

By: Senator(s) Gandy, Hudson, Lee, Parker,
Harkins

To: Judiciary, Division A

SENATE BILL NO. 2180

1 AN ACT TO AMEND SECTIONS 93-17-3 AND 93-17-13, MISSISSIPPI
2 CODE OF 1972, TO AUTHORIZE EXPEDITED PRO SE PROCEEDINGS FOR
3 REGISTRATION OF FOREIGN ADOPTIONS AND ISSUANCE OF A MISSISSIPPI
4 BIRTH CERTIFICATE UNDER CERTAIN CIRCUMSTANCES; TO BRING FORWARD
5 SECTION 93-17-14, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF
6 AMENDMENT; TO CREATE SECTIONS 97-17-301, 97-17-303, 97-17-305 AND
7 97-17-307, MISSISSIPPI CODE OF 1972, TO CREATE TITLE 97, CHAPTER
8 17, ARTICLE 9, TO CONSTITUTE THE MISSISSIPPI REGISTRATION OF
9 FOREIGN ADOPTION ACT; AND FOR RELATED PURPOSES.

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

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

13 93-17-3. (1) Except as otherwise provided in * * * this
14 section, a court of this state has jurisdiction over a proceeding
15 for the adoption or readoption of a minor commenced under this
16 chapter if:

17 (a) Immediately before commencement of the proceeding,
18 the minor lived in this state with a parent, a guardian, a
19 prospective adoptive parent or another person acting as parent,
20 for at least six (6) consecutive months, excluding periods of
21 temporary absence, or, in the case of a minor under six (6) months



22 of age, lived in this state from soon after birth with any of
23 those individuals and there is available in this state substantial
24 evidence concerning the minor's present or future care;

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

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

33 (i) The minor and the minor's parents, or the
34 minor and the prospective adoptive parent, have a significant
35 connection with this state; and

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

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

43 (e) It appears that no other state would have
44 jurisdiction under prerequisites substantially in accordance with
45 paragraphs (a) through (d), or another state has declined to
46 exercise jurisdiction on the ground that this state is the more



47 appropriate forum to hear a petition for adoption of the minor,
48 and it is in the best interest of the minor that a court of this
49 state assume jurisdiction * * *; or

50 (f) The child has been adopted in a foreign country,
51 the agency that placed the minor for adoption is licensed in this
52 state, and it is in the best interest of the child to be readopted
53 in a court of this state having jurisdiction.

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

61 (3) If a court of another state has issued a decree or order
62 concerning the custody of a minor who may be the subject of a
63 proceeding for adoption in this state, a court of this state may
64 not exercise jurisdiction over a proceeding for adoption of the
65 minor unless:

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

68 (i) Does not have continuing jurisdiction to
69 modify the decree or order under jurisdictional prerequisites
70 substantially in accordance with the Uniform Child Custody



71 Jurisdiction Act or has declined to assume jurisdiction to modify
72 the decree or order; or

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

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

79 (4) Any person may be adopted in accordance with the
80 provisions of this chapter in termtime or in vacation by an
81 unmarried adult or by a married person whose spouse joins in the
82 petition. The adoption shall be by sworn petition filed in the
83 chancery court of the county in which the adopting petitioner or
84 petitioners reside or in which the child to be adopted resides or
85 was born, or was found when it was abandoned or deserted, or in
86 which the home is located to which the child has been surrendered
87 by a person authorized to so do. The petition shall be
88 accompanied by a doctor's or nurse practitioner's certificate
89 showing the physical and mental condition of the child to be
90 adopted and a sworn statement of all property, if any, owned by
91 the child. In addition, the petition shall be accompanied by
92 affidavits of the petitioner or petitioners stating the amount of
93 the service fees charged by any adoption agencies or adoption
94 facilitators used by the petitioner or petitioners and any other
95 expenses paid by the petitioner or petitioners in the adoption



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

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

108 (6) No person may be placed in the home of or adopted by the
109 prospective adopting parties before a court-ordered or voluntary
110 home study is satisfactorily completed by a licensed adoption
111 agency, a licensed, experienced social worker approved by the
112 chancery court or by the Department of Human Services on the
113 prospective adoptive parties if required by Section 93-17-11.

