

By: Representative Owen

To: Judiciary B

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1337

1 AN ACT TO AMEND SECTION 93-17-1, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE ADULT ADOPTIONS IN CHANCERY COURT; TO AMEND SECTION  
3 93-17-3, MISSISSIPPI CODE OF 1972, TO CONFORM TO ADULT ADOPTION  
4 AUTHORIZATION; TO AMEND SECTION 93-17-5, MISSISSIPPI CODE OF 1972,  
5 TO AUTHORIZE INVESTIGATION BY GUARDIAN AD LITEM OR CONSERVATOR FOR  
6 DISABLED ADULTS; TO BRING FORWARD SECTIONS 93-17-11, 93-17-21,  
7 93-17-27, 93-17-29 AND 93-17-31, MISSISSIPPI CODE OF 1972, WHICH  
8 PROVIDE PROCEDURES FOR ADOPTION, FOR PURPOSES OF AMENDMENT; AND  
9 FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 93-17-1, Mississippi Code of 1972, is  
12 amended as follows:

13 93-17-1. (1) The chancery court or the chancellor in  
14 vacation, of the county of the residence of the petitioners shall  
15 have jurisdiction upon the petition of any person to alter the  
16 names of such person, to make legitimate any living offspring of  
17 the petitioner not born in wedlock, and to decree said offspring  
18 to be an heir of the petitioner.

19 (2) An illegitimate child shall become a legitimate child of  
20 the natural father if the natural father marries the natural  
21 mother and acknowledges the child.



(3) An adult may be adopted under any one of the following conditions:

(a) He or she consents in writing to be adopted; or

(b) He or she is determined to be a person with an intellectual disability.

**SECTION 2.** Section 93-17-3, Mississippi Code of 1972, is amended as follows:

93-17-3. (1) Except as otherwise provided in this section, a court of this state has jurisdiction over a proceeding for the adoption or readoption of a minor or an adult commenced under this chapter if:

(a) Immediately before commencement of the proceeding, the minor or adult lived in this state with a parent, a guardian, a prospective adoptive parent or another person acting as parent, for at least six (6) consecutive months, excluding periods of temporary absence, or, in the case of a minor under six (6) months of age, lived in this state from soon after birth with any of those individuals and there is available in this state substantial evidence concerning the minor's present or future care;

(b) Immediately before commencement of the proceeding, the prospective adoptive parent lived in this state for at least six (6) consecutive months, excluding periods of temporary absence, and there is available in this state substantial evidence concerning the minor's present or future care;



46 (c) The agency that placed the minor for adoption is  
47 licensed in this state and it is in the best interest of the minor  
48 that a court of this state assume jurisdiction because:

49 (i) The minor and the minor's parents, or the  
50 minor and the prospective adoptive parent, have a significant  
51 connection with this state; and

52 (ii) There is available in this state substantial  
53 evidence concerning the minor's present or future care;

54 (d) The minor or adult and the prospective adoptive  
55 parent or parents are physically present in this state and the  
56 minor or adult has been abandoned or it is necessary in an  
57 emergency to protect the minor or adult because \* \* \* he or she  
58 has been subjected to or threatened with mistreatment or abuse or  
59 is otherwise neglected, and the prospective adoptive parent or  
60 parents, if not residing in Mississippi, and if the person to be  
61 adopted is a minor child, have completed and provided the court  
62 with a satisfactory Interstate Compact for Placement of Children  
63 (ICPC) home study and accompanying forms, unless the court  
64 determines that the home study is not necessary in the case of an  
65 adoption by a stepparent or a relative or in the case of an  
66 adoption in a foster-to-adopt placement;

67 (e) It appears that no other state would have  
68 jurisdiction under prerequisites substantially in accordance with  
69 paragraphs (a) through (d), or another state has declined to  
70 exercise jurisdiction on the ground that this state is the more



71 appropriate forum to hear a petition for adoption of the minor or  
72 adult, and it is in the best interest of the minor or adult that a  
73 court of this state assume jurisdiction; or

74 (f) The child or adult has been adopted in a foreign  
75 country, the agency that placed the minor or adult for adoption is  
76 licensed in this state, and it is in the best interest of  
77 the \* \* \* person to be readopted in a court of this state having  
78 jurisdiction.

79 (2) A court of this state may not exercise jurisdiction over  
80 a proceeding for adoption of a minor if, at the time the petition  
81 for adoption is filed, a proceeding concerning the custody or  
82 adoption of the minor is pending in a court of another state  
83 exercising jurisdiction substantially in conformity with the  
84 Uniform Child Custody Jurisdiction Act or this section unless the  
85 proceeding is stayed by the court of the other state.

