
970 further genetic testing to identify the genetic father.

971 **SECTION 45.** The following shall be codified as Section
972 93-9-506, Mississippi Code of 1972:

973 93-9-506. **Costs of genetic testing.** (a) Subject to
974 assessment of costs under Article 6, the cost of initial genetic
975 testing must be advanced:

976 (1) By a support-enforcement agency in a proceeding in
977 which the support-enforcement agency is providing services;

978 (2) By the individual who made the request;

979 (3) As agreed by the parties; or

980 (4) As ordered by the court.

981 (b) In cases in which the cost is advanced by the
982 support-enforcement agency, the agency may seek reimbursement from
983 a man who is rebuttably identified as the father.

984 **SECTION 46.** The following shall be codified as Section
985 93-9-507, Mississippi Code of 1972:

986 93-9-507. **Additional genetic testing.** The court or the
987 support-enforcement agency shall order additional genetic testing
988 upon the request of a party who contests the result of the
989 original testing. If the previous genetic testing identified a
990 man as the father of the child under Section 93-9-505, the court
991 or agency may not order additional testing unless the party
992 provides advance payment for the testing.

993 **SECTION 47.** The following shall be codified as Section
994 93-9-508, Mississippi Code of 1972:

995 93-9-508. **Genetic testing when specimens not available.** (a)
996 Subject to subsection (b), if a genetic-testing specimen is not
997 available from a man who may be the father of a child, for good
998 cause and under circumstances the court considers to be just, the
999 court may order the following individuals to submit specimens for
1000 genetic testing:

- 1001 (1) The parents of the man;
- 1002 (2) Brothers and sisters of the man;
- 1003 (3) Other children of the man and their mothers; and
- 1004 (4) Other relatives of the man necessary to complete
1005 genetic testing.

1006 (b) Issuance of an order under this section requires a
1007 finding that a need for genetic testing outweighs the legitimate
1008 interests of the individual sought to be tested.

1009 **SECTION 48.** The following shall be codified as Section
1010 93-9-509, Mississippi Code of 1972:

1011 93-9-509. **Deceased individual.** For good cause shown, the
1012 court may order genetic testing of a deceased individual.

1013 **SECTION 49.** The following shall be codified as Section
1014 93-9-510, Mississippi Code of 1972:

1015 93-9-510. **Identical brothers.** (a) The court may order
1016 genetic testing of a brother of a man identified as the father of
1017 a child if the man is commonly believed to have an identical

1018 brother and evidence suggests that the brother may be the genetic
1019 father of the child.

1020 (b) If each brother satisfies the requirements as the
1021 identified father of the child under Section 93-9-505 without
1022 consideration of another identical brother being identified as the
1023 father of the child, the court may rely on nongenetic evidence to
1024 adjudicate which brother is the father of the child.

1025 **SECTION 50.** The following shall be codified as Section
1026 93-9-511, Mississippi Code of 1972:

1027 93-9-511. **Confidentiality of genetic testing.** (a) Copies
1028 of the report of genetic testing for parentage shall be given to
1029 all parties or to the attorney of record if a party is represented
1030 by counsel; the original report shall be filed with the clerk of
1031 the court.

1032 (b) An individual who intentionally releases a report of
1033 genetic testing or an identifiable specimen of another individual
1034 for any purpose other than that relevant to the proceeding
1035 regarding parentage without a court order or the written
1036 permission of the individual who furnished the specimen commits a
1037 misdemeanor.

1038 **Article 6**

1039 **PROCEEDING TO ADJUDICATE PARENTAGE**

1040 **Nature of Proceeding**

1041 **SECTION 51.** The following shall be codified as Section
1042 93-9-601, Mississippi Code of 1972:

1043 93-9-601. **Proceeding authorized.** (a) A civil proceeding
1044 may be maintained to adjudicate the parentage of a child. The
1045 proceeding is governed by the Mississippi Rules of Civil
1046 Procedure.

1047 (b) In all records, certificates or other papers hereafter
1048 made or executed, other than birth records and certificates or
1049 records of judicial proceedings in which the question of birth
1050 out-of-wedlock is at issue, requiring a declaration by or notice

1051 to the mother of a child born out-of-wedlock or otherwise
1052 requiring a reference to the relation of a mother to such a child,
1053 it shall be sufficient for all purposes to refer to the mother as
1054 the parent having the sole custody of the child, and no explicit
1055 reference shall be made to illegitimacy.

1056 **SECTION 52.** The following shall be codified as Section
1057 93-9-602, Mississippi Code of 1972:

1058 93-9-602. **Standing to maintain proceeding.** Subject to
1059 Article 3 and Sections 93-9-607 and 93-9-609, a proceeding to
1060 adjudicate parentage may be maintained by:

1061 (1) The child;

1062 (2) The mother of the child;

1063 (3) A man whose paternity is to be adjudicated as to a
1064 child born out-of-wedlock or born in wedlock where either party to
1065 the marriage filed a complaint for divorce;

1066 (4) The support-enforcement agency or other
1067 governmental agency authorized by other law, except as to a child
1068 born in wedlock where neither party to the marriage has obtained a
1069 decree of divorce;

1070 (5) An authorized adoption agency or licensed
1071 child-placing agency, except as to a child born in wedlock where
1072 neither party to the marriage has obtained a decree of divorce;

1073 (6) A representative authorized by law to act for an
1074 individual who would otherwise be entitled to maintain a
1075 proceeding but who is deceased, incapacitated, or a minor; or

1076 (7) An intended parent under Article 8.

1077 **SECTION 53.** The following shall be codified as Section
1078 93-9-603, Mississippi Code of 1972:

1079 93-9-603. **Parties to proceeding.** (a) The following
1080 individuals must be joined as parties in a proceeding to
1081 adjudicate parentage:

1082 (1) The mother of the child; and

1083 (2) A man whose paternity of the child is to be
1084 adjudicated.

1085 (b) The death of the mother shall not abate the paternity
1086 prosecution, if the child be living; but a suggestion of the fact
1087 shall be made, and the name of the child substituted in the
1088 proceedings for that of the mother, and a guardian ad litem shall
1089 be appointed by the court to prosecute the cause, who shall not be
1090 liable for costs; and in such case the testimony of the mother,
1091 taken in writing before a court reporter or videotaped during a
1092 properly noticed deposition, may be read in evidence, and shall
1093 have the same force and effect as if she were living and had
1094 testified to the same in court.

1095 **SECTION 54.** The following shall be codified as Section
1096 93-9-604, Mississippi Code of 1972:

1097 93-9-604. **Personal jurisdiction.** (a) An individual may not
1098 be adjudicated to be a parent unless the court has personal
1099 jurisdiction over the individual.

1100 (b) A court of this state having jurisdiction to adjudicate
1101 parentage may exercise personal jurisdiction over a nonresident
1102 individual, or the guardian or conservator of the individual, if
1103 the conditions prescribed in Section 93-25-9 of the Uniform
1104 Interstate Family Support Act are fulfilled.

1105 (c) Lack of jurisdiction over one (1) individual does not
1106 preclude the court from making an adjudication of parentage
1107 binding on another individual over whom the court has personal
1108 jurisdiction.

