

By: Senator(s) Fillingane

To: Public Health and Welfare

SENATE BILL NO. 2153

1 AN ACT TO ENACT THE MISSISSIPPI SURROGACY AND IN VITRO CHILD
2 AND PARENT ACT; TO PROVIDE FOR CERTAIN TECHNICAL DEFINITIONS
3 RELATED TO SURROGACY AND IN VITRO PREGNANCIES; TO PROVIDE FOR
4 CERTAIN REQUIREMENTS RELATED TO THE DONATION OF EGGS, SPERM OR
5 PRE-EMBRYOS; TO ESTABLISH THE REQUIREMENTS FOR PREPLANNED ADOPTION
6 AGREEMENTS AND GESTATIONAL SURROGACY CONTRACTS; TO SET CERTAIN
7 PARENTAL RIGHTS INVOLVING CHILDREN PRODUCED AS A RESULT OF
8 ARTIFICIAL OR IN VITRO INSEMINATION; TO PROVIDE FOR AN EXPEDITED
9 ADOPTION OR AFFIRMATION PROCEDURE FOR PARENTAL STATUS INVOLVING
10 GESTATIONAL SURROGACY OR PREPLANNED ADOPTIONS; TO PROVIDE CERTAIN
11 REQUIREMENTS FOR THE DISPOSITION OF EGGS, SPERM OR PRE-EMBRYOS; TO
12 SET CERTAIN TECHNICAL REQUIREMENTS INVOLVING SURROGACY AND IN
13 VITRO PREGNANCIES; TO AMEND SECTIONS 93-17-5, 93-17-6 AND
14 93-17-13, MISSISSIPPI CODE OF 1972, TO CONFORM WITH THE PROVISIONS
15 OF THE ACT; TO BRING FORWARD SECTIONS 93-17-7, 93-17-8 AND
16 93-17-21, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE
17 AMENDMENT; AND FOR RELATED PURPOSES.

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

19 **SECTION 1. Title.** This chapter shall be known and may be
20 cited as the "Mississippi Surrogacy and In Vitro Child and Parent
21 Act."

22 **SECTION 2. Definitions.** For purposes of this chapter,
23 unless the context requires otherwise, the following terms shall
24 have the meanings ascribed herein:



25 (a) "Assisted reproductive technology" means those
26 procreative procedures which involve the laboratory handling of
27 human eggs or pre-embryos, including, but not limited to, in vitro
28 fertilization embryo transfer, gamete intrafallopian transfer,
29 pronuclear stage transfer, tubal embryo transfer and zygote
30 intrafallopian transfer.

31 (b) "Blood and tissue typing tests" include, but are
32 not limited to, tests of red cell antigens, red cell isoenzymes,
33 human leukocyte antigens and serum proteins.

34 (c) "Child" means the child or children conceived by
35 means of a fertility technique that is part of a preplanned
36 adoption agreement.

37 (d) "Commissioning parent(s)" means the intended mother
38 and/or father of a child who will be conceived by means of
39 assisted reproductive technology.

40 (e) "Egg" means the unfertilized female reproductive
41 cell.

42 (f) "Fertility technique" means artificial
43 embryonation, artificial insemination, whether in vivo or in
44 vitro, egg donation or embryo adoption.

45 (g) "Fertilization" means the initial union of an egg
46 and sperm.

47 (h) "Gestational surrogate" means a woman who contracts
48 to become pregnant by means of assisted reproductive technology
49 without the use of an egg from her body.



50 (i) "Gestational surrogacy" means a state that results
51 from a process in which a commissioning couple's eggs or sperm, or
52 both, are mixed in vitro and the resulting pre-embryo is implanted
53 within another woman's body.

54 (j) "Gestational surrogacy contract" means a written
55 agreement between the gestational surrogate and the commissioning
56 couple.

57 (k) "Gamete intrafallopian transfer" means the direct
58 transfer of eggs and sperm into the fallopian tube prior to
59 fertilization.

60 (l) "Implantation" means the event that occurs when a
61 fertilized egg adheres to the uterine wall for nourishment.

62 (m) "Intended father" means a male who, as evidenced by
63 a preplanned adoption agreement, intends to assert the parental
64 rights and responsibilities for a child conceived through a
65 fertility technique, regardless of whether the child is
66 biologically related to the male.

