

Termination of Parental Rights Statutes and Contents

§§ 93-15-1 through 93-15-11. Repealed

Miss. Code Ann. § 93-15-101. Short Title

This chapter shall be known and may be cited as the “Mississippi Termination of Parental Rights Law.”

Miss. Code Ann. § 93-15-103. Definitions

For purposes of this chapter, unless a different meaning is plainly expressed by the context, the following definitions apply:

- (a) “Abandonment” means any conduct by the parent, whether consisting of a single incident or actions over an extended period of time, that evinces a settled purpose to relinquish all parental claims and responsibilities to the child. Abandonment may be established by showing:
 - (i) For a child who is under three (3) years of age on the date that the petition for termination of parental rights was filed, that the parent has deliberately made no contact with the child for six (6) months;
 - (ii) For a child who is three (3) years of age or older on the date that the petition for termination of parental rights was filed, that the parent has deliberately made no contact with the child for at least one (1) year; or
 - (iii) If the child is under six (6) years of age, that the parent has exposed the child in any highway, street, field, outhouse, or elsewhere with the intent to wholly abandon the child.
- (b) “Child” means a person under eighteen (18) years of age.
- (c) “Court” means the court having jurisdiction under the Mississippi Termination of Parental Rights Law.
- (d) “Desertion” means:
 - (i) Any conduct by the parent over an extended period of time that demonstrates a willful neglect or refusal to provide for the support and maintenance of the child; or
 - (ii) That the parent has not demonstrated, within a reasonable period of time after the birth of the child, a full commitment to the responsibilities of parenthood.

(e) “Home” means any charitable or religious corporation or organization or the superintendent or head of the charitable or religious corporation or organization organized under the laws of the State of Mississippi, any public authority to which has been granted the power to provide care for or procure the adoption of children by any Mississippi statute, and any association or institution engaged in placing children for adoption on July 1, 1955.

(f) “Interested person” means any person related to the child by consanguinity or affinity, a custodian or legal guardian of the child, a guardian ad litem representing the child's best interests, or an attorney representing the child's preferences under Rule 13 of the Uniform Rules of Youth Court Practice.

(g) “Minor parent” means any parent under twenty-one (21) years of age.

(h) “Parent” means a natural or adoptive parent of the child.

(i) “Permanency outcome” means achieving a permanent or long-term custodial arrangement for the custody and care of the child that ends the supervision of the Department of Child Protection Services.

(j) “Qualified health professional” means a licensed or certified professional who is engaged in the delivery of health services and who meets all applicable federal or state requirements to provide professional services.

(k) “Qualified mental health professional” means a person with at least a master's degree in mental health or a related field and who has either a professional license or a Department of Mental Health credential as a mental health therapist.

(l) “Reunification” means the restoration of the parent's custodial rights in providing for the safety and welfare of the child which ends the supervision of the Department of Child Protection Services.

§ 93-15-105. Jurisdiction and venue

(1) The chancery court has original exclusive jurisdiction over all termination of parental rights proceedings except that a county court, when sitting as a youth court with jurisdiction of a child in an abuse or neglect proceeding, has original exclusive jurisdiction to hear a petition for termination of parental rights against a parent of that child.

(2)(a) Venue in a county court sitting as a youth court for termination of parental rights proceedings shall be in the county in which the court has jurisdiction of the child in the abuse or neglect proceedings. Venue in chancery court for termination of parental rights proceedings shall be proper either in the county in which the defendant resides, the child resides or in the county where an agency or institution having custody of the child is located.

(b) Transfers of venue shall be governed by the Mississippi Rules of Civil Procedure.

§ 93-15-107. Involuntary termination of parental rights; commencement of proceedings; parties; summons

(1)(a) Involuntary termination of parental rights proceedings are commenced upon the filing of a petition under this chapter. The petition may be filed by any interested person, or any agency, institution or person holding custody of the child. The simultaneous filing of a petition for adoption is not a prerequisite for filing a petition under this chapter.

(b) The proceeding shall be triable, either in term time or vacation, thirty (30) days after personal service of process to any necessary party or, for a necessary party whose address is unknown after diligent search, thirty (30) days after the date of the first publication of service of process by publication that complies with the Mississippi Rules of Civil Procedure.

(c) Necessary parties to a termination of parental rights action shall include the mother of the child, the legal father of the child, the putative father of the child when known, and any agency, institution or person holding custody of the child. The absence of a necessary party who has been properly served does not preclude the court from conducting the hearing or rendering a final judgment.

(d) A guardian ad litem shall be appointed to protect the best interest of the child, except that the court, in its discretion, may waive this requirement when a parent executes a written voluntary release to terminate parental rights. The guardian ad litem fees shall be determined and assessed in the discretion of the court.

(2) Voluntary termination of parental rights by written voluntary release is governed by [Section 93-15-111](#).

(3) In all cases involving termination of parental rights, a minor parent shall be served with process as an adult.

(4) The court may waive service of process if an adoptive child was born in a foreign country, put up for adoption in the birth country, and has been legally admitted into this country.

§ 93-15-109. Surrender of child to Department of Child Protection Services or a home

(1) A parent may accomplish the surrender of a child to the Department of Child Protection Services or to a home by:

(a) Delivering the child to the Department of Child Protection Services or the home;

(b) Executing an affidavit of a written agreement that names the child and which vests in the Department of Child Protection Services or the home the exclusive custody, care and control of the child; and

(c) Executing a written voluntary release as set forth in [Section 93-15-111\(2\)](#).

(2) If a child has been surrendered to a home or other agency operating under the laws of another state, and the child is delivered into the custody of a petitioner or home within this state, the execution of consent by the nonresident home or agency shall be sufficient.

(3) Nothing in this section prohibits the delivery and surrender of a child to an emergency medical services provider pursuant to [Sections 43-15-201 through 43-15-209](#).

§ 93-15-111. Written voluntary release; requirements

(1) The court may accept the parent's written voluntary release if it meets the following minimum requirements:

(a) Is signed under oath and dated at least seventy-two (72) hours after the birth of the child;

(b) States the parent's full name, the relationship of the parent to the child, and the parent's address;

(c) States the child's full name, date of birth, time of birth if known, and place of birth as indicated on the birth certificate;

(d) Identifies the governmental agency or home to which the child has been surrendered, if any;

(e) States the parent's consent to adoption of the child and waiver of service of process for any future adoption proceedings;

(f) Acknowledges that the termination of the parent's parental rights and that the subsequent adoption of the child may significantly affect, or even eliminate, the parent's right to inherit from the child under the laws of Descent and Distribution (Chapter 1, Title 91, Mississippi Code of 1972);

(g) Acknowledges that all provisions of the written voluntary release were entered into knowingly, intelligently, and voluntarily; and

(h) Acknowledges that the parent is entitled to consult an attorney regarding the parent's parental rights.

(2) The court's order accepting the parent's written voluntary release terminates all of the parent's parental rights to the child, including, but not limited to, the parental right to control

or withhold consent to an adoption. If the court does not accept the parent's written voluntary release, then any interested person, or any agency, institution or person holding custody of the child, may commence involuntary termination of parental rights proceedings under [Section 93-15-107](#).