1109 **SECTION 55.** The following shall be codified as Section
1110 93-9-605, Mississippi Code of 1972:

1111 93-9-605. **Venue.** (a) Venue for a proceeding to adjudicate
1112 parentage is in the county of this state in which:

1113 (1) The child resides or is found;

1114 (2) The respondent resides or is found if the child
1115 does not reside in this state; or

1116 (3) A proceeding for probate or administration of the
1117 presumed or alleged father's estate has been commenced.

1118 (b) Subsequent to an initial filing in an appropriate court,
1119 any action regarding paternity, support, enforcement or
1120 modification and to which the Department of Human Services is a
1121 party may be heard in any county by a court which would otherwise
1122 have jurisdiction and is a proper venue. Upon written request by
1123 the Department of Human Services, the clerk of the court of the
1124 original county shall transfer a certified copy of the court file
1125 to the clerk of the appropriate transfer county without need for
1126 application to the court. Such written request shall certify that
1127 the Department of Human Services has issued timely notification of
1128 the transfer in writing to all interested parties. Such written
1129 request and notice shall be entered into the court file by the
1130 transferring clerk of the transferring court. The transferred
1131 action shall remain on the docket of the transferred court in
1132 which the action is heard, subject to another such transfer.

1133 **SECTION 56.** The following shall be codified as Section
1134 93-9-606, Mississippi Code of 1972:

1135 93-9-606. **No limitation: child having no presumed,**
1136 **acknowledged, or adjudicated father.** A proceeding to adjudicate
1137 the parentage of a child having no presumed, acknowledged, or
1138 adjudicated father may be commenced at any time, even after:

1139 (1) The child becomes an adult, but only if the child
1140 initiates the proceeding; or

1141 (2) An earlier proceeding to adjudicate paternity has
1142 been dismissed based on the application of a statute of limitation
1143 then in effect.

1144 **SECTION 57.** The following shall be codified as Section
1145 93-9-607, Mississippi Code of 1972:

1146 93-9-607. **Limitation: child having presumed father.** (a)
1147 Except as otherwise provided in subsection (b), a proceeding
1148 brought by a presumed father, the mother, or another individual to

1149 adjudicate the parentage of a child having a presumed father must
1150 be commenced not later than two (2) years after the birth of the
1151 child.

1152 (b) A proceeding seeking to disprove the father-child
1153 relationship between a child and the child's presumed father may
1154 be maintained at any time if the court determines that:

1155 (1) The presumed father and the mother of the child
1156 neither cohabited nor engaged in sexual intercourse with each
1157 other during the probable time of conception; and

1158 (2) The presumed father never openly held out the child
1159 as his own.

1160 **SECTION 58.** The following shall be codified as Section
1161 93-9-608, Mississippi Code of 1972:

1162 93-9-608. **Authority to deny motion for genetic testing.** (a)
1163 In a proceeding to adjudicate the parentage of a child having a
1164 presumed father or to challenge the paternity of a child having an
1165 acknowledged father, the court may deny a motion seeking an order
1166 for genetic testing of the mother, the child, and the presumed or
1167 acknowledged father if the court determines that:

1168 (1) The conduct of the mother or the presumed or
1169 acknowledged father estops that party from denying parentage; and

1170 (2) It would be inequitable to disprove the
1171 father-child relationship between the child and the presumed or
1172 acknowledged father.

1173 (b) In determining whether to deny a motion seeking an order
1174 for genetic testing under this section, the court shall consider
1175 the best interest of the child, including the following factors:

1176 (1) The length of time between the proceeding to
1177 adjudicate parentage and the time that the presumed or
1178 acknowledged father was placed on notice that he might not be the
1179 genetic father;

1180 (2) The length of time during which the presumed or
1181 acknowledged father has assumed the role of father of the child;

1182 (3) The facts surrounding the presumed or acknowledged
1183 father's discovery of his possible nonpaternity;

1184 (4) The nature of the relationship between the child
1185 and the presumed or acknowledged father;

1186 (5) The age of the child;

1187 (6) The harm that may result to the child if presumed
1188 or acknowledged paternity is successfully disproved;

1189 (7) The nature of the relationship between the child
1190 and any alleged father;

1191 (8) The extent to which the passage of time reduces the
1192 chances of establishing the paternity of another man and a
1193 child-support obligation in favor of the child; and

1194 (9) Other factors that may affect the equities arising
1195 from the disruption of the father-child relationship between the
1196 child and the presumed or acknowledged father or the chance of
1197 other harm to the child.

1198 (c) In a proceeding involving the application of this
1199 section, a minor or incapacitated child must be represented by a
1200 guardian ad litem.

1201 (d) Denial of a motion seeking an order for genetic testing
1202 must be based on clear and convincing evidence.

1203 (e) If the court denies a motion seeking an order for
1204 genetic testing, it shall issue an order adjudicating the presumed
1205 or acknowledged father to be the father of the child.

1206 **SECTION 59.** The following shall be codified as Section
1207 93-9-609, Mississippi Code of 1972:

1208 93-9-609. **Limitation: child having acknowledged or**
1209 **adjudicated father.** (a) If a child has an acknowledged father, a
1210 signatory to the acknowledgment of paternity or denial of
1211 paternity may commence a proceeding seeking to rescind the
1212 acknowledgement or denial or challenge the paternity of the child
1213 only within the time allowed under Section 93-9-307 or 93-9-308.

1214 (b) If a child has an acknowledged father or an adjudicated
1215 father, an individual, other than the child, who is neither a
1216 signatory to the acknowledgment of paternity nor a party to the
1217 adjudication and who seeks an adjudication of paternity of the
1218 child must commence a proceeding not later than two years after
1219 the effective date of the acknowledgment or adjudication.

1220 (c) A proceeding under this section is subject to the
1221 application of the principles of estoppel established in Section
1222 93-9-608.

1223 **SECTION 60.** The following shall be codified as Section
1224 93-9-610, Mississippi Code of 1972:

1225 93-9-610. **Joinder of proceedings.** (a) Except as otherwise
1226 provided in subsection (b), a proceeding to adjudicate parentage
1227 may be joined with a proceeding for adoption, termination of
1228 parental rights, child custody or visitation, child support,
1229 divorce, annulment, separate maintenance, probate or
1230 administration of an estate, or other appropriate proceeding.

1231 (b) A respondent may not join a proceeding described in
1232 subsection (a) with a proceeding to adjudicate parentage brought
1233 under the Uniform Interstate Family Support Act.

1234 **SECTION 61.** The following shall be codified as Section
1235 93-9-611, Mississippi Code of 1972:

1236 93-9-611. **Proceeding before birth.** A proceeding to
1237 determine parentage may be commenced before the birth of the
1238 child, but may not be concluded until after the birth of the
1239 child. The following actions may be taken before the birth of the
1240 child:

- 1241 (1) Service of process;
- 1242 (2) Discovery; and
- 1243 (3) Except as prohibited by Section 93-9-502,
1244 collection of specimens for genetic testing.

1245 **SECTION 62.** The following shall be codified as Section
1246 93-9-612, Mississippi Code of 1972:

1247 93-9-612. **Child as party; representation.** (a) A minor
1248 child is a permissible party, but is not a necessary party to a
1249 proceeding under this article.

