

By: Senator(s) Hill

To: Judiciary, Division A

SENATE BILL NO. 2813

1 AN ACT TO CREATE NEW SECTION 1-3-82, MISSISSIPPI CODE OF
 2 1972, TO DEFINE THE WORD "FEMALE" WHEN USED IN ANY STATUTE; TO
 3 CREATE NEW SECTION 1-3-83, MISSISSIPPI CODE OF 1972, TO DEFINE THE
 4 WORD "MALE" WHEN USED IN ANY STATUTE; TO CREATE NEW SECTION
 5 1-3-84, MISSISSIPPI CODE OF 1972, TO DEFINE THE WORD "SEX" WHEN
 6 USED IN ANY STATUTE; TO CREATE NEW SECTION 41-57-8, MISSISSIPPI
 7 CODE OF 1972, TO REQUIRE THAT A BIRTH CERTIFICATE MUST INCLUDE,
 8 BUT NOT BE LIMITED TO, THE CHILD'S NAME, THE CHILD'S PARENTS'
 9 NAMES, IF KNOWN, THE BIRTHPLACE OF THE CHILD, THE SEX OF THE
 10 CHILD, IDENTIFIED AS MALE OR FEMALE, AS APPLICABLE; TO PROVIDE
 11 THAT THE DESIGNATION OF THE SEX OF AN INDIVIDUAL ON A BIRTH
 12 CERTIFICATION SHALL NOT BE CHANGED UNLESS A MISTAKE WAS MADE AT
 13 THE TIME THE BIRTH CERTIFICATE WAS ISSUED; TO AMEND SECTIONS
 14 41-57-21, 41-57-23, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
 15 PROVISIONS OF THE ACT; AND FOR RELATED PURPOSES.

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

17 **SECTION 1.** The following shall be codified as Section
 18 1-3-82, Mississippi Code of 1972:

19 1-3-82. The term "female," when used in any statute, means
 20 a member of the human species that, under normal development,
 21 produces a relatively large, immobile gamete, or egg, during her
 22 life cycle and has a reproductive and endocrine system oriented
 23 around the production of that gamete.



24 **SECTION 2.** The following shall be codified as Section
25 1-3-83, Mississippi Code of 1972:

26 1-3-83. The term "male," when used in any statute, means a
27 member of the human species that, under normal development,
28 produces small, mobile gametes, or sperm, during his life cycle
29 and has a reproductive and endocrine system oriented around the
30 production of that gamete.

31 **SECTION 3.** The following shall be codified as Section
32 1-3-84, Mississippi Code of 1972:

33 1-3-84. The term "sex," when used in any statute, means the
34 biological indication of male and female in the context of
35 reproductive potential or capacity, such as sex chromosomes,
36 naturally occurring sex hormones, gonads, and nonambiguous
37 internal and external genitalia present at birth, without regard
38 to an individual's psychological, chosen, or subjective experience
39 of gender.

40 **SECTION 4.** The following shall be codified as Section
41 41-57-8, Mississippi Code of 1972:

42 41-57-8. (1) A birth certificate shall include, but not be
43 limited to, the following information:

- 44 (a) The child's full name and surname;
45 (b) The child's parents' full names and surnames, if
46 known;
47 (c) The birthplace of the child; and



48 (d) The sex of the child, identified as male or female
49 as applicable.

50 (2) A birth certificate shall not be altered except in
51 accordance with Section 41-57-23.

52 (3) The designation of the sex of an individual on a birth
53 certification shall not be changed unless a mistake was made at
54 the time the birth certificate was issued.

55 **SECTION 5.** Section 41-57-21, Mississippi Code of 1972, is
56 amended as follows:

57 41-57-21. (1) Where there has been a bona fide effort to
58 register a birth and the certificate thereof on file with the
59 office of vital records does not divulge all of the information
60 required by said certificate, or such certificate contains an
61 incorrect first name, middle name, or sex, then the State
62 Registrar of Vital Records may, in his discretion, correct such
63 certificate upon affidavit of at least two (2) reputable persons
64 having personal knowledge of the facts in relation thereto. All
65 other alterations shall be made as provided in Section 41-57-23.
66 Anyone giving false information in such affidavit shall be subject
67 to the penalties of perjury.