114 (7) No person may be adopted by a person or persons who
115 reside outside the State of Mississippi unless the provisions of
116 the Interstate Compact for Placement of Children (Section 43-18-1
117 et seq.) have been complied with. In such cases Forms 100A, 100B
118 (if applicable) and evidence of Interstate Compact for Placement
119 of Children approval shall be added to the permanent adoption
120 record file within one (1) month of the placement, and a minimum



121 of two (2) post-placement reports conducted by a licensed
122 child-placing agency shall be provided to the Mississippi
123 Department of Human Services Interstate Compact for Placement of
124 Children office.

125 (8) No person may be adopted unless the provisions of the
126 Indian Child Welfare Act (ICWA) have been complied with, if
127 applicable. When applicable, proof of compliance shall be
128 included in the court adoption file prior to finalization of the
129 adoption. If not applicable, a written statement or paragraph in
130 the petition for adoption shall be included in the adoption
131 petition stating that the provisions of ICWA do not apply before
132 finalization.

133 (9) The readoption of a child who has automatically acquired
134 United States citizenship following an adoption in a foreign
135 country and who possesses a Certificate of Citizenship in
136 accordance with the Child Citizenship Act, CAA, Public Law
137 106-395, may be given full force and effect in a readoption
138 proceeding conducted by a court of competent jurisdiction in this
139 state by compliance with the Mississippi Registration of Foreign
140 Adoptions Act, Article 7 of this chapter.

141 **SECTION 2.** Section 93-17-13, Mississippi Code of 1972, is
142 amended as follows:

143 93-17-13. (1) A final decree of adoption shall not be
144 entered before the expiration of six (6) months from the entry of
145 the interlocutory decree except (a) when a child is a stepchild of



146 a petitioner or is related by blood to the petitioner within the
147 third degree according to the rules of the civil law or in any
148 case in which the chancellor in the exercise of his discretion
149 shall determine from all the proceedings and evidence in said
150 cause that the six-month waiting period is not necessary or
151 required for the benefit of the court, the petitioners or the
152 child to be adopted, and shall so adjudicate in the decree entered
153 in said cause, in either of which cases the final decree may be
154 entered immediately without any delay and without an interlocutory
155 decree, * * * (b) when the child has resided in the home of any
156 petitioner prior to the granting of the interlocutory decree, in
157 which case the court may, in its discretion, shorten the waiting
158 period by the length of time the child has thus resided, or (c)
159 when an adoption in a foreign country is registered under Article
160 7 of this chapter, the Mississippi Registration of Foreign
161 Adoptions Act.

162 (2) The final decree shall adjudicate, in addition to such
163 other provisions as may be found by the court to be proper for the
164 protection of the interests of the child; and its effect, unless
165 otherwise specifically provided, shall be that (a) the child shall
166 inherit from and through the adopting parents and shall likewise
167 inherit from the other children of the adopting parents to the
168 same extent and under the same conditions as provided for the
169 inheritance between brothers and sisters of the full blood by the
170 laws of descent and distribution of the State of Mississippi, and



171 that the adopting parents and their other children shall inherit
172 from the child, just as if such child had been born to the
173 adopting parents in lawful wedlock; (b) the child and the adopting
174 parents and adoptive kindred are vested with all of the rights,
175 powers, duties and obligations, respectively, as if such child had
176 been born to the adopting parents in lawful wedlock, including all
177 rights existing by virtue of Section 11-7-13, Mississippi Code of
178 1972; provided, however, that inheritance by or from the adopted
179 child shall be governed by * * * paragraph (a) above; (c) that the
180 name of the child shall be changed if desired; and (d) that the
181 natural parents and natural kindred of the child shall not inherit
182 by or through the child except as to a natural parent who is the
183 spouse of the adopting parent, and all parental rights of the
184 natural parent, or parents, shall be terminated, except as to a
185 natural parent who is the spouse of the adopting parent. Nothing
186 in this chapter shall restrict the right of any person to dispose
187 of property under a last will and testament.

188 (3) A final decree of adoption shall not be entered until a
189 court-ordered home study is satisfactorily completed, if required
190 in Section 93-17-11.

191 **SECTION 3.** Section 93-17-14, Mississippi Code of 1972, is
192 brought forward as follows:

193 93-17-14. In the case of international adoptions, a home
194 study of the prospective adopting parents shall be valid for a
195 period of twenty-four (24) months from the date of completion.