1250 (b) The court shall appoint a guardian ad litem to represent
1251 a minor or incapacitated child if the child is a party or the
1252 court finds that the interests of the child are not adequately
1253 represented.

1254 **SECTION 63.** The following shall be codified as Section
1255 93-9-621, Mississippi Code of 1972:

1256 93-9-621. **Admissibility of results of genetic testing;
1257 expenses.** (a) Except as otherwise provided in subsection (c), a
1258 record of a genetic-testing expert is admissible as evidence of
1259 the truth of the facts asserted in the report unless a party
1260 objects to its admission within fourteen (14) days after its
1261 receipt by the objecting party and cites specific grounds for
1262 exclusion. The admissibility of the report is not affected by
1263 whether the testing was performed:

1264 (1) Voluntarily or pursuant to an order of the court or
1265 a support-enforcement agency; or

1266 (2) Before or after the commencement of the proceeding.

1267 (b) A party objecting to the results of genetic testing may
1268 call one or more genetic-testing experts to testify in person or
1269 by telephone, videoconference, deposition, or another method
1270 approved by the court. Unless otherwise ordered by the court, the
1271 party offering the testimony bears the expense for the expert
1272 testifying.

1273 (c) If a child has a presumed, acknowledged, or adjudicated
1274 father, the results of genetic testing are inadmissible to
1275 adjudicate parentage unless performed:

1276 (1) With the consent of both the mother and the
1277 presumed, acknowledged, or adjudicated father; or

1278 (2) Pursuant to an order of the court under Section
1279 93-9-502.

1280 (d) Copies of bills for genetic testing and for prenatal and
1281 postnatal health care for the mother and child which are furnished
1282 to the adverse party not less than ten (10) days before the date
1283 of a hearing are admissible to establish:

1284 (1) The amount of the charges billed; and

1285 (2) That the charges were reasonable, necessary, and
1286 customary.

1287 **SECTION 64.** The following shall be codified as Section
1288 93-9-622, Mississippi Code of 1972:

1289 93-9-622. **Consequences of declining genetic testing.** (a)
1290 An order for genetic testing is enforceable by proceedings for
1291 contempt.

1292 (b) If an individual whose paternity is being determined
1293 declines to submit to genetic testing ordered by the court, the
1294 court for that reason may adjudicate parentage contrary to the
1295 position of that individual, except that a presumed father who is
1296 married to and was cohabiting with the child's mother during the
1297 probable time of conception may refuse to submit to genetic
1298 testing, and the court may not for that reason adjudicate
1299 parentage contrary to the position of that presumed father if
1300 neither he nor his wife have filed a complaint for divorce from
1301 each other.

1302 (c) Genetic testing of the mother of a child is not a
1303 condition precedent to testing the child and a man whose paternity
1304 is being determined. If the mother is unavailable or declines to
1305 submit to genetic testing, the court may order the testing of the
1306 child and every man whose paternity is being adjudicated.

1307 **SECTION 65.** The following shall be codified as Section
1308 93-9-623, Mississippi Code of 1972:

1309 93-9-623. **Admission of paternity authorized.** (a) A
1310 respondent in a proceeding to adjudicate parentage may admit to
1311 the paternity of a child by filing a pleading to that effect or by

1312 admitting paternity under penalty of perjury when making an
1313 appearance or during a hearing.

1314 (b) If the court finds that the admission of paternity
1315 satisfies the requirements of this section and finds that there is
1316 no reason to question the admission, the court shall issue an
1317 order adjudicating the child to be the child of the man admitting
1318 paternity.

1319 **SECTION 66.** The following shall be codified as Section
1320 93-9-624, Mississippi Code of 1972:

1321 93-9-624. **Temporary order.** (a) In a proceeding under this
1322 article, the court shall issue a temporary order for support of a
1323 child if the order is appropriate and the individual ordered to
1324 pay support is:

1325 (1) A presumed father of the child;

1326 (2) Petitioning to have his paternity adjudicated;

1327 (3) Identified as the father through genetic testing
1328 under Section 93-9-505;

1329 (4) An alleged father who has declined to submit to
1330 genetic testing;

1331 (5) Shown by clear and convincing evidence to be the
1332 father of the child; or

1333 (6) The mother of the child.

1334 (b) A temporary order may include provisions for custody and
1335 visitation as provided by other law of this state.

1336 **Hearings and Adjudication**

1337 **SECTION 67.** The following shall be codified as Section
1338 93-9-631, Mississippi Code of 1972:

1339 93-9-631. **Rules for adjudication of paternity.** The court
1340 shall apply the following rules to adjudicate the paternity of a
1341 child:

1342 (1) The paternity of a child having a presumed,
1343 acknowledged, or adjudicated father may be disproved only by
1344 admissible results of genetic testing excluding that man as the

1345 father of the child or identifying another man as the father of
1346 the child.

1347 (2) Unless the results of genetic testing are admitted
1348 to rebut other results of genetic testing, a man identified as the
1349 father of a child under Section 93-9-505 must be adjudicated the
1350 father of the child.

1351 (3) If the court finds that genetic testing under
1352 Section 93-9-505 neither identifies nor excludes a man as the
1353 father of a child, the court may not dismiss the proceeding. In
1354 that event, the results of genetic testing, and other evidence,
1355 are admissible to adjudicate the issue of paternity.

1356 (4) Unless the results of genetic testing are admitted
1357 to rebut other results of genetic testing, a man excluded as the
1358 father of a child by genetic testing must be adjudicated not to be
1359 the father of the child.

1360 **SECTION 68.** The following shall be codified as Section
1361 93-9-632, Mississippi Code of 1972:

1362 93-9-632. **Jury prohibited.** The court, sitting without a
1363 jury, shall adjudicate paternity of a child.

1364 **SECTION 69.** The following shall be codified as Section
1365 93-9-633, Mississippi Code of 1972:

1366 93-9-633. **Hearings; inspection of records.** (a) A
1367 proceeding under this article is open to the public as in other
1368 civil cases.

1369 (b) Papers and records in a proceeding under this article
1370 are open to public inspection.

1371 (c) Any party calling a witness for the purpose of
1372 testifying to sexual intercourse with the mother at any possible
1373 time of conception of the child whose paternity is in question
1374 shall provide all other parties with the name and address of the
1375 witness at least twenty (20) days before the trial. If a witness
1376 is produced at the hearing for the purpose provided in this
1377 subsection but the party calling the witness failed to provide the

1378 twenty-day notice, the court may adjourn the proceeding for the
1379 purpose of taking a genetic test of the witness before hearing the
1380 testimony of the witness if the court finds that the party calling
1381 the witness acted in good faith.

