

By: Representative Yancey

To: Judiciary A

HOUSE BILL NO. 635

1 AN ACT TO AMEND SECTION 93-17-205, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THAT A BIRTH PARENT MAY PROVIDE SUPPLEMENTAL
3 IDENTIFYING INFORMATION; TO AMEND SECTION 93-17-209, MISSISSIPPI
4 CODE OF 1972, TO REVISE THE PROCEDURE FOR RESPONDING TO REQUESTS
5 OF ADOPTED; TO AMEND SECTION 93-17-215, MISSISSIPPI CODE OF 1972,
6 TO AUTHORIZE ADOPTED WHO ARE 21 YEARS OF AGE OR OLDER TO HAVE
7 UNRESTRICTED ACCESS TO ALL IDENTIFYING INFORMATION OF ADOPTIVE
8 PARENTS; TO AMEND SECTIONS 93-17-217, 93-17-219 AND 93-17-223,
9 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; TO
10 BRING FORWARD SECTION 93-17-221, MISSISSIPPI CODE OF 1972, WHICH
11 ALLOWS AN ADOPTED TO PETITION CHANCERY COURT FOR DISCLOSURE OF
12 IDENTIFYING INFORMATION, FOR PURPOSES OF AMENDMENT; AND FOR
13 RELATED PURPOSES.

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

15 **SECTION 1.** Section 93-17-205, Mississippi Code of 1972, is
16 amended as follows:

17 93-17-205. (1) The bureau shall maintain a centralized
18 adoption records file for all adoptions performed in this state
19 after July 1, 2005, which shall contain the following information:

20 (a) The medical and social history of the birth
21 parents, including information regarding genetically inheritable
22 diseases or illnesses and any similar information furnished by the



birth parents about the adoptee's grandparents, aunts, uncles,
brothers and sisters if known;

(b) A report of any medical examination which either
birth parent had within one (1) year before the date of the
petition for adoption, if available and known;

(c) A report describing the adoptee's prenatal care and
medical condition at birth, if available and known;

(d) The medical and social history of the adoptee,
including information regarding genetically inheritable diseases
or illnesses, and any other relevant medical, social and genetic
information if available; and

(e) Forms 100A, 100B (if applicable) and evidence of
Interstate Compact for Placement of Children approval (if
applicable).

The Administrative Office of Courts shall assist the bureau
in the maintenance of its centralized adoption record by compiling
the number of finalized adoptions in each chancery court district
on a monthly basis, and submitting this information to the bureau.
The bureau shall include these statistics in its centralized
adoption record. The information in this report shall include the
number of adoptions in this state where the adopting parent is a
blood relative of the adoptee and the number of adoptions in this
state where the adopting parent is not a blood relative of the
adoptee. The report shall not include any individual identifying



information. This information shall be updated annually and made available to the public upon request for a reasonable fee.

(2) Any birth parent may file with the bureau at any time any relevant supplemental nonidentifying or identifying information about the adoptee or the adoptee's birth parents, and the bureau shall maintain this information in the centralized adoption records file.

(3) The bureau shall also maintain as part of the centralized adoption records file the following:

(a) The name, date of birth, social security number (both original and revised, where applicable) and birth certificate (both original and revised) of the adoptee;

(b) The names, current addresses and social security numbers of the adoptee's birth parents, guardian and legal custodian;

(c) Any other available information about the birth parent's identity and location.

(4) Any birth parent may file with the bureau at any time an affidavit authorizing the bureau to provide the adoptee with his or her original birth certificate and with any other available information about the birth parent's identity and location, or an affidavit expressly prohibiting the bureau from providing the adoptee with any information about such birth parent's identity and location, and prohibiting any licensed adoption agency from conducting a search for such birth parent under the terms of



Sections 93-17-201 through 93-17-223. An affidavit filed under this section may be revoked at any time by written notification to the bureau from the birth parent. Such affidavit shall not be effective against an adoptee who is twenty-one (21) years of age or older as provided in Section 93-17-215.

