

By: Senator(s) Nunnelee

To: Public Health and Welfare

SENATE BILL NO. 2923

1 AN ACT TO AMEND SECTIONS 93-17-3 AND 93-17-13, MISSISSIPPI
2 CODE OF 1972, TO REQUIRE A SAFE ADOPTION HOME STUDY TO BE
3 PERFORMED IN ALL ADOPTIONS OF A CHILD FROM A FOREIGN COUNTRY AND
4 TO PROVIDE THAT SUCH HOME STUDY SHALL BE VALID FOR 24 MONTHS; AND
5 FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 93-17-3, Mississippi Code of 1972, is
8 amended as follows:

9 93-17-3. (1) Except as otherwise provided in subsections
10 (2) and (3), a court of this state has jurisdiction over a
11 proceeding for the adoption of a minor commenced under this
12 chapter if:

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

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

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

29 (i) The minor and the minor's parents, or the
30 minor and the prospective adoptive parent, have a significant
31 connection with this state; and

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

34 (d) The minor and the prospective adoptive parent are
35 physically present in this state and the minor has been abandoned
36 or it is necessary in an emergency to protect the minor because
37 the minor has been subjected to or threatened with mistreatment or
38 abuse or is otherwise neglected; or

39 (e) It appears that no other state would have
40 jurisdiction under prerequisites substantially in accordance with
41 paragraphs (a) through (d), or another state has declined to
42 exercise jurisdiction on the ground that this state is the more
43 appropriate forum to hear a petition for adoption of the minor,
44 and it is in the best interest of the minor that a court of this
45 state assume jurisdiction.

46 (2) A court of this state may not exercise jurisdiction over
47 a proceeding for adoption of a minor if, at the time the petition
48 for adoption is filed, a proceeding concerning the custody or
49 adoption of the minor is pending in a court of another state
50 exercising jurisdiction substantially in conformity with the
51 Uniform Child Custody Jurisdiction Act or this section unless the
52 proceeding is stayed by the court of the other state.

53 (3) If a court of another state has issued a decree or order
54 concerning the custody of a minor who may be the subject of a
55 proceeding for adoption in this state, a court of this state may
56 not exercise jurisdiction over a proceeding for adoption of the
57 minor unless:

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

60 (i) Does not have continuing jurisdiction to
61 modify the decree or order under jurisdictional prerequisites

62 substantially in accordance with the Uniform Child Custody
63 Jurisdiction Act or has declined to assume jurisdiction to
64 modify the decree or order; or

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

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

71 (4) Any person may be adopted in accordance with the
72 provisions of this chapter in term time or in vacation by an
73 unmarried adult or by a married person whose spouse joins in the
74 petition. The adoption shall be by sworn petition filed in the
75 chancery court of the county in which the adopting petitioner or
76 petitioners reside or in which the child to be adopted resides or
77 was born, or was found when it was abandoned or deserted, or in
78 which the home is located to which the child has been surrendered
79 by a person authorized to so do. The petition shall be
80 accompanied by a doctor's or nurse practitioner's certificate
81 showing the physical and mental condition of the child to be
82 adopted and a sworn statement of all property, if any, owned by
83 the child. If the doctor's or nurse practitioner's certificate
84 indicates any abnormal mental or physical condition or defect, the
85 condition or defect shall not in the discretion of the chancellor
86 bar the adoption of the child if the adopting parent or parents
87 file an affidavit stating full and complete knowledge of the
88 condition or defect and stating a desire to adopt the child,
89 notwithstanding the condition or defect. The court shall have the
90 power to change the name of the child as a part of the adoption
91 proceedings. The word "child" herein shall be construed to refer
92 to the person to be adopted, though an adult.

93 (5) Adoption by couples of the same gender is prohibited.

94 (6) No child from a foreign country may be adopted before a
95 court-ordered safe adoption home study of the potential adopting
96 parties is satisfactorily completed. Such home study for an
97 international adoption shall be valid for twenty-four (24) months.

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

100 93-17-13. A final decree of adoption shall not be entered
101 before the expiration of six (6) months from the entry of the
102 interlocutory decree except (a) when a child is a stepchild of a
103 petitioner or is related by blood to the petitioner within the
104 third degree according to the rules of the civil law or in any
105 case in which the chancellor in the exercise of his discretion
106 shall determine from all the proceedings and evidence in said
107 cause that the six-month waiting period is not necessary or
108 required for the benefit of the court, the petitioners or the
109 child to be adopted, and shall so adjudicate in the decree entered
110 in said cause, in either of which cases the final decree may be
111 entered immediately without any delay and without an interlocutory
112 decree, or (b) when the child has resided in the home of any
113 petitioner prior to the granting of the interlocutory decree, in
114 which case the court may, in its discretion, shorten the waiting
115 period by the length of time the child has thus resided.

116 The final decree shall adjudicate, in addition to such other
117 provisions as may be found by the court to be proper for the
118 protection of the interests of the child; and its effect, unless
119 otherwise specifically provided, shall be that (a) the child shall
120 inherit from and through the adopting parents and shall likewise
121 inherit from the other children of the adopting parents to the
122 same extent and under the same conditions as provided for the
123 inheritance between brothers and sisters of the full blood by the
124 laws of descent and distribution of the State of Mississippi, and
125 that the adopting parents and their other children shall inherit
126 from the child, just as if such child had been born to the

127 adopting parents in lawful wedlock; (b) the child and the adopting
128 parents and adoptive kindred are vested with all of the rights,
129 powers, duties and obligations, respectively, as if such child had
130 been born to the adopting parents in lawful wedlock, including all
131 rights existing by virtue of Section 11-7-13, Mississippi Code of
132 1972; provided, however, that inheritance by or from the adopted
133 child shall be governed by subsection (a) above; (c) that the name
134 of the child shall be changed if desired; and (d) that the natural
135 parents and natural kindred of the child shall not inherit by or
136 through the child except as to a natural parent who is the spouse
137 of the adopting parent, and all parental rights of the natural
138 parent, or parents, shall be terminated, except as to a natural
139 parent who is the spouse of the adopting parent. Nothing in this
140 chapter shall restrict the right of any person to dispose of
141 property under a last will and testament.

142 A final decree of adoption of a child from a foreign country
143 shall not be entered until a court ordered safe adoption home
144 study is satisfactorily completed. Any such home study shall be
145 valid for twenty-four (24) months.

146 **SECTION 3.** This act shall take effect and be in force from
147 and after July 1, 2007.