1382 **SECTION 70.** The following shall be codified as Section
1383 93-9-634, Mississippi Code of 1972:

1384 93-9-634. **Order on failure to appear.** The court shall issue
1385 an order adjudicating the paternity of a man who:

- 1386 (1) After service of process, fails to appear; and
1387 (2) If the alleged father in an action to determine
1388 paternity to which the Department of Human Services is a party
1389 fails to appear for a scheduled hearing after having been served
1390 with process or subsequent notice consistent with the Mississippi
1391 Rules of Civil Procedure, his paternity of the child(ren) shall be
1392 established by the court if an affidavit sworn to by the mother
1393 averring the alleged father's paternity of the child has
1394 accompanied the complaint to determine paternity. Any person who
1395 willfully and knowingly files a false affidavit or aids and abets
1396 the filing of a false affidavit shall be subject to a fine of not
1397 more than One Thousand Dollars (\$1,000.00).

1398 **SECTION 71.** The following shall be codified as Section
1399 93-9-635, Mississippi Code of 1972:

1400 93-9-635. **Dismissal for want of prosecution.** The court may
1401 issue an order dismissing a proceeding commenced under this
1402 chapter for want of prosecution only without prejudice. An order
1403 of dismissal for want of prosecution purportedly with prejudice is
1404 void and has only the effect of a dismissal without prejudice.

1405 **SECTION 72.** The following shall be codified as Section
1406 93-9-636, Mississippi Code of 1972:

1407 93-9-636. **Order adjudicating parentage.** (a) The court
1408 shall issue an order adjudicating whether a man alleged or
1409 claiming to be the father is the parent of the child.

1410 (b) An order adjudicating parentage must identify the child
1411 by name and date of birth and provide for the support and
1412 education of the child.

1413 (1) The order shall specify child support to be paid
1414 weekly or otherwise. In addition to providing for the support and
1415 education, the order shall also provide for the funeral expenses
1416 if the child has died; for the support of the child prior to the
1417 date of the order; and such other expenses as the court may deem
1418 proper. In the event the adjudicated parent has health insurance
1419 available through an employer or organization that may extend
1420 benefits to the dependents of the parent, the order may require
1421 the parent to exercise the option of additional coverage in favor
1422 of the child.

1423 (2) The court may require the payment to be made to the
1424 mother, or to some person or corporation to be designated by the
1425 court as trustee, but if the child is or is likely to become a
1426 public charge on a county or the state, the human services agent
1427 of that county shall be made the trustee. The payment shall be
1428 directed to be made to a trustee if the mother does not reside
1429 within the jurisdiction of the court. The trustee shall report to
1430 the court annually, or oftener as directed by the court, the
1431 amounts received and paid over.

1432 (c) Except as otherwise provided in subsection (d), the
1433 court may assess filing fees, reasonable attorney's fees, fees for
1434 genetic testing, other costs, and necessary travel and other
1435 reasonable expenses incurred in a proceeding under this article.
1436 The court may award attorney's fees, which may be paid directly to
1437 the attorney, who may enforce the order in the attorney's own
1438 name.

1439 (d) The court may not assess fees, costs, or expenses
1440 against the support-enforcement agency of this state or another
1441 state, except as provided by other law.

1442 (e) On request of a party and for good cause shown, the
1443 court may order that the name of the child be changed.

1444 (f) If the order of the court is at variance with the
1445 child's birth certificate, the court shall order the Bureau of
1446 Vital Statistics to issue an amended birth registration even if
1447 the requirements of Section 41-57-23 have not been met.

1448 **SECTION 73.** The following shall be codified as Section
1449 93-9-637, Mississippi Code of 1972:

1450 93-9-637. **Binding effect of determination of parentage.** (a)
1451 Except as otherwise provided in subsection (b), a determination of
1452 parentage is binding on:

1453 (1) All signatories to an acknowledgement or denial of
1454 paternity as provided in Article 3; and

1455 (2) All parties to an adjudication by a court acting
1456 under circumstances that satisfy the jurisdictional requirements
1457 of Section 93-25-11 of the Uniform Interstate Family Support Act.

1458 (b) A child is not bound by a determination of parentage
1459 under this chapter unless:

1460 (1) The determination was based on an unrescinded
1461 acknowledgment of paternity and the acknowledgement is consistent
1462 with the results of genetic testing;

1463 (2) The adjudication of parentage was based on a
1464 finding consistent with the results of genetic testing and the
1465 consistency is declared in the determination or is otherwise
1466 shown; or

1467 (3) The child was a party or was represented in the
1468 proceeding determining parentage by a guardian ad litem.

1469 (c) In a proceeding to dissolve a marriage, the court is
1470 deemed to have made an adjudication of the parentage of a child if
1471 the court acts under circumstances that satisfy the jurisdictional
1472 requirements of Section 93-25-9 of the Uniform Interstate Family
1473 Support Act, and the final order:

1474 (1) Expressly identifies a child as a "child of the
1475 marriage," "issue of the marriage," or similar words indicating
1476 that the husband is the father of the child; or

1477 (2) Provides for support of the child by the husband
1478 unless paternity is specifically disclaimed in the order.

1479 (d) Except as otherwise provided in subsection (b), a
1480 determination of parentage may be a defense in a subsequent
1481 proceeding seeking to adjudicate parentage by an individual who
1482 was not a party to the earlier proceeding.

1483 (e) A party to an adjudication of paternity may challenge
1484 the adjudication only under law of this state relating to appeal,
1485 vacation of judgments, or other judicial review.

1486 **SECTION 74.** The following shall be codified as Section
1487 93-9-638, Mississippi Code of 1972:

1488 93-9-638. **Enforcement; surname of child.** If paternity has
1489 been lawfully determined, or has been acknowledged in writing
1490 according to the laws of this state, the liabilities of the
1491 noncustodial parent may be enforced in the same or other
1492 proceedings by the custodial parent, the child, or any public
1493 authority which has furnished or may furnish the reasonable
1494 expenses of pregnancy, confinement, education, necessary support
1495 and maintenance, and medical or funeral expenses for the custodial
1496 parent or the child. The court shall receive without the need for
1497 third-party foundation testimony certified, attested or sworn
1498 documentation as evidence of (1) childbirth records; (2) cost of
1499 filing fees; (3) court costs; (4) services of process fees; (5)
1500 mailing cost; (6) genetic tests and testing fees; (7) the
1501 Department of Human Services' attorney's fees; (8) in cases where
1502 the state or any of its entities or divisions have provided
1503 medical services to the child or the child's mother, all costs of
1504 prenatal care, birthing, postnatal care and any other medical
1505 expenses incurred by the child or by the mother as a consequence
1506 of the mother's pregnancy or delivery; and (9) funeral expenses.

1507 In all cases successfully prosecuted by the child support
1508 enforcement agency, all fees and costs shall be ordered paid to
1509 the Department of Human Services with a minimum of Two Hundred
1510 Fifty Dollars (\$250.00) in attorney's fees or an amount determined
1511 by the court without submitting an affidavit. In court-determined
1512 paternity, the surname of the child shall be that of the father,
1513 unless the judgment specifies otherwise.

1514 **SECTION 75.** The following shall be codified as Section
1515 93-9-639, Mississippi Code of 1972:

1516 93-9-639. **Limitation on recovery from father.** The father's
1517 liabilities for past education and necessary support and
1518 maintenance and other expenses are limited to a period of one (1)
1519 year next preceding the commencement of an action.