(5) Counsel for the adoptive parents in the adoption finalization proceeding shall provide the bureau with the information required in subsections (1) and (3) of this section, and he shall also make such information a part of the adoption records of the court in which the final decree of adoption is rendered. This information shall be provided on forms prepared by the bureau.

(6) (a) If an agency receives a report from a physician stating that a birth parent or another child of the birth parent has acquired or may have a genetically transferable disease or illness, the agency shall notify the bureau and the appropriate licensed adoption agency, and the latter agency shall notify the adoptee of the existence of the disease or illness, if he or she is twenty-one (21) years of age or over, or notify the adoptee's guardian, custodian or adoptive parent if the adoptee is under age twenty-one (21).

(b) If an agency receives a report from a physician that an adoptee has acquired or may have a genetically transferable disease or illness, the agency shall notify the bureau and the appropriate licensed agency, and the latter agency



shall notify the adoptee's birth parent of the existence of the disease or illness.

(7) Compliance with the provisions of this section may be waived by the court, in its discretion, in any chancery court proceeding in which one or more of the petitioners for adoption is the natural mother or father of the adoptee.

SECTION 2. Section 93-17-209, Mississippi Code of 1972, is amended as follows:

93-17-209. (1) Except as otherwise provided in Section 93-17-215, whenever any person specified under Section 93-17-207 wishes to obtain medical, social or genetic background information about an adoptee or nonidentifying information about the birth parents of such adoptee, and the information is not on file with the bureau and the birth parents have not filed affidavits prohibiting a search to be conducted for them under the provisions of Sections 93-17-201 through 93-17-223, the person may request a licensed adoption agency to locate the birth parents to obtain the information.

(2) Employees of any agency conducting a search under this section may not inform any person other than the birth parents of the purpose of the search.

(3) The agency may charge the requester a reasonable fee for the cost of the search. When the agency determines that the fee will exceed One Hundred Dollars (\$100.00) for either birth parent, it shall notify the requester. No fee in excess of One Hundred



Dollars (\$100.00) per birth parent may be charged unless the requester, after receiving notification under this paragraph, has given consent to proceed with the search.

(4) The agency conducting the search shall, upon locating a birth parent, notify him or her of the request and of the need for medical, social and genetic information.

(5) The agency shall release to the requester any medical or genetic information provided by a birth parent under this section without disclosing the birth parent's identity or location.

(6) If a birth parent is located but refuses to provide the information requested, the agency shall notify the requester, without disclosing the birth parent's identity or location, and the requester may petition the chancery court to order the birth parent to disclose the nonidentifying information. The court shall grant the motion for good cause shown.

(7) The Mississippi Department of Health and Human Services shall provide the bureau each year with a list of licensed adoption agencies in this state capable of performing the types of searches described in this section.

SECTION 3. Section 93-17-215, Mississippi Code of 1972, is amended as follows:

93-17-215. (1) Any person twenty-one (21) years of age or over who has been adopted in this state may request the bureau through a licensed adoption agency providing post-adoption services to obtain and provide the unrestricted identifying



information regarding * * * one (1) or both of his or her birth
parents maintained as provided in Section 93-17-205 * * *.

(2) The licensed agency may charge the adoptee a reasonable
fee for the cost of the search. When the agency determines that
the fee will exceed One Hundred Dollars (\$100.00) for either birth
parent, it shall notify the adoptee. No fee in excess of One
Hundred Dollars (\$100.00) per birth parent may be charged unless
the adoptee, after receiving notification under this paragraph,
has given consent to proceed with the search.

(3) Upon locating a birth parent, the licensed agency
conducting the search shall make at least two (2) verbal contacts
and notify him or her of the following:

(a) The nature of the information requested;
(b) The date of the request; and
(c) The fact that the adoptee has the right to all
identifying information because he or she is twenty-one (21) years
of age or older.

(4) Within three (3) working days after contacting a birth
parent, the licensed agency shall provide the birth parent with a
written statement of the information requested. The licensed
agency shall disclose the requested information about that birth
parent.

(5) If, after a search under this section, a known birth
parent cannot be located, the agency shall disclose all requested
identifying information about that birth parent.



