

By: Senator(s) Bryan, Fillingane

To: Judiciary, Division B

SENATE BILL NO. 2263

1 AN ACT TO AMEND SECTION 93-17-3, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE CHANCELLOR TO WAIVE PROCEDURAL REQUIREMENTS FOR
3 ADULT ADOPTEES WHO CONSENT TO THE ADOPTION; AND FOR RELATED
4 PURPOSES.

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

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

8 93-17-3. (1) Except as otherwise provided in this section,
9 a court of this state has jurisdiction over a proceeding for the
10 adoption or readoption of a minor commenced under this chapter if:

11 (a) Immediately before commencement of the proceeding,
12 the minor lived in this state with a parent, a guardian, a
13 prospective adoptive parent or another person acting as parent,
14 for at least six (6) consecutive months, excluding periods of
15 temporary absence, or, in the case of a minor under six (6) months
16 of age, lived in this state from soon after birth with any of
17 those individuals and there is available in this state substantial
18 evidence concerning the minor's present or future care;



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

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

27 (i) The minor and the minor's parents, or the
28 minor and the prospective adoptive parent, have a significant
29 connection with this state; and

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

32 (d) The minor and the prospective adoptive parent or
33 parents are physically present in this state and the minor has
34 been abandoned or it is necessary in an emergency to protect the
35 minor because the minor has been subjected to or threatened with
36 mistreatment or abuse or is otherwise neglected, and the
37 prospective adoptive parent or parents, if not residing in
38 Mississippi, have completed and provided the court with a
39 satisfactory Interstate Compact for Placement of Children (ICPC)
40 home study and accompanying forms;

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 term time or in vacation by an
79 unmarried adult, by a married person whose spouse joins in the
80 petition, by a married person whose spouse does not join in the
81 petition because such spouse does not cohabit or reside with the
82 petitioning spouse, and in any circumstances determined by the
83 court that the adoption is in the best interest of the child.
84 Only the consenting adult will be a legal parent of the child.
85 The adoption shall be by sworn petition filed in the chancery
86 court of the county in which the adopting petitioner or
87 petitioners reside or in which the child to be adopted resides or
88 was born, or was found when it was abandoned or deserted, or in
89 which the home is located to which the child has been surrendered
90 by a person authorized to so do. The petition shall be
91 accompanied by a doctor's or nurse practitioner's certificate
92 showing the physical and mental condition of the child to be
93 adopted and a sworn statement of all property, if any, owned by



94 the child. In addition, the petition shall be accompanied by
95 affidavits of the petitioner or petitioners stating the amount of
96 the service fees charged by any adoption agencies or adoption
97 facilitators used by the petitioner or petitioners and any other
98 expenses paid by the petitioner or petitioners in the adoption
99 process as of the time of filing the petition. If the doctor's or
100 nurse practitioner's certificate indicates any abnormal mental or
101 physical condition or defect, the condition or defect shall not,
102 in the discretion of the chancellor, bar the adoption of the child
103 if the adopting parent or parents file an affidavit stating full
104 and complete knowledge of the condition or defect and stating a
105 desire to adopt the child, notwithstanding the condition or
106 defect. The court shall have the power to change the name of the
107 child as a part of the adoption proceedings. The word "child" in
108 this section shall be construed to refer to the person to be
109 adopted, though an adult.

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

111 (6) No person may be placed in the home of or adopted by the
112 prospective adopting parties before a court-ordered or voluntary
113 home study is satisfactorily completed by a licensed adoption
114 agency, a licensed, experienced social worker approved by the
115 chancery court, a court-appointed guardian ad litem that has
116 knowledge or training in conducting home studies if so directed by
117 the court, or by the Department of Human Services on the
118 prospective adoptive parties if required by Section 93-17-11.



119 (7) No person may be adopted by a person or persons who
120 reside outside the State of Mississippi unless the provisions of
121 the Interstate Compact for Placement of Children (Section 43-18-1
122 et seq.) have been complied with. In such cases Forms 100A, 100B
123 (if applicable) and evidence of Interstate Compact for Placement
124 of Children approval shall be added to the permanent adoption
125 record file within one (1) month of the placement, and a minimum
126 of two (2) post-placement reports conducted by a licensed
127 child-placing agency shall be provided to the Mississippi
128 Department of Child Protection Services Interstate Compact for
129 Placement of Children office.

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

138 (9) The readoption of a child who has automatically acquired
139 United States citizenship following an adoption in a foreign
140 country and who possesses a Certificate of Citizenship in
141 accordance with the Child Citizenship Act, CAA, Public Law
142 106-395, may be given full force and effect in a readoption
143 proceeding conducted by a court of competent jurisdiction in this



144 state by compliance with the Mississippi Registration of Foreign
145 Adoptions Act, Article 9 of this chapter.

146 (10) For adult adoptees who consent to the adoption, a
147 chancellor may waive any of the petition requirements and
148 procedural requirements within subsections (4), (6), (7), and (8)
149 of this section.

150 **SECTION 2.** This act shall take effect and be in force from
151 and after July 1, 2022.