196 **SECTION 4.** The following shall be codified as Section
197 93-17-301, Mississippi Code of 1972:

198 93-17-301. **Short title.** This article shall be known and may
199 be cited as the Mississippi Registration of Foreign Adoptions Act.

200 **SECTION 5.** The following shall be codified as Section
201 93-17-303, Mississippi Code of 1972:

202 93-17-303. **Registration of foreign adoptions.** A child who
203 has automatically acquired United States citizenship following a
204 foreign adoption and who possesses a Certificate of Citizenship in
205 accordance with the Child Citizenship Act, Public Law 106-395, may
206 be issued a Mississippi birth certificate upon compliance with
207 this article and the requirements for adoptions under this chapter
208 to the extent not superseded by this article.

209 (2) A parent shall not proceed under this article if the
210 foreign adoption has been registered or otherwise finalized by a
211 court of this or any other state.

212 **SECTION 6.** The following shall be codified as Section
213 93-17-305, Mississippi Code of 1972:

214 93-17-305. **Procedure for registration of foreign adoption**
215 **decree; jurisdiction; restrictions; exceptions; forms.** (1) An
216 adopting parent or parents may petition the chancery court in the
217 county having jurisdiction to register a foreign adoption decree
218 so that it will be given full and final effect in this state. The
219 petition and order shall be in substantially the form set forth in
220 Section 93-17-307 unless the Supreme Court promulgates by rule a



221 different set of forms, in which case the petition and order shall
222 be in substantially the form set forth by court rule. As part of
223 the Petition to Register a Foreign Adoption, a child's name may be
224 changed from that appearing on the foreign adoption decree if all
225 other requirements of law as to name change are met.

226 (2) A foreign adoption decree previously registered or
227 otherwise finalized by a court of this or any other state may not
228 be registered subsequently in any court of this state.

229 (3) If the chancellor, in termtime or vacation, determines
230 that the foreign adoption can be registered, the chancellor shall
231 sign the order and shall direct the chancery clerk to enter the
232 date of the foreign adoption decree and identify the foreign court
233 on the docket. A certified copy of the order, along with a copy
234 of U.S. Government Form N-560, Certificate of Citizenship, or a
235 copy of the child's United States passport, or both, if either or
236 both documents are a part of the court file, shall be provided to
237 the petitioner by the chancery clerk.

238 (4) If the chancery court determines that the foreign
239 adoption cannot be registered, the petitioner may proceed as
240 applicable under the provisions of this chapter for adoptions
241 generally. Reasons for which a foreign adoption cannot be
242 registered include, without limitation, if the court determines
243 that the foreign adoption is not a full and final adoption because
244 the foreign-born child has been issued an IH-4 or IR-4 visa.



245 (5) Adopting parent(s) who are eligible to register a
246 foreign adoption under this article may, for any reason, proceed
247 under this chapter as for adoptions generally.

248 (6) The petition and accompanying documents, including the
249 final decree, are confidential and are subject to rules of
250 confidentiality as otherwise provided in this chapter for adoption
251 records.

252 **SECTION 7.** The following shall be codified as Section
253 93-17-307, Mississippi Code of 1972:

254 93-17-307. **Forms.** The petition shall be accompanied by the
255 documentation indicated on the forms. The petition and order
256 shall be in substantially the following form unless the Supreme
257 Court adopts a rule setting forth a different form:

258 (a) **Form for petition; verification by parents.**

259 IN THE CHANCERY COURT OF _____ COUNTY, MISSISSIPPI

260 IN RE: FOREIGN ADOPTION OF _____ FILE NO. _____

261 PETITION TO REGISTER FOREIGN ADOPTION

262 1. Petitioner(s), the Adopting Parent(s) of the above-named
263 adopted child, is/are _____.

264 2. Petitioner(s) reside(s) in _____ County, Mississippi,

265 at _____

266 (Street Address)

267 _____

268 (City, State, Zip)



269 3. Has any other court in this or any other state reviewed,
270 registered, finalized or otherwise assumed jurisdiction over the
271 foreign adoption decree being registered here:

272 (circle one) Yes No

273 If yes, please provide the name of the court, the state and
274 county, what was previously presented to the court and the
275 resulting decision from the court: (Attach all court decrees)

276 _____
277 _____
278 _____
279 _____
280 _____
281 _____

282 4. The full name of the adopted child at birth as listed on the
283 foreign birth certificate, if available, was

284 _____.

