

By: Representative Bain

To: Judiciary B

HOUSE BILL NO. 681

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 * * * unless such is determined
113 necessary by a 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, 2018.

