

By: Senator(s) McCaughn, Suber, Barrett,
Boyd

To: Judiciary, Division A

SENATE BILL NO. 2038

1 AN ACT TO AMEND SECTION 93-17-3, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THAT A CERTIFICATE ATTACHED TO AN ADOPTION PETITION MAY BE
3 EXECUTED BY A PHYSICIAN LICENSED UNDER CHAPTER 25, TITLE 73,
4 MISSISSIPPI CODE OF 1972; AND FOR RELATED 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, unless the court determines
41 that the home study is not necessary in the case of an adoption by
42 a stepparent or a relative or in the case of an adoption in a
43 foster-to-adopt placement;



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

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

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

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

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



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

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

78 (b) The court of this state has jurisdiction over the
79 proceeding.

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



94 accompanied by a * * * physician's or nurse practitioner's
95 certificate showing the physical and mental condition of the child
96 to be adopted and a sworn statement of all property, if any, owned
97 by the child. In addition, the petition shall be accompanied by
98 affidavits of the petitioner or petitioners stating the amount of
99 the service fees charged by any adoption agencies or adoption
100 facilitators used by the petitioner or petitioners and any other
101 expenses paid by the petitioner or petitioners in the adoption
102 process as of the time of filing the petition. If the * * *
103 physician's or nurse practitioner's certificate indicates any
104 abnormal mental or physical condition or defect, the condition or
105 defect shall not, in the discretion of the chancellor, bar the
106 adoption of the child if the adopting parent or parents file an
107 affidavit stating full and complete knowledge of the condition or
108 defect and stating a desire to adopt the child, notwithstanding
109 the condition or defect. The court shall have the power to change
110 the name of the child as a part of the adoption proceedings. The
111 word "child" in this section shall be construed to refer to the
112 person to be adopted, though an adult. The word "physician" in
113 this section shall mean a person licensed under Chapter 25, Title
114 73, Mississippi Code of 1972.

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 Child Protection Services on
122 the prospective adoptive parties if required by Section 93-17-11.

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

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

142 (8) The readoption of a child who has automatically acquired
143 United States citizenship following an adoption in a foreign



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

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

154 (10) The clerk shall docket cases seeking relief under this
155 chapter as priority cases. The assigned judge shall be
156 immediately notified when a case is filed in order to provide for
157 expedited proceedings.

158 Once the petition for termination of parental rights is filed
159 with the court of competent jurisdiction, the court shall hold a
160 hearing on the petition within one hundred twenty (120) calendar
161 days of the date the petition is filed. For purposes of this
162 section, the one hundred twenty (120) calendar day time period
163 will commence when perfected service is made on the parents.

164 **SECTION 2.** This act shall take effect and be in force from
165 and after July 1, 2024.

