

By: Representative Barnett

To: Judiciary A

## HOUSE BILL NO. 1347

1 AN ACT TO AMEND SECTIONS 93-17-5, 93-17-13, 93-17-25,  
2 93-17-205, 93-17-207, 93-17-209, 93-17-215, 93-17-217, 93-17-219  
3 AND 93-17-223, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN  
4 ADOPTED CHILD WHO IS AGE EIGHTEEN YEARS OR OLDER SHALL HAVE THE  
5 RIGHT TO KNOW THE IDENTITY OF THE BIOLOGICAL PARENTS OF SUCH  
6 CHILD; TO PROVIDE SUCH INFORMATION TO SIBLINGS, PARENTS, OFFSPRING  
7 AND GUARDIANS OR CUSTODIANS; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 93-17-5, Mississippi Code of 1972, is  
10 amended as follows:

11 93-17-5. (1) There shall be made parties to the proceeding  
12 by process or by the filing therein of a consent to the adoption  
13 proposed in the petition, which consent shall be duly sworn to or  
14 acknowledged and executed only by the following persons, but not  
15 before seventy-two (72) hours after the birth of said child: (a)  
16 the parents, or parent, if only one (1) parent, though either be  
17 under the age of twenty-one (21) years; or, (b) in the event both  
18 parents are dead, then any two (2) adult kin of the child within  
19 the third degree computed according to the civil law, provided  
20 that, if one of such kin is in possession of the child, he or she  
21 shall join in the petition or be made a party to the suit; or, (c)  
22 the guardian ad litem of an abandoned child, upon petition showing  
23 that the names of the parents of such child are unknown after  
24 diligent search and inquiry by the petitioners. In addition to  
25 the above, there shall be made parties to any proceeding to adopt  
26 a child, either by process or by the filing of a consent to the  
27 adoption proposed in the petition, the following:

28 (a) Those persons having physical custody of such  
29 child, except persons having such child as foster parents as a

30 result of placement with them by the Department of Human Services  
31 of the State of Mississippi.

32           **(b)** Any person to whom custody of such child may have  
33 been awarded by a court of competent jurisdiction of the State of  
34 Mississippi.

35           **(c)** The agent of the county Department of Human  
36 Services of the State of Mississippi that has placed a child in  
37 foster care, either by agreement or by court order.

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

42           (3) In the case of a child born out of wedlock, the father  
43 shall not have a right to object to an adoption unless he has  
44 demonstrated, within the period ending thirty (30) days after the  
45 birth of the child, a full commitment to the responsibilities of  
46 parenthood. Determination of the rights of the father of a child  
47 born out of wedlock may be made in proceedings pursuant to a  
48 petition for determination of rights as provided in Section  
49 93-17-6. If an adopted child aged eighteen (18) years or older  
50 wishes to know the identity of the biological father of such  
51 child, such information shall be provided to the child.

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

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

64 **SECTION 2.** Section 93-17-13, Mississippi Code of 1972, is  
65 amended as follows:

66 93-17-13. A final decree of adoption shall not be entered  
67 before the expiration of six (6) months from the entry of the  
68 interlocutory decree except (a) when a child is a stepchild of a  
69 petitioner or is related by blood to the petitioner within the  
70 third degree according to the rules of the civil law or in any  
71 case in which the chancellor in the exercise of his discretion  
72 shall determine from all the proceedings and evidence in said  
73 cause that the six-month waiting period is not necessary or  
74 required for the benefit of the court, the petitioners or the  
75 child to be adopted, and shall so adjudicate in the decree entered  
76 in said cause, in either of which cases the final decree may be  
77 entered immediately without any delay and without an interlocutory  
78 decree, or (b) when the child has resided in the home of any  
79 petitioner prior to the granting of the interlocutory decree, in  
80 which case the court may, in its discretion, shorten the waiting  
81 period by the length of time the child has thus resided.

