

By: Representative Bain

To: Judiciary B

HOUSE BILL NO. 549

1 AN ACT TO AMEND SECTIONS 93-17-3 AND 93-17-11, MISSISSIPPI  
 2 CODE OF 1972, TO AUTHORIZE THE JUDGE TO DETERMINE IF A HOME STUDY  
 3 IS NECESSARY IN AN ADOPTION; TO CLARIFY RESIDENCY REQUIREMENTS; TO  
 4 AMEND SECTION 93-17-25, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
 5 PERSONS WHO DISCLOSE INFORMATION RECEIVED DURING CLOSED ADOPTION  
 6 HEARINGS OR FROM RECORDS PERTAINING TO ADOPTION PROCEEDINGS ARE  
 7 GUILTY OF A MISDEMEANOR, SUBJECT TO BEING FINED OR IMPRISONED, AND  
 8 MAY BE HELD IN CONTEMPT OF COURT; AND FOR RELATED PURPOSES.

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

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

12 93-17-3. (1) Except as otherwise provided in this section,  
 13 a court of this state has jurisdiction over a proceeding for the  
 14 adoption or readoption of a minor commenced under this chapter if:

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



21 those individuals and there is available in this state substantial  
22 evidence concerning the minor's present or future care;

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

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

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

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

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

41 (e) It appears that no other state would have  
42 jurisdiction under prerequisites substantially in accordance with  
43 paragraphs (a) through (d), or another state has declined to  
44 exercise jurisdiction on the ground that this state is the more  
45 appropriate forum to hear a petition for adoption of the minor,



46 and it is in the best interest of the minor that a court of this  
47 state assume jurisdiction; or

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

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

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

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

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



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

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

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



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

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

107 (6) No person may be placed in the home of or adopted by the  
108 prospective adopting parties before a court-ordered or voluntary  
109 home study is satisfactorily completed by a licensed adoption  
110 agency, a licensed, experienced social worker approved by the  
111 chancery court or by the Department of Human Services on the  
112 prospective adoptive parties if \* \* \* determined necessary by the  
113 judge as provided in 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 9 of this chapter.

141 **SECTION 2.** Section 93-17-11, Mississippi Code of 1972, is  
142 amended as follows:

143 93-17-11. At any time after the filing of the petition for  
144 adoption and completion of process thereon, and before the  
145 entering of a final decree, the court may, in its discretion, of



146 its own motion or on motion of any party to the proceeding,  
147 require an investigation and report to the court to be made by any  
148 person, officer or home as the court may designate and direct  
149 concerning the child, and, if determined necessary by the  
150 judge, \* \* \* may require in adoptions, other than those in which  
151 the petitioner or petitioners are a relative or stepparent of the  
152 child, that a home study be performed of the petitioner or  
153 petitioners by a licensed adoption agency or by the Department of  
154 Human Services, at the petitioner's or petitioners' sole expense  
155 and at no cost to the state or county. The investigation and  
156 report shall give the material facts upon which the court may  
157 determine whether the child is a proper subject for adoption,  
158 whether the petitioner or petitioners are suitable parents for the  
159 child, whether the adoption is to its best interest, and any other  
160 facts or circumstances that may be material to the proposed  
161 adoption. The home study shall be considered by the court in  
162 determining whether the petitioner or petitioners are suitable  
163 parents for the child. The court, when an investigation and  
164 report are required by the court or by this section, shall stay  
165 the proceedings in the cause for such reasonable time as may be  
166 necessary or required in the opinion of the court for the  
167 completion of the investigation and report by the person, officer  
168 or home designated and authorized to make the same.

169       Upon the filing of that consent or the completion of the  
170 process and the filing of the investigation and report, if



171 required by the court or by this section, and the presentation of  
172 such other evidence as may be desired by the court, if the court  
173 determines that it is to the best interests of the child that an  
174 interlocutory decree of adoption be entered, the court may  
175 thereupon enter an interlocutory decree upon such terms and  
176 conditions as may be determined by the court, in its discretion,  
177 but including therein that the complete care, custody and control  
178 of the child shall be vested in the petitioner or petitioners  
179 until further orders of the court and that during such time the  
180 child shall be and remain a ward of the court. If the court  
181 determines by decree at any time during the pendency of the  
182 proceeding that it is not to the best interests of the child that  
183 the adoption proceed, the petitioners shall be entitled to at  
184 least five (5) days' notice upon their attorneys of record and a  
185 hearing with the right of appeal as provided by law from a  
186 dismissal of the petition; however, the bond perfecting the appeal  
187 shall be filed within ten (10) days from the entry of the decree  
188 of dismissal and the bond shall be in such amount as the  
189 chancellor may determine and supersedeas may be granted by the  
190 chancellor or as otherwise provided by law for appeal from final  
191 decrees.

192       After the entry of the interlocutory decree and before entry  
193 of the final decree, the court may require such further and  
194 additional investigation and reports as it may deem proper. The  
195 rights of the parties filing the consent or served with process





196 shall be subject to the decree but shall not be divested until  
197 entry of the final decree.

198 **SECTION 3.** Section 93-17-25, Mississippi Code of 1972, is  
199 amended as follows:

200 93-17-25. All proceedings under this chapter shall be  
201 confidential and shall be held in closed court without admittance  
202 of any person other than the interested parties, except upon order  
203 of the court. All pleadings, reports, files, testimony, exhibits  
204 and records pertaining to \* \* \* adoption proceedings shall be  
205 confidential and shall not be public records and shall be withheld  
206 from inspection or examination by any person, and shall not be  
207 disclosed by any person except upon order of the court which the  
208 proceeding was had on good cause shown.

209 Upon motion of any interested person, the files of adoption  
210 proceedings, heretofore had may be placed in the confidential  
211 files upon order of the court or chancellor and shall be subject  
212 to the provisions of this chapter.

213 Provided, however, that notwithstanding the confidential  
214 nature of said proceedings, said record shall be available for use  
215 in any court or administrative proceedings under a subpoena duces  
216 tecum addressed to the custodian of said records and portions of  
217 such record may be released pursuant to Sections 93-17-201 through  
218 93-17-223.

219 Any person who shall disclose any information received during  
220 a closed hearing or any records involving children or the contents



221 thereof without the proper authorization under this section shall  
222 be guilty of a misdemeanor and punished, upon conviction, by a  
223 fine of not more than One Thousand Dollars (\$1,000.00), or by  
224 imprisonment in the county jail of not more than one (1) year or  
225 by both such fine and imprisonment.

226 Nothing herein shall prevent the court from finding in civil  
227 contempt any person who shall disclose any records involving  
228 children or the contents thereof without the proper authorization  
229 under this section. Any person who willfully violates, neglects  
230 or refuses to obey, perform or comply herewith shall be in  
231 contempt of court and punished by a fine not to exceed Five  
232 Hundred Dollars (\$500.00), or by imprisonment in jail not to  
233 exceed ninety (90) days, or by both such fine and imprisonment.

234 **SECTION 4.** This act shall take effect and be in force from  
235 and after July 1, 2017.