§ 93-15-113. Conduct of hearing for involuntary termination of parental rights; counsel for parent

(1) A hearing on the involuntary termination of parental rights shall be conducted without a jury and in accordance with the Mississippi Rules of Evidence. The court may exclude the child from the hearing if the court determines that the exclusion of the child from the hearing is in the child's best interest.

(2)(a) At the beginning of the involuntary termination of parental rights hearing, the court shall determine whether all necessary parties are present and identify all persons participating in the hearing; determine whether the notice requirements have been complied with and, if not, determine whether the affected parties intelligently waived compliance with the notice requirements; explain to the parent the purpose of the hearing, the standard of proof required for terminating parental rights, and the consequences if the parent's parental rights are terminated. The court shall also explain to the parent:

- (i) The right to counsel;
- (ii) The right to remain silent;
- (iii) The right to subpoena witnesses;
- (iv) The right to confront and cross-examine witnesses; and
- (v) The right to appeal, including the right to a transcript of the proceedings.

(b) The court shall then determine whether the parent before the court is represented by counsel. If the parent wishes to retain counsel, the court shall continue the hearing for a reasonable time to allow the parent to obtain and consult with counsel of the parent's own choosing. If an indigent parent does not have counsel, the court shall determine whether the parent is entitled to appointed counsel under the Constitution of the United States, the Mississippi Constitution of 1890, or statutory law and, if so, appoint counsel for the parent and then continue the hearing for a reasonable time to allow the parent to consult with the appointed counsel. The setting of fees for court-appointed counsel and the assessment of those fees are in the discretion of the court.

§ 93-15-115. Involuntary termination when child is in custody or under supervision of Department of Child Protection Services pursuant to youth court proceedings and reasonable efforts for reunification are required; standard of proof

When reasonable efforts for reunification are required for a child who is in the custody of, or under the supervision of, the Department of Child Protection Services pursuant to youth court proceedings, the court hearing a petition under this chapter may terminate the parental rights of a parent if, after conducting an evidentiary hearing, the court finds by clear and convincing evidence that:

- (a) The child has been adjudicated abused or neglected;
- (b) The child has been in the custody and care of, or under the supervision of, the Department of Child Protection Services for at least six (6) months, and, in that time period, the Department of Child Protection Services has developed a service plan for the reunification of the parent and the child;
- (c) A permanency hearing, or a permanency review hearing, has been conducted pursuant to the Uniform Rules of Youth Court Practice and the court has found that the Department of Child Protection Services, or a licensed child caring agency under its supervision, has made reasonable efforts over a reasonable period to diligently assist the parent in complying with the service plan but the parent has failed to substantially comply with the terms and conditions of the plan and that reunification with the abusive or neglectful parent is not in the best interests of the child; and
- (d) Termination of the parent's parental rights is appropriate because reunification between the parent and child is not desirable toward obtaining a satisfactory permanency outcome based on one or more of the grounds set out in [Section 93-15-119 or 93-15-121](#).

§ 93-15-117. Involuntary termination when child is in custody or under supervision of the Department of Child Protection Services pursuant to youth court proceedings and reasonable efforts for reunification are not required; standard of proof

When reasonable efforts for reunification are not required, a court hearing a petition under this chapter may terminate the parental rights of a parent if, after conducting an evidentiary hearing, the court finds by clear and convincing evidence:

- (a) That the child has been adjudicated abused or neglected;
- (b) That the child has been in the custody and care of, or under the supervision of, the Department of Child Protection Services for at least sixty (60) days and the Department of Child Protection Services is not required to make reasonable efforts

for the reunification of the parent and the child pursuant to Section 43-21-603(7)(c) of the Mississippi Youth Court Law;

(c) That a permanency hearing, or a permanency review hearing, has been conducted pursuant to the Uniform Rules of Youth Court Practice and the court has found that reunification with the abusive or neglectful parent is not in the best interests of the child; and

(d) That termination of the parent's parental rights is appropriate because reunification between the parent and child is not desirable toward obtaining a satisfactory permanency outcome based on one or more of the following grounds:

(i) The basis for bypassing the reasonable efforts for reunification of the parent and child under [Section 43-21-603\(7\)\(c\)](#) is established by clear and convincing evidence; or

(ii) Any ground listed in [Section 93-15-119](#) or [93-15-121](#) is established by clear and convincing evidence.

§ 93-15-119. Grounds for involuntary termination of parental rights; standard of proof; rebuttal of allegations of desertion; inquiry as to military status

(1) A court hearing a petition under this chapter may terminate the parental rights of a parent when, after conducting an evidentiary hearing, the court finds by clear and convincing evidence:

(a)(i) That the parent has engaged in conduct constituting abandonment or desertion of the child, as defined in [Section 93-15-103](#), or is mentally, morally, or otherwise unfit to raise the child, which shall be established by showing past or present conduct of the parent that demonstrates a substantial risk of compromising or endangering the child's safety and welfare; and

(ii) That termination of the parent's parental rights is appropriate because reunification between the parent and child is not desirable toward obtaining a satisfactory permanency outcome; or

(b) That a parent has committed against the other parent a sexual act that is unlawful under [Section 97-3-65](#) or [97-3-95](#), or under a similar law of another state, territory, possession or Native American tribe where the offense occurred, and that the child was conceived as a result of the unlawful sexual act. A criminal conviction of the unlawful sexual act is not required to terminate the offending parent's parental rights under this paragraph (b).

(2) An allegation of desertion may be fully rebutted by proof that the parent, in accordance with the parent's means and knowledge of the mother's pregnancy or the child's birth, either:

(a) Provided financial support, including, but not limited to, the payment of consistent support to the mother during her pregnancy, contributions to the payment of the medical expenses of the pregnancy and birth, and contributions of consistent support of the child after birth; frequently and consistently visited the child after birth; and is now willing and able to assume legal and physical care of the child; or

(b) Was willing to provide financial support and to make visitations with the child, but reasonable attempts to do so were thwarted by the mother or her agents, and that the parent is now willing and able to assume legal and physical care of the child.

(3) The court shall inquire as to the military status of an absent parent before conducting an evidentiary hearing under this section.