172 **SECTION 4.** Section 93-17-217, Mississippi Code of 1972, is
173 amended as follows:

174 93-17-217. * * * Before acting on a request made pursuant to
175 Section 93-17-209 * * *, the agency shall require the adoptee to
176 provide adequate identification and to submit to counseling by
177 such agency in connection with the release and use of this
178 information. The bureau shall release the requested information
179 to the designated agency upon request by such agency.

180 **SECTION 5.** Section 93-17-219, Mississippi Code of 1972, is
181 amended as follows:

182 93-17-219. (1) Except as otherwise provided in Section
183 93-17-215 for any person twenty-one (21) years of age or over, if
184 the bureau does not have on file (a) an affidavit either
185 authorizing release of identifying information or prohibiting such
186 release and any further contact from each known birth parent for
187 whom information is sought, or (b) a notice that such birth parent
188 has been contacted once and has refused to authorize the release
189 of confidential information, then the adoptee may request the
190 agency to undertake a search for the birth parent who has not
191 filed an affidavit or who has not been contacted. The licensed
192 agency shall not inform any person other than the birth parents of
193 the purpose of the search.

194 (2) The licensed agency may charge the adoptee a reasonable
195 fee for the cost of the search. When the agency determines that
196 the fee will exceed One Hundred Dollars (\$100.00) for either birth



parent, it shall notify the adoptee. No fee in excess of One Hundred Dollars (\$100.00) per birth parent may be charged unless the adoptee, after receiving notification under this paragraph, has given consent to proceed with the search.

(3) Upon locating a birth parent the licensed agency conducting the search shall make at least one (1) verbal contact and notify him or her of the following:

- (a) The nature of the information requested;
- (b) The date of the request; and
- (c) The fact that the birth parent has the right to consent to or prohibit the release of this information by filing with the bureau the affidavit to this effect.

(4) Within three (3) working days after contacting a birth parent, the licensed agency shall provide the birth parent with a written statement of the information requested and an affidavit form authorizing or prohibiting the release of the requested information. If the birth parent authorizes the release of the information, the licensed agency shall disclose the requested information about that birth parent.

(5) If a licensed agency has contacted a birth parent as provided by this section, and the birth parent does not file the affidavit, the agency shall not disclose the requested information.

(6) If, after a search under this section, a known birth parent cannot be located, the agency shall not disclose the



requested identifying information about that birth parent, although it may disclose any available nonidentifying information regarding that birth parent, and it may disclose identifying information about the other birth parent if such other birth parent has signed an unrevoked affidavit authorizing such release. If a birth parent is located and refuses to authorize the release of identifying information, the agency locating this birth parent shall notify the bureau. The bureau shall note such contact and refusal in its records.

(7) Only one (1) contact shall be made with a birth parent pursuant to a search request under this section if the birth parent refuses to authorize the release of the requested information. Further contacts with a birth parent under this section on behalf of the same adoptee shall be prohibited.

SECTION 6. Section 93-17-221, Mississippi Code of 1972, is brought forward as follows:

93-17-221. The adoptee may petition the chancery court to order the agency to disclose any identifying information that may not be disclosed under Sections 93-17-201 through 93-17-223. The court shall grant the petition for good cause shown.

SECTION 7. Section 93-17-223, Mississippi Code of 1972, is amended as follows:

93-17-223. Except as provided in Section 93-17-215, in cases where only one (1) of the birth parents has authorized the release of identifying information, that birth parent shall be prohibited



247 from divulging to the adoptee the identity, or any information
248 reasonably calculated to lead to discovery of the identity, of the
249 other birth parent, and shall execute a sworn affidavit stating
250 that no such information shall be revealed. The refusal of any
251 birth parent to comply with this prohibition shall constitute an
252 act of bad faith under the terms of Sections 93-17-201 through
253 93-17-223, and such birth parent shall be subject to civil
254 liability for the release of such information.

255 **SECTION 8.** This act shall take effect and be in force from
256 and after July 1, 2020.

