

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2714

1 AN ACT TO AMEND SECTIONS 43-15-117 AND 93-17-11, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT ANY CHILD-PLACING AGENCY DOMICILED
3 IN ANOTHER JURISDICTION SHALL BE LICENSED BY THE DEPARTMENT OF
4 HUMAN SERVICES AND MAINTAIN AN OFFICE IN MISSISSIPPI AND TO
5 REQUIRE THE CHANCERY COURT TO ORDER A HOME STUDY IN ANY ADOPTION
6 PROCEEDING TO BE MADE BY A LICENSED CHILD-PLACING AGENCY; AND FOR
7 RELATED PURPOSES.

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

9 **SECTION 1.** Section 43-15-117, Mississippi Code of 1972, is
10 amended as follows:

11 43-15-117. (1) Except as provided in this article, no
12 person, agency, firm, corporation, association or group children's
13 home may engage in child placing, or solicit money or other
14 assistance for child placing, without a valid license issued by
15 the division. No child-placing agency shall advertise in the
16 media markets in Mississippi seeking birth mothers or their
17 children for adoption purposes unless the agency holds a valid and
18 current license issued either by the division or the authorized
19 governmental licensing agency of another state that regulates
20 child-placing agencies. A child-placing agency domiciled in
21 another jurisdiction which provides a full range of services,
22 including, but not limited to, adoption, foster family homes,
23 adoption counseling services or financial aid in Mississippi,
24 shall be licensed by the Mississippi Department of Human Services.
25 Further, said out of state child-placing agency shall maintain an
26 office with a resident executive and staff within the State of
27 Mississippi.

28 (2) An attorney, physician or other person may assist a
29 parent in identifying or locating a person interested in adopting

30 the parent's child, or in identifying or locating a child to be
31 adopted. However, no payment, charge, fee, reimbursement of
32 expense, or exchange of value of any kind, or promise or agreement
33 to make the same, may be made for that assistance.

34 (3) Nothing in this section precludes payment of reasonable
35 fees for medical, legal or other lawful services rendered in
36 connection with the care of a mother, delivery and care of a child
37 including, but not limited to, the mother's living expenses, or
38 counseling for the parents and/or the child, and for the legal
39 proceedings related to lawful adoption proceedings; and no
40 provision of this section abrogates the right of procedures for
41 independent adoption as provided by law.

42 (4) The division is specifically authorized to promulgate
43 rules under the Administrative Procedures Law, Title 25, Chapter
44 43, Mississippi Code of 1972, to regulate fees charged by licensed
45 child-placing agencies, if it determines that the practices of
46 those licensed child-placing agencies demonstrates that the fees
47 charged are excessive or that any of the agency's practices are
48 deceptive or misleading; however, those rules regarding fees shall
49 take into account the use of any sliding fee by an agency that
50 uses a sliding fee procedure to permit prospective adoptive
51 parents of varying income levels to utilize the services of those
52 agencies or persons.

53 (5) The division shall promulgate rules under the
54 Administrative Procedures Law, Title 25, Chapter 43, Mississippi
55 Code of 1972, to require that all licensed child-placing agencies
56 provide written disclosures to all prospective adoptive parents of
57 any fees or other charges for each service performed by the agency
58 or person, and file an annual report with the division that states
59 the fees and charges for those services, and to require them to
60 inform the division in writing thirty (30) days in advance of any
61 proposed changes to the fees or charges for those services.

62 (6) The division is specifically authorized to disclose to
63 prospective adoptive parents or other interested persons any fees
64 charged by any licensed child-placing agency, attorney or
65 counseling service or counselor for all legal and counseling
66 services provided by that licensed child-placing agency, attorney
67 or counseling service or counselor.

68 **SECTION 2.** Section 93-17-11, Mississippi Code of 1972, is
69 amended as follows:

70 93-17-11. At any time after the filing of the petition for
71 adoption and completion of process thereon where the petitioner or
72 petitioners are not a relative or step-parent of the child, the
73 court shall require a home study to be made of the petitioner or
74 petitioners, which shall be completed and signed by a Mississippi
75 licensed adoption agency, at the petitioner's or petitioners' sole
76 expense and at no cost to the state or county, * * * giving the
77 material facts upon which the court may determine whether the
78 child is a proper subject for adoption, whether the petitioners or
79 petitioner are suitable parents for the child, whether the
80 adoption is to its best interest, and any other facts or
81 circumstances that may be material to the proposed adoption. In
82 addition, the court shall require the petition for adoption to be
83 accompanied by affidavits of the petitioner or petitioners stating
84 the amount of the service fees charged by any adoption agencies or
85 adoption facilitators used by the petitioner or petitioners and
86 any other expenses paid by the petitioner or petitioners in the
87 adoption process. The court * * * shall stay the proceedings in
88 the cause for such reasonable time as may be necessary or required
89 in the opinion of the court for the completion of the
90 investigation and home study report by the person, officer, or
91 home designated and authorized to make the same.

92 Upon the filing of that consent or the completion of the
93 process and the filing of the investigation and home study
94 report * * * and the presentation of such other evidence as may be

95 desired by the court, if the court determines that it is to the
96 best interests of the child that an interlocutory decree of
97 adoption be entered, the court may thereupon enter an
98 interlocutory decree upon such terms and conditions as may be
99 determined by the court, in its discretion, but including therein
100 that the complete care, custody and control of the child shall be
101 vested in the petitioner or petitioners until further orders of
102 the court and that during such time the child shall be and remain
103 a ward of the court. If the court determines by decree at any
104 time during the pendency of the proceeding that it is not to the
105 best interests of the child that the adoption proceed, the
106 petitioners shall be entitled to at least five (5) days' notice
107 upon their attorneys of record and a hearing with the right of
108 appeal as provided by law from a dismissal of the petition;
109 however, the bond perfecting the appeal shall be filed within ten
110 (10) days from the entry of the decree of dismissal and the bond
111 shall be in such amount as the chancellor may determine and
112 supersedeas may be granted by the chancellor or as otherwise
113 provided by law for appeal from final decrees.

114 After the entry of the interlocutory decree and before entry
115 of the final decree, the court may require such further and
116 additional investigation and reports as it may deem proper. The
117 rights of the parties filing the consent or served with process
118 shall be subject to the decree but shall not be divested until
119 entry of the final decree.

120 **SECTION 3.** This act shall take effect and be in force from
121 and after July 1, 2005.