§ 93-15-121. Grounds for termination

Any of the following, if established by clear and convincing evidence, may be grounds for termination of the parent's parental rights if reunification between the parent and child is not desirable toward obtaining a satisfactory permanency outcome:

(a) The parent has been medically diagnosed by a qualified mental health professional with a severe mental illness or deficiency that is unlikely to change in a reasonable period of time and which, based upon expert testimony or an established pattern of behavior, makes the parent unable or unwilling to provide an adequate permanent home for the child;

(b) The parent has been medically diagnosed by a qualified health professional with an extreme physical incapacitation that is unlikely to change in a reasonable period of time and which, based upon expert testimony or an established pattern of behavior, prevents the parent, despite reasonable accommodations, from providing minimally acceptable care for the child;

(c) The parent is suffering from habitual alcoholism or other drug addiction and has failed to successfully complete alcohol or drug treatment;

(d) The parent is unwilling to provide reasonably necessary food, clothing, shelter, or medical care for the child; reasonably necessary medical care does not include recommended or optional vaccinations against childhood or any other disease;

(e) The parent has failed to exercise reasonable visitation or communication with the child;

(f) The parent's abusive or neglectful conduct has caused, at least in part, an extreme and deep-seated antipathy by the child toward the parent, or some other substantial erosion of the relationship between the parent and the child;

(g) The parent has committed an abusive act for which reasonable efforts to maintain the children in the home would not be required under [Section 43-21-603](#), or a series of physically, mentally, or emotionally abusive incidents, against the child or another child, whether related by consanguinity or affinity or not, making future contacts between the parent and child undesirable; or

(h)(i) The parent has been convicted of any of the following offenses against any child:

1. Rape of a child under [Section 97-3-65](#);
2. Sexual battery of a child under [Section 97-3-95\(c\)](#);
3. Touching a child for lustful purposes under [Section 97-5-23](#);
4. Exploitation of a child under [Sections 97-5-31](#) through [97-5-37](#);
5. Felonious abuse or battery of a child under [Section 97-5-39\(2\)](#);
6. Carnal knowledge of a step or adopted child or a child of a cohabitating partner under [Section 97-5-41](#); or
7. Human trafficking of a child under [Section 97-3-54.1](#); or

(ii) The parent has been convicted of:

1. Murder or voluntary manslaughter of another child of the parent;
2. Aiding, abetting, attempting, conspiring or soliciting to commit murder or voluntary manslaughter of the child or another child of the parent; or
3. A felony assault that results in the serious bodily injury to the child or another child of the parent.

§ 93-15-123. Court discretion not to terminate

Notwithstanding any other provision of this chapter, the court may exercise its discretion not to terminate the parent's parental rights in a proceeding under this chapter if the child's safety and welfare will not be compromised or endangered and terminating the parent's parental right is not in the child's best interests based on one or more of the following factors:

- (a) The Department of Child Protection Services has documented compelling and extraordinary reasons why terminating the parent's parental rights would not be in the child's best interests;

(b) There is a likelihood that continuing reasonable efforts for achieving reunification will be successful;

(c) Terminating the parent's parental rights would inappropriately relieve the parent of the parent's financial or support obligations to the child; or

(d) The child is being cared for by the other parent, or a relative, guardian, or custodian, in a residence not occupied by the abusive or neglectful parent and terminating the parent's parental rights would not expedite the process for obtaining a satisfactory permanency outcome.

§ 93-15-125. Compliance with Indian Child Welfare Act

In any proceeding under this chapter, where the court knows or has reason to know that an Indian child is involved, the court must comply with the Indian Child Welfare Act (25 USCS Section 1901 et seq.) in regard to notice, appointment of counsel, examination of reports or other documents, remedial services and rehabilitation programs, and other protections the act provides. Additionally, no termination of parental rights may be ordered in the proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the Indian child by the parent is likely to result in serious emotional or physical damage to the Indian child

§ 93-15-127. Effect on another parent's rights

Termination under this chapter of a parent's parental rights does not affect the parental rights of another parent.

§ 93-15-129. Petitions involving sexual abuse or serious bodily injury treated as preference case

In any case where a child has been removed from the custody and care of the parent due to sexual abuse or serious bodily injury to the child, or is not living in the home of the offending parent, the court shall treat the petition for termination of parental rights as a preference case to be determined with all reasonable expedition.

§ 93-15-131. Post-judgment proceedings

(1) If the court does not terminate the parent's parental rights, the custody and care of the child shall continue with the person, agency, or institution that is holding custody of the child at the time the judgment is rendered, or the court may grant custody to the parent whose rights were sought to be terminated if that is in the best interest of the child. If the

Department of Child Protection Services has legal custody of the child, the court must conduct a permanency hearing and permanency review hearings as required under the Mississippi Youth Court Law and the Mississippi Uniform Rules of Youth Court Practice.

(2) If the court terminates the parent's parental rights, the court shall place the child in the custody and care of the other parent or some suitable person, agency, or institution until an adoption or some other permanent living arrangement is achieved. No notice of adoption proceedings or any other subsequent proceedings pertaining to the custody and care of the child shall be given to a parent whose rights have been terminated.

§ 93-15-133. Review by Supreme Court

Appeal from a final judgment on the termination of parental rights under this chapter shall be to the Supreme Court of Mississippi pursuant to the Mississippi Rules of Appellate Procedure.

Adoption in General: Statutes and Contents

§ 93-17-1. Altering names and legitimatizing

(1) The chancery court or the chancellor in vacation, of the county of the residence of the petitioners shall have jurisdiction upon the petition of any person to alter the names of such person, to make legitimate any living offspring of the petitioner not born in wedlock, and to decree said offspring to be an heir of the petitioner.

(2) An illegitimate child shall become a legitimate child of the natural father if the natural father marries the natural mother and acknowledges the child.

§ 93-17-3. Jurisdiction; venue; petition; certificate of mental and physical condition of child; change of name; home study

(1) Except as otherwise provided in this section, a court of this state has jurisdiction over a proceeding for the adoption or readoption of a minor commenced under this chapter if:

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

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

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

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

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

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

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

(f) The child has been adopted in a foreign country, the agency that placed the minor for adoption is licensed in this state, and it is in the best interest of the child to be readopted in a court of this state having jurisdiction.

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

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

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

(i) Does not have continuing jurisdiction to modify the decree or order under jurisdictional prerequisites substantially in accordance with the Uniform Child Custody Jurisdiction Act or has declined to assume jurisdiction to modify the decree or order; or

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

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

(4) Any person may be adopted in accordance with the provisions of this chapter in termtime or in vacation by an unmarried adult or by a married person whose spouse joins in the petition. The adoption shall be by sworn petition filed in the chancery court of the county in which the adopting petitioner or petitioners reside or in which the child to be adopted resides or was born, or was found when it was abandoned or deserted, or in which the home is located to which the child has been surrendered by a person authorized to so do. The petition shall be accompanied by a doctor's or nurse practitioner's certificate showing the physical and mental condition of the child to be adopted and a sworn statement of all property, if any, owned by the child. In addition, the petition shall be accompanied by affidavits of the petitioner or petitioners stating the amount of the service fees charged by any adoption agencies or adoption facilitators used by the petitioner or petitioners and any other expenses paid by the petitioner or petitioners in the adoption process as of the time of filing the petition. If the doctor's or nurse practitioner's certificate indicates any abnormal mental or physical condition or defect, the condition or defect shall not, in the discretion of the chancellor, bar the adoption of the child if the adopting parent or parents file an affidavit

stating full and complete knowledge of the condition or defect and stating a desire to adopt the child, notwithstanding the condition or defect. The court shall have the power to change the name of the child as a part of the adoption proceedings. The word “child” in this section shall be construed to refer to the person to be adopted, though an adult.

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

(6) No person may be placed in the home of or adopted by the prospective adopting parties before a court-ordered or voluntary home study is satisfactorily completed by a licensed adoption agency, a licensed, experienced social worker approved by the chancery court or by the Department of Human Services on the prospective adoptive parties if required by [Section 93-17-11](#).

