

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2846

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

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

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

7 93-17-3. (1) Except as otherwise provided in subsections  
8 (2) and (3), a court of this state has jurisdiction over a  
9 proceeding for the adoption of a minor commenced under this  
10 chapter if:

11 (a) Immediately before commencement of the proceeding,  
12 the minor lived in this state with a parent, a guardian, a  
13 prospective adoptive parent or another person acting as parent,  
14 for at least six (6) consecutive months, excluding periods of  
15 temporary absence, or, in the case of a minor under six (6) months  
16 of age, lived in this state from soon after birth with any of  
17 those individuals and there is available in this state substantial  
18 evidence concerning the minor's present or future care;

19 (b) Immediately before commencement of the proceeding,  
20 the prospective adoptive parent lived in this state for at least  
21 six (6) consecutive months, excluding periods of temporary  
22 absence, and there is available in this state substantial evidence  
23 concerning the minor's present or future care;

24 (c) The agency that placed the minor for adoption is  
25 licensed in this state and it is in the best interest of the minor  
26 that a court of this state assume jurisdiction because:

27                   (i) The minor and the minor's parents, or the  
28 minor and the prospective adoptive parent, have a significant  
29 connection with this state; and

30                   (ii) There is available in this state substantial  
31 evidence concerning the minor's present or future care;

32                   (d) The minor and the prospective adoptive parent are  
33 physically present in this state and the minor has been abandoned  
34 or it is necessary in an emergency to protect the minor because  
35 the minor has been subjected to or threatened with mistreatment or  
36 abuse or is otherwise neglected; or

37                   (e) It appears that no other state would have  
38 jurisdiction under prerequisites substantially in accordance with  
39 paragraphs (a) through (d), or another state has declined to  
40 exercise jurisdiction on the ground that this state is the more  
41 appropriate forum to hear a petition for adoption of the minor,  
42 and it is in the best interest of the minor that a court of this  
43 state assume jurisdiction.

44                   (2) A court of this state may not exercise jurisdiction over  
45 a proceeding for adoption of a minor if, at the time the petition  
46 for adoption is filed, a proceeding concerning the custody or  
47 adoption of the minor is pending in a court of another state  
48 exercising jurisdiction substantially in conformity with the  
49 Uniform Child Custody Jurisdiction Act or this section unless the  
50 proceeding is stayed by the court of the other state.

51                   (3) If a court of another state has issued a decree or order  
52 concerning the custody of a minor who may be the subject of a  
53 proceeding for adoption in this state, a court of this state may  
54 not exercise jurisdiction over a proceeding for adoption of the  
55 minor unless:

56                   (a) The court of this state finds that the court of the  
57 state which issued the decree or order:

58                   (i) Does not have continuing jurisdiction to  
59 modify the decree or order under jurisdictional prerequisites

60 substantially in accordance with the Uniform Child Custody  
61 Jurisdiction Act or has declined to assume jurisdiction to  
62 modify the decree or order; or

63 (ii) Does not have jurisdiction over a proceeding  
64 for adoption substantially in conformity with subsection (1)(a)  
65 through (d) or has declined to assume jurisdiction over a  
66 proceeding for adoption; and

67 (b) The court of this state has jurisdiction over the  
68 proceeding.

69 (4) Any person may be adopted in accordance with the  
70 provisions of this chapter in term time or in vacation by an  
71 unmarried adult or by a married person whose spouse joins in the  
72 petition. The adoption shall be by sworn petition filed in the  
73 chancery court of the county in which the adopting petitioner or  
74 petitioners reside or in which the child to be adopted resides or  
75 was born, or was found when it was abandoned or deserted, or in  
76 which the home is located to which the child has been surrendered  
77 by a person authorized to so do. The petition shall be  
78 accompanied by a doctor's or nurse practitioner's certificate  
79 showing the physical and mental condition of the child to be  
80 adopted and a sworn statement of all property, if any, owned by  
81 the child. If the doctor's or nurse practitioner's certificate  
82 indicates any abnormal mental or physical condition or defect, the  
83 condition or defect shall not in the discretion of the chancellor  
84 bar the adoption of the child if the adopting parent or parents  
85 file an affidavit stating full and complete knowledge of the  
86 condition or defect and stating a desire to adopt the child,  
87 notwithstanding the condition or defect. The court shall have the  
88 power to change the name of the child as a part of the adoption  
89 proceedings. The word "child" herein shall be construed to refer  
90 to the person to be adopted, though an adult.