67 (n) "Intended mother" means a female who, as evidenced
68 by a preplanned adoption agreement, intends to assert the parental
69 rights and responsibilities for a child conceived through a
70 fertility technique, regardless of whether the child is
71 biologically related to the female.

72 (o) "In vitro" refers to a laboratory procedure
73 performed in an artificial environment outside a woman's body.



74 (p) "In vitro fertilization embryo transfer" means the
75 transfer of an in vitro fertilized pre-embryo into a woman's
76 uterus.

77 (q) "Party" means the intended father, the intended
78 mother, the volunteer mother or the volunteer mother's husband, if
79 she has a husband.

80 (r) "Pre-embryo" means the product of fertilization of
81 an egg by a sperm until the appearance of the embryonic axis.

82 (s) "Preplanned adoption agreement" means a written
83 agreement among the parties that specifies the intent of the
84 parties as to their rights and responsibilities in the preplanned
85 adoption agreement, consistent with the provisions of this act.
86 Such term shall mean an agreement for the volunteer mother to bear
87 the child, for payment by the intended father and/or intended
88 mother of the expenses allowed by this section, for the intended
89 father and/or intended mother to assert full parental rights and
90 responsibilities to the child and for the volunteer mother to
91 terminate her parental rights and responsibilities to the child in
92 favor of the intended father and/or intended mother.

93 (t) "Pronuclear stage transfer" or "zygote
94 intrafallopian transfer" means the transfer of an in vitro
95 fertilized pre-embryo into the fallopian tube before cell division
96 takes place.

97 (u) "Sperm" means the male reproductive cell.



98 (v) "Tubal embryo transfer" means the transfer of a
99 dividing in vitro fertilized pre-embryo into the fallopian tube.

100 (w) "Volunteer mother" means a female at least
101 twenty-one (21) years of age who voluntarily agrees that if she
102 should become pregnant pursuant to a preplanned adoption
103 agreement, she will terminate her parental rights and
104 responsibilities to the child in favor of the intended father
105 and/or intended mother.

106 **SECTION 3. Donation of eggs, sperm or pre-embryos.** (1) The
107 donor of any egg, sperm or pre-embryo, other than the
108 commissioning parent(s) who has executed a preplanned adoption
109 agreement under Section 4 of this act, shall relinquish all
110 parental rights and obligations with respect to the donation or
111 the resulting children. Only reasonable compensation directly
112 related to the donation of eggs, sperm and pre-embryos shall be
113 permitted.

114 (2) If an intended mother and/or intended father are the
115 biological parent(s) of a child created through assisted
116 reproductive technology, the intended mother and/or intended
117 father shall be considered the natural parent(s) of the child.

118 (3) The provisions of this act shall only apply to a
119 surrogate mother who is not the biological mother of the child.

120 **SECTION 4. Preplanned adoption agreement.** (1) Individuals
121 may enter into a preplanned adoption agreement as specified in
122 this section, but such agreement may not in any way affect final



123 transfer of custody of a child or final adoption of a child
124 without review and approval of a court of competent jurisdiction
125 and without compliance with other applicable provisions of law.

126 (2) A preplanned adoption agreement must include, but need
127 not be limited to, the following terms:

128 (a) That the volunteer mother agrees to become pregnant
129 by the fertility technique specified in the agreement, to bear the
130 child, and to terminate any parental rights and responsibilities
131 to the child she might have through a written consent executed at
132 the same time as the preplanned adoption agreement.

133 (b) That the volunteer mother agrees to submit to
134 reasonable medical evaluation and treatment and to adhere to
135 reasonable medical instructions about her prenatal health.

136 (c) That an intended father who is also the biological
137 father acknowledges that he is aware that he will assume parental
138 rights and responsibilities for the child as otherwise provided by
139 law for a father if the agreement is terminated for any reason by
140 any party before final transfer of custody is completed or if the
141 planned adoption is not approved by a court of competent
142 jurisdiction.

143 (d) That an intended mother who is also the biological
144 mother acknowledges that she is aware that she will assume
145 parental rights and responsibilities for the child as otherwise
146 provided by law for a mother if the agreement is terminated for
147 any reason by any party before final transfer of custody is



148 completed or if the planned adoption is not approved by a court of
149 competent jurisdiction.