(7) No person may be adopted by a person or persons who reside outside the State of Mississippi unless the provisions of the Interstate Compact for Placement of Children ([Section 43-18-1 et seq.](#)) have been complied with. In such cases Forms 100A, 100B (if applicable) and evidence of Interstate Compact for Placement of Children approval shall be added to the permanent adoption record file within one (1) month of the placement, and a minimum of two (2) post-placement reports conducted by a licensed child-placing agency shall be provided to the Mississippi Department of Human Services Interstate Compact for Placement of Children office.

(8) No person may be adopted unless the provisions of the Indian Child Welfare Act (ICWA) have been complied with, if applicable. When applicable, proof of compliance shall be included in the court adoption file prior to finalization of the adoption. If not applicable, a written statement or paragraph in the petition for adoption shall be included in the adoption petition stating that the provisions of ICWA do not apply before finalization.

(9) The readoption of a child who has automatically acquired United States citizenship following an adoption in a foreign country and who possesses a Certificate of Citizenship in accordance with the Child Citizenship Act, CAA, [Public Law 106-395](#), may be given full force and effect in a readoption proceeding conducted by a court of competent jurisdiction in this state by compliance with the Mississippi Registration of Foreign Adoptions Act, Article 9 of this chapter.

§ 93-17-5. Parties; consent

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

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

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

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

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

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

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

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

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

§ 93-17-6. Petition for determination of rights; alleged fathers

(1) Any person who would be a necessary party to an adoption proceeding under this chapter and any person alleged or claiming to be the father of a child born out of wedlock who is proposed for adoption or who has been determined to be such by any administrative or judicial procedure (the "alleged father") may file a petition for determination of rights as a preliminary pleading to a petition for adoption in any court which would have jurisdiction and venue of an adoption proceeding. A petition for determination of rights may be filed at any time after the period ending thirty (30) days after the birth of the child. Should competing petitions be filed in two (2) or more courts having jurisdiction and venue, the court in which the first such petition was properly filed shall have jurisdiction over the whole proceeding until its disposition. The prospective adopting parents need not be a party to the

petition. Where the child's biological mother has surrendered the child to a home for adoption, the home may represent the biological mother and her interests in this proceeding.

(2) The court shall set this petition for hearing as expeditiously as possible allowing not less than ten (10) days' notice from the service or completion of process on the parties to be served.

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

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

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

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

(7) A petition for determination of rights may be used to determine the rights of alleged fathers whose identity is unknown or uncertain. In such cases the court shall determine what, if any, notice can be and is to be given those persons. Determinations of rights under the procedure of this section may also be made under a petition for adoption.

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

(9) Service of process in the adoption of a foreign born child shall be governed by [Section 93-15-107\(3\)](#).

§ 93-17-7. Parental objection; when adoption may be allowed

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

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

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

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

§ 93-17-8. Contested adoptions

(1) Whenever an adoption becomes a contested matter, whether after a hearing on a petition for determination of rights under [Section 93-17-6](#) or otherwise, the court:

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

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

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

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

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

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

§ 93-17-9. Repealed by Laws 2016, Ch. 431 (H.B. 1240), § 22, eff. from and after passage (approved April 18, 2016)

§ 93-17-11. Investigation; decrees; review

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, 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 Human 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.

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.

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.

§ 93-17-12. Fee for home study

In any child custody matter hereafter filed in any chancery or county court in which temporary or permanent custody has already been placed with a parent or guardian and in all adoptions, the court shall impose a fee for any court-ordered home study performed by the Department of Human Services or any other entity. The fee shall be assessed upon either party or upon both parties in the court's discretion. The minimum fee imposed shall be not less than Three Hundred Fifty Dollars (\$350.00) for each household on which a home study is performed. The fee shall be paid directly to the Mississippi Department of Human Services prior to the home study being conducted by the department or to the entity if the study is performed by another entity. The judge may order the fee be paid by one or both of the parents or guardian. If the court determines that both parents or the guardian are unable to pay the fee, the judge shall waive the fee and the cost of the home study shall be defrayed by the Department of Human Services.

§ 93-17-13. Waiting period; final decree's effect

(1) A final decree of adoption shall not be entered before the expiration of six (6) months from the entry of the interlocutory decree except (a) when a child is a stepchild of a petitioner or is related by blood to the petitioner within the third degree according to the rules of the civil law or in any case in which the chancellor in the exercise of his discretion shall determine from all the proceedings and evidence in said cause that the six-month waiting period is not necessary or required for the benefit of the court, the petitioners or the child to be adopted, and shall so adjudicate in the decree entered in said cause, in either of which cases the final decree may be entered immediately without any delay and without an interlocutory decree, (b) when the child has resided in the home of any petitioner prior to the granting of the interlocutory decree, in which case the court may, in its discretion, shorten the waiting period by the length of time the child has thus resided, or (c) when an adoption in a foreign country is registered under Article 9 of this chapter, the Mississippi Registration of Foreign Adoptions Act.

(2) The final decree shall adjudicate, in addition to such other provisions as may be found by the court to be proper for the protection of the interests of the child; and its effect, unless otherwise specifically provided, shall be that (a) the child shall inherit from and through the adopting parents and shall likewise inherit from the other children of the adopting parents to the same extent and under the same conditions as provided for the inheritance between brothers and sisters of the full blood by the laws of descent and distribution of the State of Mississippi, and that the adopting parents and their other children shall inherit from the child, just as if such child had been born to the adopting parents in lawful wedlock; (b) the child and the adopting parents and adoptive kindred are vested with all of the rights, powers, duties and obligations, respectively, as if such child had been born to the adopting parents in lawful wedlock, including all rights existing by virtue of [Section 11-7-13, Mississippi Code of 1972](#); provided, however, that inheritance by or from the adopted child shall be governed by paragraph (a) above; (c) that the name of the child shall be changed if desired; and (d) that the natural parents and natural kindred of the child shall not inherit by or through the child except as to a natural parent who is the spouse of the adopting parent, and all parental rights of the natural parent, or parents, shall be terminated, except as to a natural parent who is the spouse of the adopting parent. Nothing in this chapter shall restrict the right of any person to dispose of property under a last will and testament.

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

§ 93-17-14. Home studies in international adoptions; duration of validity

In the case of international adoptions, a home study of the prospective adopting parents shall be valid for a period of twenty-four (24) months from the date of completion.

§ 93-17-15. Limitations period, challenging final decree

No action shall be brought to set aside any final decree of adoption, whether granted upon consent or personal process or on process by publication, except within six (6) months of the entry thereof.

§ 93-17-17. Grounds to set aside

For all purposes of this chapter, the chancery court shall be a court of general jurisdiction and it is declared to be the public policy of the state that no adoption proceedings shall be permitted to be set aside except for jurisdictional defects and for failure to file and prosecute the same under the provisions of this chapter.

§ 93-17-19. Taxation of costs

All costs of the proceeding shall be taxed in the manner that the court may direct, including a reasonable fee as determined, approved, and allowed by the court to be paid for each investigation that may be authorized or required by the chancellor, other than for an investigation and report by a public authority or agency, in which event no such fee shall be allowed.