82 The final decree shall adjudicate, in addition to such other  
83 provisions as may be found by the court to be proper for the  
84 protection of the interests of the child; and its effect, unless  
85 otherwise specifically provided, shall be that (a) the child shall  
86 inherit from and through the adopting parents and shall likewise  
87 inherit from the other children of the adopting parents to the  
88 same extent and under the same conditions as provided for the  
89 inheritance between brothers and sisters of the full blood by the  
90 laws of descent and distribution of the State of Mississippi, and  
91 that the adopting parents and their other children shall inherit  
92 from the child, just as if such child had been born to the  
93 adopting parents in lawful wedlock; (b) the child and the adopting  
94 parents and adoptive kindred are vested with all of the rights,

95 powers, duties and obligations, respectively, as if such child had  
96 been born to the adopting parents in lawful wedlock, including all  
97 rights existing by virtue of Section 11-7-13, Mississippi Code of  
98 1972; provided, however, that inheritance by or from the adopted  
99 child shall be governed by subsection (a) above; (c) that the name  
100 of the child shall be changed if desired; and (d) that the natural  
101 parents and natural kindred of the child shall not inherit by or  
102 through the child except as to a natural parent who is the spouse  
103 of the adopting parent, and all parental rights of the natural  
104 parent, or parents, shall be terminated, except as to a natural  
105 parent who is the spouse of the adopting parent. Nothing in this  
106 chapter shall restrict the right of any person to dispose of  
107 property under a last will and testament.

108 An adopted child aged eighteen (18) years of age or older  
109 shall have the right to be provided the identity of the biological  
110 parents of such child.

111 **SECTION 3.** Section 93-17-25, Mississippi Code of 1972, is  
112 amended as follows:

113 93-17-25. All proceedings under this chapter shall be  
114 confidential and shall be held in closed court without admittance  
115 of any person other than the interested parties, except upon order  
116 of the court. All pleadings, reports, files and records  
117 pertaining to adopting proceedings shall be confidential and shall  
118 not be public records and shall be withheld from inspection or  
119 examination by any person, except upon order of the court in which  
120 the proceeding was had on good cause shown.

121 Upon motion of any interested person, the files of adoption  
122 proceedings, heretofore had may be placed in the confidential  
123 files upon order of the court or chancellor and shall be subject  
124 to the provisions of this chapter.

125 Provided, however, that notwithstanding the confidential  
126 nature of said proceedings, said record shall be available for use  
127 in any court or administrative proceedings under a subpoena duces

128 tecum addressed to the custodian of said records and portions of  
129 such record may be released pursuant to Sections 93-17-201 through  
130 93-17-223.

131 An adopted child aged eighteen (18) years or older shall have  
132 the right to be provided the identity of his or her biological  
133 parents.

134 **SECTION 4.** Section 93-17-205, Mississippi Code of 1972, is  
135 amended as follows:

136 93-17-205. (1) The bureau shall maintain a centralized  
137 adoption records file for all adoptions performed in this state  
138 after July 1, 2005, which shall include the following information:

139 (a) The medical and social history of the birth  
140 parents, including information regarding genetically inheritable  
141 diseases or illnesses and any similar information furnished by the  
142 birth parents about the adoptee's grandparents, aunts, uncles,  
143 brothers and sisters;

144 (b) A report of any medical examination which either  
145 birth parent had within one (1) year before the date of the  
146 petition for adoption, if available;

147 (c) A report describing the adoptee's prenatal care and  
148 medical condition at birth, if available; and

149 (d) The medical and social history of the adoptee,  
150 including information regarding genetically inheritable diseases  
151 or illnesses, and any other relevant medical, social and genetic  
152 information.

