

By: Representative Gunn

To: Judiciary A

HOUSE BILL NO. 1342
(As Passed the House)

1 AN ACT TO CREATE THE "BOARD OF TRUSTEES OF THE MISSISSIPPI
2 ADOPTION LICENSURE AUTHORITY"; TO CREATE "THE MISSISSIPPI ADOPTION
3 RELIEF FUND"; TO AMEND SECTION 43-15-103, MISSISSIPPI CODE OF
4 1972, TO REVISE THE DEFINITIONS OF THE ADOPTION AGENCY
5 REGULATIONS; TO AMEND SECTION 43-15-105, MISSISSIPPI CODE OF 1972,
6 TO PROVIDE THAT THE BOARD OF TRUSTEES OF THE ADOPTION LICENSURE
7 AUTHORITY SHALL BE THE LICENSING AGENCY FOR ADOPTIONS; TO AMEND
8 SECTIONS 43-15-107, 43-15-109 AND 43-15-111, MISSISSIPPI CODE OF
9 1972, TO REVISE THE APPLICATION PROCESS FOR ADOPTION LICENSES; TO
10 AMEND SECTION 43-15-113, MISSISSIPPI CODE OF 1972, TO ADD
11 CONDITIONS FOR GRANTING NEW LICENSES AFTER REVOCATION OF LICENSES;
12 TO AMEND SECTION 43-15-117, MISSISSIPPI CODE OF 1972, TO PROHIBIT
13 AN ATTORNEY FROM SHARING ANY FEES PROVIDED FOR ADOPTION SERVICES;
14 TO AMEND SECTION 43-15-115, MISSISSIPPI CODE OF 1972, TO REGULATE
15 DISBURSEMENT OF MONIES BETWEEN ADOPTION AGENCIES AND ATTORNEYS; TO
16 AMEND SECTION 43-15-119, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
17 THE DIVISION TO ENLIST THE BOARD UNDER CERTAIN CIRCUMSTANCES; TO
18 AMEND SECTIONS 43-15-123 AND 43-15-125, MISSISSIPPI CODE OF 1972,
19 TO CONFORM TO THE PRECEDING AMENDMENT; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** (1) There is established the Board of Trustees
22 of the Mississippi Adoption Licensure Authority, which shall
23 consist of the following members:

24 (a) Three (3) members selected by the commissioner of
25 the Mississippi Department of Child Protection Services;



26 (b) Three (3) members selected by majority vote of the
27 adoption agencies that are currently licensed by the Mississippi
28 Department of Child Protection Services;

29 (c) Three (3) members selected by a majority vote of
30 the residential child-caring agencies that are currently licensed
31 with the Mississippi Department of Child Protection Services.

32 (2) (a) The persons initially appointed by the Commissioner
33 of the Department of Child Protection Services and the persons
34 initially appointed by the residential child-caring agencies
35 shall serve terms ending June 30, 2025. The persons initially
36 appointed by the adoption agencies shall serve a term ending June
37 30, 2026.

38 After the expiration of the initial terms, each such
39 appointment shall be for a term of four (4) years from the
40 expiration of the previous term, except such persons shall serve
41 at the will and pleasure of the appointing authority.

42 (b) A majority of the voting members of the board shall
43 constitute a quorum for the conduct of meetings, and all actions
44 of the board shall require a majority vote of the voting members
45 of the board.

46 (c) The board shall annually elect one (1) voting
47 member to serve as chairman and one (1) voting member to serve as
48 vice chairman. The vice chairman shall act as chairman in the
49 absence or disability of the chairman, or if there is a vacancy in
50 the office of the chairman.



51 (3) The members of the board shall receive a per diem as
52 provided in Section 25-3-69, plus travel and necessary expenses
53 incidental to the attendance at each board meeting, including
54 mileage, as provided in Section 25-3-41.

55 (4) No board member shall use his official position to
56 obtain, or attempt to obtain, pecuniary benefit for himself other
57 than that compensation provided for by law, or to obtain, or
58 attempt to obtain, pecuniary benefit for any relative or any
59 business with which he is associated, as provided in Section
60 25-4-105.

61 (5) The board shall not approve any payment to any entity of
62 which a voting member of the board is an executive, member or
63 employee.