285 5. The full name of the adopted child as written on the foreign
286 adoption decree is _____.

287 6. The full name of the adopted child as he or she is to be known
288 from this time forward is

289 _____.

290 7. The date of birth of the adopted child is _____.

291 8. The date of the foreign adoption decree is _____.

292 9. The type of United States visa issued to the adopted child is:

293 (circle one) IR-2, IR-3, IH-3, IR-4, IH-4



294 10. The following documents are attached to this Petition:

295 a. Copy of child's birth certificate or other birth
296 identification issued by country of birth; or if none, an
297 affidavit of parent(s) stating why none is available.

298 b. The original documents related to the foreign adoption
299 certified by the United States Embassy abroad and English
300 translation certified by the translator to be correct.

301 c. Copy of adopted child's United States visa.

302 d. Copy of home study.

303 e. A copy of U.S. Government Form N-560, Certificate of
304 Citizenship, or a copy of the child's United States passport, or
305 both, if either or both documents are available.

306 f. A valid government-issued picture identification of
307 parent or parents, such as a passport or driver's license.

308 g. Proof of residency of the parent or parents in the State
309 of Mississippi.

310 h. The social security card of the child.

311 WHEREFORE, Petitioner(s) request(s) that this Court enter its
312 Order authorizing the registration and docketing of the attached
313 Foreign Adoption Decree with the clerk of the court and decreeing
314 that _____

315 (Name of child as written on Foreign Adoption Decree)

316 shall henceforth be known as _____

317 (Child's name from this time forward)



318 and shall have all the rights of a child and heir of the
319 Petitioner(s).

320 _____
321 Signature of Adopting Parent [FN1]

322 _____
323 Signature of Adopting Parent

324 _____
325 Daytime telephone no. for Adopting Parent(s)

326 [FN1] When there are two (2) adopting parents, both must sign.

327 VERIFICATION TO PETITION TO REGISTER FOREIGN ADOPTION

328 I/We, _____, verify that I/we am/are the
329 Petitioner(s) named in the foregoing Petition, that I/we have read
330 and understand the information set forth in the Instructions to
331 the Petition to Register Foreign Adoption Decree, and that the
332 facts set forth in the foregoing Petition are true and correct to
333 the best of my/our knowledge, information and belief. I/We
334 further verify that all documents attached to this Petition are
335 true and correct copies of the originals. I/We understand that
336 false statements made herein are subject to the penalties for
337 perjury.

338 Date: _____

339 _____
340 Signature of Adopting Parent

341 _____
342 Signature of Adopting Parent



343 (b) **Form of Order.**

344 (i) Order of adoption.

345 IN THE CHANCERY COURT OF _____ COUNTY, MISSISSIPPI

346 IN RE: FOREIGN ADOPTION OF _____ ADOPTION NO. _____

347 ORDER

348 It is hereby ORDERED and DECREED that the Petition to
349 Register Foreign Adoption of:

350 _____

351 (Adopting Parent(s))

352 is GRANTED and that this Court authorizes the registration and
353 docketing of the Foreign Adoption Decree entered on

354 _____ (Date of Foreign Adoption Decree)

355 by _____ (Name of Foreign Court)

356 in _____ (Foreign Country).

357 It is FURTHER ORDERED and DECREED that the above Foreign
358 Adoption Decree shall be enforceable as if this Court had entered
359 the Decree and that henceforth this child

360 _____

361 (Name of child as written on Foreign Adoption Decree)

362 shall be known as

363 _____

364 (Child's name from this time forward)

365 and shall have all the rights of a child and heir of

366 _____

367 (Adopting Parent(s))



368 Ordered this the _____ day of _____, 20__.

369 _____
370 Chancellor

371 (ii) Order denying adoption.

372 IN THE CHANCERY COURT OF _____ COUNTY, MISSISSIPPI

373 IN RE: FOREIGN ADOPTION OF _____ ADOPTION NO. _____

374 ORDER

375 It is hereby ORDERED and DECREED that the Petition of

376 _____
377 (Adopting Parent(s))

378 _____ to Register Foreign Adoption Decree
379 is DENIED but that Petitioners may proceed with an adoption
380 pursuant to Mississippi law without paying any additional filing
381 fee.