§ 93-17-21. Original and revised birth certificates

(1) A certified copy of the final decree shall be furnished to the Bureau of Vital Statistics, together with a certificate signed by the clerk giving the true or original name and the place and date of birth of the child. The said bureau shall prepare a revised birth certificate which shall contain the original date of birth, with the place of birth being shown as the residence of the adoptive parents at the time the child was born, but with the names of the adopting parents and the new name of the child. In all other particulars, the certificate shall show the true facts of birth. The fact that a revised birth certificate is issued shall be indicated only by code numbers or some letter inconspicuously placed on the face of the certificate. The word "revised" shall not appear thereon. However, in the event an unmarried adult shall be the adopting parent, then such birth certificate may show thereon, upon order of the chancellor as set forth in the decree of adoption, that same is a revised birth certificate, giving the court where said decree was issued and the date of such decree. The original birth certificate shall be removed and placed, with reference made to the decree of adoption, in a safely locked drawer or vault, and the same shall not be public records and shall not be divulged except upon the order of the court rendering the said final decree or pursuant to [Sections 93-17-201](#) through [93-17-223](#), and for all purposes the revised certificate shall be and become the birth certificate of the child. However, the Bureau of Vital Statistics of the State of Mississippi shall be required to prepare and register revised certificates only for births which occurred in the State of Mississippi as shown either by the court decree or by the original birth record on file in the bureau; but if the birth occurred in some other state, then the

Director of the Bureau of Vital Statistics of the State of Mississippi shall be required to furnish to the attorney or other person representing the adopted child the name and address of the proper official in the state where the child was born, to whom the adoption decree and other information may be referred for appropriate action, and shall furnish to such attorney the certified copy of the decree and the certificate furnished by the clerk.

(2) Provided, however, notwithstanding anything herein to the contrary, either an original or a revised birth certificate may be issued, as hereinafter provided, by the Bureau of Vital Statistics to any child who was born outside the United States or its possessions and adopted, either heretofore or hereafter, by an order of a court in this state. Upon presentation of a certified copy of the final decree of adoption containing the required information, the Director of the Bureau of Vital Statistics shall be authorized and directed to receive said certified copy of the decree of adoption and prepare therefrom, and record, a birth certificate which shall disclose the following information: The name of the child (being the adopted name), race, sex, date of birth, place of birth (being the actual town, district and county of said child's birth, except where the child is born in a penal or mental institution where the name of the county shall be sufficient), names, race, ages, places of birth and occupation of parents (being the adoptive parents) including the maiden name of the adoptive mother. Such certificate shall comport in appearance and indicia with the foregoing requirements for a "revised" certificate issued to a child born in this state. The Director of the Bureau of Vital Statistics shall be authorized and directed to issue certified copies thereof, the same as if the birth certificate were that of a child who had never been adopted.

§ 93-17-23. Re-adoption proceedings

Any child heretofore adopted under the laws of the State of Mississippi and any child who may have been adopted under the provisions of this chapter, may be re-adopted under the provisions hereof. If any such prior adoption is valid, and the re-adoption proceedings be instituted by the persons who previously adopted the child, there shall be no waiting period and no investigation and no interlocutory decree, and a final decree of adoption may be granted by the court ex parte if it be to the best interest of the child that it be re-adopted. If the re-adoption be by any person who was not a petitioner in the prior adoption or adoptions, then in such re-adoption proceedings, the persons who previously adopted the child shall be substituted in the place and stead of the natural parent and the same procedure shall be followed as if such child sought to be re-adopted was being for the first time adopted under the provisions of this chapter.

§ 93-17-25. Confidentiality

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

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

Provided, however, that notwithstanding the confidential nature of said proceedings, said record shall be available for use in any court or administrative proceedings under a subpoena duces tecum addressed to the custodian of said records and portions of such record may be released pursuant to [Sections 93-17-201](#) through [93-17-223](#).

§ 93-17-27. Reference to parents' marital status

No reference shall be required to be made to the marital status of the natural parents of the child nor shall any allegation or recital be made therein that the child was born out of wedlock in any petition filed or decree entered upon consent.

§ 93-17-29. Names in dockets and decrees

The docket entries and decrees spread upon the minutes of the court shall not refer to names of the natural parent or parents nor to the original name of the child. In the decree reference to the child shall be by the name to be conferred upon it by the court rather than by its original name if the name of the child is to be changed. The style of the cause and the docket entry thereof shall recite only the names of the petitioners and that the case is for the adoption of a child described in the petition.

§ 93-17-31. Separate, confidential records

The several chancery clerks shall obtain and keep a separate, confidential index showing the true name of the child adopted, the true name of its natural parent, or parents, if known, and the true name of the persons adopting the child and the date of the decree of adoption, and the name under which the child was adopted, or the name given the child by the adoption proceedings and a cross index shall be kept showing the said true name and the name given the child in the adoption decree, and which index shall be subject to the provisions of [Section 93-17-25](#) as to same being kept in confidence and such index shall not be examined by any person, except officers of the court including attorneys, except upon order of the court, on good cause shown, in which the proceeding was had. The reports shall be filed only if so ordered by the chancellor. The several chancery clerks shall obtain and keep a separate docket and minute book of convenient size which shall be subject to provisions of [Sections 93-17-25 through 93-17-31](#) and in which, from July 1, 1955, all entries concerning adoption shall be made.

Adoption Supplemental Benefits Law: Statutes and Contents

§ 93-17-51. Short title

[Sections 93-17-51](#) through [93-17-67](#) shall be known and may be cited as the “Mississippi Adoption Supplemental Benefits Law of 1979.”

§ 93-17-53. Statement of purpose

The purpose of [Sections 93-17-51 to 93-17-67](#) is to supplement the Mississippi adoption law by making possible through public supplemental benefits the most appropriate adoption of each child certified by the state department of public welfare as requiring a supplemental benefit to assure adoption.

§ 93-17-55. Definition of “child”

As used in [Sections 93-17-51](#) through [93-17-67](#), the word “child” shall mean a minor as defined by Mississippi law who is:

- (a) A dependent of a public or voluntary licensed child-placing agency, eligible for Supplemental Security Income prior to the finalization of the adoption, one (1) for whom supplemental benefits were paid pursuant to the aforementioned sections in a previous adoption that was dissolved or wherein the adoptive parents died, or is the child of a minor parent in foster care for whom the board payment was increased on account of the birth;
- (b) Legally free for adoption; and
- (c) In special circumstances whether:
 - (i) Because he has established significant emotional ties with prospective adoptive parents while in their care as a foster child and it is deemed in the best interest of the child by the agency to be adopted by the foster parents, or
 - (ii) Because he is not likely to be adopted because of one or more of the following handicaps: 1. severe physical or mental disability, 2. severe emotional disturbance, 3. recognized high risk of physical or mental disease, or 4. any combination of these handicaps.

§ 93-17-57. Program mandated; funding

The state department of public welfare shall establish and administer an on-going program of supplemental benefits for adoption. Supplemental benefits and services for children under this program shall be provided out of such funds as may be appropriated to the Mississippi Medicaid Commission for the medical services for children in foster care, or made available to the department from other sources.

§ 93-17-59. Eligible children

Any child meeting criteria specified in [Section 93-17-55](#) for whom the state department of public welfare feels supplemental benefits are necessary to improve opportunities for adoption will be eligible for the program. The adoption agency shall document that reasonable efforts have been made to place the child in adoption without supplemental benefits through the use of adoption resource exchanges, recruitment and referral to appropriate specialized adoption agencies.

