

By: Senator(s) DeBar

To: Judiciary, Division A

SENATE BILL NO. 2682

1 AN ACT TO AMEND SECTION 41-57-14, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE INFORMATION TO BE LISTED ON A CERTIFICATE OF BIRTH
3 UNDER CERTAIN CIRCUMSTANCES; TO CREATE NEW SECTION 93-9-2,
4 MISSISSIPPI CODE OF 1972, TO PROHIBIT DISCRIMINATION BASED ON THE
5 MARITAL STATUS OF A PERSON'S PARENTS; TO AMEND SECTION 93-9-9,
6 MISSISSIPPI CODE OF 1972, TO AMEND THE DETERMINATION OF A CHILD'S
7 SURNAME TO CONFORM; TO PROVIDE THAT THIS ACT WILL NOT AFFECT ANY
8 PROVISION OF LAW CONCERNING SURROGACY, ASSISTED REPRODUCTION, OR
9 TERMINATION OF PARENTAL RIGHTS; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 41-57-14, Mississippi Code of 1972, is
12 amended as follows:

13 41-57-14. (1) (a) If the mother was married at the time of
14 either conception or birth, or at any time between conception and
15 birth, the name of the * * * spouse shall be entered on the
16 certificate of birth as * * * a parent of the child. The social
17 security number of each parent of a child born within this state
18 shall be furnished to the local registrar of vital records at the
19 time of filing the certificate of birth, but such information
20 shall not appear on the portion of the certificate to be issued as
21 a certified copy. Such information shall be sent to the Office of



Vital Records Registration of the State Department of Health along with the certificate of birth and shall be retained by the office. The information shall not be disclosed to any person except as authorized by * * * subsection (2) of this section or as allowed by Section 41-57-2.

(b) An alleged biological father who is not the spouse of the mother and who has obtained an order of paternity entered by a court of competent jurisdiction shall be entered on the certificate of birth as a parent.

(2) The Office of Vital Records Registration shall make available to the Division of Child Support Enforcement of the Mississippi Department of Human Services information concerning the names and social security numbers of the parents obtained under the requirements of * * * subsection (1) for the use in establishing paternity or enforcing child support obligations. Information obtained by the Division of Child Support Enforcement under this section may be used in any action or proceeding before any court, administrative tribunal, or other proceeding for the purpose of establishing paternity, establishing a child support obligation, collecting child support or locating persons owing such an obligation.

(3) Nothing contained in this section shall be construed to affect any provision of law concerning surrogacy, assisted reproduction, or the termination of parental rights.



46 **SECTION 2.** The following shall be codified as Section
47 93-9-2, Mississippi Code of 1972:

48 93-9-2. **No discrimination based on marital status of parent.**

49 A parent-child relationship extends equally to every child and
50 parent, regardless of the marital status of the parent.

51 **SECTION 3.** Section 93-9-9, Mississippi Code of 1972, is
52 amended as follows:

53 93-9-9. (1) Paternity may be determined upon the petition
54 of the mother, * * * father, alleged father, the child, or any
55 public authority chargeable by law with the support of the
56 child; * * * but such an adjudication after the death of * * * an
57 alleged father must be made only upon clear and convincing
58 evidence. If paternity has been lawfully determined, or has been
59 acknowledged in writing according to the laws of this state, the
60 liabilities of the noncustodial parent may be enforced in the same
61 or other proceedings by the custodial parent, the child, or any
62 public authority which has furnished or may furnish the reasonable
63 expenses of pregnancy, confinement, education, necessary support
64 and maintenance, and medical or funeral expenses for the custodial
65 parent or the child. The trier of fact shall receive without the
66 need for third-party foundation testimony certified, attested or
67 sworn documentation as evidence of (a) childbirth records; (b)
68 cost of filing fees; (c) court costs; (d) services of process
69 fees; (e) mailing cost; (f) genetic tests and testing fees; (g)
70 the department's attorney's fees; (h) in cases where the state or



71 any of its entities or divisions have provided medical services to
72 the child or the child's mother, all costs of prenatal care,
73 birthing, postnatal care and any other medical expenses incurred
74 by the child or by the mother as a consequence of the mother's
75 pregnancy or delivery; and (i) funeral expenses. All costs and
76 fees shall be ordered paid to the Department of Human Services in
77 all cases successfully prosecuted with a minimum of Two Hundred
78 Fifty Dollars (\$250.00) in attorney's fees or an amount determined
79 by the court without submitting an affidavit. Proceedings may be
80 instituted at any time until such child attains the age of
81 twenty-one (21) years unless the child has been emancipated as
82 provided in Section 93-5-23 and Section 93-11-65. In the event of
83 court-determined paternity, the surname of the child shall
84 be * * * determined by the court according to the best interests
85 of the child.

86 (2) If the alleged father in an action to determine
87 paternity to which the Department of Human Services is a party
88 fails to appear for a scheduled hearing after having been served
89 with process or subsequent notice consistent with the Rules of
90 Civil Procedure, his paternity of the child(ren) shall be
91 established by the court if an affidavit sworn to by the mother
92 averring the alleged father's paternity of the child has
93 accompanied the complaint to determine paternity. Said affidavit
94 shall constitute sufficient grounds for the court's finding of the
95 alleged father's paternity without the necessity of the presence



or testimony of the mother at the said hearing. The court shall, upon motion by the Department of Human Services, enter a judgment of paternity. Any person who shall willfully and knowingly file a false affidavit shall be subject to a fine of not more than One Thousand Dollars (\$1,000.00).

(3) Upon application of * * * the parents to the State Board of Health and receipt by the State Board of Health of a sworn acknowledgement of paternity executed by * * * the parents subsequent to the birth of a child * * *, the birth certificate of the child shall be amended to show such paternity if paternity is not shown on the birth certificate. Upon request of the parents for the legitimization of a child under this section, the surname of the child shall be * * * the name agreed to by the parents.

(4) (a) A signed voluntary acknowledgment of paternity is subject to the right of any signatory to rescind the acknowledgment within the earlier of:

(i) One (1) year; or

(ii) The date of a judicial proceeding relating to the child, including a proceeding to establish a support order, in which the signatory is a party.

(b) After the expiration of the one-year period specified in * * * paragraph (a)(i) of this subsection, a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress or material mistake of fact, with the burden of proof upon the challenger; the legal



responsibilities, including child support obligations, of any signatory arising from the acknowledgment may not be suspended during the pendency of the challenge, except for good cause shown.

(c) During the one-year time period specified in * * * paragraph (a)(i) of this subsection, the alleged father may request genetic testing through the Department of Human Services in accordance with the provisions of Section 93-9-21.

(d) The one-year time limit, specified in * * * paragraph (a)(i) of this subsection, for the right of the alleged father to rescind the signed voluntary acknowledgement of paternity shall be tolled from the date the alleged father files his formal application for genetic testing with the Department of Human Services until the date the test results are revealed to the alleged father by the department. After the one-year time period has expired, not including any period of time tolled for the purpose of acquiring genetic testing through the department, the provisions of * * * paragraph (a)(i) of this subsection shall apply.

(5) Nothing contained in this section shall be construed to affect any provision of law concerning surrogacy, assisted reproduction, or the termination of parental rights.

SECTION 4. This act shall take effect and be in force from and after July 1, 2018.