150 (e) That the intended father and/or intended mother may
151 agree to pay all reasonable legal, medical, psychological or
152 psychiatric expenses of the volunteer mother related to the
153 preplanned adoption agreement and may agree to pay the reasonable
154 living expenses and wages lost due to the pregnancy and birth of
155 the volunteer mother and reasonable compensation for
156 inconvenience, discomfort and medical risk. No other
157 compensation, whether in cash or in kind, shall be made pursuant
158 to a preplanned adoption agreement.

159 (f) That the intended father and/or intended mother
160 agree to accept custody of and to assert full parental rights and
161 responsibilities for the child immediately upon the child's birth,
162 regardless of any impairment to the child.

163 (g) That the intended father and/or intended mother
164 shall have the right to specify the blood and tissue typing tests
165 to be performed if the agreement specifies that at least one (1)
166 of them is intended to be the biological parent of the child.

167 (h) That the agreement may be terminated at any time by
168 any of the parties.

169 (3) A preplanned adoption agreement shall not contain any
170 provision:

171 (a) To reduce any amount paid to the volunteer mother
172 if the child is stillborn or is born alive but impaired, or to



173 provide for the payment of a supplement or bonus for any reason;
174 and

175 (b) Requiring the termination of the volunteer mother's
176 pregnancy.

177 (4) An attorney who represents an intended father and/or
178 intended mother or any other attorney with whom that attorney is
179 associated shall not represent simultaneously a female who is or
180 proposes to be a volunteer mother in any matter relating to a
181 preplanned adoption agreement.

182 (5) Doctors, psychologists, attorneys and other
183 professionals may receive reasonable compensation for their
184 professional services, such as providing medical services and
185 procedures, legal advice in structuring and negotiating a
186 preplanned adoption agreement or counseling.

187 **SECTION 5.** (1) Any child born within wedlock who has been
188 conceived by the means of artificial or in vitro insemination is
189 irrebuttably presumed to be the child of such husband and wife,
190 provided that both husband and wife have consented in writing to
191 the artificial or in vitro insemination. Such husband and wife
192 shall have the same parental rights to the child.

193 (2) Any child born within wedlock who has been conceived by
194 means of donated eggs or pre-embryos shall be irrebuttably
195 presumed to be the child of the recipient gestating woman and her
196 husband, provided that both parties have consented in writing to
197 the use of donated eggs or pre-embryos.



198 **SECTION 6. Gestational surrogacy contract.** (1) Prior to
199 engaging in gestational surrogacy, a binding and enforceable
200 gestational surrogacy contract may be made between the
201 commissioning parent(s) and the gestational surrogate. A contract
202 for gestational surrogacy shall not be binding and enforceable
203 unless the gestational surrogate is twenty-one (21) years of age
204 or older and the commissioning parent(s) is twenty-one (21) years
205 of age or older.

206 (2) A gestational surrogacy contract shall include the
207 following provisions:

208 (a) The commissioning parent(s) agrees that the
209 gestational surrogate shall be the sole source of consent with
210 respect to clinical intervention and management of the pregnancy,
211 provided that the commission parent(s) shall be consulted with
212 during all aspects of the pregnancy with the surrogate's treating
213 physician;

214 (b) The gestational surrogate agrees to submit to
215 reasonable medical evaluation and treatment and to adhere to
216 reasonable medical instructions about her prenatal health;

217 (c) The gestational surrogate agrees to relinquish any
218 parental rights upon the child's birth and to proceed with the
219 judicial proceedings prescribed under existing law.

220 (d) The commissioning parent(s) agrees to accept
221 custody of and to assume full parental rights and responsibilities



222 for the child immediately upon the child's birth, regardless of
223 any impairment of the child.

224 (3) As part of the contract, the commissioning parent(s) may
225 agree to pay only reasonable living, legal, medical, psychological
226 and psychiatric expenses of the gestational surrogate that are
227 directly related to prenatal, intranatal and postnatal periods.

228 **SECTION 7. Expedited affirmation of parental status for**
229 **gestational surrogacy.** (1) After seventy-hours (72) hours after
230 the birth of a child delivered of a gestational surrogate or
231 volunteer mother, as applicable, the commissioning parent(s) shall
232 petition a court of competent jurisdiction for an expedited
233 affirmation of parental status or adoption if the commissioning
234 parent(s) is not the biological parent(s) of the child.

235 (2) After the petition is filed, the court shall fix a time
236 and place for hearing the petition, which may be immediately after
237 the filing of the petition. Notice of hearing shall be given as
238 prescribed by the rules of civil procedure, and service of process
239 shall be made as specified by law for civil actions.