153 The Administrative Office of Courts shall assist the bureau  
154 in the maintenance of its centralized adoption record by compiling  
155 the number of finalized adoptions in each chancery court district  
156 on a monthly basis, and submitting this information to the bureau.  
157 The bureau shall include these statistics in its centralized  
158 adoption record. The information in this report shall include the  
159 number of adoptions in this state where the adopting parent is a  
160 blood relative of the adoptee and the number of adoptions in this

161 state where the adopting parent is not a blood relative of the  
162 adoptee. The report shall not include any individual identifying  
163 information. This information shall be updated annually and made  
164 available to the public upon request for a reasonable fee.

165 (2) Any birth parent may file with the bureau at any time  
166 any relevant supplemental nonidentifying information about the  
167 adoptee or the adoptee's birth parents, and the bureau shall  
168 maintain this information in the centralized adoption records  
169 file.

170 (3) The bureau shall also maintain as part of the  
171 centralized adoption records file the following:

172 (a) The name, date of birth, social security number  
173 (both original and revised, where applicable) and birth  
174 certificate (both original and revised) of the adoptee;

175 (b) The names, current addresses and social security  
176 numbers of the adoptee's birth parents, guardian and legal  
177 custodian;

178 (c) Any other available information about the birth  
179 parent's identity and location.

180 (4) Each birth parent shall file with the bureau at any time  
181 an affidavit authorizing the bureau to provide an adoptee aged  
182 eighteen (18) years or older with his or her original birth  
183 certificate and with any other available information about the  
184 birth parent's identity. The birth parent also may file an  
185 affidavit expressly prohibiting the bureau from providing an  
186 adoptee under the age of eighteen (18) years with any information  
187 about such birth parent's identity and location, and prohibiting  
188 any licensed adoption agency from conducting a search for the  
189 birth parent on behalf of an adoptee under the age of eighteen  
190 (18) years, under the terms of Sections 93-17-201 through  
191 93-17-223. An affidavit filed under this section may be revoked  
192 at any time by written notification to the bureau from the birth  
193 parent.

194 (5) Counsel for the adoptive parents in the adoption  
195 finalization proceeding shall provide the bureau with the  
196 information required in subsections (1) and (3) of this section,  
197 and he shall also make such information a part of the adoption  
198 records of the court in which the final decree of adoption is  
199 rendered. This information shall be provided on forms prepared by  
200 the bureau.

201 (6) (a) If an agency receives a report from a physician  
202 stating that a birth parent or another child of the birth parent  
203 has acquired or may have a genetically transferable disease or  
204 illness, the agency shall notify the bureau and the appropriate  
205 licensed adoption agency, and the latter agency shall notify the  
206 adoptee of the existence of the disease or illness, if he or she  
207 is twenty-one (21) years of age or over, or notify the adoptee's  
208 guardian, custodian or adoptive parent if the adoptee is under age  
209 twenty-one (21).

210 (b) If an agency receives a report from a physician  
211 that an adoptee has acquired or may have a genetically  
212 transferable disease or illness, the agency shall notify the  
213 bureau and the appropriate licensed agency, and the latter agency  
214 shall notify the adoptee's birth parent of the existence of the  
215 disease or illness.

216 (7) Compliance with the provisions of this section may be  
217 waived by the court, in its discretion, in any chancery court  
218 proceeding in which one or more of the petitioners for adoption is  
219 the natural mother or father of the adoptee.

220 **SECTION 5.** Section 93-17-207, Mississippi Code of 1972, is  
221 amended as follows:

222 93-17-207. (1) The bureau or the agency shall release the  
223 nonidentifying, or identifying information as may be authorized  
224 for an adoptee aged eighteen (18) years or older, maintained as  
225 provided in Section 93-17-205 for a reasonable fee, including the

226 actual cost of reproduction, to any of the following persons upon  
227 request made with sufficient proof of identity:

- 228 (a) An adoptee eighteen (18) years of age or older;
- 229 (b) An adoptive parent;
- 230 (c) The guardian or legal custodian of an adoptee; or
- 231 (d) The offspring or blood sibling of an adoptee if the  
232 requester is eighteen (18) years of age or older.