64 (6) The Mississippi Department of Child Protection Services
65 shall provide the office space for the board to perform its
66 duties.

67 **SECTION 2.** (1) There is hereby created in the State
68 Treasury a special fund to be known as the "Mississippi Adoption
69 Relief Fund". The fund shall be a continuing fund, not subject to
70 fiscal-year limitations, and shall consist of:

- 71 (a) Monies appropriated by the Legislature;
- 72 (b) The interest accruing to the fund;
- 73 (c) Donations or grant funds received;
- 74 (d) Monies from licensing fees for adoption agencies;

75 and



76 (e) Monies received from such other sources as may be
77 provided by law.

78 (2) The monies shall be used by the board only for the
79 purpose of performing its duties related to the licensing and
80 regulation of adoption agencies and adoption services provided in
81 this act.

82 (3) From and after July 1, 2023, the expenses of the fund
83 shall be defrayed by appropriation from the State General Fund and
84 all user charges and fees authorized under this section shall be
85 deposited into the State General Fund as authorized by law and as
86 determined by the State Fiscal Officer.

87 **SECTION 3.** Section 43-15-103, Mississippi Code of 1972, is
88 amended as follows:

89 43-15-103. As used in this article:

90 (a) "Adoption agency" means any entity that provides
91 adoption services.

92 (b) "Adoption services" means any services provided by
93 an entity that facilitates an adoption. Such services include,
94 but are not limited to:

95 (i) Finding a person to adopt the child;

96 (ii) Placing the child temporarily or permanently
97 in a home for adoption;

98 (iii) Solicit money or other assistance for
99 adoption;



100 (iv) Assisting a parent in identifying or locating
101 a person interested in adopting the parent's child, or in
102 identifying or locating a child to be adopted;

103 (v) Adoptions;

104 (vi) Adoption counseling;

105 (vii) Financial aid for adoption;

106 (viii) Advertising in the media markets in
107 Mississippi seeking birth mothers or their children for adoption
108 purposes; or

109 (ix) Payment of fees for medical, legal or other
110 services rendered in connection with the care of a mother,
111 delivery and care of a child including, but not limited to, the
112 mother's living expenses, or counseling for the parents and/or the
113 child, and for the legal proceedings related to lawful adoption
114 proceedings.

115 (x) Adoption service shall not include services
116 provided by MDCPS.

117 * * *

118 (c) "Board" means the Board of Trustees of the
119 Mississippi Adoption Licensure Authority.

120 (* * * d) "Child" or "children" mean(s) any unmarried
121 person or persons under the age of eighteen (18) years.

122 (* * * e) "Child placing" means receiving, accepting or
123 providing custody or care for any child under eighteen (18) years
124 of age, temporarily or permanently, for the purpose of * * *



125 placing a child in a foster home or residential child-caring
126 agency.

127 (* * *f) "Child-placing agency" means any entity or
128 person which places children in foster boarding homes or foster
129 homes for temporary care * * * or any other entity or person or
130 group of persons who are engaged in providing adoption studies or
131 foster care studies or placement services as defined by the rules
132 of the department.

133 (* * *g) "Department" means the Mississippi Department
134 of Human Services.

135 (* * *h) "Director" means the Director of the Division
136 of Family and Children's Services.

137 (* * *i) "Division" means the Division of Family and
138 Children's Services within the Mississippi Department of Human
139 Services.

140 (* * *j) "Family boarding home" or "foster home" means
141 a home (occupied residence) operated by any entity or person which
142 provides residential child care to at least one (1) child but not
143 more than six (6) children who are not related to the primary
144 caregivers.

145 (* * *k) "Group care home" means any place or facility
146 operated by any entity or person which provides residential child
147 care for at least seven (7) children but not more than twelve (12)
148 children who are not related to the primary caregivers.



149 (* * *l) "Licensee" means any person, agency or entity
150 licensed under this article.