382 Ordered this the _____ day of _____, 20__.

383 _____
384 Chancellor

385 (c) **Instructions.**

386 INSTRUCTIONS FOR FILING

387 PETITION TO REGISTER FOREIGN ADOPTION DECREE

388 When a child is adopted in conformity with the laws of a
389 foreign country, the adopting parent(s) may register the foreign
390 adoption and obtain a Mississippi adoption decree so that a
391 Mississippi birth certificate can be obtained.



392 Adopting parent(s) seeking to register the foreign adoption
393 must:

394 1. Complete, sign and date the Petition to Register Foreign
395 Adoption including Verification. If a foreign adoption decree
396 shows that there are two (2) adopting parents, both parents must
397 execute the Petition to Register Foreign Adoption and verification
398 thereof.

399 2. Attach the following documents to the Petition:

400 * A copy of the Foreign Adoption Decree;

401 * A copy of the child's foreign birth certificate. If no
402 birth certificate was issued, a copy of any other birth
403 identification issued by the country of birth should be attached.
404 If no birth certificate or birth identification can be obtained,
405 an Affidavit stating the reason should be submitted;

406 * A copy of the child's United States visa;

407 * An English translation of all documents not in English,
408 with a verification by the translator that all translations are
409 true and correct;

410 * A copy of the home studies.

411 * If available, a copy of the child's Certificate of
412 Citizenship (U.S. Government Form N-560) or a copy of the child's
413 U.S. passport, or both.

414 3. The Petition to Register with the attachments should be filed
415 with the chancery court in the county in which the adopting



416 parent(s) reside(s). A filing fee for the adoption will be
417 charged in accordance with the fee schedule of the chancery court.

418 After the Petition to Register is filed, it will be submitted
419 to the Court for review. If the Petition to Register and
420 accompanying documents establish that the foreign adoption of the
421 child is full and final, the Court will enter its order
422 directing the registration of the Foreign Adoption Decree. The
423 chancery clerk will then issue an order of adoption to which will
424 be attached a copy of U.S. Government Form N-560 and/or a copy of
425 the child's United States passport if those items are in the court
426 file for the Petitioner to submit to the Department of Health,
427 Bureau of Vital Records, in order to obtain a birth certificate.

428 If the Court cannot determine that the foreign adoption is
429 full and final, it will enter its order denying the Petition. In
430 that case, it will be necessary to proceed under Title 93, Chapter
431 17, applying to adoptions generally without payment of an
432 additional filing fee.

433 A foreign adoption may not be a full and final adoption
434 eligible for registration if the child has an IH-4 or IR-4 United
435 States visa, in which case it will be necessary to proceed under
436 Mississippi general adoption law because the adoption of the
437 foreign-born child was not finalized in the country of the child's
438 birth.

439 Only one (1) state court, whether in this or another state,
440 should exercise jurisdiction over the registration of the foreign



441 adoption or the completion of the adoption initiated in the native
442 country of the foreign-born child. Thus, if the adoption has been
443 finalized or the foreign adoption decree has been registered in
444 another state court or in another court within this state, the
445 adopting parent(s) need not and should not proceed under this
446 article. In similar fashion, if the adoption of the foreign-born
447 child has been finalized in this state, and thereafter, another
448 petitioner seeks to adopt this child, the subsequent proceeding
449 will be a standard proceeding under the applicable provisions of
450 this chapter. Such a situation could occur when the child is to
451 be adopted by a stepparent after divorce or death of the original
452 adopting parent(s), or when, after termination of parental rights,
453 the child is to be adopted by different adopting parent(s).

454 **SECTION 8.** It is the intention of the Legislature and the
455 codifier is so directed that Title 93, Chapter 17, be divided into
456 Articles as follows: Article 1 beginning with Section 93-17-1;
457 Article 3 beginning with Section 93-17-51; Article 5 beginning
458 with Section 93-17-101; Article 7 beginning with Section
459 93-17-201; and Article 9 beginning with Section 93-17-301.

460 **SECTION 9.** This act shall take effect and be in force from
461 and after July 1, 2014.

