

By: Senator(s) Nunnelee

To: Judiciary, Division A

SENATE BILL NO. 2766

1 AN ACT TO AMEND SECTION 93-17-3, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THAT UNMARRIED ADULTS WHO ARE COHABITATING OUTSIDE OF
3 MARRIAGE WITH ONE OR MORE SEXUAL PARTNERS MAY NOT ADOPT UNDER
4 MISSISSIPPI LAW AND TO PROVIDE THAT THE COURTS OF THIS STATE SHALL
5 NOT RECOGNIZE AN ADOPTION IN ANOTHER STATE OR JURISDICTION BY MORE
6 THAN ONE INDIVIDUAL THAT IS NOT MARRIED UNDER THE TERMS OF
7 MISSISSIPPI LAW; TO AMEND SECTION 93-17-21, MISSISSIPPI CODE OF
8 1972, IN CONFORMITY THERETO; TO AMEND SECTION 93-12-19,
9 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CHILD SUPPORT ORDERS
10 FROM ANOTHER STATE OR JURISDICTION RESPECTING A RELATIONSHIP
11 OTHERWISE PROHIBITED BY THE LAWS OF THIS STATE SHALL NOT BE
12 ENFORCED; AND FOR RELATED PURPOSES.

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

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

16 93-17-3. (1) Except as otherwise provided in subsections
17 (2) and (3), a court of this state has jurisdiction over a
18 proceeding for the adoption of a minor commenced under this
19 chapter if:

20 (a) Immediately before commencement of the proceeding,
21 the minor lived in this state with a parent, a guardian, a
22 prospective adoptive parent or another person acting as parent,
23 for at least six (6) consecutive months, excluding periods of
24 temporary absence, or, in the case of a minor under six (6) months
25 of age, lived in this state from soon after birth with any of
26 those individuals and there is available in this state substantial
27 evidence concerning the minor's present or future care;

28 (b) Immediately before commencement of the proceeding,
29 the prospective adoptive parent lived in this state for at least
30 six (6) consecutive months, excluding periods of temporary



31 absence, and there is available in this state substantial evidence
32 concerning the minor's present or future care;

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

36 (i) The minor and the minor's parents, or the
37 minor and the prospective adoptive parent, have a significant
38 connection with this state; and

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

41 (d) The minor and the prospective adoptive parent are
42 physically present in this state and the minor has been abandoned
43 or it is necessary in an emergency to protect the minor because
44 the minor has been subjected to or threatened with mistreatment or
45 abuse or is otherwise neglected; or

46 (e) It appears that no other state would have
47 jurisdiction under prerequisites substantially in accordance with
48 paragraphs (a) through (d), or another state has declined to
49 exercise jurisdiction on the ground that this state is the more
50 appropriate forum to hear a petition for adoption of the minor,
51 and it is in the best interest of the minor that a court of this
52 state assume jurisdiction.

53 (2) A court of this state may not exercise jurisdiction over
54 a proceeding for adoption of a minor if, at the time the petition
55 for adoption is filed, a proceeding concerning the custody or
56 adoption of the minor is pending in a court of another state
57 exercising jurisdiction substantially in conformity with the
58 Uniform Child Custody Jurisdiction Act or this section unless the
59 proceeding is stayed by the court of the other state.

60 (3) If a court of another state has issued a decree or order
61 concerning the custody of a minor who may be the subject of a
62 proceeding for adoption in this state, a court of this state may



63 not exercise jurisdiction over a proceeding for adoption of the
64 minor unless:

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

67 (i) Does not have continuing jurisdiction to
68 modify the decree or order under jurisdictional prerequisites
69 substantially in accordance with the Uniform Child Custody
70 Jurisdiction Act or has declined to assume jurisdiction to modify
71 the decree or order; or

72 (ii) Does not have jurisdiction over a proceeding
73 for adoption substantially in conformity with subsection (1) (a)
74 through (d) or has declined to assume jurisdiction over a
75 proceeding for adoption; and

76 (b) The court of this state has jurisdiction over the
77 proceeding.

78 (4) Any person may be adopted in accordance with the
79 provisions of this chapter in termtime or in vacation by an
80 unmarried adult or by a married person, as defined by Mississippi
81 law, whose spouse joins in the petition, except that unmarried
82 adults who are cohabitating outside of marriage with one or more
83 sexual partners may not adopt. The adoption shall be by sworn
84 petition filed in the chancery court of the county in which the
85 adopting petitioner or petitioners reside or in which the child to
86 be adopted resides or was born, or was found when it was abandoned
87 or deserted, or in which the home is located to which the child
88 has been surrendered by a person authorized to so do. The
89 petition shall be accompanied by a doctor's or nurse
90 practitioner's certificate showing the physical and mental
91 condition of the child to be adopted and a sworn statement of all
92 property, if any, owned by the child. In addition, the petition
93 shall be accompanied by affidavits of the petitioner or
94 petitioners stating the amount of the service fees charged by any
95 adoption agencies or adoption facilitators used by the petitioner



96 or petitioners and any other expenses paid by the petitioner or
97 petitioners in the adoption process as of the time of filing the
98 petition. If the doctor's or nurse practitioner's certificate
99 indicates any abnormal mental or physical condition or defect, the
100 condition or defect shall not, in the discretion of the
101 chancellor, bar the adoption of the child if the adopting parent
102 or parents file an affidavit stating full and complete knowledge
103 of the condition or defect and stating a desire to adopt the
104 child, notwithstanding the condition or defect. The court shall
105 have the power to change the name of the child as a part of the
106 adoption proceedings. The word "child" in this section shall be
107 construed to refer to the person to be adopted, though an adult.

