

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MR. PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 847: Mental health facilities and procedures; revise and update various laws regarding.

We, therefore, respectfully submit the following report and recommendation:

1. That the House concur in Senate Amendment No. 1 with the following exception(s):

AMEND on line 170 by deleting the language ", whether a child or adult,"

AMEND FURTHER on line 183 by changing the period to a comma and inserting the following language: ", except as provided under Section 41-21-109."

AMEND FURTHER on line 212 by deleting the words "mentally ill or mentally retarded" and inserting after the word "person" the following language: "with mental illness or mental retardation"

AMEND FURTHER by inserting the following new subsection (5) after line 226 and renumbering the succeeding subsections:

"(5) If the respondent is a juvenile, the court, at any time before making its determination on commitment and/or final disposition of the respondent, may order the respondent to be temporarily placed in the Juvenile Rehabilitation Center at Brookhaven, as provided in Section 41-21-109(3), for the purpose of evaluation by the Department of Mental Health to determine whether the juvenile has mental illness and/or mental retardation and to determine the most appropriate placement for the respondent. Not less than ten (10) days after the respondent is placed in the rehabilitation center, the department shall report back to the court the results of its evaluation, with recommendations for the most appropriate placement of the respondent. If the Department of Mental Health determines in its evaluation that the respondent has mental illness and/or mental

retardation, the department shall recommend to the court the appropriate Department of Mental Health facility or facilities for placement of the respondent. If the department determines in its evaluation that the respondent does not have mental illness and/or mental retardation, the court shall have up to ten (10) days from receipt of the department's evaluation and recommendations to make an alternative disposition in the commitment hearing, which in no event shall include placement of the respondent in a Department of Mental Health facility. The court shall consider the recommendations of the department in making its determination on the appropriate placement of the respondent."

AMEND FURTHER by inserting the following after line 237:

"(9) Notwithstanding any other provision of law to the contrary, if the respondent is a juvenile, neither the Board of Mental Health or its members individually, nor the Department of Mental Health and/or its related facilities, nor any employee of the Department of Mental Health, unless related by blood or marriage, shall be assigned or adjudicated custody, guardianship or conservatorship of the respondent."

AMEND FURTHER by deleting lines 240 through 248 in their entirety and deleting the words "by standard medical practice." on line 249 and inserting in lieu thereof the following:

"41-21-77. If admission is ordered to a treatment facility, the sheriff, his deputy or any other person, except as delineated below, appointed or authorized by the court shall * * * deliver the respondent to the director of the appropriate facility. Neither the Board of Mental Health or its members, nor the Department of Mental Health and/or its related facilities, nor any employee of the Department of Mental Health, shall be appointed, authorized or ordered to deliver the respondent for treatment. * * * No person, other than a juvenile with mental illness who is committed under Sections 41-21-61 through 41-21-107 or any juvenile who is placed in a juvenile rehabilitation center under Section 41-21-73(5), shall be so delivered or admitted until the director of the admitting facility determines that facilities and services are available. It is specifically provided, that

only from and after July 1, 2001, persons who have been ordered committed and are awaiting admission may be given any such treatment in the facility by a licensed physician as is indicated by standard medical practice. Until July 1, 2001, (a) except for juveniles with mental illness who are committed under Sections 41-21-61 through 41-21-107 or any juveniles who are placed in a juvenile rehabilitation center under Section 41-21-73(5), persons who are committed and awaiting admission to a Department of Mental Health facility may be retained and treated in any non-Department of Mental Health facility or location determined and approved by the committing court; and (b) any costs associated with the pre-admission treatment under paragraph (a) shall be paid out of the funds of the county of residence of the respondent in those instances where the respondent is indigent; however, if the respondent is not indigent, those costs shall be taxed against the respondent or his estate."

AMEND FURTHER on line 424 and 425 by deleting the words "mentally ill or mentally retarded" and inserting after the word "offenders" on line 425 the following language: "with mental illness or mental retardation"

AMEND FURTHER on lines 427 through 429 by deleting the following language:
"or transferred from another Department of Mental Health facility under regulations established by the State Board of Mental Health."

AMEND FURTHER on line 443 by deleting the word "crime" and inserting in lieu thereof the words "delinquent act, as defined in Section 43-21-105,"

AMEND FURTHER on lines 425, 447 and 448 by deleting the words "offenders" and inserting in lieu thereof the words "delinquents"

AMEND FURTHER on line 456 by deleting the word "offender" and inserting in lieu thereof the words "delinquent"

AMEND FURTHER by inserting the following language after line 461:

"(3) Not less than sixteen (16) beds at the Juvenile Rehabilitation Center at Brookhaven shall be designated and

available for juveniles who are temporarily placed in the center by the court under Section 41-21-73(5) for the purpose of evaluation by the Department of Mental Health to determine whether the juvenile has mental illness and/or mental retardation and to determine the most appropriate placement for the juvenile. Those juveniles need not meet the admission criteria for persons for which the center was specifically designed to serve."

