

By: Representative Arnold

To: Judiciary A

HOUSE BILL NO. 1512

1 AN ACT TO BRING FORWARD SECTION 93-17-8, MISSISSIPPI CODE OF
2 1972, WHICH PROVIDES A PROCEDURE FOR CONTESTED ADOPTIONS, FOR
3 PURPOSES OF AMENDMENT; TO AMEND SECTION 93-17-11, MISSISSIPPI CODE
4 OF 1972, TO CONFORM THE REFERENCE TO THE DEPARTMENT OF CHILD
5 PROTECTION SERVICES; TO BRING FORWARD SECTIONS 43-21-151 AND
6 43-21-613, MISSISSIPPI CODE OF 1972, WHICH PROVIDES YOUTH COURT
7 PROCEEDINGS FOR ADOPTION FOR PURPOSES OF AMENDMENT; AND FOR
8 RELATED PURPOSES.

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

10 **SECTION 1.** Section 93-17-8, Mississippi Code of 1972, is
11 brought forward as follows:

12 93-17-8. (1) Whenever an adoption becomes a contested
13 matter, whether after a hearing on a petition for determination of
14 rights under Section 93-17-6 or otherwise, the court:

15 (a) Shall, on motion of any party or on its own motion,
16 issue an order for immediate blood or tissue sampling in
17 accordance with the provisions of Section 93-9-21 et seq., if
18 paternity is at issue. The court shall order an expedited report
19 of such testing and shall hold the hearing resolving this matter
20 at the earliest time possible.



21 (b) Shall appoint a guardian ad litem to represent the
22 child. Such guardian ad litem shall be an attorney, however his
23 duties are as guardian ad litem and not as attorney for the child.
24 The reasonable costs of the guardian ad litem shall be taxed as
25 costs of court. Neither the child nor anyone purporting to act on
26 his behalf may waive the appointment of a guardian ad litem.

27 (c) Shall determine first whether or not the objecting
28 parent is entitled to so object under the criteria of Section
29 93-17-7 and then shall determine the custody of the child in
30 accord with the best interests of the child and the rights of the
31 parties as established by the hearings and judgments.

32 (d) Shall schedule all hearings concerning the
33 contested adoption as expeditiously as possible for prompt
34 conclusion of the matter.

35 (2) In determining the custody of the child after a finding
36 that the adoption will not be granted, the fact of the surrender
37 of the child for adoption by a parent shall not be taken as any
38 evidence of that parent's abandonment or desertion of the child or
39 of that parent's unfitness as a parent.

40 (3) In contested adoptions arising through petitions for
41 determination of rights where the prospective adopting parents
42 were not parties to that proceeding, they need not be made parties
43 to the contested adoption until there has been a ruling that the
44 objecting parent is not entitled to enter a valid objection to the
45 adoption. At that point the prospective adopting parents shall be



made parties by joinder which shall show their suitability to be adopting parents as would a petition for adoption. The identity and suitability of the prospective adopting parents shall be made known to the court and the guardian ad litem, but shall not be made known to other parties to the proceeding unless the court determines that the interests of justice or the best interests of the child require it.

(4) No birth parent or alleged parent shall be permitted to contradict statements given in a proceeding for the adoption of their child in any other proceeding concerning that child or his ancestry.

(5) Appointment of a guardian ad litem is not required in any proceeding under this chapter except as provided in subsection (1)(b) above and except for the guardian ad litem needed for an abandoned child. It shall not be necessary for a guardian ad litem to be appointed where the chancery judge presiding in the adoption proceeding deems it unnecessary and no adoption agency is involved in the proceeding. No final decree of adoption heretofore granted shall be set aside or modified because a guardian ad litem was not appointed unless as the result of a direct appeal not now barred.

(6) The provisions of Chapter 15 of this Title 93, Mississippi Code of 1972, are not applicable to proceedings under this chapter except as specifically provided by reference herein.



(7) The court may order a child's birth father, identified as such in the proceedings, to reimburse the Department of Child Protection Services, the foster parents, the adopting parents, the home, any other agency or person who has assumed liability for such child, all or part of the costs of the medical expenses incurred for the mother and the child in connection with the birth of the child, as well as reasonable support for the child after his birth.

SECTION 2. Section 93-17-11, Mississippi Code of 1972, is amended 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 * * * Child Protection 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 3. Section 43-21-151, Mississippi Code of 1972, is brought forward as follows:

43-21-151. (1) The youth court shall have exclusive original jurisdiction in all proceedings concerning a delinquent child, a child in need of supervision, a neglected child, an



abused child or a dependent child except in the following
circumstances:

(a) Any act attempted or committed by a child, which if
committed by an adult would be punishable under state or federal
law by life imprisonment or death, will be in the original
jurisdiction of the circuit court;

(b) Any act attempted or committed by a child with the
use of a deadly weapon, the carrying of which concealed is
prohibited by Section 97-37-1, or a shotgun or a rifle, which
would be a felony if committed by an adult, will be in the
original jurisdiction of the circuit court; and

(c) When a charge of abuse or neglect of a child first
arises in the course of a custody action between the parents of
the child already pending in the chancery court and no notice of
such abuse was provided prior to such chancery proceedings, the
chancery court may proceed with the investigation, hearing and
determination of such abuse or neglect charge as a part of its
hearing and determination of the custody issue as between the
parents, notwithstanding the other provisions of the Youth Court
Law. The proceedings in chancery court on the abuse or neglect
charge shall be confidential in the same manner as provided in
youth court proceedings.

When a child is expelled from the public schools, the youth
court shall be notified of the act of expulsion and the act or
acts constituting the basis for expulsion.