1520 **SECTION 76.** The following shall be codified as Section
1521 93-9-640, Mississippi Code of 1972:

1522 93-9-640. **Limitation on recovery from father's estate.** The
1523 obligation of the estate of the father for liabilities under
1524 Section 93-9-638 is limited to amounts accrued prior to his death.
1525 However, in order to hold the estate of the father liable under
1526 Section 93-9-638, the action must be filed within one (1) year
1527 after the death of the father or within ninety (90) days after the
1528 first publication of notice to creditors to present their claims,
1529 whichever is less.

1530 **SECTION 77.** The following shall be codified as Section
1531 93-9-641, Mississippi Code of 1972:

1532 93-9-641. **Security; commitment; probation.** (a) The court
1533 may require the father to give security by bond or other security,
1534 with sufficient sureties approved by the court, for the payment of
1535 the order of paternity. Such security, when required, shall not
1536 exceed three (3) times the total periodic sum the father shall be
1537 required to pay under the terms of the order of paternity in any
1538 one (1) calendar year. When bond or security is required in cases
1539 where the action has been instituted by a human services official,

1540 the defendant shall also be required to give security that he will
1541 indemnify the state and the county where the child was or may be
1542 born and every other county against any expense for the support
1543 and education of the child; this undertaking shall also require
1544 that all arrears shall be paid by the principal and sureties. In
1545 default of security, when required, the court may commit him to
1546 jail, or put him on probation. At any time within one (1) year he
1547 may be discharged from jail, but his liability to pay the judgment
1548 shall not be thereby affected.

1549 (b) Whenever any order of paternity has been made, but no
1550 bond or other security has been required for payment of support of
1551 the child, and whenever such payments as have become due remain
1552 unpaid for a period of at least thirty (30) days, the court may,
1553 upon petition of the person to whom such payments are due, or that
1554 person's legal representative, enter an order requiring that bond
1555 or other security be given by the father in accordance with and
1556 under such terms and conditions as provided in subsection (a) of
1557 this section. The father, as in other civil actions, shall be
1558 served with process and shall be entitled to a hearing in the
1559 case.

1560 (c) Where security is given and default is made in any
1561 payment, the court shall cite the parties bound by the security
1562 requiring them to show cause why judgment should not be given
1563 against them and execution issued thereon. If the amount due and
1564 unpaid is not paid before the return day of the citation, and no
1565 cause be shown to the contrary, judgment shall be rendered against
1566 those served with the citation for the amount due and unpaid
1567 together with costs, and execution shall issue therefor, saving
1568 all remedies upon the bond for future default. The judgment is a
1569 lien on real estate and in other respects enforceable as other
1570 judgments. The amount collected on the judgment or such sums as
1571 may have been deposited as collateral in lieu of bond, when

1572 forfeited, may be used for the benefit of the child, as provided
1573 in the order of paternity.

1574 (d) If at any time after an order of paternity is made and
1575 an undertaking given thereon in accordance with the provisions of
1576 this chapter, if the undertaking is not complied with, a recovery
1577 thereon cannot be had, the original undertaking has been complied
1578 with and the sureties discharged therefrom, or if money were
1579 deposited in lieu of bail but exhausted, and the natural child
1580 still needs support, the human services official of any county
1581 where the natural child for whose support the order of paternity
1582 was made shall be at the time, or the Executive Director of the
1583 Department of Human Services upon giving proof of the making of
1584 the order of paternity, the giving of the undertaking and the
1585 noncompliance therewith, that the sureties have been discharged
1586 from their liability, or that for any reason a recovery cannot be
1587 had on the undertaking, may apply to the court in the county
1588 having jurisdiction for a warrant for the arrest of the defendant
1589 against whom the order of paternity was made, and the warrant
1590 shall be executed in the manner provided in criminal procedure for
1591 the execution of the warrant; upon the arrest and arraignment of
1592 the defendant, and upon proof of the making of the order of
1593 paternity, the giving of the above-mentioned undertaking, and the
1594 noncompliance therewith, or that for any reason a recovery cannot
1595 be had on such undertaking, the court shall make an order
1596 requiring him to give a new undertaking, which shall also require
1597 that all arrears shall be paid by the principal and sureties, or
1598 upon his failure to give such new undertaking, shall commit him to
1599 jail, or put him on probation.

1600 (e) If the child and mother die, or the father and mother be
1601 legally married to each other, the court in which such security is
1602 filed, on proof of such fact, may cause the security to be marked
1603 "cancelled" and be surrendered to the obligors.

1604 **SECTION 78.** The following shall be codified as Section
1605 93-9-642, Mississippi Code of 1972:

1606 93-9-642. **Commitment for contempt.** The court also has power
1607 on default to adjudge the father in contempt and to order him
1608 committed to jail in the same manner and with the same powers as
1609 in case of commitment for default in giving security. The
1610 commitment of the father shall not operate to stay execution upon
1611 the judgment of the bond.

1612 **SECTION 79.** The following shall be codified as Section
1613 93-9-643, Mississippi Code of 1972:

1614 93-9-643. **Support by mother.** (a) If a mother of a natural
1615 child is possessed of property and fails to support and educate
1616 her child, upon application of the guardian or next friend of the
1617 child or, if the child shall receive Temporary Assistance for
1618 Needy Families (TANF) benefits or other financial assistance, of
1619 the county human services agent or youth counselor, the court
1620 having jurisdiction may examine the matter, and after hearing may
1621 make an order charging the mother with the payment of money,
1622 weekly or otherwise, for the support and education of the child.

1623 (b) The court may require the mother to give security, by
1624 bond or other security, with sufficient sureties approved by the
1625 court, for the payment of the order. In default of security, when
1626 required, the court may commit her to jail, or put her on
1627 probation. At any time within one (1) year she may be discharged
1628 from jail, but her liability to pay the judgment shall not be
1629 thereby affected.

1630 (c) Nothing in this section shall be deemed to relieve the
1631 father from liability for support and education of the child in
1632 accordance with the provisions of this chapter.

1633 **SECTION 80.** The following shall be codified as Section
1634 93-9-644, Mississippi Code of 1972:

1635 93-9-644. **False declaration of identity.** The making of a
1636 false complaint as to the identity of the father, or the aiding or

1637 abetting therein, shall be punishable as for perjury or by a fine
1638 of not more than One Thousand Dollars (\$1,000.00).

1639 **SECTION 81.** The following shall be codified as Section
1640 93-9-645, Mississippi Code of 1972:

1641 93-9-645. **Probation.** Upon a failure to give security as
1642 provided herein, the court, instead of imposing sentence or of
1643 committing the parent to jail, or as a condition of release from
1644 jail, may place the parent on probation, upon such terms as to
1645 payment of support to or on behalf of the child, and as to
1646 personal reports, as the court may direct. Upon violation of the
1647 terms imposed, the court may proceed to impose the sentence and
1648 commit or recommit to jail in accordance with the sentence.

1649 **SECTION 82.** The following shall be codified as Section
1650 93-9-646, Mississippi Code of 1972:

1651 93-9-646. **Appeals.** Appeal from any final order or judgment
1652 of parentage may be taken directly to the Supreme Court within
1653 thirty (30) days after the entry of the order, by the defendant,
1654 by a guardian ad litem appointed by the court for the child, by
1655 the mother or her personal representative, or by the human
1656 services official.

