

By: Representative Bain

To: Judiciary B

HOUSE BILL NO. 533

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



46 (e) It appears that no other state would have
47 jurisdiction under prerequisites substantially in accordance with
48 paragraphs (a) through (d), or another state has declined to
49 exercise jurisdiction on the ground that this state is the more
50 appropriate forum to hear a petition for adoption of the minor,
51 and it is in the best interest of the minor that a court of this
52 state assume jurisdiction; or

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

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

64 (3) If a court of another state has issued a decree or order
65 concerning the custody of a minor who may be the subject of a
66 proceeding for adoption in this state, a court of this state may
67 not exercise jurisdiction over a proceeding for adoption of the
68 minor unless:

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



71 (i) Does not have continuing jurisdiction to
72 modify the decree or order under jurisdictional prerequisites
73 substantially in accordance with the Uniform Child Custody
74 Jurisdiction Act or has declined to assume jurisdiction to modify
75 the decree or order; or

76 (ii) Does not have jurisdiction over a proceeding
77 for adoption substantially in conformity with subsection (1) (a)
78 through (d) or has declined to assume jurisdiction over a
79 proceeding for adoption; and

80 (b) The court of this state has jurisdiction over the
81 proceeding.

82 (4) Any person may be adopted in accordance with the
83 provisions of this chapter in term time or in vacation by an
84 unmarried adult, by a married person whose spouse joins in the
85 petition, by a married person whose spouse does not join in the
86 petition because such spouse does not cohabit or reside with the
87 petitioning spouse, and in any circumstances determined by the
88 court that the adoption is in the best interest of the child.
89 Only the consenting adult will be a legal parent of the child.
90 The adoption shall be by sworn petition filed in the chancery
91 court of the county in which the adopting petitioner or
92 petitioners reside or in which the child to be adopted resides or
93 was born, or was found when it was abandoned or deserted, or in
94 which the home is located to which the child has been surrendered
95 by a person authorized to so do. The petition shall be



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

115 (5) No person may be placed in the home of or adopted by the
116 prospective adopting parties before a court-ordered or voluntary
117 home study is satisfactorily completed by a licensed adoption
118 agency, a licensed, experienced social worker approved by the
119 chancery court, a court-appointed guardian ad litem that has
120 knowledge or training in conducting home studies if so directed by



121 the court, or by the Department of Human Services on the
122 prospective adoptive parties if required by Section 93-17-11,
123 unless the court determines that the home study is not necessary.

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

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

143 (8) The readoption of a child who has automatically acquired
144 United States citizenship following an adoption in a foreign
145 country and who possesses a Certificate of Citizenship in



146 accordance with the Child Citizenship Act, CAA, Public Law
147 106-395, may be given full force and effect in a readoption
148 proceeding conducted by a court of competent jurisdiction in this
149 state by compliance with the Mississippi Registration of Foreign
150 Adoptions Act, Article 9 of this chapter.

151 (9) For adult adoptees who consent to the adoption, a
152 chancellor may waive any of the petition requirements and
153 procedural requirements within subsections (4), (5), (6) and (7)
154 of this section.

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

157 93-17-11. At any time after the filing of the petition for
158 adoption and completion of process thereon, and before the
159 entering of a final decree, the court may, in its discretion, of
160 its own motion or on motion of any party to the proceeding,
161 require an investigation and report to the court to be made by any
162 person, officer or home as the court may designate and direct
163 concerning the child, and shall require in adoptions, unless the
164 court determines that such should not be required in adoptions,
165 other than those in which the petitioner or petitioners are a
166 relative or stepparent of the child, that a home study be
167 performed of the petitioner or petitioners by a licensed adoption
168 agency or by the Department of Human Services, at the petitioner's
169 or petitioners' sole expense and at no cost to the state or
170 county. The investigation and report shall give the material



171 facts upon which the court may determine whether the child is a
172 proper subject for adoption, whether the petitioner or petitioners
173 are suitable parents for the child, whether the adoption is to its
174 best interest, and any other facts or circumstances that may be
175 material to the proposed adoption. The home study shall be
176 considered by the court in determining whether the petitioner or
177 petitioners are suitable parents for the child. The court, when
178 an investigation and report are required by the court or by this
179 section, shall stay the proceedings in the cause for such
180 reasonable time as may be necessary or required in the opinion of
181 the court for the completion of the investigation and report by
182 the person, officer or home designated and authorized to make the
183 same.

184 Upon the filing of that consent or the completion of the
185 process and the filing of the investigation and report, if
186 required by the court or by this section, and the presentation of
187 such other evidence as may be desired by the court, if the court
188 determines that it is to the best interests of the child that an
189 interlocutory decree of adoption be entered, the court may
190 thereupon enter an interlocutory decree upon such terms and
191 conditions as may be determined by the court, in its discretion,
192 but including therein that the complete care, custody and control
193 of the child shall be vested in the petitioner or petitioners
194 until further orders of the court and that during such time the
195 child shall be and remain a ward of the court. If the court



196 determines by decree at any time during the pendency of the
197 proceeding that it is not to the best interests of the child that
198 the adoption proceed, the petitioners shall be entitled to at
199 least five (5) days' notice upon their attorneys of record and a
200 hearing with the right of appeal as provided by law from a
201 dismissal of the petition; however, the bond perfecting the appeal
202 shall be filed within ten (10) days from the entry of the decree
203 of dismissal and the bond shall be in such amount as the
204 chancellor may determine and supersedeas may be granted by the
205 chancellor or as otherwise provided by law for appeal from final
206 decrees.

207 After the entry of the interlocutory decree and before entry
208 of the final decree, the court may require such further and
209 additional investigation and reports as it may deem proper. The
210 rights of the parties filing the consent or served with process
211 shall be subject to the decree but shall not be divested until
212 entry of the final decree.

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

215 93-17-25. All proceedings under this chapter shall be
216 confidential and shall be held in closed court without admittance
217 of any person other than the interested parties, except upon order
218 of the court. All pleadings, reports, files, testimony, exhibits
219 and records pertaining to * * * adoption proceedings shall be
220 confidential and shall not be public records and shall be withheld



221 from inspection or examination by any person, and shall not be
222 disclosed by any person except upon order of the court which the
223 proceeding was had on good cause shown.

224 Upon motion of any interested person, the files of adoption
225 proceedings, heretofore had may be placed in the confidential
226 files upon order of the court or chancellor and shall be subject
227 to the provisions of this chapter.

228 Provided, however, that notwithstanding the confidential
229 nature of said proceedings, said record shall be available for use
230 in any court or administrative proceedings under a subpoena duces
231 tecum addressed to the custodian of said records and portions of
232 such record may be released pursuant to Sections 93-17-201 through
233 93-17-223.

234 Any person who shall disclose any information received during
235 a closed hearing or any records involving children or the contents
236 thereof without the proper authorization under this section shall
237 be guilty of a misdemeanor and punished, upon conviction, by a
238 fine of not more than One Thousand Dollars (\$1,000.00), or by
239 imprisonment in the county jail of not more than one (1) year or
240 by both such fine and imprisonment.

241 Nothing herein shall prevent the court from finding in civil
242 contempt any person who shall disclose any records involving
243 children or the contents thereof without the proper authorization
244 under this section. Any person who willfully violates, neglects
245 or refuses to obey, perform or comply herewith shall be in



246 contempt of court and punished by a fine not to exceed Five
247 Hundred Dollars (\$500.00), or by imprisonment in jail not to
248 exceed ninety (90) days, or by both such fine and imprisonment.

249 **SECTION 4.** This act shall take effect and be in force from
250 and after July 1, 2023.