170 (2) Jurisdiction of the child in the cause shall attach at
171 the time of the offense, or at the time of the allegation of
172 abuse, neglect or exploitation, and shall continue thereafter for
173 that offense or the allegations of abuse, neglect or exploitation
174 until the child's twentieth birthday, unless sooner terminated by
175 order of the youth court. The youth court shall not have
176 jurisdiction over offenses committed by a child on or after his
177 eighteenth birthday, nor have jurisdiction of abuse, neglect, or
178 exploitation committed against a child after their eighteenth
179 birthday.

180 (3) No child who has not reached his thirteenth birthday
181 shall be held criminally responsible or criminally prosecuted for
182 a misdemeanor or felony; however, the parent, guardian or
183 custodian of such child may be civilly liable for any criminal
184 acts of such child. No child under the jurisdiction of the youth
185 court shall be held criminally responsible or criminally
186 prosecuted by any court for any act designated as a delinquent
187 act, unless jurisdiction is transferred to another court under
188 Section 43-21-157.

189 (4) The youth court shall also have jurisdiction of offenses
190 committed by a child which have been transferred to the youth
191 court by an order of a circuit court of this state having original
192 jurisdiction of the offense, as provided by Section 43-21-159.

193 (5) The youth court shall regulate and approve the use of
194 teen court as provided in Section 43-21-753.



(6) Nothing in this section shall prevent the circuit court from assuming jurisdiction over a youth who has committed an act of delinquency upon a youth court's ruling that a transfer is appropriate pursuant to Section 43-21-157.

SECTION 4. Section 43-21-613, Mississippi Code of 1972, is brought forward as follows:

43-21-613. (1) If the youth court finds, after a hearing which complies with the sections governing adjudicatory hearings, that the terms of a delinquency or child in need of supervision disposition order, probation or parole have been violated, the youth court may, in its discretion, revoke the original disposition and make any disposition which it could have originally ordered. The hearing shall be initiated by the filing of a petition that complies with the sections governing petitions in this chapter and that includes a statement of the youth court's original disposition order, probation or parole, the alleged violation of that order, probation or parole, and the facts which show the violation of that order, probation or parole. Summons shall be served in the same manner as summons for an adjudicatory hearing.

(2) On motion of a child or a child's parent, guardian or custodian, the youth court may, in its discretion, conduct an informal hearing to review the disposition order. If the youth court finds a material change of circumstances relating to the disposition of the child, the youth court may modify the



disposition order to any appropriate disposition of equal or greater precedence which the youth court could have originally ordered.

(3) (a) All disposition orders for supervision, probation or placement of a child with an individual or an agency shall be reviewed by the youth court judge or referee at least annually to determine if continued placement, probation or supervision is in the best interest of the child or the public. For children who have been adjudicated abused or neglected, except for those children for which a different timeframe is provided under Section 43-21-603(7), the youth court shall conduct a permanency hearing within one hundred twenty (120) days or every sixty (60) days for children under three (3) years of age after the earlier of:

(i) An adjudication that the child has been abused or neglected; or

(ii) The date of the child's removal from the allegedly abusive or neglectful custodian/parent. Notice of such hearing shall be given in accordance with the provisions of Section 43-21-505(5). In conducting the hearing, the judge or referee shall require a written report and may require information or statements from the child's youth court counselor, parent, guardian or custodian, which includes, but is not limited to, an evaluation of the child's progress and recommendations for further supervision or treatment. The judge or referee shall, at the permanency hearing determine the future status of the child,



including, but not limited to, whether the child should be returned to the parent(s) or placed with suitable relatives, placed for adoption, placed for the purpose of establishing durable legal custody or should, because of the child's special needs or circumstances, be continued in foster care on a permanent or long-term basis. If the child is in an out-of-state placement, the hearing shall determine whether the out-of-state placement continues to be appropriate and in the best interest of the child. At the permanency hearing the judge or referee shall determine, and the youth court order shall recite that reasonable efforts were made by the Department of Child Protection Services to finalize the child's permanency plan that was in effect on the date of the permanency hearing. The judge or referee may find that reasonable efforts to maintain the child within his home shall not be required in accordance with Section 43-21-603(7)(c), and that the youth court shall continue to conduct permanency hearings for a child who has been adjudicated abused or neglected, at least annually thereafter, for as long as the child remains in the custody of the Mississippi Department of Child Protection Services.

(b) The court may find that the filing of a termination of parental rights petition is not in the child's best interest if:

(i) The child is being cared for by a relative;
and/or



(ii) The Department of Child Protection Services has documented compelling and extraordinary reasons why termination of parental rights would not be in the best interests of the child.

(c) The provisions of this subsection shall also apply to review of cases involving a dependent child; however, such reviews shall take place not less frequently than once each one hundred eighty (180) days, or upon the request of the child's attorney, a parent's attorney, or a parent as deemed appropriate by the youth court in protecting the best interests of the child. A dependent child shall be ordered by the youth court judge or referee to be returned to the custody and home of the child's parent, guardian or custodian unless the judge or referee, upon such review, makes a written finding that the return of the child to the home would be contrary to the child's best interests.

(d) Reviews are not to be conducted unless explicitly ordered by the youth court concerning those cases in which the court has granted durable legal custody. In such cases, the Department of Child Protection Services shall be released from any oversight or monitoring responsibilities, and relieved of physical and legal custody and supervision of the child.

(4) The provisions of this section do not apply to proceedings concerning durable legal relative guardianship.

SECTION 5. This act shall take effect and be in force from and after July 1, 2025.