233 (2) Information released pursuant to subsection (1) of this  
234 section shall \* \* \* include the name and address of the birth  
235 parent, the identity of any provider of health care to the adoptee  
236 or to the birth parent and any other information which might  
237 reasonably lead to the discovery of the identity of either birth  
238 parent.

239 **SECTION 6.** Section 93-17-209, Mississippi Code of 1972, is  
240 amended as follows:

241 93-17-209. (1) Whenever any person specified under Section  
242 93-17-207 wishes to obtain medical, social or genetic background  
243 information about an adoptee or nonidentifying information about  
244 the birth parents of such adoptee, or whenever an adoptee aged  
245 eighteen (18) years or older wishes to obtain identifying,  
246 medical, social or background information, and the information is  
247 not on file with the bureau and the birth parents have not filed  
248 affidavits prohibiting a search to be conducted for them under the  
249 provisions of Sections 93-17-201 through 93-17-223, the person may  
250 request a licensed adoption agency to locate the birth parents to  
251 obtain the information.

252 (2) Employees of any agency conducting a search under this  
253 section may not inform any person other than the birth parents of  
254 the purpose of the search.

255 (3) The agency may charge the requester a reasonable fee for  
256 the cost of the search. When the agency determines that the fee  
257 will exceed One Hundred Dollars (\$100.00) for either birth parent,  
258 it shall notify the requester. No fee in excess of One Hundred



259 Dollars (\$100.00) per birth parent may be charged unless the  
260 requester, after receiving notification under this paragraph, has  
261 given consent to proceed with the search.

262 (4) The agency conducting the search shall, upon locating a  
263 birth parent, notify him or her of the request and of the need for  
264 medical, social, genetic or identifying information.

265 (5) The agency shall release to the requester any medical or  
266 genetic information provided by a birth parent under this section  
267 without disclosing the birth parent's identity or location, unless  
268 the requester is the child aged eighteen (18) years or older and  
269 in that case identifying information shall be provided.

270 (6) If a birth parent is located but refuses to provide the  
271 information requested, the agency shall notify the requester,  
272 without disclosing the birth parent's identity or location, and  
273 the requester may petition the chancery court to order the birth  
274 parent to disclose the nonidentifying information or identifying  
275 information if the requester is the child aged eighteen (18) years  
276 or older. The court shall grant the motion for good cause shown  
277 and if the requester is an adopted child aged eighteen (18) years  
278 or older good cause shall be presumed.

279 (7) The Mississippi Department of Human Services shall  
280 provide the bureau each year with a list of licensed adoption  
281 agencies in this state capable of performing the types of searches  
282 described in this section.

283 **SECTION 7.** Section 93-17-215, Mississippi Code of 1972, is  
284 amended as follows:

285 93-17-215. Any person eighteen (18) years of age or older  
286 who has been adopted in this state may request the bureau through  
287 a licensed adoption agency providing post-adoption services to  
288 obtain and provide the identifying information regarding either or  
289 both of his or her birth parents maintained as provided in Section  
290 93-17-205 \* \* \*.

291           **SECTION 8.** Section 93-17-217, Mississippi Code of 1972, is  
292 amended as follows:

293           93-17-217. Provided the birth parent has not filed an  
294 affidavit prohibiting the release of identifying information to an  
295 adopted child under the age of eighteen (18) years and before  
296 acting on a request made pursuant to Section 93-17-209 or Section  
297 93-17-215, the agency shall require the adoptee to provide  
298 adequate identification and to submit to counseling by such agency  
299 in connection with the release and use of this information. The  
300 bureau shall release the requested information to the designated  
301 agency upon request by such agency.