151 (* * *m) "Maternity home" means any place or facility
152 operated by any entity or person which receives, treats or cares
153 for more than one (1) child or adult who is pregnant out of
154 wedlock, either before, during or within two (2) weeks after
155 childbirth; provided, that the licensed child-placing agencies and
156 licensed maternity homes may use a family boarding home approved
157 and supervised by the agency or home, as a part of their work, for
158 as many as three (3) children or adults who are pregnant out of
159 wedlock, and provided further, that the provisions of this
160 definition shall not include children or women who receive
161 maternity care in the home of a person to whom they are kin within
162 the sixth degree of kindred computed according to civil law, nor
163 does it apply to any maternity care provided by general or special
164 hospitals licensed according to law and in which maternity
165 treatment and care are part of the medical services performed and
166 the care of children is brief and incidental.

167 (* * *n) "Office" means the Office of Licensing
168 within * * * the Mississippi Department of Child Protection
169 Services.

170 (* * *o) "Person associated with a licensee" means an
171 owner, director, member of the governing body, employee, provider
172 of care and volunteer of a human services licensee.



173 (* * *p) "Related" means children, step-children,
174 grandchildren, step-grandchildren, siblings of the whole or
175 half-blood, step-siblings, nieces or nephews of the primary care
176 provider.

177 (* * *g) "Residential child care" means the provision
178 of supervision, and/or protection, and meeting the basic needs of
179 a child for twenty-four (24) hours per day, which may include
180 services to children in a residential setting where care, lodging,
181 maintenance and counseling or therapy for alcohol or controlled
182 substance abuse or for any other emotional disorder or mental
183 illness is provided for children, whether for compensation or not.

184 (* * *r) "Residential child-caring agency" means any
185 place or facility operated by any entity or person, public or
186 private, providing residential child care, regardless of whether
187 operated for profit or whether a fee is charged. Such residential
188 child-caring agencies include, but are not limited to, maternity
189 homes, runaway shelters, group homes that are administered by an
190 agency, and emergency shelters that are not in private residence.

191 **SECTION 4.** Section 43-15-105, Mississippi Code of 1972, is
192 amended as follows:

193 43-15-105. (1) The Division of Family and Children's
194 Services shall be the licensing authority for the department, and
195 is vested with all the powers, duties and responsibilities
196 described in this article. The division shall make and establish
197 rules and regulations regarding:



198 (a) Approving, extending, denying, suspending and
199 revoking licenses for foster homes, residential child-caring
200 agencies and child-placing agencies;
201 (b) Conditional licenses, variances from department
202 rules and exclusions;
203 (c) Basic health and safety standards for licensees;
204 and
205 (d) Minimum administration and financial requirements
206 for licensees.

207 (2) The division shall:

208 (a) Define information that shall be submitted to the
209 division with an application for a license;
210 (b) Establish guidelines for the administration and
211 maintenance of client and service records, including staff
212 qualifications, staff to client ratios;
213 (c) Issue licenses in accordance with this article;
214 (d) Conduct surveys and inspections of licensees and
215 facilities;
216 (e) Establish and collect licensure fees;
217 (f) Investigate complaints regarding any licensee or
218 facility;
219 (g) Have access to all records, correspondence and
220 financial data required to be maintained by a licensee or
221 facility;



222 (h) Have authority to interview any client, family
223 member of a client, employee or officer of a licensee or facility;
224 and

225 (i) Have authority to revoke, suspend or extend any
226 license issued by the division.

227 (3) The Board of Trustees of the Mississippi Adoption
228 Licensure Authority shall be the licensing authority for the
229 department for all matters regarding adoptions and adoption
230 agencies, and is vested with all the powers, duties and
231 responsibilities described in this article. The board shall make
232 and establish rules and regulations regarding:

233 (a) Approving, extending, denying, suspending and
234 revoking licenses for adoption agencies;

235 (b) Conditional licenses, variances from department
236 rules and exclusions related to adoption agencies or adoption
237 licensure;

238 (c) Basic health and safety standards for licensees;
239 and

240 (d) Minimum administration and financial requirements
241 for licensees.

242 (4) The board shall:

243 (a) Define information that shall be submitted to the
244 board with an application for a license;



245 (b) Establish guidelines for the administration and
246 maintenance of client and service records, including staff
247 qualifications and staff to client ratios;

248 (c) Recommend licensure in accordance with this
249 article;

250 (d) Establish and collect licensure fees;

251 (e) Investigate complaints regarding any licensee or
252 facility;

253 (f) Have access to all records, correspondence and
254 financial data required to be maintained by a licensee or
255 facility; and

256 (h) Have authority to direct the division to revoke,
257 suspend or extend any license for adoption services issued by the
258 division.