240 (3) Upon a showing by the commissioning parent(s), the
241 child, the volunteer mother or the gestational surrogate that
242 privacy rights may be endangered, the court may order the names of
243 the parent(s), the child, the volunteer mother or the gestational
244 surrogate, or any combination thereof, to be deleted from the
245 notice of hearing and from the copy of the petition attached



246 thereto, provided the substantive rights of any person will not
247 thereby be affected.

248 (4) In a case involving a gestational surrogacy contract,
249 the commissioning parent(s) shall give notice of the hearing to
250 the gestational surrogate and any party claiming paternity. In a
251 case involving a preplanned adoption agreement, the commissioning
252 parent(s) shall give notice of the hearing to the volunteer mother
253 and any party claiming paternity.

254 (5) All hearings held in proceedings under this section
255 shall be held in closed court without admittance of any person
256 other than essential officers of the court, the parties, witnesses
257 and any persons who have received notice of the hearing.

258 (6) The commissioning parent(s) or their legal
259 representative shall appear at the hearing on the petition. At
260 the conclusion of the hearing, after the court has determined that
261 a binding and enforceable gestational surrogacy contract or
262 preplanned adoption agreement has been executed pursuant to this
263 act, the court shall enter an order stating that the commissioning
264 parent(s) is the legal parent(s) of the child and are vested with
265 all of the rights, powers, duties and obligations thereto,
266 respectively.

267 (7) When at least one (1) member of the commissioning
268 parent(s) are the genetic parent of the child, the commissioning
269 parent(s) shall be presumed to be the natural parent(s) of the
270 child.



271 (8) Within thirty (30) days after entry of the order, the
272 clerk of the court and the Bureau of Vital Statistics shall comply
273 with Section 93-17-21.

274 (9) All papers and records pertaining to the affirmation of
275 parental status or adoption, as applicable, including the original
276 birth certificate, are confidential and subject to Section
277 93-17-25.

278 **SECTION 8. Disposition of eggs, sperm or pre-embryos.** (1)

279 The commissioning parent(s) and the treating physician shall enter
280 into a written agreement that provides for the disposition of the
281 commissioning parent(s)' eggs, sperm and pre-embryos in the event
282 of a divorce, the death of a spouse or any other unforeseen
283 circumstance.

284 (2) Absent a written agreement, any remaining eggs or sperm
285 shall remain under the control of the party who provides the eggs
286 or sperm.

287 (3) Absent a written agreement, decision-making authority
288 regarding the disposition of pre-embryos shall reside jointly with
289 the commissioning parent(s).

290 (4) Absent a written agreement, in the case of the death of
291 one (1) member of the commissioning parents, any eggs, sperm, or
292 pre-embryos shall remain under the control of the surviving member
293 of the commissioning parents.

294 (5) A child conceived from the eggs or sperm of a person or
295 persons who died before the transfer of their eggs, sperm, or



296 pre-embryos to a woman's body shall not be eligible for a claim
297 against the decedent's estate unless the child has been provided
298 for by the decedent's will.

299 (6) A multifetal pregnancy reduction or selective reduction
300 procedure may be allowed if it has been determined by her treating
301 physician that it is necessary to preserve the life of the mother.

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

304 93-17-5. (1) There shall be made parties to the proceeding
305 by process or by the filing therein of a consent to the adoption
306 proposed in the petition, which consent shall be duly sworn to or
307 acknowledged and executed only by the following persons, but not
308 before seventy-two (72) hours after the birth of the child:

309 (a) The parents, or parent, if only one (1) parent,
310 though either be under the age of twenty-one (21) years;

311 (b) If both parents are dead, then any two (2) adult
312 kin of the child within the third degree computed according to the
313 civil law; if one of such kin is in possession of the child, he or
314 she shall join in the petition or be made a party to the suit; or

315 (c) The guardian ad litem of an abandoned child, upon
316 petition showing that the names of the parents of the child are
317 unknown after diligent search and inquiry by the petitioners. In
318 addition to the above, there shall be made parties to any
319 proceeding to adopt a child, either by process or by the filing of
320 a consent to the adoption proposed in the petition, the following:



321 (i) Those persons having physical custody of the
322 child, except persons who are acting as foster parents as a result
323 of placement with them by the Department of Child Protection
324 Services of the State of Mississippi.