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

109 (6) The courts of this state shall recognize a decree,
110 judgment or final order creating the relationship of parent and
111 child by adoption, issued by a court or other governmental
112 authority with appropriate jurisdiction in a foreign country or in
113 another state or territory of the United States. The rights and
114 obligations of the parties as to matters within the jurisdiction
115 of this state shall be determined as though the decree, judgment
116 or final order were issued by a court of this state, except that
117 this state, any of its agencies or any court of this state shall
118 not recognize an adoption by more than one (1) individual that is
119 not married under the terms of Mississippi law.

120 (7) No person may be adopted before a court-ordered home
121 study of the prospective adopting parties is satisfactorily
122 completed if required by Section 93-17-11.

123 **SECTION 2.** Section 93-17-21, Mississippi Code of 1972, is
124 amended as follows:

125 93-17-21. (1) A certified copy of any final decree deemed
126 valid and recognizable under Mississippi law shall be furnished to
127 the Bureau of Vital Statistics, together with a certificate signed
128 by the clerk giving the true or original name and the place and



129 date of birth of the child. The said bureau shall prepare a
130 revised birth certificate which shall contain the original date of
131 birth, with the place of birth being shown as the residence of the
132 adoptive parents at the time the child was born, but with the
133 names of the adopting parents and the new name of the child. In
134 all other particulars, the certificate shall show the true facts
135 of birth. The fact that a revised birth certificate is issued
136 shall be indicated only by code numbers or some letter
137 inconspicuously placed on the face of the certificate. The word
138 "revised" shall not appear thereon. However, in the event an
139 unmarried adult shall be the adopting parent, then such birth
140 certificate may show thereon, upon order of the chancellor as set
141 forth in the decree of adoption, that same is a revised birth
142 certificate, giving the court where said decree was issued and the
143 date of such decree. The original birth certificate shall be
144 removed and placed, with reference made to the decree of adoption,
145 in a safely locked drawer or vault, and the same shall not be
146 public records and shall not be divulged except upon the order of
147 the court rendering the said final decree or pursuant to Sections
148 93-17-201 through 93-17-223, and for all purposes the revised
149 certificate shall be and become the birth certificate of the
150 child. However, the Bureau of Vital Statistics of the State of
151 Mississippi shall be required to prepare and register revised
152 certificates only for births which occurred in the State of
153 Mississippi as shown either by the court decree or by the original
154 birth record on file in the bureau; but if the birth occurred in
155 some other state, then the Director of the Bureau of Vital
156 Statistics of the State of Mississippi shall be required to
157 furnish to the attorney or other person representing the adopted
158 child the name and address of the proper official in the state
159 where the child was born, to whom the adoption decree and other
160 information may be referred for appropriate action, and shall



161 furnish to such attorney the certified copy of the decree and the
162 certificate furnished by the clerk.

163 (2) Provided, however, notwithstanding anything herein to
164 the contrary, either an original or a revised birth certificate
165 may be issued, as hereinafter provided, by the Bureau of Vital
166 Statistics to any child who was born outside the United States or
167 its possessions and adopted, either heretofore or hereafter, by an
168 order of a court in this state. Upon presentation of a certified
169 copy of the final decree of adoption containing the required
170 information, the Director of the Bureau of Vital Statistics shall
171 be authorized and directed to receive said certified copy of the
172 decree of adoption and prepare therefrom, and record, a birth
173 certificate which shall disclose the following information: The
174 name of the child (being the adopted name), race, sex, date of
175 birth, place of birth (being the actual town, district and county
176 of said child's birth, except where the child is born in a penal
177 or mental institution where the name of the county shall be
178 sufficient), names, race, ages, places of birth and occupation of
179 parents (being the adoptive parents) including the maiden name of
180 the adoptive mother. Such certificate shall comport in appearance
181 and indicia with the foregoing requirements for a "revised"
182 certificate issued to a child born in this state. The Director of
183 the Bureau of Vital Statistics shall be authorized and directed to
184 issue certified copies thereof, the same as if the birth
185 certificate were that of a child who had never been adopted.

186 **SECTION 3.** Section 93-12-19, Mississippi Code of 1972, is
187 amended as follows:

188 93-12-19. The laws of this state shall apply in all actions
189 and proceedings concerning the issuance, enforcement and duration
190 of an order for withholding issued by a court of this state, which
191 is based upon a support order of another jurisdiction entered
192 pursuant to Section 93-12-1 et seq., and no such order respecting
193 a relationship otherwise prohibited by or inconsistent with the



194 laws of this state shall be honored or enforced. The penalties
195 contained in Section 93-11-117, Mississippi Code of 1972, shall
196 apply to all orders for withholding issued pursuant to Section
197 93-12-1 et seq.

198 **SECTION 4.** This act shall take effect and be in force from
199 and after July 1, 2008.