259 (5) The board shall establish reasonable fees to issue
260 licenses under this chapter. The board, at a minimum, shall:

261 (a) Establish a fee for submission of an application
262 for a license;

263 (b) Require annual renewal of the license with minimum
264 requirements for such renewal;

265 (c) Establish a fee for renewal of the license;

266 (d) Deposit all fees into the "Mississippi Adoption
267 Relief Fund";

268 (e) Establish a re-instatement of license fee;



269 (f) Require proof that the facility will be open to the
270 public for at least thirty (30) hours a week;

271 (g) Require proof that the facility has a physical
272 presence in the State of Mississippi sufficient to conduct all
273 services necessary in the performance of adoption services;

274 (h) Hire a third-party entity to assist with creating
275 licensure standards and process applications according to those
276 standards;

277 (i) Require adoption agencies to have an executive
278 director or comparable head officer that is domiciled in the State
279 of Mississippi; and

280 (j) Require adoption agencies to be Mississippi
281 nonprofit organizations.

282 (6) The department shall adopt and administer all licensure
283 requirements, rules and regulations, decisions on licensure
284 applications, license revocations, suspensions and all
285 promulgations, decisions and actions created and recommended by
286 the board pursuant to the board's statutory authority.

287 **SECTION 5.** Section 43-15-107, Mississippi Code of 1972, is
288 amended as follows:

289 43-15-107. (1) Except as provided in Section 43-15-111, no
290 person, agency, firm, corporation, association or other entity,
291 acting individually or jointly with any other person or entity,
292 may establish, conduct or maintain foster homes, residential
293 child-caring agencies and child-placing agencies or facility



294 and/or engage in child placing in this state without a valid and
295 current license issued by and under the authority of the division
296 as provided by this article and the rules of the division. No
297 person, agency, firm, corporation, association or other entity,
298 acting individually or jointly with any other person or entity,
299 whether or not they possess a child-placing agency license, may
300 perform adoption services as defined in this article without
301 possessing a license to perform adoption services recommended by
302 the board and issued by the division. Any out-of-state
303 child-placing agency that provides a full range of services,
304 including, but not limited to, adoptions, adoption services,
305 foster family homes, adoption counseling services or financial
306 aid, in this state must be licensed by the division under this
307 article.

308 (2) An attorney who provides legal services to a client in
309 connection with proceedings for the adoption of a child by the
310 client, who does not receive, accept or provide custody or care
311 for the child for the purposes specified in Section 43-15-103(c),
312 shall not be required to have a license under this article to
313 provide legal services.

314 (* * *3) No license issued under this article is assignable
315 or transferable.

316 (* * *4) A current license shall at all times be posted in
317 each licensee's facility, in a place that is visible and readily
318 accessible to the public.



319 (* * *5) (a) Except as otherwise provided in paragraph (b)
320 of this subsection, each license issued under this article expires
321 at midnight (Central Standard Time) twelve (12) months from the
322 date of issuance unless it has been:

323 (i) Previously revoked by the office; or
324 (ii) Voluntarily returned to the office by the
325 licensee.

326 (b) (i) For any adoption or child-placing agency
327 located in Mississippi that remains in good standing, the license
328 issued under this article expires at midnight (Central Standard
329 Time) twenty-four (24) months from the date of issuance unless it
330 has been:

331 1. Previously revoked by the office; or
332 2. Voluntarily returned to the office by the
333 licensee.

334 (ii) Any child-placing agency whose license is
335 governed by this paragraph (b) shall submit the following
336 information to the office annually:

337 1. A copy of an audit report and IRS Form 990
338 for the agency;

339 2. The agency's fee schedule; and

340 3. The agency's client list.

341 (c) A license may be renewed upon application and
342 payment of the applicable fee, provided that the licensee meets



343 the license requirements established by this article and the rules
344 and regulations of the division.

345 (* * *6) Any licensee or facility which is in operation at
346 the time rules are made in accordance with this article shall be
347 given a reasonable time for compliance as determined by the rules
348 of the division. In the case of an adoption agency, the
349 reasonable time for compliance shall be determined by the division
350 as recommended by the board.