325 (ii) Any person to whom custody of the child may
326 have been awarded by a court of competent jurisdiction of the
327 State of Mississippi.

328 (iii) The agent of the Department of Child
329 Protection Services of the State of Mississippi that has placed a
330 child in foster care, either by agreement or by court order.

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

335 (3) If consent is not filed, process shall be had upon the
336 parties as provided by law for process in person or by
337 publication, if they are nonresidents of the state or are not
338 found therein after diligent search and inquiry, the court or
339 chancellor in vacation may fix a date in termtime or in vacation
340 to which process may be returnable and shall have power to proceed
341 in termtime or vacation. In any event, if the child is more than
342 fourteen (14) years of age, a consent to the adoption, sworn to or
343 acknowledged by the child, shall also be required or personal
344 service of process shall be had upon the child in the same manner
345 and in the same effect as if the child were an adult.



346 (4) This section shall not apply to parents or children
347 subject to the Mississippi Surrogacy and In Vitro Child and Parent
348 Act.

349 **SECTION 10.** Section 93-17-6, Mississippi Code of 1972, is
350 amended as follows:

351 93-17-6. (1) Any person who would be a necessary party to
352 an adoption proceeding under this chapter and any person alleged
353 or claiming to be the father of a child born out of wedlock who is
354 proposed for adoption or who has been determined to be such by any
355 administrative or judicial procedure (the "alleged father") may
356 file a petition for determination of rights as a preliminary
357 pleading to a petition for adoption in any court which would have
358 jurisdiction and venue of an adoption proceeding. A petition for
359 determination of rights may be filed at any time after the period
360 ending thirty (30) days after the birth of the child. Should
361 competing petitions be filed in two (2) or more courts having
362 jurisdiction and venue, the court in which the first such petition
363 was properly filed shall have jurisdiction over the whole
364 proceeding until its disposition. The prospective adopting
365 parents need not be a party to the petition. Where the child's
366 biological mother has surrendered the child to a home for
367 adoption, the home may represent the biological mother and her
368 interests in this proceeding.

369 (2) The court shall set this petition for hearing as
370 expeditiously as possible allowing not less than ten (10) days'



371 notice from the service or completion of process on the parties to
372 be served.

373 (3) The sole matter for determination under a petition for
374 determination of rights is whether the alleged father is the
375 natural father of the child based on Mississippi law governing
376 paternity or other relevant evidence.

377 (4) If the court determines that the alleged father is not
378 the natural father of the child, he shall have no right to object
379 to an adoption under Section 93-17-7.

380 (5) If the court determines that the alleged father is the
381 child's natural father and that he objects to the child's
382 adoption, the court shall stay the adoption proceedings to allow
383 the filing of a petition to determine whether the father's
384 parental rights should be terminated pursuant to Section
385 93-15-119, or other applicable provision of the Mississippi
386 Termination of Parental Rights Law.

387 (6) If a petition for the termination of parental rights is
388 filed and, after an evidentiary hearing, the court does not
389 terminate the father's parental rights, the court shall set the
390 matter as a contested adoption as provided in Section 93-17-8.

391 (7) A petition for determination of rights may be used to
392 determine the rights of alleged fathers whose identity is unknown
393 or uncertain. In such cases the court shall determine what, if
394 any, notice can be and is to be given those persons.



395 Determinations of rights under the procedure of this section may
396 also be made under a petition for adoption.

397 (8) Petitions for determination of rights shall be
398 considered adoption cases and all subsequent proceedings such as a
399 contested adoption under Section 93-17-8 and the adoption
400 proceeding itself shall be portions of the same file.

401 (9) Service of process in the adoption of a foreign born
402 child shall be governed by Section 93-15-107(4).

403 (10) This section shall not apply to parents or children
404 subject to the Mississippi Surrogacy and In Vitro Child and Parent
405 Act.

