

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.