351 **SECTION 6.** Section 43-15-109, Mississippi Code of 1972, is
352 amended as follows:

353 43-15-109. (1) An application for a license under this
354 article shall be made to the division and shall contain
355 information that the division determines is necessary in
356 accordance with established rules. An application for a license
357 for an adoption agency or to provide adoption services shall be
358 made to the division and the division shall refer the application
359 to the board for a determination that the application contains
360 information that is necessary in accordance with the established
361 rules.

362 (2) Information received by the office and/or the board
363 through reports, complaints, investigations and inspections shall
364 be classified as public in accordance with Title 25, Chapter 61,
365 Mississippi Code of 1972, Mississippi Public Records Act.

366 **SECTION 7.** Section 43-15-111, Mississippi Code of 1972, is
367 amended as follows:



368 43-15-111. The provisions of this article, do not apply to:

369 (a) A facility, service or program owned, provided or
370 operated by an agency of the State of Mississippi or United States
371 government;

372 (b) A facility or program operated by the Department of
373 Corrections or a company that is registered with the Mississippi
374 Secretary of State under an exclusive contract with the Department
375 of Corrections;

376 (c) Schools and educational programs and facilities
377 located in the State of Mississippi, the primary purpose of which
378 is to provide a regular course of study necessary for advancement
379 to a higher educational level or completion of a prescribed course
380 of study, and which may, incident to such educational purposes,
381 provide boarding facilities to the students of such programs.

382 (d) Any Mississippi residential child-caring agency
383 and/or child-placing agency operated or conducted under the
384 auspices of a religious institution and meeting the requirements
385 or conditions of this section shall be exempt from the licensure
386 requirements of this article under the following conditions: (i)
387 such religious institution must have a tax-exempt status as a
388 nonprofit religious institution in accordance with Section 501(c)
389 of the Internal Revenue Code of 1954, as amended, or the real
390 property owned and exclusively occupied by the religious
391 institution must be exempt from location taxation, * * * (ii) the
392 agency or institution must be in compliance with the requirements



393 of the Child Residential Home Notification Act, Section 43-16-1 et
394 seq., Mississippi Code of 1972, and must not be in violation of
395 Section 43-16-21(c) regarding the abuse and/or neglect of any
396 child served by such home who has been adjudicated by the youth
397 court as an abused and/or neglected child and (iii) must have a
398 physical office in the State of Mississippi. Nothing in this
399 paragraph shall prohibit a residential child-caring agency or
400 child-placing agency operated by or conducted under the auspices
401 of a religious institution from obtaining a license pursuant to
402 this article.

403 (e) Placement of custody under a power of attorney
404 executed under Section 93-31-1 et seq.

405 **SECTION 8.** Section 43-15-113, Mississippi Code of 1972, is
406 amended as follows:

407 43-15-113. (1) If a license other than an adoption license
408 is revoked, the division may grant a new license after:

409 (a) Satisfactory evidence is submitted to the division,
410 evidencing that the conditions upon which revocation was based
411 have been corrected; and

412 (b) Inspection and compliance with all provisions of
413 this article and applicable rules.

414 (2) The division may only suspend a license for a period of
415 time which does not exceed the current expiration date of that
416 license.



417 (3) When a license has been suspended, the division may
418 completely or partially restore the suspended license upon a
419 determination that the:

420 (a) Conditions upon which the suspension was based have
421 been completely or partially corrected; and

422 (b) Interests of the public will not be jeopardized by
423 restoration of the license.

424 (4) If a license to perform adoption services is revoked,
425 the board may recommend to the division to grant a new license
426 after:

427 (a) Satisfactory evidence is submitted to the board,
428 evidencing that the conditions upon which revocation was based
429 have been corrected;

430 (b) Inspection and compliance with all provisions of
431 this article and applicable rules; and

432 (c) Full payment of the re-instatement fee, if any
433 charged.

434 (5) The board may recommend to the division the suspension
435 of adoption agency for a period of time which does not exceed the
436 current expiration date of that license determined to be necessary
437 by the board.

438 (6) When an adoption license has been suspended, the board
439 may recommend to the division to completely or partially restore
440 the suspended license upon a determination that the:



441 (a) Conditions upon which the suspension was based have
442 been completely or partially corrected;

443 (b) Interests of the public will not be jeopardized by
444 restoration of the license; and

445 (c) All fees that have been assessed by the division
446 have been paid, unless a different time for repayment has been
447 determined by the board.