406 **SECTION 11.** Section 93-17-13, Mississippi Code of 1972, is
407 amended as follows:

408 93-17-13. (1) A final decree of adoption shall not be
409 entered before the expiration of six (6) months from the entry of
410 the interlocutory decree except (a) when a child is a stepchild of
411 a petitioner or is related by blood to the petitioner within the
412 third degree according to the rules of the civil law or in any
413 case, including in cases subject to the Mississippi Surrogacy and
414 In Vitro Child and Parent Act, in which the chancellor in the
415 exercise of his discretion shall determine from all the
416 proceedings and evidence in said cause that the six-month waiting
417 period is not necessary or required for the benefit of the court,
418 the petitioners or the child to be adopted, and shall so
419 adjudicate in the decree entered in said cause, in either of which



420 cases the final decree may be entered immediately without any
421 delay and without an interlocutory decree, (b) when the child has
422 resided in the home of any petitioner prior to the granting of the
423 interlocutory decree, in which case the court may, in its
424 discretion, shorten the waiting period by the length of time the
425 child has thus resided, or (c) when an adoption in a foreign
426 country is registered under Article 9 of this chapter, the
427 Mississippi Registration of Foreign Adoptions Act.

428 (2) The final decree shall adjudicate, in addition to such
429 other provisions as may be found by the court to be proper for the
430 protection of the interests of the child; and its effect, unless
431 otherwise specifically provided, shall be that (a) the child shall
432 inherit from and through the adopting parents and shall likewise
433 inherit from the other children of the adopting parents to the
434 same extent and under the same conditions as provided for the
435 inheritance between brothers and sisters of the full blood by the
436 laws of descent and distribution of the State of Mississippi, and
437 that the adopting parents and their other children shall inherit
438 from the child, just as if such child had been born to the
439 adopting parents in lawful wedlock; (b) the child and the adopting
440 parents and adoptive kindred are vested with all of the rights,
441 powers, duties and obligations, respectively, as if such child had
442 been born to the adopting parents in lawful wedlock, including all
443 rights existing by virtue of Section 11-7-13, Mississippi Code of
444 1972; provided, however, that inheritance by or from the adopted



445 child shall be governed by paragraph (a) above; (c) that the name
446 of the child shall be changed if desired; and (d) that the natural
447 parents and natural kindred of the child shall not inherit by or
448 through the child except as to a natural parent who is the spouse
449 of the adopting parent, and all parental rights of the natural
450 parent, or parents, shall be terminated, except as to a natural
451 parent who is the spouse of the adopting parent. Nothing in this
452 chapter shall restrict the right of any person to dispose of
453 property under a last will and testament.

454 (3) A final decree of adoption shall not be entered until a
455 court-ordered home study is satisfactorily completed, if required
456 in Section 93-17-11.

457 **SECTION 12.** Section 93-17-7, Mississippi Code of 1972, is
458 brought forward as follows:

459 93-17-7. (1) No infant shall be adopted to any person if a
460 parent whose parental rights have not been terminated under the
461 Mississippi Termination of Parental Rights Law, after having been
462 summoned, shall appear and object thereto before the making of a
463 decree for adoption. A parent shall not be summoned in the
464 adoption proceedings nor have the right to object thereto if the
465 parental rights of the parent have been terminated by the
466 procedure set forth in the Mississippi Termination of Parental
467 Rights Law (Section 93-15-101 et seq.), and the termination shall
468 be res judicata on the question of parental abandonment or
469 unfitness in the adoption proceedings.



470 (2) No person, whether claiming to be the parent of the
471 child or not, has standing to object to the adoption if:

472 (a) A final judgment for adoption that comports with
473 all applicable state and federal laws has been entered by a court;
474 and

475 (b) Notice to the parties of the action, whether known
476 or unknown, has been made in compliance with Section 93-17-5.

477 **SECTION 13.** Section 93-17-8, Mississippi Code of 1972, is
478 brought forward as follows:

479 93-17-8. (1) Whenever an adoption becomes a contested
480 matter, whether after a hearing on a petition for determination of
481 rights under Section 93-17-6 or otherwise, the court:

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

488 (b) Shall appoint a guardian ad litem to represent the
489 child. Such guardian ad litem shall be an attorney, however his
490 duties are as guardian ad litem and not as attorney for the child.
491 The reasonable costs of the guardian ad litem shall be taxed as
492 costs of court. Neither the child nor anyone purporting to act on
493 his behalf may waive the appointment of a guardian ad litem.



494 (c) Shall determine first whether or not the objecting
495 parent is entitled to so object under the criteria of Section
496 93-17-7 and then shall determine the custody of the child in
497 accord with the best interests of the child and the rights of the
498 parties as established by the hearings and judgments.

499 (d) Shall schedule all hearings concerning the
500 contested adoption as expeditiously as possible for prompt
501 conclusion of the matter.

