

## ADOPTION – 2015

### § 93-17-1. Jurisdiction to alter names and legitimate offspring; legitimation by subsequent marriage.

- (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.

*Sources: Codes, 1942, § 1269-01; Laws, 1955, Ex. ch. 34, § 1; Laws, 1981, ch. 529, § 5, eff from and after July 1, 1981.*

### § 93-17-3. Jurisdiction for adoption or readoption proceedings; who may be adopted; who may adopt; venue of adoption proceedings; certificate of child's condition; change of name; adoption by couples of same gender prohibited; completion of home study; compliance with Interstate Compact for Placement of Children and Indian Child Welfare Act.

- (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 do so. 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.

*Source: Codes, 1942, § 1269-02; Laws, 1955, Ex. ch. 34, § 2; Laws, 1973, ch. 361, § 1; Laws, 1994, ch. 437, § 1; Laws, 2000, ch. 535, § 1; Laws, 2004, ch. 527, § 1; Laws, 2006, ch. 382, § 1; Laws, 2007, ch. 496, § 4; Laws, 2012, ch. 556, § 1, eff. 7/1/2012. History. Amended by Laws, 2014, ch. 385, SB 2180, §1, eff. 7/1/2014.*

**§ 93-17-5. Parties to adoption proceeding; consent of child; unmarried father's rights.**

- (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 said child:
  - (a) the parents, or parent, if only one (1) parent, though either be under the age of twenty-one (21) years; or,
  - (b) in the event both parents are dead, then any two (2) adult kin of the child within the third degree computed according to the civil law, provided that, 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 such 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 such child, except persons having such child 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 such 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) Such 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 its next friend.
- (3) In the case of a child born out of wedlock, the father shall not have a right to object to an adoption unless he has demonstrated, within the period ending thirty (30) days after the birth of the child, a full commitment to the responsibilities of parenthood. Determination of the rights of the father of a child born out of wedlock may be made in proceedings pursuant to a petition for determination of rights as provided in Section 93-17-6.
- (4) If such consent be not filed, then process shall be had upon the parties as provided by law for process in person or by publication, if they be nonresidents of the state or are not found therein, after diligent search and inquiry, or are unknown after diligent search and inquiry; provided that 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 it were an adult.

*Sources: Codes, 1942, § 1269-03; Laws, 1955, Ex. ch. 34, § 3; Laws, 1964, ch. 309, §§ 1, 2; Laws, 1998, ch. 516, § 13; Laws, 1999, ch. 507, § 1; Laws, 2002, ch. 533, § 1, eff from and after July 1, 2002.*

**§ 93-17-6. Petition for determination of rights in proposed adoption of natural child.**

- (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 such 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 has a right to object to an adoption as set out in Section 93-17-5(3).
- (4) Proof of an alleged father's full commitment to the responsibilities of parenthood would be shown by proof that, in accordance with his means and knowledge of the mother's pregnancy or the child's birth, that he 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 pregnancy and birth, and contributions of consistent support of the child after birth; that he frequently and consistently visited the child after birth; and that he is now willing and able to assume legal and physical care of the child; or
  - (b) Was willing to provide such support and to visit the child and that he made reasonable attempts to manifest such a parental commitment, but was thwarted in his efforts by the mother or her agents, and that he is now willing and able to assume legal and physical care of the child.
- (5) If the court determines that the alleged father has not met his full responsibilities of parenthood, it shall enter an order terminating his parental rights and he shall have no right to object to an adoption under Section 93-17-7.
- (6) If the court determines that the alleged father has met his full responsibilities of parenthood and that he objects to the child's adoption, the court shall set the matter as a contested adoption in accord with 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 such 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 93-15-105(5).