86 (3) If a court of another state has issued a decree or order  
87 concerning the custody of a minor who may be the subject of a  
88 proceeding for adoption in this state, a court of this state may  
89 not exercise jurisdiction over a proceeding for adoption of the  
90 minor unless:

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

93 (i) Does not have continuing jurisdiction to  
94 modify the decree or order under jurisdictional prerequisites  
95 substantially in accordance with the Uniform Child Custody



Jurisdiction Act or has declined to assume jurisdiction to modify  
the decree or order; or

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

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

(4) Any \* \* \* minor or adult may be adopted in accordance  
with the provisions of this chapter in term time or in vacation by  
an unmarried adult, by a married person whose spouse joins in the  
petition, by a married person whose spouse does not join in the  
petition because such spouse does not cohabit or reside with the  
petitioning spouse, and in any circumstances determined by the  
court that the adoption is in the best interest of the child or  
adult. Only the consenting adult will be a legal parent of the  
child or adult. The adoption shall be by sworn petition filed in  
the chancery court of the county in which the adopting petitioner  
or petitioners reside or in which the child or adult to be adopted  
resides or was born, or was found when it was abandoned or  
deserted, or in which the home is located to which the child or  
adult has been surrendered by a person authorized to so do. The  
petition shall be accompanied by a doctor's or nurse  
practitioner's certificate showing the physical and mental  
condition of the child or adult to be adopted and a sworn



statement of all property, if any, owned by the child. In addition, the petition shall be accompanied by affidavits of the petitioner or petitioners stating the amount of the service fees charged by any adoption agencies or adoption facilitators used by the petitioner or petitioners and any other expenses paid by the petitioner or petitioners in the adoption process as of the time of filing the petition. If the doctor's or nurse practitioner's certificate indicates any abnormal mental or physical condition or defect, the condition or defect shall not, in the discretion of the chancellor, bar the adoption of the child or adult if the adopting parent or parents file an affidavit stating full and complete knowledge of the condition or defect and stating a desire to adopt the child, notwithstanding the condition or defect. The court shall have the power to change the name of the child as a part of the adoption proceedings. \* \* \*

(5) No \* \* \* child may be placed in the home of or adopted by the prospective adopting parties before a court-ordered or voluntary home study is satisfactorily completed by a licensed adoption agency, a licensed, experienced social worker approved by the chancery court, a court-appointed guardian ad litem that has knowledge or training in conducting home studies if so directed by the court, or by the Department of Child Protection Services on the prospective adoptive parties if required by Section 93-17-11.

(6) No \* \* \* child may be adopted by a person or persons who reside outside the State of Mississippi unless the provisions of



the Interstate Compact for Placement of Children (Section 43-18-1 et seq.) have been complied with. In such cases Forms 100A, 100B (if applicable) and evidence of Interstate Compact for Placement of Children approval shall be added to the permanent adoption record file within one (1) month of the placement, and a minimum of two (2) post-placement reports conducted by a licensed child-placing agency shall be provided to the Mississippi Department of Child Protection Services Interstate Compact for Placement of Children office.

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

(8) The readoption of a child who has automatically acquired United States citizenship following an adoption in a foreign country and who possesses a Certificate of Citizenship in accordance with the Child Citizenship Act, CAA, Public Law 106-395, may be given full force and effect in a readoption proceeding conducted by a court of competent jurisdiction in this state by compliance with the Mississippi Registration of Foreign Adoptions Act, Article 9 of this chapter.



(9) \* \* \* The petition requirements and procedural requirements within subsections (4), (5), (6) and (7) of this section shall not apply to adult adoptees who consent to the adoption.

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

**SECTION 3.** Section 93-17-5, Mississippi Code of 1972, is amended as follows:

93-17-5. (1) There shall be made parties to the proceeding by process or by the filing therein of a consent to the adoption proposed in the petition, which consent shall be duly sworn to or acknowledged and executed only by the following persons, but not before seventy-two (72) hours after the birth of the child:

(a) The parents, or parent, if only one (1) parent, though either be under the age of twenty-one (21) years;

(b) If both parents are dead, then any two (2) adult kin of the child within the third degree computed according to the civil law; if one of such kin is in possession of the child, he or she shall join in the petition or be made a party to the suit; or

(c) The guardian ad litem of an abandoned child, upon petition showing that the names of the parents of the child are unknown after diligent search and inquiry by the petitioners. In addition to the above, there shall be made parties to any





proceeding to adopt a child, either by process or by the filing of a consent to the adoption proposed in the petition, the following:

(i) Those persons having physical custody of the child, except persons who are acting as foster parents as a result of placement with them by the Department of Child Protection Services of the State of Mississippi.

(ii) Any person to whom custody of the child may have been awarded by a court of competent jurisdiction of the State of Mississippi.

(iii) The agent of the Department of Child Protection Services of the State of Mississippi that has placed a child in foster care, either by agreement or by court order.