1657 The appeal shall not operate as a stay of execution unless
1658 the defendant gives the security provided in this part, and
1659 further security to pay the costs of such appeal. If the appeal
1660 is taken by a guardian ad litem appointed for the child by the
1661 court, the court in its discretion may allow payment for the
1662 actual disbursements made by the guardian ad litem for taking
1663 appeal. When allowed by the judge and duly audited, the
1664 disbursement shall become a county charge and shall be paid by the
1665 county.

1666 **SECTION 83.** The following shall be codified as Section
1667 93-9-647, Mississippi Code of 1972:

1668 93-9-647. **Prosecuting official.** The Child Support
1669 Enforcement Office of the Department of Human Services shall have

1670 the primary duty to prosecute all cases under this chapter
1671 relating to minor children where the complainant is a state or
1672 county human services official. When such duty relating to any
1673 minor child is not discharged by the Office of Child Support
1674 Enforcement, the duty shall devolve upon the county attorney, in
1675 counties having a county attorney, of the county where the child
1676 resides or is found, or of the county where the respondent resides
1677 or is found if the child does not reside in this state, to
1678 prosecute such cases under this chapter. He shall receive as
1679 compensation for his services, when and if performed, not to
1680 exceed the sum of One Hundred Dollars (\$100.00) for any one (1)
1681 month, in addition to compensation provided otherwise, out of the
1682 county treasury upon an order of the county, circuit or chancery
1683 judge. In counties not having a county attorney, the duty shall
1684 devolve upon the district attorney for the circuit court district
1685 encompassing the county where venue is proper, who shall receive
1686 the same compensation as provided for the county attorney.

1687 **Article 7**

1688 **Child of Assisted Reproduction**

1689 **SECTION 84.** The following shall be codified as Section
1690 93-9-701, Mississippi Code of 1972:

1691 93-9-701. **Scope of article.** This article does not apply to
1692 the birth of a child conceived by means of sexual intercourse or
1693 as the result of a gestational agreement as provided in Article 8.

1694 **SECTION 85.** The following shall be codified as Section
1695 93-9-702, Mississippi Code of 1972:

1696 93-9-702. **Parental status of donor.** A donor is not a parent
1697 of a child conceived by means of assisted reproduction.

1698 **SECTION 86.** The following shall be codified as Section
1699 93-9-703, Mississippi Code of 1972:

1700 93-9-703. **Paternity of child of assisted reproduction.** A
1701 husband who provides sperm for, or consents to, assisted
1702 reproduction by his wife as provided in Section 93-9-704 with the

1703 intent to be the father of her child, is the father of the
1704 resulting child.

1705 **SECTION 87.** The following shall be codified as Section
1706 93-9-704, Mississippi Code of 1972:

1707 93-9-704. **Consent to assisted reproduction.** (a) Consent by
1708 a wife, and her husband who intends to be the father of a child
1709 born to his wife by assisted reproduction, must be in a record
1710 signed by the wife and her husband. This requirement does not
1711 apply to a donor.

1712 (b) Failure of a husband to sign a consent required by
1713 subsection (a), before or after birth of the child, does not
1714 preclude a finding of paternity if he and his wife, during the
1715 first two (2) years of the child's life, resided together in the
1716 same household with the child and openly held out the child as
1717 their own.

1718 **SECTION 88.** The following shall be codified as Section
1719 93-9-705, Mississippi Code of 1972:

1720 93-9-705. **Limitation on husband's dispute of paternity.** (a)
1721 Except as otherwise provided in subsection (b), the husband of a
1722 wife who gives birth to a child by means of assisted reproduction
1723 may not challenge his paternity of the child unless:

1724 (1) Within two (2) years after learning of the birth of
1725 the child he commences a proceeding to adjudicate his paternity;
1726 and

1727 (2) The court finds that he did not consent to the
1728 assisted reproduction, before or after birth of the child.

1729 (b) A proceeding to adjudicate paternity may be maintained
1730 at any time if the court determines that:

1731 (1) The husband did not provide sperm for, or before or
1732 after the birth of the child consent to, assisted reproduction by
1733 his wife;

1734 (2) The husband and the mother of the child have not
1735 cohabited since the probable time of assisted reproduction; and

1736 (3) The husband never openly held out the child as his
1737 own.

1738 (c) The limitation provided in this section applies to a
1739 marriage declared invalid after assisted reproduction.

1740 **SECTION 89.** The following shall be codified as Section
1741 93-9-706, Mississippi Code of 1972:

1742 93-9-706. **Effect of dissolution of marriage or withdrawal of**
1743 **consent.** (a) If a marriage is dissolved before placement of
1744 eggs, sperm, or embryos, the former spouse is not a parent of the
1745 resulting child unless the former spouse consented in a record
1746 that if assisted reproduction were to occur after a divorce, the
1747 former spouse would be a parent of the child.

1748 (b) The consent of a woman or a man to assisted reproduction
1749 may be withdrawn by that individual in a record at any time before
1750 placement of eggs, sperm, or embryos. An individual who withdraws
1751 consent under this section is not a parent of the resulting child.

1752 **SECTION 90.** The following shall be codified as Section
1753 93-9-707, Mississippi Code of 1972:

1754 93-9-707. **Parental status of deceased individual.** If an
1755 individual who consented in a record to be a parent by assisted
1756 reproduction dies before placement of eggs, sperm, or embryos, the
1757 deceased individual is not a parent of the resulting child unless
1758 the deceased spouse consented in a record that if assisted
1759 reproduction were to occur after death, the deceased individual
1760 would be a parent of the child.

1761 **Article 8**

1762 **Gestational Agreement**

1763 **SECTION 91.** The following shall be codified as Section
1764 93-9-801, Mississippi Code of 1972:

1765 93-9-801. **Gestational agreement authorized.** (a) A
1766 prospective gestational mother, her husband if she is married, a
1767 donor or the donors, and the intended parents if married to each
1768 other may enter into a written agreement providing that:

1769 (1) The prospective gestational mother agrees to
1770 pregnancy by means of assisted reproduction;

1771 (2) The prospective gestational mother, her husband if
1772 she is married, and the donors relinquish all rights and duties as
1773 the parents of a child conceived through assisted reproduction;
1774 and

1775 (3) The intended parents become the parents of the
1776 child.

1777 (b) The husband and his wife who are the intended parents
1778 must both be parties to the gestational agreement.

1779 (c) A gestational agreement is enforceable only if validated
1780 as provided in Section 93-9-803.

1781 (d) A gestational agreement does not apply to the birth of a
1782 child conceived by means of sexual intercourse.

1783 (e) A gestational agreement may not limit the right of the
1784 gestational mother to make decisions to safeguard her health or
1785 that of the embryos or fetus.

1786 **SECTION 92.** The following shall be codified as Section
1787 93-9-802, Mississippi Code of 1972:

1788 93-9-802. **Requirements of petition.** (a) The intended
1789 parents and the prospective gestational mother may commence a
1790 proceeding in the chancery or county court to validate a
1791 gestational agreement.