§ 93-17-61. Commencement; use; duration; certification; residence

(1) When parents are found and approved for adoption of a child certified as eligible for supplemental benefits, and before the final decree of adoption is issued, there shall be executed a written agreement between the family entering into the adoption and the Department of Human Services. In individual cases, supplemental benefits may commence with the adoptive placement or at the appropriate time after the adoption decree and will vary with the needs of the child as well as the availability of other resources to meet the child's needs. The supplemental benefits may be for special services only or for money payments as allowed under [Section 43-13-115, Mississippi Code of 1972](#), and either for a limited period, for a long-term not exceeding the child's eighteenth birthday, or for any combination of the foregoing. The amount of the time-limited, long-term supplemental benefits may in no case exceed that which would be currently allowable for such child under the Mississippi Medicaid Law.

(2) When supplemental benefits last for more than one (1) year, the adoptive parents shall present an annual written certification that the child remains under the parents' care and that the child's need for supplemental benefits continues. Based on investigation by the agency and available funds, the agency may approve continued supplemental benefits. These benefits shall be extended so long as the parents remain legally responsible for and are providing support for the child. The agency shall continue paying benefits until a child reaches twenty-one (21) years of age if the child meets the criteria stated in [Section 93-17-67\(1\)](#) for continuation of Medicaid coverage.

(3) A child who is a resident of Mississippi when eligibility for supplemental benefits is certified shall remain eligible and receive supplemental benefits, if necessary for adoption, regardless of the domicile or residence of the adopting parents at the time of application for adoption, placement, legal decree of adoption or thereafter.

§ 93-17-63. Confidentiality; sanctions

All records regarding such adoption shall be confidential. Anyone violating or releasing information of a confidential nature, as contemplated by [Sections 93-17-51 through 93-17-67](#) without the approval of the court with jurisdiction or the State Department of Public Welfare unless such release is made pursuant to [Sections 93-17-201 through 93-17-223](#) shall be guilty of a misdemeanor and subject to a fine not exceeding One Thousand Dollars (\$1,000.00) or imprisonment of six (6) months, or both.

§ 93-17-65. Rules and regulations

The state department of public welfare shall promulgate rules and regulations necessary to implement the provisions of [Sections 93-17-51 through 93-17-67](#).

§ 93-17-67. Continued medicaid benefits

- (1) If the adoptive parents of a child eligible for adoption supplemental benefits sign an adoption assistance agreement with the Department of Human Services, then, whether or not they accept such benefits, Medicaid coverage shall be provided for the child under the agency's medical payment program from and after the commencement date established pursuant to [Section 93-17-61](#) until the child's eighteenth birthday, provided that federal matching funds are available for such payment.
- (2) Any child who is adopted in this state through a state-supported adoption agency and who immediately prior to such adoption was receiving Medicaid benefits because of a severe physical or mental handicap shall continue to receive such coverage benefits after adoption age eighteen (18), and such benefits shall be payable as provided under the agency's medical payment program for so long as the State Department of Human Services determines that the treatment or rehabilitation for which payment is being made is in the best interest of the child concerned, but not past the age of twenty-one (21) years, provided that federal matching funds are available for such payment and that any state funds used for such payment shall have been appropriated specifically for such purpose.
- (3) If permitted by federal law without any loss to the state of federal matching funds, the financial resources of the adopting parents shall not be a factor in such determination except that payments on behalf of a child of any age may be adjusted when insurance benefits available to the adopting parents would pay all or part of such payments being made by the state, or if medical or rehabilitation services are otherwise available without cost to the adopting parents. The amount of financial assistance given shall not exceed the amount that the Medicaid Commission would be required to pay for the same medical treatment or rehabilitation.

(4) The receipt of Medicaid benefits by an adopted child under [Sections 93-17-51](#) through 93-17-67 shall not qualify the adopting parents for Medicaid eligibility, unless either parent is otherwise eligible under [Section 43-13-115, Mississippi Code of 1972](#).

§ 93-17-69. Representation by public welfare department

Any person proposing to adopt a child who is a dependent of a state child-placing agency and who is in special circumstances as defined in [paragraph \(c\) of Section 93-17-55](#) shall be represented by the State Department of Public Welfare when requested by the adopting parent in all phases of the adoption proceeding. State child-placing agencies shall advise prospective adopting parents of their right under this section to be represented in adoption proceedings. The fees for filing the petition for adoption and preparing a revised birth certificate, any court costs taxed against the petitioner and any other actual payments made by the Department of Public Welfare to third parties as required to complete the adoption proceeding, shall be paid by the adopting parent.

Interstate Agreements for Protection of Children Being Provided Adoption Assistance: Statutes and Contents

§ 93-17-101. Legislative findings; statement of purpose

(1) The Legislature finds that:

(a) Locating adoptive families for children for whom state assistance is desirable, pursuant to the Mississippi adoption assistance law, and assuring the protection of the interests of the children affected during the entire assistance period, require special measures when the adoptive parents move to other states or are residents of another state; and

(b) Providing medical and other necessary services for children, with state assistance, encounters special difficulties when the providing of services takes place in other states.

(2) The purposes of [Sections 93-17-101](#) through [93-17-109](#) are to:

(a) Authorize the Mississippi Department of Public Welfare to enter into interstate agreements with agencies of other states for the protection of children on behalf of whom adoption assistance is being provided by the Mississippi Department of Public Welfare; and

(b) Provide procedures for interstate children's adoption assistance payments, including medical payments.

§ 93-17-103. Compacts authorized

(1) The Mississippi Department of Public Welfare is authorized to develop, participate in the development of, negotiate and enter into one or more interstate compacts on behalf of this state with other states to implement one or more of the purposes set forth in [Sections 93-17-101](#) through [93-17-109](#). When so entered into, and for so long as it shall remain in force, such a compact shall have the force and effect of law.

(2) For the purposes of [Sections 93-17-101](#) through [93-17-109](#), the term “state” shall mean a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands or a territory or possession of or administered by the United States.

(3) For the purposes of [Sections 93-17-101](#) through [93-17-109](#), the term “adoption assistance state” means the state that is signatory to an adoption assistance agreement in a particular case.

(4) For the purposes of [Sections 93-17-101](#) through [93-17-109](#), the term “residence state” means the state of which the child is a resident by virtue of the residence of the adoptive parents.

§ 93-17-105. Prerequisites of compact

A compact entered into pursuant to the authority conferred by [Sections 93-17-101](#) through [93-17-109](#) shall contain the following:

(a) A provision making the compact available for joinder by all states;

(b) A provision or provisions for withdrawal from the compact upon written notice to the parties, but with a period of one (1) year between the date of the notice and the effective date of the withdrawal;

(c) A requirement that the protections afforded by or pursuant to the compact continue in force for the duration of the adoption assistance and be applicable to all children and their adoptive parents who on the effective date of the withdrawal are receiving adoption assistance from a party state other than the one in which they are resident and have their principal place of abode;

(d) A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state which undertakes to provide the adoption assistance, and further, that any such agreement be expressly

for the benefit of the adopted child and enforceable by the adoptive parents and the state agency providing the adoption assistance; and

(e) Such other provisions as may be appropriate to implement the proper administration of the compact.