502 (2) In determining the custody of the child after a finding
503 that the adoption will not be granted, the fact of the surrender
504 of the child for adoption by a parent shall not be taken as any
505 evidence of that parent's abandonment or desertion of the child or
506 of that parent's unfitness as a parent.

507 (3) In contested adoptions arising through petitions for
508 determination of rights where the prospective adopting parents
509 were not parties to that proceeding, they need not be made parties
510 to the contested adoption until there has been a ruling that the
511 objecting parent is not entitled to enter a valid objection to the
512 adoption. At that point the prospective adopting parents shall be
513 made parties by joinder which shall show their suitability to be
514 adopting parents as would a petition for adoption. The identity
515 and suitability of the prospective adopting parents shall be made
516 known to the court and the guardian ad litem, but shall not be
517 made known to other parties to the proceeding unless the court



518 determines that the interests of justice or the best interests of
519 the child require it.

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

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

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

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



543 of the child, as well as reasonable support for the child after
544 his birth.

545 **SECTION 14.** Section 93-17-21, Mississippi Code of 1972, is
546 brought forward as follows:

547 93-17-21. (1) A certified copy of the final decree shall be
548 furnished to the Bureau of Vital Statistics, together with a
549 certificate signed by the clerk giving the true or original name
550 and the place and date of birth of the child. The said bureau
551 shall prepare a revised birth certificate which shall contain the
552 original date of birth, with the place of birth being shown as the
553 residence of the adoptive parents at the time the child was born,
554 but with the names of the adopting parents and the new name of the
555 child. In all other particulars, the certificate shall show the
556 true facts of birth. The fact that a revised birth certificate is
557 issued shall be indicated only by code numbers or some letter
558 inconspicuously placed on the face of the certificate. The word
559 "revised" shall not appear thereon. However, in the event an
560 unmarried adult shall be the adopting parent, then such birth
561 certificate may show thereon, upon order of the chancellor as set
562 forth in the decree of adoption, that same is a revised birth
563 certificate, giving the court where said decree was issued and the
564 date of such decree. The original birth certificate shall be
565 removed and placed, with reference made to the decree of adoption,
566 in a safely locked drawer or vault, and the same shall not be
567 public records and shall not be divulged except upon the order of



568 the court rendering the said final decree or pursuant to Sections
569 93-17-201 through 93-17-223, and for all purposes the revised
570 certificate shall be and become the birth certificate of the
571 child. However, the Bureau of Vital Statistics of the State of
572 Mississippi shall be required to prepare and register revised
573 certificates only for births which occurred in the State of
574 Mississippi as shown either by the court decree or by the original
575 birth record on file in the bureau; but if the birth occurred in
576 some other state, then the Director of the Bureau of Vital
577 Statistics of the State of Mississippi shall be required to
578 furnish to the attorney or other person representing the adopted
579 child the name and address of the proper official in the state
580 where the child was born, to whom the adoption decree and other
581 information may be referred for appropriate action, and shall
582 furnish to such attorney the certified copy of the decree and the
583 certificate furnished by the clerk.

584 (2) Provided, however, notwithstanding anything herein to
585 the contrary, either an original or a revised birth certificate
586 may be issued, as hereinafter provided, by the Bureau of Vital
587 Statistics to any child who was born outside the United States or
588 its possessions and adopted, either heretofore or hereafter, by an
589 order of a court in this state. Upon presentation of a certified
590 copy of the final decree of adoption containing the required
591 information, the Director of the Bureau of Vital Statistics shall
592 be authorized and directed to receive said certified copy of the



593 decree of adoption and prepare therefrom, and record, a birth
594 certificate which shall disclose the following information: The
595 name of the child (being the adopted name), race, sex, date of
596 birth, place of birth (being the actual town, district and county
597 of said child's birth, except where the child is born in a penal
598 or mental institution where the name of the county shall be
599 sufficient), names, race, ages, places of birth and occupation of
600 parents (being the adoptive parents) including the maiden name of
601 the adoptive mother. Such certificate shall comport in appearance
602 and indicia with the foregoing requirements for a "revised"
603 certificate issued to a child born in this state. The Director of
604 the Bureau of Vital Statistics shall be authorized and directed to
605 issue certified copies thereof, the same as if the birth
606 certificate were that of a child who had never been adopted.

607 **SECTION 15.** This act shall take effect and be in force from
608 and after July 1, 2024.