448 **SECTION 9.** Section 43-15-115, Mississippi Code of 1972, is
449 amended as follows:

450 43-15-115. (1) The division may, for the purpose of
451 ascertaining compliance with the provisions of this article and
452 its rules and regulations, enter and inspect on a routine basis
453 the facility of a licensee.

454 (2) Before conducting an inspection under subsection (1),
455 the division shall, after identifying the person in charge:

456 (a) Give proper identification;

457 (b) Request to see the applicable license;

458 (c) Describe the nature and purpose of the inspection;

459 and

460 (d) If necessary, explain the authority of the division
461 to conduct the inspection and the penalty for refusing to permit
462 the inspection.

463 (3) In conducting an inspection under subsection (1), the
464 division may, after meeting the requirements of subsection (2):

465 (a) Inspect the physical facilities;



466 (b) Inspect records and documents;
467 (c) Interview directors, employees, clients, family
468 members of clients and others; and
469 (d) Observe the licensee in operation.
470 (4) An inspection conducted under subsection (1) shall be
471 during regular business hours and may be announced or unannounced.
472 (5) The licensee shall make copies of inspection reports
473 available to the public upon request.
474 (6) The provisions of this section apply to on-site
475 inspections and do not restrict the division from contacting
476 family members, neighbors or other individuals, or from seeking
477 information from other sources to determine compliance with the
478 provisions of this article.
479 (7) In the event that the licensee is an adoption agency or
480 other person or entity licensed to perform adoption services, the
481 division may enlist the board to perform the inspection as
482 outlined above.

483 **SECTION 10.** Section 43-15-117, Mississippi Code of 1972, is
484 amended as follows:

485 43-15-117. (1) Except as provided in this article, no
486 person, agency, firm, corporation, association or group children's
487 home may engage in adoption services, child placing, or solicit
488 money or other assistance for child placing, without a valid
489 license issued by the division. No out-of-state adoption agency
490 and/or child-placing agency that provides a full range of



491 services, including, but not limited to, adoptions, foster family
492 homes, adoption counseling services or other adoption services or
493 financial aid, may operate in this state without a valid license
494 issued by the division. No adoption agency, child-placing agency
495 or any other person or entity shall advertise in the media markets
496 in Mississippi seeking birth mothers or their children for
497 adoption purposes unless the agency holds a valid and current
498 license issued * * * by the division * * *. Any adoption agency,
499 child-placing agency, physician or attorney who advertises for
500 child placing or adoption services in Mississippi shall be
501 required by the division to show their principal office location
502 on all media advertising for adoption services.

503 (2) An attorney who provides legal services to a client in
504 connection with proceedings for the adoption of a child by the
505 client, who does not receive, accept or provide custody or care
506 for the child for the purposes specified in Section 43-15-103(c),
507 shall not be required to have a license under this article to
508 provide those legal services.

509 (3) (a) No monies shall be paid or otherwise dispersed by
510 any attorney or adoption agency to any unlicensed person or entity
511 for any service or other such claim for payment in connection with
512 an adoption. This does not apply to attorneys making payments
513 that are permitted by Mississippi Rule of Professional Conduct
514 5.4. Nor does this apply to any payments made by a Mississippi
515 licensed adoption agency to its staff, employees or other such



516 persons or entities usual and customary for operating a licensed
517 adoption agency.

518 (b) A full disclosure of all fees and monies paid or
519 otherwise dispersed in an adoption shall be made to the court of
520 competent jurisdiction for the purpose of proving that all fees
521 and monies otherwise dispersed in facilitating the adoption were
522 paid in compliance with this article.

523 (3) An attorney, physician or other person may assist a
524 parent in identifying or locating a person interested in adopting
525 the parent's child, or in identifying or locating a child to be
526 adopted. However, no payment, charge, fee, reimbursement of
527 expense, or exchange of value of any kind, or promise or agreement
528 to make the same, may be made for that assistance.

529 (4) Nothing in this section precludes payment of reasonable
530 fees for medical, legal or other lawful services rendered in
531 connection with the care of a mother, delivery and care of a child
532 including, but not limited to, the mother's living expenses, or
533 counseling for the parents and/or the child, and for the legal
534 proceedings related to lawful adoption proceedings; and no
535 provision of this section abrogates the right of procedures for
536 independent adoption as provided by law.

