

By: Representative Owen

To: Judiciary B

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.



22 (3) (a) A court of this state has jurisdiction over a
23 proceeding for the adoption or readoption of a minor or an adult
24 commenced under this chapter.

25 (b) An adult under any one of the following conditions:

26 (i) He or she is an individual with a total and
27 permanent disability.

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

30 (iii) He or she consents in writing to be adopted
31 and is related in any degree of kinship, as defined by the
32 intestacy laws of Mississippi, or is a stepchild by marriage.

33 (iv) He or she consents in writing to be adopted
34 by an adult man and woman who are husband and wife.

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

37 93-17-3. (1) Except as otherwise provided in this section,
38 a court of this state has jurisdiction over a proceeding for the
39 adoption or readoption of a minor or an adult commenced under this
40 chapter if:

41 (a) Immediately before commencement of the proceeding,
42 the minor or adult lived in this state with a parent, a guardian,
43 a prospective adoptive parent or another person acting as parent,



44 for at least six (6) consecutive months, excluding periods of
45 temporary absence, or, in the case of a minor under six (6) months
46 of age, lived in this state from soon after birth with any of
47 those individuals and there is available in this state substantial
48 evidence concerning the minor's present or future care;

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

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

57 (i) The minor and the minor's parents, or the
58 minor and the prospective adoptive parent, have a significant
59 connection with this state; and

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

62 (d) The minor or adult and the prospective adoptive
63 parent or parents are physically present in this state and the
64 minor or adult has been abandoned or it is necessary in an
65 emergency to protect the minor or adult because the * * * he or
66 she has been subjected to or threatened with mistreatment or abuse
67 or is otherwise neglected, and the prospective adoptive parent or
68 parents, if not residing in Mississippi, have completed and



69 provided the court with a satisfactory Interstate Compact for
70 Placement of Children (ICPC) home study and accompanying forms,
71 unless the court determines that the home study is not necessary
72 in the case of an adoption by a stepparent or a relative or in the
73 case of an adoption in a foster-to-adopt placement;

74 (e) It appears that no other state would have
75 jurisdiction under prerequisites substantially in accordance with
76 paragraphs (a) through (d), or another state has declined to
77 exercise jurisdiction on the ground that this state is the more
78 appropriate forum to hear a petition for adoption of the minor or
79 adult, and it is in the best interest of the minor or adult that a
80 court of this state assume jurisdiction; or

81 (f) The child or adult has been adopted in a foreign
82 country, the agency that placed the minor or adult for adoption is
83 licensed in this state, and it is in the best interest of the
84 child to be readopted in a court of this state having
85 jurisdiction.

86 (2) A court of this state may not exercise jurisdiction over
87 a proceeding for adoption of a minor if, at the time the petition
88 for adoption is filed, a proceeding concerning the custody or
89 adoption of the minor is pending in a court of another state
90 exercising jurisdiction substantially in conformity with the
91 Uniform Child Custody Jurisdiction Act or this section unless the
92 proceeding is stayed by the court of the other state.



93 (3) If a court of another state has issued a decree or order
94 concerning the custody of a minor or adult who may be the subject
95 of a proceeding for adoption in this state, a court of this state
96 may not exercise jurisdiction over a proceeding for adoption of
97 the minor or adult unless:

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

100 (i) Does not have continuing jurisdiction to
101 modify the decree or order under jurisdictional prerequisites
102 substantially in accordance with the Uniform Child Custody
103 Jurisdiction Act or has declined to assume jurisdiction to modify
104 the decree or order; or

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

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

111 (4) Any * * * minor or adult may be adopted in accordance
112 with the provisions of this chapter in term time or in vacation by
113 an unmarried adult, by a married person whose spouse joins in the
114 petition, by a married person whose spouse does not join in the
115 petition because such spouse does not cohabit or reside with the
116 petitioning spouse, and in any circumstances determined by the
117 court that the adoption is in the best interest of the child or



118 adult. Only the consenting adult will be a legal parent of the
119 child or adult. The adoption shall be by sworn petition filed in
120 the chancery court of the county in which the adopting petitioner
121 or petitioners reside or in which the child or adult to be adopted
122 resides or was born, or was found when it was abandoned or
123 deserted, or in which the home is located to which the child or
124 adult has been surrendered by a person authorized to so do. The
125 petition shall be accompanied by a doctor's or nurse
126 practitioner's certificate showing the physical and mental
127 condition of the child or adult to be adopted and a sworn
128 statement of all property, if any, owned by the child. In
129 addition, the petition shall be accompanied by affidavits of the
130 petitioner or petitioners stating the amount of the service fees
131 charged by any adoption agencies or adoption facilitators used by
132 the petitioner or petitioners and any other expenses paid by the
133 petitioner or petitioners in the adoption process as of the time
134 of filing the petition. If the doctor's or nurse practitioner's
135 certificate indicates any abnormal mental or physical condition or
136 defect, the condition or defect shall not, in the discretion of
137 the chancellor, bar the adoption of the child or adult if the
138 adopting parent or parents file an affidavit stating full and
139 complete knowledge of the condition or defect and stating a desire
140 to adopt the child, notwithstanding the condition or defect. The
141 court shall have the power to change the name of the child as a
142 part of the adoption proceedings. The word "child" in this



section shall be construed to refer to the person to be adopted,
though an adult.

(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



168 adoption. If not applicable, a written statement or paragraph in
169 the petition for adoption shall be included in the adoption
170 petition stating that the provisions of ICWA do not apply before
171 finalization.

172 (8) The readoption of a child who has automatically acquired
173 United States citizenship following an adoption in a foreign
174 country and who possesses a Certificate of Citizenship in
175 accordance with the Child Citizenship Act, CAA, Public Law
176 106-395, may be given full force and effect in a readoption
177 proceeding conducted by a court of competent jurisdiction in this
178 state by compliance with the Mississippi Registration of Foreign
179 Adoptions Act, Article 9 of this chapter.

