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Chapter No. 385

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SENATE BILL NO. 2180

Originated in Senate

Liz Welch

Secretary

SENATE BILL NO. 2180

AN ACT TO AMEND SECTIONS 93-17-3 AND 93-17-13, MISSISSIPPI CODE OF 1972, TO AUTHORIZE EXPEDITED PRO SE PROCEEDINGS FOR REGISTRATION OF FOREIGN ADOPTIONS AND ISSUANCE OF A MISSISSIPPI BIRTH CERTIFICATE UNDER CERTAIN CIRCUMSTANCES; TO BRING FORWARD SECTION 93-17-14, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; TO CREATE SECTIONS 97-17-301, 97-17-303, 97-17-305 AND 97-17-307, MISSISSIPPI CODE OF 1972, TO CREATE TITLE 97, CHAPTER 17, ARTICLE 9, TO CONSTITUTE THE MISSISSIPPI REGISTRATION OF FOREIGN ADOPTION ACT; AND FOR RELATED PURPOSES.

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

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

93-17-3. (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 7 of this chapter.

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

93-17-13. (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 7 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.

SECTION 3. Section 93-17-14, Mississippi Code of 1972, is brought forward as follows:

93-17-14. 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.

SECTION 4. The following shall be codified as Section 93-17-301, Mississippi Code of 1972:

93-17-301. **Short title.** This article shall be known and may be cited as the Mississippi Registration of Foreign Adoptions Act.

SECTION 5. The following shall be codified as Section 93-17-303, Mississippi Code of 1972:

93-17-303. **Registration of foreign adoptions.** 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.

SECTION 6. The following shall be codified as Section 93-17-305, Mississippi Code of 1972:

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.

SECTION 7. The following shall be codified as Section 93-17-307, Mississippi Code of 1972:

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:

(a) **Form for petition; verification by parents.**

IN THE CHANCERY COURT OF _____ COUNTY, MISSISSIPPI
IN RE: FOREIGN ADOPTION OF _____ FILE NO. _____
PETITION TO REGISTER FOREIGN ADOPTION

1. Petitioner(s), the Adopting Parent(s) of the above-named adopted child, is/are _____.

2. Petitioner(s) reside(s) in _____ County, Mississippi, at _____

(Street Address)

(City, State, Zip)

3. Has any other court in this or any other state reviewed, registered, finalized or otherwise assumed jurisdiction over the foreign adoption decree being registered here:

(circle one) Yes No

If yes, please provide the name of the court, the state and county, what was previously presented to the court and the resulting decision from the court: (Attach all court decrees)

4. The full name of the adopted child at birth as listed on the foreign birth certificate, if available, was

5. The full name of the adopted child as written on the foreign adoption decree is _____.

6. The full name of the adopted child as he or she is to be known from this time forward is

7. The date of birth of the adopted child is _____.

8. The date of the foreign adoption decree is _____.

9. The type of United States visa issued to the adopted child is:

(circle one) IR-2, IR-3, IH-3, IR-4, IH-4

10. The following documents are attached to this Petition:

a. Copy of child's birth certificate or other birth identification issued by country of birth; or if none, an affidavit of parent(s) stating why none is available.

b. The original documents related to the foreign adoption certified by the United States Embassy abroad and English translation certified by the translator to be correct.

~~c. Copy of adopted child's United States visa.~~

d. Copy of home study.

e. 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 available.

f. A valid government-issued picture identification of parent or parents, such as a passport or driver's license.

g. Proof of residency of the parent or parents in the State of Mississippi.

h. The social security card of the child.

WHEREFORE, Petitioner(s) request(s) that this Court enter its Order authorizing the registration and docketing of the attached Foreign Adoption Decree with the clerk of the court and decreeing that _____

(Name of child as written on Foreign Adoption Decree)

shall henceforth be known as _____

(Child's name from this time forward)

and shall have all the rights of a child and heir of the
Petitioner(s).

Signature of Adopting Parent [FN1]

Signature of Adopting Parent

Daytime telephone no. for Adopting Parent(s)

[FN1] When there are two (2) adopting parents, both must sign.

VERIFICATION TO PETITION TO REGISTER FOREIGN ADOPTION

I/We, _____, verify that I/we am/are the
Petitioner(s) named in the foregoing Petition, that I/we have read
and understand the information set forth in the Instructions to
the Petition to Register Foreign Adoption Decree, and that the
facts set forth in the foregoing Petition are true and correct to
the best of my/our knowledge, information and belief. I/We
further verify that all documents attached to this Petition are
true and correct copies of the originals. I/We understand that
false statements made herein are subject to the penalties for
perjury.

Date: _____

Signature of Adopting Parent

Signature of Adopting Parent

(b) **Form of Order.**

(i) Order of adoption.