1792 (b) A proceeding to validate a gestational agreement may not
1793 be maintained unless:

1794 (1) The mother or the intended parents have been
1795 residents of this state for at least ninety (90) days;

1796 (2) The prospective gestational mother's husband, if
1797 she is married, is joined in the proceeding; and

1798 (3) A copy of the gestational agreement is attached to
1799 the petition.

1800 **SECTION 93.** The following shall be codified as Section
1801 93-9-803, Mississippi Code of 1972:

1802 93-9-803. **Hearing to validate gestational agreement.** (a)
1803 If the requirements of subsection (b) are satisfied, a court may
1804 issue an order validating the gestational agreement and declaring
1805 that the intended parents will be the parents of a child born
1806 during the term of the agreement.

1807 (b) The court may issue an order under subsection (a) only
1808 on finding that:

1809 (1) The residence requirements of Section 93-9-802 have
1810 been satisfied and the parties have submitted to the jurisdiction
1811 of the court under the jurisdictional standards of this chapter;

1812 (2) Unless waived by the court, the Mississippi
1813 Department of Human Services has made a home study of the intended
1814 parents and the intended parents meet the standards of suitability
1815 applicable to adoptive parents;

1816 (3) All parties have voluntarily entered into the
1817 agreement and understand its terms;

1818 (4) Adequate provision has been made for all reasonable
1819 health care expense associated with the gestational agreement
1820 until the birth of the child, including responsibility for those
1821 expenses if the agreement is terminated; and

1822 (5) The consideration, if any, paid to the prospective
1823 gestational mother is reasonable.

1824 **SECTION 94.** The following shall be codified as Section
1825 93-9-804, Mississippi Code of 1972:

1826 93-9-804. **Inspection of records.** The proceedings, records,
1827 and identities of the individual parties to a gestational
1828 agreement under this article are subject to inspection under the
1829 standards of confidentiality applicable to adoptions as provided
1830 under other law of this state.

1831 **SECTION 95.** The following shall be codified as Section
1832 93-9-805, Mississippi Code of 1972:

1833 93-9-805. **Exclusive, continuing jurisdiction.** Subject to
1834 the jurisdictional standards of the Uniform Child Custody

1835 Jurisdiction and Enforcement Act, the court conducting a
1836 proceeding under this section has exclusive, continuing
1837 jurisdiction of all matters arising out of the gestational
1838 agreement until a child born to the gestational mother during the
1839 period governed by the agreement attains the age of one hundred
1840 eighty (180) days.

1841 **SECTION 96.** The following shall be codified as Section
1842 93-9-806, Mississippi Code of 1972:

1843 93-9-806. **Termination of gestational agreement.** (a) After
1844 issuance of an order under this chapter, but before the
1845 prospective gestational mother becomes pregnant by means of
1846 assisted reproduction, the prospective gestational mother, her
1847 husband, or either of the intended parents may terminate the
1848 gestational agreement by giving written notice of termination to
1849 all other parties.

1850 (b) The court for good cause shown may terminate the
1851 gestational agreement.

1852 (c) An individual who terminates a gestational agreement
1853 shall file notice of the termination with the court. On receipt
1854 of the notice, the court shall vacate the order issued under this
1855 section. An individual who does not notify the court of the
1856 termination of the agreement is subject to appropriate sanctions.

1857 (d) Neither a prospective gestational mother nor her
1858 husband, if any, is liable to the intended parents for terminating
1859 a gestational agreement pursuant to this section.

1860 **SECTION 97.** The following shall be codified as Section
1861 93-9-807, Mississippi Code of 1972:

1862 93-9-807. **Parentage under validated gestational agreement.**

1863 (a) Upon birth of a child to a gestational mother, the intended
1864 parents shall file notice with the court that a child has been
1865 born to the gestational mother within three hundred (300) days
1866 after assisted reproduction. Thereupon, the court shall issue an
1867 order:

1868 (1) Confirming that the intended parents are the
1869 parents of the child;

1870 (2) If necessary, ordering that the child be
1871 surrendered to the intended parents; and

1872 (3) Directing the Office of Vital Records Registration
1873 of the State Department of Health to issue a birth certificate
1874 naming the intended parents as parents of the child even if the
1875 requirements of Section 41-57-23 have not been met.

1876 (b) If the parentage of a child born to a gestational mother
1877 is alleged not to be the result of assisted reproduction, the
1878 court shall order genetic testing to determine the parentage of
1879 the child.

1880 (c) If the intended parents fail to file notice required
1881 under subsection (a), the gestational mother or the appropriate
1882 state agency may file notice with the court that a child has been
1883 born to the gestational mother within three hundred (300) days
1884 after assisted reproduction. Upon proof of a court order issued
1885 pursuant to Section 93-9-803 validating the gestational agreement,
1886 the court shall order the intended parents are the parents of the
1887 child and are financially responsible for the child.

1888 **SECTION 98.** The following shall be codified as Section
1889 93-9-808, Mississippi Code of 1972:

1890 93-9-808. **Gestational agreement: effect of subsequent**
1891 **marriage.** After the issuance of an order under this article,
1892 subsequent marriage of the gestational mother does not affect the
1893 validity of a gestational agreement, her husband's consent to the
1894 agreement is not required, and her husband is not a presumed
1895 father of the resulting child.

1896 **SECTION 99.** The following shall be codified as Section
1897 93-9-809, Mississippi Code of 1972:

1898 93-9-809. **Effect of nonvalidated gestational agreement.** (a)
1899 A gestational agreement, whether in a record or not, that is not
1900 judicially validated is not enforceable.

1901 (b) If a birth results under a gestational agreement that is
1902 not judicially validated as provided in this section, the
1903 parent-child relationship is determined as provided in Sections
1904 93-9-201 and 93-9-204.

1905 (c) Individuals who are parties to a nonvalidated
1906 gestational agreement as intended parents may be held liable for
1907 support of the resulting child, even if the agreement is otherwise
1908 unenforceable. The liability under this subsection includes
1909 assessing all expenses and fees as provided in Section 93-9-636.

1910 **Article 9**

1911 **Miscellaneous Provisions**

1912 **SECTION 100.** The following shall be codified as Section
1913 93-9-901, Mississippi Code of 1972:

1914 93-9-901. **Severability clause.** If any provision of this
1915 chapter or its application to an individual or circumstance is
1916 held invalid, the invalidity does not affect other provisions or
1917 applications of this chapter which can be given effect without the
1918 invalid provision or application, and to this end the provisions
1919 of this chapter are severable.

1920 **SECTION 101.** The following shall be codified as Section
1921 93-9-902, Mississippi Code of 1972:

1922 93-9-902. **Transitional provision.** A proceeding to
1923 adjudicate parentage which was commenced before the effective date
1924 of this chapter is governed by the law in effect at the time the
1925 proceeding was commenced.