537 (5) The * * * department is specifically authorized to
538 promulgate rules under the Administrative Procedures Law, Title
539 25, Chapter 43, Mississippi Code of 1972, to regulate fees charged
540 by licensed child-placing agencies, if it determines that the



541 practices of those licensed child-placing agencies demonstrates
542 that the fees charged are excessive or that any of the agency's
543 practices are deceptive or misleading; however, those rules
544 regarding fees shall take into account the use of any sliding fee
545 by an agency that uses a sliding fee procedure to permit
546 prospective adoptive parents of varying income levels to utilize
547 the services of those agencies or persons.

548 (6) The division shall promulgate rules under the
549 Administrative Procedures Law, Title 25, Chapter 43, Mississippi
550 Code of 1972, to require that all licensed * * * adoption agencies
551 provide written disclosures to all prospective adoptive parents of
552 any fees or other charges for each service performed by the agency
553 or person, and file an annual report with the division that states
554 the fees and charges for those services, and to require them to
555 inform the division in writing thirty (30) days in advance of any
556 proposed changes to the fees or charges for those services.

557 (7) The division is specifically authorized to disclose to
558 prospective adoptive parents or other interested persons any fees
559 charged by any licensed child-placing agency, attorney or
560 counseling service or counselor for all legal and counseling
561 services provided by that licensed child-placing agency, attorney
562 or counseling service or counselor.

563 **SECTION 11.** Section 43-15-119, Mississippi Code of 1972, is
564 amended as follows:



565 43-15-119. (1) If the division finds that a violation has
566 occurred under this article or the rules and regulations of the
567 division, it may:

568 (a) Deny, suspend or revoke a license or place the
569 licensee on probation, if the division discovers that a licensee
570 is not in compliance with the laws, standards or regulations
571 governing its operation, and/or it finds evidence of aiding,
572 abetting or permitting the commission of any illegal act; or

573 (b) Restrict or prohibit new admissions to the
574 licensee's program or facility, if the division discovers that a
575 licensee is not in compliance with the laws, standards or
576 regulations governing its operation, and/or it finds evidence of
577 aiding, abetting or permitting the commission of any illegal act.

578 (2) If placed on probation, the agency or licensee shall
579 post a copy of the notice in a conspicuous place as directed by
580 the division and with the agency's or individual's license, and
581 the agency shall notify the custodians of each of the children in
582 its care in writing of the agency's status and the basis for the
583 probation.

584 (3) In the event that the licensed agency is an adoption
585 agency or other person or entity licensed to perform adoption
586 services in this state, then the division may enlist the board to
587 determine whether or not the licensed adoption agency or other
588 person or entity licensed to perform adoption services in this
589 state is in violation of the rules and regulations of this article



590 and may enlist the board to respond in accordance with the action
591 listed above.

592 **SECTION 12.** Section 43-15-123, Mississippi Code of 1972, is
593 amended as follows:

594 43-15-123. (1) Any person, agency, association,
595 corporation, institution, society or other organization
596 violating * * * any provisions of this article, other than a
597 provision regarding adoption, shall be guilty of illegal placement
598 of children and shall be punished by a fine not to exceed Five
599 Thousand Dollars (\$5,000.00) or by imprisonment not more than five
600 (5) years, or both such fine and imprisonment.

601 (2) Any person, agency, association, corporation,
602 institution, society or other organization violating the
603 provisions of this article regarding adoption and/or adoption
604 services shall be guilty of illegal placement of children and
605 shall be punished by a fine not to exceed Fifty Thousand Dollars
606 (\$50,000.00) or by imprisonment not more than five (5) years, or
607 both such fine and imprisonment.

608 **SECTION 13.** Section 43-15-125, Mississippi Code of 1972, is
609 amended as follows:

610 43-15-125. The Department of Human Services and/or its
611 officers, employees, attorneys and representatives and/or the
612 board shall not be held civilly liable for any findings,
613 recommendations or actions taken pursuant to this article.



614 **SECTION 14.** This act shall take effect and be in force from
615 and after July 1, 2023.