§ 93-17-107. Medicaid

(1) A child with special needs resident in this state who is the subject of an adoption assistance agreement with another state and who has been determined eligible for medicaid in that state shall be entitled to receive a medical assistance identification from this state upon filing with the Mississippi Department of Public Welfare a certified copy of the adoption assistance agreement obtained from the adoption assistance state which certifies to the eligibility of the child for medicaid. In accordance with regulations of the Mississippi Department of Public Welfare, the adoptive parents shall be required, at least annually, to show that the agreement is still in force or has been renewed.

(2) The Division of Medicaid, Office of the Governor, shall consider the holder of a medical assistance identification pursuant to this section as any other holder of a medical assistance identification under the laws of this state and shall process and make payment on claims on account of such holder in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

(3) The submission of any claim for payment or reimbursement for services or benefits pursuant to this section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading or fraudulent shall be punishable as perjury and shall also be subject to a fine not to exceed Ten Thousand Dollars (\$10,000.00), or imprisonment for not to exceed two (2) years, or both.

(4) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance to children with special needs under adoption assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

§ 93-17-109. Inclusion of federal aid

Consistent with federal law, the Mississippi Department of Public Welfare and the Division of Medicaid, Office of the Governor of the State of Mississippi, in connection with the administration of [Sections 93-17-101 through 93-17-109](#) and any compact entered into pursuant hereto, shall include in any state plan made pursuant to the [Adoption Assistance and Child Welfare Act of 1980 \(P.L. 96-272\)](#), Titles IV(e) and XIX of the Social Security Act, and any other applicable federal laws, the provision of adoption assistance and medical assistance for which the federal government pays some or all of the cost provided such

authority is granted under the provisions of some law of this state other than the provisions of [Sections 93-17-101 through 93-17-109](#). Such departments shall apply for and administer all relevant federal aid in accordance with law.

Mississippi Adoption Confidentiality Act: Statutes and Contents

§ 93-17-201. Short title

[Sections 93-17-201 through 93-17-223](#) may be cited as the “Mississippi Adoption Confidentiality Act.”

§ 93-17-203. Definitions

The following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

- (a) “Agency” means a county welfare department, a licensed or nonlicensed adoption agency or any other individual or entity assisting in the finalization of an adoption.
- (b) “Adoptee” means a person who is or has been adopted in this state at any time.
- (c) “Birth parent” means either:
 - (i) The mother designated on the adoptee's original birth certificate; or
 - (ii) The person named by the mother designated on the adoptee's original birth certificate as the father of the adoptee.
- (d) “Board” means the Mississippi State Board of Health.
- (e) “Bureau” means the Bureau of Vital Records of the Mississippi State Board of Health.
- (f) “Licensed adoption agency” means any agency or organization performing adoption services and duly licensed by the Mississippi Department of Human Services, Division of Family and Children's Services.

§ 93-17-205. Centralized adoption records file

(1) The bureau shall maintain a centralized adoption records file for all adoptions performed in this state after July 1, 2005, which shall include the following information:

- (a) The medical and social history of the birth parents, including information regarding genetically inheritable diseases or illnesses and any similar information furnished by the birth parents about the adoptee's grandparents, aunts, uncles, brothers and sisters if known;
- (b) A report of any medical examination which either birth parent had within one (1) year before the date of the petition for adoption, if available and known;
- (c) A report describing the adoptee's prenatal care and medical condition at birth, if available and known;
- (d) The medical and social history of the adoptee, including information regarding genetically inheritable diseases or illnesses, and any other relevant medical, social and genetic information if available; and
- (e) Forms 100A, 100B (if applicable) and evidence of Interstate Compact for Placement of Children approval (if applicable).

The Administrative Office of Courts shall assist the bureau in the maintenance of its centralized adoption record by compiling the number of finalized adoptions in each chancery court district on a monthly basis, and submitting this information to the bureau. The bureau shall include these statistics in its centralized adoption record. The information in this report shall include the number of adoptions in this state where the adopting parent is a blood relative of the adoptee and the number of adoptions in this state where the adopting parent is not a blood relative of the adoptee. The report shall not include any individual identifying information. This information shall be updated annually and made available to the public upon request for a reasonable fee.

- (2) Any birth parent may file with the bureau at any time any relevant supplemental nonidentifying information about the adoptee or the adoptee's birth parents, and the bureau shall maintain this information in the centralized adoption records file.
- (3) The bureau shall also maintain as part of the centralized adoption records file the following:
 - (a) The name, date of birth, social security number (both original and revised, where applicable) and birth certificate (both original and revised) of the adoptee;
 - (b) The names, current addresses and social security numbers of the adoptee's birth parents, guardian and legal custodian;
 - (c) Any other available information about the birth parent's identity and location.
- (4) Any birth parent may file with the bureau at any time an affidavit authorizing the bureau to provide the adoptee with his or her original birth certificate and with any other available information about the birth parent's identity and location, or an affidavit expressly prohibiting the bureau from providing the adoptee with any information about such birth parent's identity and location, and prohibiting any licensed adoption agency from conducting

a search for such birth parent under the terms of [Sections 93-17-201](#) through [93-17-223](#). An affidavit filed under this section may be revoked at any time by written notification to the bureau from the birth parent.

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

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

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

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

§ 93-17-207. Releasing nonidentifying information

(1) The bureau or the agency shall release the nonidentifying information maintained as provided in [Section 93-17-205](#) for a reasonable fee, including the actual cost of reproduction, to any of the following persons upon request made with sufficient proof of identity:

(a) An adoptee eighteen (18) years of age or older;

(b) An adoptive parent;

(c) The guardian or legal custodian of an adoptee; or

(d) The offspring or blood sibling of an adoptee if the requester is eighteen (18) years of age or older.

(2) Information released pursuant to subsection (1) of this section shall not include the name and address of the birth parent, the identity of any provider of health care to the adoptee or to the birth parent and any other information which might reasonably lead to the discovery of the identity of either birth parent.

§ 93-17-209. Searches for birth parents

- (1) Whenever any person specified under [Section 93-17-207](#) wishes to obtain medical, social or genetic background information about an adoptee or nonidentifying information about the birth parents of such adoptee, and the information is not on file with the bureau and the birth parents have not filed affidavits prohibiting a search to be conducted for them under the provisions of [Sections 93-17-201](#) through [93-17-223](#), the person may request a licensed adoption agency to locate the birth parents to obtain the information.
- (2) Employees of any agency conducting a search under this section may not inform any person other than the birth parents of the purpose of the search.
- (3) The agency may charge the requester a reasonable fee for the cost of the search. When the agency determines that the fee will exceed One Hundred Dollars (\$100.00) for either birth parent, it shall notify the requester. No fee in excess of One Hundred Dollars (\$100.00) per birth parent may be charged unless the requester, after receiving notification under this paragraph, has given consent to proceed with the search.
- (4) The agency conducting the search shall, upon locating a birth parent, notify him or her of the request and of the need for medical, social and genetic information.
- (5) The agency shall release to the requester any medical or genetic information provided by a birth parent under this section without disclosing the birth parent's identity or location.
- (6) If a birth parent is located but refuses to provide the information requested, the agency shall notify the requester, without disclosing the birth parent's identity or location, and the requester may petition the chancery court to order the birth parent to disclose the nonidentifying information. The court shall grant the motion for good cause shown.
- (7) The Mississippi Department of Health and Human Services shall provide the bureau each year with a list of licensed adoption agencies in this state capable of performing the types of searches described in this section.