91 (5) Adoption by couples of the same gender is prohibited.

92           (6) No person may be adopted before a court-ordered safe  
93 adoption home study of the potential adopting parties is  
94 satisfactorily completed.

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

97           93-17-12. In any child custody matter hereafter filed in any  
98 chancery or county court in which temporary or permanent custody  
99 has already been placed with a parent or guardian and in all other  
100 adoptions, the court shall impose a fee for any court-ordered home  
101 study performed by the Department of Human Services or any other  
102 entity. The fee shall be assessed upon either party or upon both  
103 parties in the court's discretion. The minimum fee imposed shall  
104 be not less than Three Hundred Fifty Dollars (\$350.00) for each  
105 household on which a home study is performed. The fee shall be  
106 paid directly to the Mississippi Department of Human Services  
107 prior to the home study being conducted by the department or to  
108 the court if the study is performed by another entity. The judge  
109 may order the fee be paid by one or both of the parents or  
110 guardian. If the court determines that both parents or the  
111 guardian are unable to pay the fee, the judge shall waive the fee  
112 and the cost of the home study shall be defrayed by the Department  
113 of Human Services.

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

116           93-17-13. A final decree of adoption shall not be entered  
117 before the expiration of six (6) months from the entry of the  
118 interlocutory decree except (a) when a child is a stepchild of a  
119 petitioner or is related by blood to the petitioner within the  
120 third degree according to the rules of the civil law or in any  
121 case in which the chancellor in the exercise of his discretion  
122 shall determine from all the proceedings and evidence in said  
123 cause that the six-month waiting period is not necessary or  
124 required for the benefit of the court, the petitioners or the

125 child to be adopted, and shall so adjudicate in the decree entered  
126 in said cause, in either of which cases the final decree may be  
127 entered immediately without any delay and without an interlocutory  
128 decree, or (b) when the child has resided in the home of any  
129 petitioner prior to the granting of the interlocutory decree, in  
130 which case the court may, in its discretion, shorten the waiting  
131 period by the length of time the child has thus resided.

132         The final decree shall adjudicate, in addition to such other  
133 provisions as may be found by the court to be proper for the  
134 protection of the interests of the child; and its effect, unless  
135 otherwise specifically provided, shall be that (a) the child shall  
136 inherit from and through the adopting parents and shall likewise  
137 inherit from the other children of the adopting parents to the  
138 same extent and under the same conditions as provided for the  
139 inheritance between brothers and sisters of the full blood by the  
140 laws of descent and distribution of the State of Mississippi, and  
141 that the adopting parents and their other children shall inherit  
142 from the child, just as if such child had been born to the  
143 adopting parents in lawful wedlock; (b) the child and the adopting  
144 parents and adoptive kindred are vested with all of the rights,  
145 powers, duties and obligations, respectively, as if such child had  
146 been born to the adopting parents in lawful wedlock, including all  
147 rights existing by virtue of Section 11-7-13, Mississippi Code of  
148 1972; provided, however, that inheritance by or from the adopted  
149 child shall be governed by subsection (a) above; (c) that the name  
150 of the child shall be changed if desired; and (d) that the natural  
151 parents and natural kindred of the child shall not inherit by or  
152 through the child except as to a natural parent who is the spouse  
153 of the adopting parent, and all parental rights of the natural  
154 parent, or parents, shall be terminated, except as to a natural  
155 parent who is the spouse of the adopting parent. Nothing in this  
156 chapter shall restrict the right of any person to dispose of  
157 property under a last will and testament.

158           A final decree of adoption shall not be entered until a  
159 court-ordered safe adoption home study is satisfactorily  
160 completed.

161           **SECTION 4.** This act shall take effect and be in force from  
162 and after July 1, 2007.