*Sources: Laws, 2002, ch. 533, § 2; Laws, 2005, ch. 426, § 2, eff from and after July 1, 2005.*

### **§ 93-17-7. Parental objection; causes for termination of unfit parents' rights.**

- (1) No infant shall be adopted to any person if either parent, after having been summoned, shall appear and object thereto before the making of a decree for adoption, unless it shall be made to appear to the court from evidence touching such matters that the parent so objecting had abandoned or deserted such infant or is mentally, or morally, or otherwise unfit to rear and train it, including, but not limited to, those matters set out in subsection (2) of this section, in either of which cases the adoption may be decreed notwithstanding the objection of such parent, first considering the welfare of the child, or children sought to be adopted. Provided, however, the parents shall not be summoned in the adoption proceedings nor have the right to object thereto if the parental rights of the parent or parents have been terminated by the procedure set forth in Sections 93-15-101 through 93-15-111, and such termination shall be res judicata on the question of parental abandonment or unfitness in the adoption proceedings.
- (2) An adoption may be allowed over the objection of a parent where:
  - (a) The parent has abused the child. For purposes of this paragraph, abuse means the infliction of

physical or mental injury which causes deterioration to the child, sexual abuse, exploitation or overworking of a child to such an extent that his health or moral or emotional well-being is endangered.

- (b) The parent has not consistently offered to provide reasonably necessary food, clothing, appropriate shelter and treatment for the child. For purposes of this paragraph, treatment means medical care or other health services provided in accordance with the tenets of a well-recognized religious method of healing with a reasonable, proven record of success.
- (c) The parent suffers from a medical or emotional illness, mental deficiency, behavior or conduct disorder, severe physical disability, substance abuse or chemical dependency which makes him unable or unwilling to provide an adequate permanent home for the child at the present time or in the reasonably near future based upon expert opinion or based upon an established pattern of behavior.
- (d) Viewed in its entirety, the parent's past or present conduct, including his criminal convictions, would pose a risk of substantial harm to the physical, mental or emotional health of the child.
- (e) The parent has engaged in acts or omissions permitting termination of parental rights under Section 93-15-103.
- (f) The enumeration of conduct or omissions in this subsection (2) in no way limits the court's power to such enumerated conduct or omissions in determining a parent's abandonment or desertion of the child or unfitness under subsection (1) of this section.

*Sources: Codes, 1942, § 1269-09; Laws, 1955, Ex. ch. 34, § 9; Laws, 1968, ch. 323, § 1; Laws, 1980, ch. 485, § 6; Laws, 1986, ch. 379; Laws, 1998, ch. 516, § 15; Laws, 1999, ch. 507, § 3; Laws, 2002, ch. 533, § 3, eff from and after July 1, 2002.*

### **§ 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.

*Sources: Laws, 1998, ch. 516, § 16, eff from and after July 1, 1998.*

### **§ 93-17-9. Surrender of child to a home for care and adoption.**

As used in this chapter the word "home" shall be construed to include any charitable or religious corporation or organization or the superintendent or head of such charitable or religious corporation or organization organized under the laws of the State of Mississippi, or any public authority to which has been granted the power to provide care for or procure the adoption of children by any statute or statutes of this state, and any association or institution engaged in placing children for adoption on July 1, 1955. Any person required to be a party to an adoption proceeding by Section 93-17-5 may execute the surrender of a child to a home by sworn or acknowledged instrument which shall include the following: the name of the child and the home; that there is thereby vested in the home the exclusive custody, care and control of such child; that all parental rights to such child including the right of inheritance are relinquished by such person; provided, the rights of inheritance of the natural parents and the child shall not be affected until entry of a final decree of adoption; that the home is authorized to execute a consent to adoption as provided by this chapter and that process in any adoption proceeding is waived; that such surrender shall be irrevocable and that such person will not, in any manner, interfere with the custody of such child thus vested in the home. Said instrument shall not be executed until seventy-two (72) hours after the birth of the child and shall effectually vest in the home all rights thus surrendered and all powers thus created, with the right and power to execute the consent to adoption as required in this chapter authorizing the court to vest in the child and the adopting parent or parents the rights herein provided.

Where 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 such consent by such nonresident home or agency shall be accepted in lieu of the execution of such consent by a home.