(2) The consent may also be executed and filed by the duly authorized officer or representative of a home to whose care the child has been delivered. The child shall join the petition by the child's next friend.

(3) If consent is not filed, process shall be had upon the parties as provided by law for process in person or by publication, if they are nonresidents of the state or are not found therein after diligent search and inquiry, the court or chancellor in vacation may fix a date in termtime or in vacation to which process may be returnable and shall have power to proceed in termtime or vacation. In any event, if the child is more than fourteen (14) years of age, a consent to the adoption, sworn to or acknowledged by the child, shall also be required or personal



service of process shall be had upon the child in the same manner and in the same effect as if the child were an adult.

(4) When the person sought to be adopted is an adult, only the sworn, written consent of the adult person sought to be adopted shall be required and no order of reference or any home studies need be issued. If the adult person to be adopted has been adjudicated incompetent, the written consent of the adult person's guardian or conservator shall be required. If the adult person is without a spouse, guardian, or conservator and the court has reason to believe that the adult person is incompetent to give consent, the court shall appoint a guardian ad litem who shall investigate the adult person's circumstances and that guardian ad litem shall give or withhold consent. The guardian ad litem shall file a written report stating the basis for the decision and the court shall afford a hearing to all parties to present evidence as to the best interest of the adult person, and if the court determines upon clear and convincing evidence that the decision to withhold consent by the guardian ad litem is arbitrary and is not in the best interests of the incompetent adult person, it may proceed to make any other orders it deems necessary for the adult person's welfare, including granting the petition for adoption.

**SECTION 4.** Section 93-17-11, Mississippi Code of 1972, is brought forward as follows:

93-17-11. (1) At any time after the filing of the petition for adoption and completion of process thereon, and before the



246 entering of a final decree, the court may, in its discretion, of  
247 its own motion or on motion of any party to the proceeding,  
248 require an investigation and report to the court to be made by any  
249 person, officer or home as the court may designate and direct  
250 concerning the child, and shall require in adoptions except as  
251 provided in subsection (4) of this section, other than those in  
252 which the petitioner or petitioners are a relative or stepparent  
253 of the child, that a home study be performed of the petitioner or  
254 petitioners by a licensed adoption agency or by the Department of  
255 Human Services, at the petitioner's or petitioners' sole expense  
256 and at no cost to the state or county. The investigation and  
257 report shall give the material facts upon which the court may  
258 determine whether the child is a proper subject for adoption,  
259 whether the petitioner or petitioners are suitable parents for the  
260 child, whether the adoption is to its best interest, and any other  
261 facts or circumstances that may be material to the proposed  
262 adoption. The home study shall be considered by the court in  
263 determining whether the petitioner or petitioners are suitable  
264 parents for the child. The court, when an investigation and  
265 report are required by the court or by this section, shall stay  
266 the proceedings in the cause for such reasonable time as may be  
267 necessary or required in the opinion of the court for the  
268 completion of the investigation and report by the person, officer  
269 or home designated and authorized to make the same.



(2) Upon the filing of that consent or the completion of the process and the filing of the investigation and report, if required by the court or by this section, and the presentation of such other evidence as may be desired by the court, if the court determines that it is to the best interests of the child that an interlocutory decree of adoption be entered, the court may thereupon enter an interlocutory decree upon such terms and conditions as may be determined by the court, in its discretion, but including therein that the complete care, custody and control of the child shall be vested in the petitioner or petitioners until further orders of the court and that during such time the child shall be and remain a ward of the court. If the court determines by decree at any time during the pendency of the proceeding that it is not to the best interests of the child that the adoption proceed, the petitioners shall be entitled to at least five (5) days' notice upon their attorneys of record and a hearing with the right of appeal as provided by law from a dismissal of the petition; however, the bond perfecting the appeal shall be filed within ten (10) days from the entry of the decree of dismissal and the bond shall be in such amount as the chancellor may determine and supersedeas may be granted by the chancellor or as otherwise provided by law for appeal from final decrees.

(3) After the entry of the interlocutory decree and before entry of the final decree, the court may require such further and



295 additional investigation and reports as it may deem proper. The  
296 rights of the parties filing the consent or served with process  
297 shall be subject to the decree but shall not be divested until  
298 entry of the final decree.

299 (4) The court may determine that a home study in an adoption  
300 is not necessary in the case of an adoption by a stepparent or a  
301 relative or in the case of an adoption in a foster-to-adopt  
302 placement.