68 (2) The designation of the sex of an individual on a birth
69 certification shall not be changed unless a mistake was made at
70 the time the birth certificate was issued.

71 **SECTION 6.** Section 41-57-23, Mississippi Code of 1972, is
72 amended as follows:



73 41-57-23. (1) Any petition, bill of complaint or other
74 proceeding filed in the chancery court to: (a) change the date of
75 birth by two (2) or more days, (b) change the surname of a child,
76 (c) change the surname of either or both parents, (d) change the
77 birthplace of the child because of an error or omission of such
78 information as originally recorded, or (e) make any changes or
79 additions to a birth certificate resulting from a legitimation,
80 filiation or any changes not specifically authorized elsewhere by
81 statute, shall be filed in the county of residence of the
82 petitioner or filed in any chancery court district of the state if
83 the petitioner be a nonresident petitioner. In all such
84 proceedings, the State Board of Health shall be made a respondent
85 therein, and a certified copy of the petition, bill of complaint
86 or other proceeding shall be forwarded to the State Board of
87 Health. Process may be served upon the State Registrar of Vital
88 Records. The State Board of Health shall file an answer to all
89 such proceedings within the time as provided by general law. The
90 provisions of this section shall not apply to adoption
91 proceedings. Upon receipt of a certified copy of a decree, which
92 authorizes and directs the State Board of Health to alter the
93 certificate, it shall comply with all of the provisions of such
94 decree.

95 (2) (a) If a petition, bill of complaint or other
96 proceeding is filed in the Tribal Court of the Mississippi Band of
97 Choctaw Indians for any of the purposes described in paragraphs



98 (a) through (e) of subsection (1) with regard to the birth
99 certificate of a person of Mississippi Choctaw descent, the tribal
100 court shall have the same authority as the chancery court would
101 have to make any of those changes described in those paragraphs in
102 subsection (1), and the State Board of Health shall comply with a
103 decree from the tribal court in the same manner as if the decree
104 was issued by the chancery court. In all those proceedings in the
105 tribal court, the State Board of Health shall be made a respondent
106 therein, and a certified copy of the petition, bill of complaint
107 or other proceeding shall be forwarded to the State Board of
108 Health.

109 (b) The Tribal Court of the Mississippi Band of Choctaw
110 Indians is not the exclusive venue for making changes to the birth
111 certificates of persons of Mississippi Choctaw descent, and
112 changes to the birth certificates of persons of Mississippi
113 Choctaw descent may also be made in proceedings in the chancery
114 court.

115 (c) Nothing in this subsection shall be construed to
116 enlarge the subject matter jurisdiction of the Tribal Court of the
117 Mississippi Band of Choctaw Indians.

118 (3) If a child is born to a mother who was not married at
119 the time of conception or birth, or at any time between conception
120 and birth, and the natural father acknowledges paternity, the name
121 of the father shall be added to the birth certificate if a
122 notarized affidavit by both parents acknowledging paternity is



123 received on the form prescribed or as provided in Section 93-9-9.
124 The surname of the child shall be that of the father except that
125 an affidavit filed at birth by both listed mother and father may
126 alter this rule. In the event the mother was married at the time
127 of conception or birth, or at any time between conception and
128 birth, or if a father is already listed on the birth certificate,
129 action must be taken under Section 41-57-23(1) to add or change
130 the name of the father.

131 (4) (a) A signed voluntary acknowledgment of paternity is
132 subject to the right of any signatory to rescind the
133 acknowledgment within the earlier of:

134 (i) One (1) year; or

135 (ii) The date of a judicial proceeding relating to
136 the child, including a proceeding to establish a support order, in
137 which the signatory is a party.

138 (b) After the expiration of the one-year period
139 specified in paragraph (a)(i) of this subsection, a signed
140 voluntary acknowledgment of paternity may be challenged in court
141 only on the basis of fraud, duress, or material mistake of fact,
142 with the burden of proof upon the challenger; the legal
143 responsibilities, including child support obligations, of any
144 signatory arising from the acknowledgment may not be suspended
145 during the pendency of the challenge, except for good cause shown.



146 (5) The designation of the sex of an individual on a birth
147 certification shall not be changed unless a mistake was made at
148 the time the birth certificate was issued.

149 **SECTION 7.** This act shall take effect and be in force from
150 and after July 1, 2024.