IN THE CHANCERY COURT OF _____ COUNTY, MISSISSIPPI
IN RE: FOREIGN ADOPTION OF _____ ADOPTION NO. _____
ORDER

It is hereby ORDERED and DECREED that the Petition to
Register Foreign Adoption of:

(Adopting Parent(s))

is GRANTED and that this Court authorizes the registration and
docketing of the Foreign Adoption Decree entered on

_____ (Date of Foreign Adoption Decree)

by _____ (Name of Foreign Court)

in _____ (Foreign Country).

It is FURTHER ORDERED and DECREED that the above Foreign
Adoption Decree shall be enforceable as if this Court had entered
the Decree and that henceforth this child

(Name of child as written on Foreign Adoption Decree)
shall be known as

(Child's name from this time forward)
and shall have all the rights of a child and heir of

(Adopting Parent(s))

Ordered this the _____ day of _____, 20__.

Chancellor

(ii) Order denying adoption.

IN THE CHANCERY COURT OF _____ COUNTY, MISSISSIPPI
IN RE: FOREIGN ADOPTION OF _____ ADOPTION NO. _____
ORDER

It is hereby ORDERED and DECREED that the Petition of

(Adopting Parent(s))

_____ to Register Foreign Adoption Decree
is DENIED but that Petitioners may proceed with an adoption
pursuant to Mississippi law without paying any additional filing
fee.

Ordered this the _____ day of _____, 20__.

Chancellor

(c) **Instructions.**

INSTRUCTIONS FOR FILING

PETITION TO REGISTER FOREIGN ADOPTION DECREE

When a child is adopted in conformity with the laws of a
foreign country, the adopting parent(s) may register the foreign
adoption and obtain a Mississippi adoption decree so that a
Mississippi birth certificate can be obtained.

Adopting parent(s) seeking to register the foreign adoption must:

1. Complete, sign and date the Petition to Register Foreign Adoption including Verification. If a foreign adoption decree shows that there are two (2) adopting parents, both parents must execute the Petition to Register Foreign Adoption and verification thereof.

2. Attach the following documents to the Petition:

- * A copy of the Foreign Adoption Decree;
- * A copy of the child's foreign birth certificate. If no birth certificate was issued, a copy of any other birth identification issued by the country of birth should be attached. If no birth certificate or birth identification can be obtained, an Affidavit stating the reason should be submitted;
- * A copy of the child's United States visa;
- * An English translation of all documents not in English, with a verification by the translator that all translations are true and correct;
- * A copy of the home studies.
- * If available, a copy of the child's Certificate of Citizenship (U.S. Government Form N-560) or a copy of the child's U.S. passport, or both.

3. The Petition to Register with the attachments should be filed with the chancery court in the county in which the adopting

parent(s) reside(s). A filing fee for the adoption will be charged in accordance with the fee schedule of the chancery court.

After the Petition to Register is filed, it will be submitted to the Court for review. If the Petition to Register and accompanying documents establish that the foreign adoption of the child is full and final, the Court will enter its order directing the registration of the Foreign Adoption Decree. The chancery clerk will then issue an order of adoption to which will be attached a copy of U.S. Government Form N-560 and/or a copy of the child's United States passport if those items are in the court file for the Petitioner to submit to the Department of Health, Bureau of Vital Records, in order to obtain a birth certificate.

If the Court cannot determine that the foreign adoption is full and final, it will enter its order denying the Petition. In that case, it will be necessary to proceed under Title 93, Chapter 17, applying to adoptions generally without payment of an additional filing fee.

A foreign adoption may not be a full and final adoption eligible for registration if the child has an IH-4 or IR-4 United States visa, in which case it will be necessary to proceed under Mississippi general adoption law because the adoption of the foreign-born child was not finalized in the country of the child's birth.

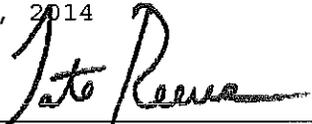
Only one (1) state court, whether in this or another state, should exercise jurisdiction over the registration of the foreign

adoption or the completion of the adoption initiated in the native country of the foreign-born child. Thus, if the adoption has been finalized or the foreign adoption decree has been registered in another state court or in another court within this state, the adopting parent(s) need not and should not proceed under this article. In similar fashion, if the adoption of the foreign-born child has been finalized in this state, and thereafter, another petitioner seeks to adopt this child, the subsequent proceeding will be a standard proceeding under the applicable provisions of this chapter. Such a situation could occur when the child is to be adopted by a stepparent after divorce or death of the original adopting parent(s), or when, after termination of parental rights, the child is to be adopted by different adopting parent(s).

SECTION 8. It is the intention of the Legislature and the codifier is so directed that Title 93, Chapter 17, be divided into Articles as follows: Article 1 beginning with Section 93-17-1; Article 3 beginning with Section 93-17-51; Article 5 beginning with Section 93-17-101; Article 7 beginning with Section 93-17-201; and Article 9 beginning with Section 93-17-301.

SECTION 9. This act shall take effect and be in force from
and after July 1, 2014.

PASSED BY THE SENATE
February 10, 2014



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 4, 2014



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR
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