AMEND FURTHER by deleting Section 11 and Sections 16 through 19 in their entirety and renumbering the succeeding sections.

AMEND FURTHER by inserting the following new subsection after lines 183, 237, 269 and 461:

"() This section shall stand repealed on July 1, 2002."

AMEND FURTHER by striking the title in its entirety and inserting in lieu thereof the following:

"AN ACT TO AMEND SECTION 41-7-73, MISSISSIPPI CODE OF 1972, TO UPDATE THE LIST OF STATE MENTAL INSTITUTIONS THAT MAY ASSESS AND COLLECT CHARGES FOR PROVIDING CARE TO PATIENTS; TO AMEND SECTION 41-17-1, MISSISSIPPI CODE OF 1972, TO UPDATE THE LIST OF STATE MENTAL INSTITUTIONS THAT PROVIDE TREATMENT OF PERSONS WITH MENTAL ILLNESS; TO AMEND SECTIONS 41-17-3 AND 41-17-11, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION; TO AMEND SECTION 41-19-103, MISSISSIPPI CODE OF 1972, TO UPDATE THE PROVISION ESTABLISHING ELLISVILLE STATE SCHOOL; TO CREATE NEW SECTIONS 41-19-108, 41-19-112, 41-19-114, 41-19-116 AND 41-19-118, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION; TO AMEND SECTION 41-21-35, MISSISSIPPI CODE OF 1972, TO UPDATE LANGUAGE IN THE PROVISION REGARDING THE LEGAL SETTLEMENT OF PERSONS WITH MENTAL ILLNESS OR MENTAL RETARDATION; TO AMEND SECTION 41-21-63, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT NO PERSON WITH UNRESOLVED CRIMINAL CHARGES PENDING SHALL BE COMMITTED UNDER THE CIVIL COMMITMENT LAWS, EXCEPT AS PROVIDED UNDER SECTION 41-21-109; TO AMEND SECTION 41-21-73, MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISION OF HOME HEALTH SERVICES FROM THE ALTERNATIVES TO COMMITMENT TO INPATIENT CARE; TO PROVIDE THAT IN A COMMITMENT HEARING WHERE THE RESPONDENT IS A JUVENILE, THE COURT, AT ANY TIME BEFORE MAKING ITS DETERMINATION ON COMMITMENT AND/OR FINAL

DISPOSITION, MAY ORDER THE JUVENILE TO BE TEMPORARILY PLACED IN THE JUVENILE REHABILITATION CENTER AT BROOKHAVEN FOR THE PURPOSE OF EVALUATION BY THE DEPARTMENT OF MENTAL HEALTH TO DETERMINE WHETHER THE JUVENILE HAS MENTAL ILLNESS AND/OR MENTAL RETARDATION AND TO DETERMINE THE MOST APPROPRIATE PLACEMENT FOR THE JUVENILE; TO PROVIDE THAT NOT LESS THAN TEN DAYS AFTER THE RESPONDENT IS PLACED IN THE REHABILITATION CENTER, THE DEPARTMENT SHALL REPORT BACK TO THE COURT THE RESULTS OF ITS EVALUATION, WITH RECOMMENDATIONS FOR THE MOST APPROPRIATE PLACEMENT OF THE RESPONDENT; TO PROVIDE THAT IF THE DEPARTMENT DETERMINES THAT THE RESPONDENT HAS MENTAL ILLNESS AND/OR MENTAL RETARDATION, THE DEPARTMENT SHALL RECOMMEND TO THE COURT THE APPROPRIATE DEPARTMENT OF MENTAL HEALTH FACILITY OR FACILITIES FOR PLACEMENT OF THE RESPONDENT; TO PROVIDE THAT IF THE DEPARTMENT DETERMINES THAT THE RESPONDENT DOES NOT HAVE MENTAL ILLNESS AND/OR MENTAL RETARDATION, THE COURT SHALL HAVE UP TO TEN DAYS FROM RECEIPT OF THE DEPARTMENT'S EVALUATION AND RECOMMENDATIONS TO MAKE AN ALTERNATIVE DISPOSITION IN THE COMMITMENT HEARING, WHICH IN NO EVENT SHALL INCLUDE PLACEMENT OF THE RESPONDENT IN A DEPARTMENT OF MENTAL HEALTH FACILITY; TO PROVIDE THAT THE COURT SHALL CONSIDER THE RECOMMENDATIONS OF THE DEPARTMENT IN MAKING ITS DETERMINATION ON THE APPROPRIATE PLACEMENT OF THE RESPONDENT; TO PROHIBIT THE COURT FROM ADJUDICATING THAT THE DEPARTMENT OF MENTAL HEALTH OR THE DEPARTMENT OF HUMAN SERVICES SHALL HAVE CUSTODY OF CERTAIN INDIVIDUALS; TO AMEND SECTION 41-21-77, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT NO PERSON, OTHER THAN A JUVENILE WITH MENTAL ILLNESS WHO IS COMMITTED OR ANY JUVENILE WHO IS PLACED IN A JUVENILE REHABILITATION CENTER, SHALL BE SO DELIVERED OR ADMITTED UNTIL THE DIRECTOR OF THE ADMITTING INSTITUTION DETERMINES THAT FACILITIES AND SERVICES ARE AVAILABLE; TO PROVIDE THAT WHEN A PERSON IS ORDERED COMMITTED, THE DIRECTOR OF THE ADMITTING INSTITUTION SHALL BE PROVIDED WITH A CERTIFIED COPY OF THE PRE-EVALUATION SCREENING FORM; TO DELAY CERTAIN PROVISIONS RELATING TO TREATMENT OF PERSONS WHO HAVE BEEN ORDERED AS COMMITTED; TO PROVIDE THAT, EXCEPT FOR JUVENILES WITH MENTAL ILLNESS WHO ARE COMMITTED OR ANY JUVENILES WHO ARE PLACED IN A