303 **SECTION 5.** Section 93-17-21, Mississippi Code of 1972, is  
304 brought forward as follows:

305 93-17-21. (1) A certified copy of the final decree shall be  
306 furnished to the Bureau of Vital Statistics, together with a  
307 certificate signed by the clerk giving the true or original name  
308 and the place and date of birth of the child. The said bureau  
309 shall prepare a revised birth certificate which shall contain the  
310 original date of birth, with the place of birth being shown as the  
311 residence of the adoptive parents at the time the child was born,  
312 but with the names of the adopting parents and the new name of the  
313 child. In all other particulars, the certificate shall show the  
314 true facts of birth. The fact that a revised birth certificate is  
315 issued shall be indicated only by code numbers or some letter  
316 inconspicuously placed on the face of the certificate. The word  
317 "revised" shall not appear thereon. However, in the event an  
318 unmarried adult shall be the adopting parent, then such birth  
319 certificate may show thereon, upon order of the chancellor as set



320 forth in the decree of adoption, that same is a revised birth  
321 certificate, giving the court where said decree was issued and the  
322 date of such decree. The original birth certificate shall be  
323 removed and placed, with reference made to the decree of adoption,  
324 in a safely locked drawer or vault, and the same shall not be  
325 public records and shall not be divulged except upon the order of  
326 the court rendering the said final decree or pursuant to Sections  
327 93-17-201 through 93-17-223, and for all purposes the revised  
328 certificate shall be and become the birth certificate of the  
329 child. However, the Bureau of Vital Statistics of the State of  
330 Mississippi shall be required to prepare and register revised  
331 certificates only for births which occurred in the State of  
332 Mississippi as shown either by the court decree or by the original  
333 birth record on file in the bureau; but if the birth occurred in  
334 some other state, then the Director of the Bureau of Vital  
335 Statistics of the State of Mississippi shall be required to  
336 furnish to the attorney or other person representing the adopted  
337 child the name and address of the proper official in the state  
338 where the child was born, to whom the adoption decree and other  
339 information may be referred for appropriate action, and shall  
340 furnish to such attorney the certified copy of the decree and the  
341 certificate furnished by the clerk.

342 (2) Provided, however, notwithstanding anything herein to  
343 the contrary, either an original or a revised birth certificate  
344 may be issued, as hereinafter provided, by the Bureau of Vital



Statistics to any child who was born outside the United States or its possessions and adopted, either heretofore or hereafter, by an order of a court in this state. Upon presentation of a certified copy of the final decree of adoption containing the required information, the Director of the Bureau of Vital Statistics shall be authorized and directed to receive said certified copy of the decree of adoption and prepare therefrom, and record, a birth certificate which shall disclose the following information: The name of the child (being the adopted name), race, sex, date of birth, place of birth (being the actual town, district and county of said child's birth, except where the child is born in a penal or mental institution where the name of the county shall be sufficient), names, race, ages, places of birth and occupation of parents (being the adoptive parents) including the maiden name of the adoptive mother. Such certificate shall comport in appearance and indicia with the foregoing requirements for a "revised" certificate issued to a child born in this state. The Director of the Bureau of Vital Statistics shall be authorized and directed to issue certified copies thereof, the same as if the birth certificate were that of a child who had never been adopted.

**SECTION 6.** Section 93-17-27, Mississippi Code of 1972, is brought forward as follows:

93-17-27. No reference shall be required to be made to the marital status of the natural parents of the child nor shall any



allegation or recital be made therein that the child was born out of wedlock in any petition filed or decree entered upon consent.

**SECTION 7.** Section 93-17-29, Mississippi Code of 1972, is brought forward as follows:

93-17-29. The docket entries and decrees spread upon the minutes of the court shall not refer to names of the natural parent or parents nor to the original name of the child. In the decree reference to the child shall be by the name to be conferred upon it by the court rather than by its original name if the name of the child is to be changed. The style of the cause and the docket entry thereof shall recite only the names of the petitioners and that the case is for the adoption of a child described in the petition.

**SECTION 8.** Section 93-17-31, Mississippi Code of 1972, is brought forward as follows:

93-17-31. The several chancery clerks shall obtain and keep a separate, confidential index showing the true name of the child adopted, the true name of its natural parent, or parents, if known, and the true name of the persons adopting the child and the date of the decree of adoption, and the name under which the child was adopted, or the name given the child by the adoption proceedings and a cross index shall be kept showing the said true name and the name given the child in the adoption decree, and which index shall be subject to the provisions of Section 93-17-25 as to same being kept in confidence and such index shall not be





394 examined by any person, except officers of the court including  
395 attorneys, except upon order of the court, on good cause shown, in  
396 which the proceeding was had. The reports shall be filed only if  
397 so ordered by the chancellor. The several chancery clerks shall  
398 obtain and keep a separate docket and minute book of convenient  
399 size which shall be subject to provisions of Sections 93-17-25  
400 through 93-17-31 and in which, from July 1, 1955, all entries  
401 concerning adoption shall be made.

402       **SECTION 9.** This act shall take effect and be in force from  
403 and after July 1, 2025.