1926 **SECTION 102.** Section 41-57-14, Mississippi Code of 1972, is
1927 amended as follows:

1928 41-57-14. (1) If the mother was married at the time of
1929 either conception or birth, or at any time between conception and
1930 birth, the name of the husband shall be entered on the certificate
1931 of birth as the father of the child. The social security number
1932 of each parent of a child born within this state shall be
1933 furnished to the local registrar of vital records at the time of

1934 filing the certificate of birth, but such information shall not
1935 appear on the portion of the certificate to be issued as a
1936 certified copy. Such information shall be sent to the Office of
1937 Vital Records Registration of the State Department of Health along
1938 with the certificate of birth and shall be retained by the office.
1939 The information shall not be disclosed to any person except as
1940 authorized by subsection (2) of this section or as allowed by
1941 Section 41-57-2.

1942 (2) The Office of Vital Records Registration shall make
1943 available to the Division of Child Support Enforcement of the
1944 Mississippi Department of Human Services information concerning
1945 the names and social security numbers of the parents obtained
1946 under the requirements of subsection (1) in an electronic format
1947 for the use in establishing paternity or enforcing child support
1948 obligations. Information obtained by the Division of Child
1949 Support Enforcement under this section may be used in any action
1950 or proceeding before any court, administrative tribunal, or other
1951 proceeding for the purpose of establishing paternity, establishing
1952 a child support obligation, collecting child support or locating
1953 persons owing such an obligation.

1954 **SECTION 103.** Section 41-57-23, Mississippi Code of 1972, is
1955 amended as follows:

1956 41-57-23. * * * Any petition, bill of complaint or other
1957 proceeding filed in the chancery court to: (a) change the date of
1958 birth by two (2) or more days, (b) change the surname of a child,
1959 (c) change the surname of either or both parents, (d) change the
1960 birthplace of the child because of an error or omission of such
1961 information as originally recorded or (e) make any changes or
1962 additions to a birth certificate resulting from a legitimation,
1963 paternity or any changes not specifically authorized elsewhere by
1964 statute, shall be filed in the county of residence of the
1965 petitioner or filed in the county containing the child's
1966 birthplace shown on the birth certificate if the petitioner be a

1967 nonresident petitioner. In all such proceedings, the State Board
1968 of Health shall be made a respondent therein, and a certified copy
1969 of the petition, bill of complaint or other proceeding shall be
1970 forwarded to the State Board of Health. Process may be served
1971 upon the State Registrar of Vital Records. The State Board of
1972 Health shall file an answer to all such proceedings within the
1973 time as provided by general law. The provisions of this section
1974 shall not apply to adoption proceedings or to orders rendered
1975 under Section 93-9-636 or 93-9-807. Upon receipt of a certified
1976 copy of a decree, which authorizes and directs the State Board of
1977 Health to alter the certificate, it shall comply with all of the
1978 provisions of such decree.

1979 * * *

1980 **SECTION 104.** Section 93-17-8, Mississippi Code of 1972, is
1981 amended as follows:

1982 93-17-8. (1) Whenever an adoption becomes a contested
1983 matter, whether after a hearing on a petition for determination of
1984 rights under Section 93-17-6 or otherwise, the court:

1985 (a) * * * On motion of any party or on its own motion,
1986 shall issue an order for immediate blood or tissue sampling in
1987 accordance with the provisions of Title 93, Chapter 9, Article 5,
1988 if paternity is at issue. The court shall order an expedited
1989 report of such testing and shall hold the hearing resolving this
1990 matter at the earliest time possible.

1991 (b) Shall appoint a guardian ad litem to represent the
1992 child. Such guardian ad litem shall be an attorney; however, his
1993 duties are as guardian ad litem and not as attorney for the child.
1994 The reasonable costs of the guardian ad litem shall be taxed as
1995 costs of court. Neither the child nor anyone purporting to act on
1996 his behalf may waive the appointment of a guardian ad litem.

1997 (c) Shall determine first whether or not the objecting
1998 parent is entitled to so object under the criteria of Section
1999 93-17-7 and then shall determine the custody of the child in

2000 accord with the best interests of the child and the rights of the
2001 parties as established by the hearings and judgments.

2002 (d) Shall schedule all hearings concerning the
2003 contested adoption as expeditiously as possible for prompt
2004 conclusion of the matter.

2005 (2) In determining the custody of the child after a finding
2006 that the adoption will not be granted, the fact of the surrender
2007 of the child for adoption by a parent shall not be taken as any
2008 evidence of that parent's abandonment or desertion of the child or
2009 of that parent's unfitness as a parent.

2010 (3) In contested adoptions arising through petitions for
2011 determination of rights where the prospective adopting parents
2012 were not parties to that proceeding, they need not be made parties
2013 to the contested adoption until there has been a ruling that the
2014 objecting parent is not entitled to enter a valid objection to the
2015 adoption. At that point the prospective adopting parents shall be
2016 made parties by joinder which shall show their suitability to be
2017 adopting parents as would a petition for adoption. The identity
2018 and suitability of the prospective adopting parents shall be made
2019 known to the court and the guardian ad litem, but shall not be
2020 made known to other parties to the proceeding unless the court
2021 determines that the interests of justice or the best interests of
2022 the child require it.

2023 (4) No birth parent or alleged parent shall be permitted to
2024 contradict statements given in a proceeding for the adoption of
2025 his or her child in any other proceeding concerning that child or
2026 his ancestry.

2027 (5) Appointment of a guardian ad litem is not required in
2028 any proceeding under this chapter except as provided in subsection
2029 (1)(b) of this section and except for the guardian ad litem needed
2030 for an abandoned child. It shall not be necessary for a guardian
2031 ad litem to be appointed where the chancery judge presiding in the
2032 adoption proceeding deems it unnecessary and no adoption agency is

2033 involved in the proceeding. No final decree of adoption
2034 heretofore granted shall be set aside or modified because a
2035 guardian ad litem was not appointed unless as the result of a
2036 direct appeal not now barred.

2037 (6) The provisions of Chapter 15 of this Title 93 * * * are
2038 not applicable to proceedings under this chapter except as
2039 specifically provided by reference herein.

2040 (7) The court may order a child's birth father, identified
2041 as such in the proceedings, to reimburse the Department of Human
2042 Services, the foster parents, the adopting parents, the home, any
2043 other agency or person who has assumed liability for such child,
2044 all or part of the costs of the medical expenses incurred for the
2045 mother and the child in connection with the birth of the child, as
2046 well as reasonable support for the child after his birth.

2047 **SECTION 105.** Sections 93-9-1, 93-9-3, 93-9-5, 93-9-7,
2048 93-9-9, 93-9-11, 93-9-13, 93-9-15, 93-9-17, 93-9-19, 93-9-21,
2049 93-9-23, 93-9-25, 93-9-27, 93-9-28, 93-9-29, 93-9-30, 93-9-31,
2050 93-9-33, 93-9-35, 93-9-37, 93-9-39, 93-9-41, 93-9-43, 93-9-45,
2051 93-9-47 and 93-9-49, Mississippi Code of 1972, which constitute
2052 the Mississippi Uniform Law on Paternity, and Sections 93-9-71,
2053 93-9-73 and 93-9-75, Mississippi Code of 1972, dealing with the
2054 effect on a paternity proceeding of the death of a mother or child
2055 and the admissibility of the mother's dying declaration, are
2056 repealed.

2057 **SECTION 106.** This act shall take effect and be in force from
2058 and after July 1, 2006.