JUVENILE REHABILITATION CENTER, PERSONS COMMITTED AND AWAITING ADMISSION TO A DEPARTMENT OF MENTAL HEALTH FACILITY MAY BE RETAINED AND TREATED IN ANY NON-DEPARTMENT OF MENTAL HEALTH FACILITY OR LOCATION DETERMINED AND APPROVED BY THE COMMITTING COURT; TO PROVIDE THAT ANY COSTS ASSOCIATED WITH THE PRE-ADMISSION TREATMENT SHALL BE PAID OUT OF THE FUNDS OF THE COUNTY OF RESIDENCE OF THE RESPONDENT IN THOSE INSTANCES WHERE THE RESPONDENT IS INDIGENT; TO AMEND SECTION 41-21-109, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT NOT LESS THAN 16 BEDS AT THE JUVENILE REHABILITATION CENTER AT BROOKHAVEN SHALL BE DESIGNATED AND AVAILABLE FOR JUVENILES WHO ARE TEMPORARILY PLACED IN THE CENTER BY THE COURT FOR THE PURPOSE OF EVALUATION BY THE DEPARTMENT OF MENTAL HEALTH TO DETERMINE WHETHER THE JUVENILE HAS MENTAL ILLNESS AND/OR MENTAL RETARDATION AND TO DETERMINE THE MOST APPROPRIATE PLACEMENT FOR THE JUVENILE; TO PROVIDE THAT THOSE JUVENILES NEED NOT MEET THE ADMISSION CRITERIA FOR PERSONS FOR WHICH THE CENTER WAS SPECIFICALLY DESIGNED TO SERVE; TO REPEAL SECTIONS 41-5-55, 41-5-81, 41-17-5, 41-17-7, 41-17-9, 41-17-13, 41-19-105, 41-19-107, 41-19-109, 41-19-115, 41-19-117, 41-19-119, 41-21-43, 41-21-45 AND 41-45-1 THROUGH 41-45-19, MISSISSIPPI CODE OF 1972, WHICH PROHIBIT THE APPRENTICING OF MENTAL PATIENTS, PROVIDE CERTAIN CRIMINAL PENALTIES, PROVIDE CERTAIN VISITATION DUTIES FOR DIRECTORS OF MENTAL HOSPITALS, EXEMPT RESIDENT MENTAL HOSPITAL OFFICERS FROM JURY SERVICE, REQUIRE A DRUG STORE TO BE KEPT AT EACH MENTAL HOSPITAL, REQUIRE SEPARATE ACCOMMODATIONS AT WHITFIELD FOR ALCOHOLICS AND DRUG ADDICTS, PROVIDE FOR THE PLAN OF ELLISVILLE STATE SCHOOL, REQUIRE ELLISVILLE'S DIRECTOR TO KEEP CERTAIN RECORDS, AUTHORIZE ELLISVILLE'S DIRECTOR TO SELL CERTAIN PRODUCTS OF THE SCHOOL, PROVIDE DISCHARGE PROCEDURES FOR ELLISVILLE PATIENTS, PROVIDE FOR HABEAS CORPUS PROCEEDINGS FOR ELLISVILLE PATIENTS, AUTHORIZE THE RECEIPT OF GIFTS FOR THE SUPPORT OF ELLISVILLE, REQUIRE COUNTIES TO TEMPORARILY PROVIDE FOR THE MAINTENANCE OF INDIGENT MENTALLY RETARDED PERSONS, PROHIBIT COHABITATION WITH MENTALLY RETARDED PERSONS, AND AUTHORIZE THE STERILIZATION OF MENTALLY ILL AND MENTALLY RETARDED PATIENTS; AND FOR RELATED PURPOSES. "

2. That the Senate concur in the above exception(s).

CONFEREES FOR THE HOUSE

CONFEREES FOR THE SENATE

X _____
Jeffrey C. Smith

X _____
Robert G. Huggins

X _____
Bobby Moody

Bob M. Dearing

X _____
May Whittington

X _____
Billy Thames