302           **SECTION 9.** Section 93-17-219, Mississippi Code of 1972, is  
303 amended as follows:

304           93-17-219. (1) With regard to an adoptee under eighteen  
305 (18) years of age, if the bureau does not have on file (a) an  
306 affidavit either authorizing or prohibiting release of identifying  
307 information \* \* \* and any further contact from each known birth  
308 parent for whom information is sought, or (b) a notice that such  
309 birth parent has been contacted once and has refused to authorize  
310 the release of confidential information, then the adoptee may  
311 request the agency to undertake a search for the birth parent who  
312 has not filed an affidavit or who has not been contacted. With  
313 regard to an adoptee aged eighteen (18) years or older, the  
314 adoptee may request the agency to undertake a search for his or  
315 her birth parent. The licensed agency shall not inform any person  
316 other than the birth parents of the purpose of the search.

317           (2) The licensed agency may charge the adoptee a reasonable  
318 fee for the cost of the search. When the agency determines that  
319 the fee will exceed One Hundred Dollars (\$100.00) for either birth  
320 parent, it shall notify the adoptee. No fee in excess of One  
321 Hundred Dollars (\$100.00) per birth parent may be charged unless  
322 the adoptee, after receiving notification under this paragraph,  
323 has given consent to proceed with the search.

324 (3) Upon locating a birth parent the licensed agency  
325 conducting the search shall make at least one (1) verbal contact  
326 and notify him or her of the following:

327 (a) The nature of the information requested;

328 (b) The date of the request; and

329 (c) The fact that the birth parent, as determined by  
330 the age of the adoptee, shall consent to or may prohibit the  
331 release of this information by filing with the bureau the  
332 affidavit to this effect.

333 (4) Within three (3) working days after contacting a birth  
334 parent, the licensed agency shall provide the birth parent with a  
335 written statement of the information requested and an affidavit  
336 form requiring or prohibiting the release of the requested  
337 information. If the birth parent of an adoptee under the age of  
338 eighteen (18) authorizes the release of the information or if the  
339 adoptee is aged eighteen (18) or over, the licensed agency shall  
340 disclose the requested information about that birth parent.

341 (5) If a licensed agency has contacted a birth parent as  
342 provided by this section, and the birth parent does not file the  
343 affidavit, the agency shall not disclose the requested information  
344 to any person other than the adoptee aged eighteen (18) or over.

345 (6) If, after a search under this section, a known birth  
346 parent cannot be located, the agency shall not disclose the  
347 requested identifying information about that birth parent to any  
348 person except the adoptee or persons authorized under Section  
349 93-17-207, although it may disclose any available nonidentifying  
350 information regarding that birth parent, and it may disclose  
351 identifying information about the other birth parent if such other  
352 birth parent has signed an unrevoked affidavit authorizing such  
353 release. If the adoptee is under the age of eighteen (18), and  
354 his or her birth parent is located and refuses to authorize the  
355 release of identifying information, the agency locating this birth

356 parent shall notify the bureau. The bureau shall note such  
357 contact and refusal in its records.

358 (7) Until an adoptee reaches the age of eighteen (18) years,  
359 only one (1) contact shall be made with a birth parent pursuant to  
360 a search request under this section if the birth parent refuses to  
361 authorize the release of the requested information. Further  
362 contacts with a birth parent under this section on behalf of the  
363 same adoptee shall be prohibited until such time as the adoptee  
364 reaches the age of eighteen (18) years.

365 **SECTION 10.** Section 93-17-223, Mississippi Code of 1972, is  
366 amended as follows:

367 93-17-223. In cases where the adoptee is under the age of  
368 eighteen (18) years and only one (1) of the birth parents has  
369 authorized the release of identifying information, that birth  
370 parent shall be prohibited from divulging to the adoptee the  
371 identity, or any information reasonably calculated to lead to  
372 discovery of the identity, of the other birth parent, and shall  
373 execute a sworn affidavit stating that no such information shall  
374 be revealed. The refusal of any birth parent to comply with this  
375 prohibition shall constitute an act of bad faith under the terms  
376 of Sections 93-17-201 through 93-17-223, and such birth parent  
377 shall be subject to civil liability for the release of such  
378 information.

379 **SECTION 11.** This act shall take effect and be in force from  
380 and after July 1, 2007.