*Sources: Codes, 1942, § 1269-04; Laws, 1955, Ex. ch. 34, § 4; Laws, 1998, ch. 516, § 17, eff from and after July 1, 1998.*

### **§ 93-17-11. Investigation; interlocutory decree; appeal.**

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.

*Sources: Codes, 1942, § 1269-05; Laws, 1955, Ex. ch. 34, § 5; Laws, 2004, ch. 527, § 2; Laws, 2007, ch. 496, § 3; Laws, 2009, ch. 375, § 1, eff from and after July 1, 2009.*

### **§ 93-17-12. Authority of court to impose fee for court-ordered home study relating to child custody matters and in all adoptions.**

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.

*Sources: Laws, 1993, ch. 524, § 1; Laws, 2000, ch. 462, § 1; Laws, 2003, ch. 345, § 1; Laws, 2007, ch. 496, § 5, eff from and after July 1, 2007.*

**§ 93-17-13. Final decree and effect thereof; completion of home study before final decree entered.**

- (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.

*Source: Codes, 1942, § 1269-06; Laws, 1955, Ex. ch. 34, § 6; Laws, 1958, chs. 267, 285, § 2; Laws, 1971, ch. 399, § 1; Laws, 1998, ch. 516, § 18; Laws, 2007, ch. 496, § 6, eff. 7/1/2007. History. Amended by Laws, 2014, ch. 385, SB 2180, §2, eff. 7/1/2014.*

**§ 93-17-14. Home study in international adoptions valid for 18 months.**

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.

*Sources: Laws, 2007, ch. 496, § 7; Laws, 2008, ch. 314, § 1, eff. from and after July 1, 2008. History. Reenacted by Laws, 2014, ch. 385, SB 2180, §3, eff. 7/1/2014.*



### **§ 93-17-15. Limitation on action to set aside 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.

*Sources: Codes, 1942, § 1269-06; Laws, 1955, Ex. ch. 34, § 6; Laws, 1958, chs. 267, 285, § 2; Laws, 1971, ch. 399, § 1, eff from and after passage (approved March 23, 1971).*

### **§ 93-17-17. Grounds for setting aside proceedings limited.**

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.

*Sources: Codes, 1942, § 1269-07; Laws, 1955, Ex. ch. 34, § 7, eff from and after July 1, 1955.*

### **§ 93-17-19. 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.

*Sources: Codes, 1942, § 1269-08; Laws, 1955, Ex. ch. 34, § 8, eff from and after July 1, 1955.*

### **§ 93-17-21. Revised birth certificate.**

- (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.

*Sources: Codes, 1942, § 1269-06; Laws, 1955, Ex. ch. 34, § 6; Laws, 1958, chs. 267, 285, § 2; Laws, 1971, ch. 399, § 1; Laws, 1983, ch. 522, § 49; Laws, 1989, ch. 511, § 7; Laws, 1992, ch. 306, § 14, eff from and after July 1, 1992.*

### **§ 93-17-23. Re-adoption.**

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.

*Sources: Codes, 1942, § 1269-07; Laws, 1955, Ex. ch. 34, § 7, eff from and after July 1, 1955.*

### **§ 93-17-25. Proceedings and records confidential; use in court or administrative proceedings.**

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.

*Sources: Codes, 1942, § 1269-07; Laws, 1955, Ex. ch. 34, § 7; Laws, 1992, ch. 306, § 15, eff from and after July 1, 1992.*

**§ 93-17-27. References to marital status of natural parents prohibited.**

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.

*Sources: Codes, 1942, § 1269-07; Laws, 1955, Ex. ch. 34, § 7, eff from and after July 1, 1955.*

**§ 93-17-29. References to parents and child in docket entries 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.

*Sources: Codes, 1942, § 1269-07; Laws, 1955, Ex. ch. 34, § 7, eff from and after July 1, 1955.*

**§ 93-17-31. Clerks to keep separate index, docket and minute books.**

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 to 93-17-31 and in which, from July 1, 1955, all entries concerning adoption shall be made.

*Sources: Codes, 1942, § 1269-07; Laws, 1955, Ex. ch. 34, § 7, eff from and after July 1, 1955.*