180 (9) For adult adoptees who consent to the adoption, a
181 chancellor * * * shall waive any of the petition requirements and
182 procedural requirements within subsections (4), (5), (6) and (7)
183 of this section.

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

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

190 93-17-5. (1) There shall be made parties to the proceeding
191 by process or by the filing therein of a consent to the adoption
192 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.



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

221 (3) If consent is not filed, process shall be had upon the
222 parties as provided by law for process in person or by
223 publication, if they are nonresidents of the state or are not
224 found therein after diligent search and inquiry, the court or
225 chancellor in vacation may fix a date in termtime or in vacation
226 to which process may be returnable and shall have power to proceed
227 in termtime or vacation. In any event, if the child is more than
228 fourteen (14) years of age, a consent to the adoption, sworn to or
229 acknowledged by the child, shall also be required or personal
230 service of process shall be had upon the child in the same manner
231 and in the same effect as if the child were an adult.

232 (4) When the person sought to be adopted is an adult, only
233 the sworn, written consent of the adult person sought to be
234 adopted shall be required and no order of reference or any home
235 studies need be issued. If the adult person to be adopted has
236 been adjudicated incompetent, the written consent of the adult
237 person's guardian or conservator shall be required. If the adult
238 person is without a spouse, guardian, or conservator and the court
239 has reason to believe that the adult person is incompetent to give
240 consent, the court shall appoint a guardian ad litem who shall
241 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
entering of a final decree, the court may, in its discretion, of
its own motion or on motion of any party to the proceeding,
require an investigation and report to the court to be made by any
person, officer or home as the court may designate and direct
concerning the child, and shall require in adoptions except as
provided in subsection (4) of this section, other than those in
which the petitioner or petitioners are a relative or stepparent
of the child, that a home study be performed of the petitioner or
petitioners by a licensed adoption agency or by the Department of
Human Services, at the petitioner's or petitioners' sole expense
and at no cost to the state or county. The investigation and
report shall give the material facts upon which the court may



determine whether the child is a proper subject for adoption, whether the petitioner or petitioners are suitable parents for the child, whether the adoption is to its best interest, and any other facts or circumstances that may be material to the proposed adoption. The home study shall be considered by the court in determining whether the petitioner or petitioners are suitable parents for the child. The court, when an investigation and report are required by the court or by this section, shall stay the proceedings in the cause for such reasonable time as may be necessary or required in the opinion of the court for the completion of the investigation and report by the person, officer 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 additional investigation and reports as it may deem proper. The rights of the parties filing the consent or served with process shall be subject to the decree but shall not be divested until entry of the final decree.

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

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

93-17-21. (1) A certified copy of the final decree shall be furnished to the Bureau of Vital Statistics, together with a certificate signed by the clerk giving the true or original name



317 and the place and date of birth of the child. The said bureau
318 shall prepare a revised birth certificate which shall contain the
319 original date of birth, with the place of birth being shown as the
320 residence of the adoptive parents at the time the child was born,
321 but with the names of the adopting parents and the new name of the
322 child. In all other particulars, the certificate shall show the
323 true facts of birth. The fact that a revised birth certificate is
324 issued shall be indicated only by code numbers or some letter
325 inconspicuously placed on the face of the certificate. The word
326 "revised" shall not appear thereon. However, in the event an
327 unmarried adult shall be the adopting parent, then such birth
328 certificate may show thereon, upon order of the chancellor as set
329 forth in the decree of adoption, that same is a revised birth
330 certificate, giving the court where said decree was issued and the
331 date of such decree. The original birth certificate shall be
332 removed and placed, with reference made to the decree of adoption,
333 in a safely locked drawer or vault, and the same shall not be
334 public records and shall not be divulged except upon the order of
335 the court rendering the said final decree or pursuant to Sections
336 93-17-201 through 93-17-223, and for all purposes the revised
337 certificate shall be and become the birth certificate of the
338 child. However, the Bureau of Vital Statistics of the State of
339 Mississippi shall be required to prepare and register revised
340 certificates only for births which occurred in the State of
341 Mississippi as shown either by the court decree or by the original



birth record on file in the bureau; but if the birth occurred in some other state, then the Director of the Bureau of Vital Statistics of the State of Mississippi shall be required to furnish to the attorney or other person representing the adopted child the name and address of the proper official in the state where the child was born, to whom the adoption decree and other information may be referred for appropriate action, and shall furnish to such attorney the certified copy of the decree and the certificate furnished by the clerk.

(2) Provided, however, notwithstanding anything herein to the contrary, either an original or a revised birth certificate 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.



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

393 93-17-31. The several chancery clerks shall obtain and keep
394 a separate, confidential index showing the true name of the child
395 adopted, the true name of its natural parent, or parents, if
396 known, and the true name of the persons adopting the child and the
397 date of the decree of adoption, and the name under which the child
398 was adopted, or the name given the child by the adoption
399 proceedings and a cross index shall be kept showing the said true
400 name and the name given the child in the adoption decree, and
401 which index shall be subject to the provisions of Section 93-17-25
402 as to same being kept in confidence and such index shall not be
403 examined by any person, except officers of the court including
404 attorneys, except upon order of the court, on good cause shown, in
405 which the proceeding was had. The reports shall be filed only if
406 so ordered by the chancellor. The several chancery clerks shall
407 obtain and keep a separate docket and minute book of convenient
408 size which shall be subject to provisions of Sections 93-17-25
409 through 93-17-31 and in which, from July 1, 1955, all entries
410 concerning adoption shall be made.

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