§ 93-17-211. Civil and criminal immunity

Any person, including this state or any political subdivision of this state, and any employee, agent or representative of any agency who participates in good faith in any requirement of [Sections 93-17-201 through 93-17-223](#) shall have immunity from any liability, civil or criminal, that results from his or her actions. In any proceeding, civil or criminal, the good faith of any person participating in the requirements of [Sections 93-17-201 through 93-17-223](#) shall be presumed.

§ 93-17-213. Implementation

The bureau shall promulgate rules and regulations necessary to carry out the provisions of Sections 93-17-201 through 93-17-223 and the bureau may charge reasonable fees to implement [Sections 93-17-201 through 93-17-223](#).

§ 93-17-215. Adoptee's request for identifying information

Any person twenty-one (21) years of age or over who has been adopted in this state may request the bureau through a licensed adoption agency providing post-adoption services to obtain and provide the identifying information regarding either or both of his or her birth parents maintained as provided in [Section 93-17-205](#), unless that birth parent has executed an affidavit prohibiting the release of such information.

§ 93-17-217. Identification and counseling of adoptee

Provided the birth parent has not filed an affidavit prohibiting the release of identifying information and before acting on a request made pursuant to [Section 93-17-209 or Section 93-17-215](#), the agency shall require the adoptee to provide adequate identification and to submit to counseling by such agency in connection with the release and use of this information. The bureau shall release the requested information to the designated agency upon request by such agency.

§ 93-17-219. Search for birth parent; contact

(1) If the bureau does not have on file (a) an affidavit either authorizing release of identifying information or prohibiting such release and any further contact from each known birth parent for whom information is sought, or (b) a notice that such birth parent has been contacted once and has refused to authorize the release of confidential information, then the adoptee may request the agency to undertake a search for the birth parent who has not filed an affidavit or who has not been contacted. The licensed agency shall not inform any person other than the birth parents of the purpose of the search.

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

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

(a) The nature of the information requested;

(b) The date of the request; and

(c) The fact that the birth parent has the right to consent to or prohibit the release of this information by filing with the bureau the affidavit to this effect.

(4) Within three (3) working days after contacting a birth parent, the licensed agency shall provide the birth parent with a written statement of the information requested and an affidavit form authorizing or prohibiting the release of the requested information. If the birth parent authorizes the release of the information, the licensed agency shall disclose the requested information about that birth parent.

(5) If a licensed agency has contacted a birth parent as provided by this section, and the birth parent does not file the affidavit, the agency shall not disclose the requested information.

(6) If, after a search under this section, a known birth parent cannot be located, the agency shall not disclose the requested identifying information about that birth parent, although it may disclose any available nonidentifying information regarding that birth parent, and it may disclose identifying information about the other birth parent if such other birth parent has signed an unrevoked affidavit authorizing such release. If a birth parent is located and refuses to authorize the release of identifying information, the agency locating this birth parent shall notify the bureau. The bureau shall note such contact and refusal in its records.

(7) Only one (1) contact shall be made with a birth parent pursuant to a search request under this section if the birth parent refuses to authorize the release of the requested information. Further contacts with a birth parent under this section on behalf of the same adoptee shall be prohibited.

§ 93-17-221. Petitioning court for disclosure

The adoptee may petition the chancery court to order the agency to disclose any identifying information that may not be disclosed under [Sections 93-17-201 through 93-17-223](#). The court shall grant the petition for good cause shown.

§ 93-17-223. Birth parent must keep secret

In cases where only one (1) of the birth parents has authorized the release of identifying information, that birth parent shall be prohibited from divulging to the adoptee the identity, or any information reasonably calculated to lead to discovery of the identity, of the other birth parent, and shall execute a sworn affidavit stating that no such information shall be revealed. The refusal of any birth parent to comply with this prohibition shall constitute an act of bad faith under the terms of [Sections 93-17-201 through 93-17-223](#), and such birth parent shall be subject to civil liability for the release of such information.

Mississippi Registration of Foreign Adoptions Act: Statutes and Contents

§ 93-17-301. Short title

This article shall be known and may be cited as the Mississippi Registration of Foreign Adoptions Act.

§ 93-17-303. Registration of foreign adoptions

- (1) A child who has automatically acquired United States citizenship following a foreign adoption and who possesses a Certificate of Citizenship in accordance with the Child Citizenship Act, [Public Law 106-395](#), may be issued a Mississippi birth certificate upon compliance with this article and the requirements for adoptions under this chapter to the extent not superseded by this article.
- (2) A parent shall not proceed under this article if the foreign adoption has been registered or otherwise finalized by a court of this or any other state.
- (3) A parent who is eligible to obtain a decree of registration of a foreign adoption under this article may proceed pro se.

§ 93-17-305. Procedure for registration of foreign adoption decree; jurisdiction; restrictions; exceptions; forms

- (1) An adopting parent or parents may petition the chancery court in the county having jurisdiction to register a foreign adoption decree so that it will be given full and final effect in this state. The petition and order shall be in substantially the form set forth in [Section 93-17-307](#) unless the Supreme Court promulgates by rule a different set of forms, in which case the petition and order shall be in substantially the form set forth by court rule. As part of the Petition to Register a Foreign Adoption, a child's name may be changed from that appearing on the foreign adoption decree if all other requirements of law as to name change are met.
- (2) A foreign adoption decree previously registered or otherwise finalized by a court of this or any other state may not be registered subsequently in any court of this state.
- (3) If the chancellor, in termtime or vacation, determines that the foreign adoption can be registered, the chancellor shall sign the order and shall direct the chancery clerk to enter the date of the foreign adoption decree and identify the foreign court on the docket. A certified copy of the order, along with a copy of U.S. Government Form N-560, Certificate of Citizenship, or a copy of the child's United States passport, or both, if either or both documents are a part of the court file, shall be provided to the petitioner by the chancery clerk.

(4) If the chancery court determines that the foreign adoption cannot be registered, the petitioner may proceed as applicable under the provisions of this chapter for adoptions generally. Reasons for which a foreign adoption cannot be registered include, without limitation, if the court determines that the foreign adoption is not a full and final adoption because the foreign-born child has been issued an IH-4 or IR-4 visa.

(5) Adopting parent(s) who are eligible to register a foreign adoption under this article may, for any reason, proceed under this chapter as for adoptions generally.

(6) The petition and accompanying documents, including the final decree, are confidential and are subject to rules of confidentiality as otherwise provided in this chapter for adoption records.

§ 93-17-307. Forms

The petition shall be accompanied by the documentation indicated on the forms. The petition and order shall be in substantially the following form unless the Supreme Court adopts a rule setting forth a different form: (The statute then gives a form to use)