

By: Senator(s) Thames, Harvey

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2796

1 AN ACT TO AMEND SECTION 41-4-7, MISSISSIPPI CODE OF 1972, TO
 2 AUTHORIZE THE STATE BOARD OF MENTAL HEALTH TO ENTER INTO
 3 NEGOTIATIONS WITH THE ECONOMIC DEVELOPMENT AUTHORITY OF SIMPSON
 4 COUNTY RELATING TO THE POSSIBLE EXCHANGE, LEASE OR SALE OF LANDS
 5 OWNED BY BOSWELL REGIONAL CENTER TO SUCH ECONOMIC DEVELOPMENT
 6 AUTHORITY; TO CREATE A TRUST FUND IN WHICH SHALL BE DEPOSITED ANY
 7 MONIES DERIVED FROM THE SALE OF SUCH LANDS; TO PROVIDE THAT THE
 8 PRINCIPAL OF THE TRUST FUND SHALL REMAIN INVIOLETE AND SHALL NEVER
 9 BE EXPENDED, AND THAT ANY INTEREST EARNED ON THE PRINCIPAL MAY BE
 10 EXPENDED SOLELY FOR THE BENEFIT OF CLIENTS SERVED AT BOSWELL
 11 REGIONAL CENTER; AND FOR RELATED PURPOSES.

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

13 SECTION 1. Section 41-4-7, Mississippi Code of 1972, is
 14 amended as follows:

15 41-4-7. The State Board of Mental Health shall have the
 16 following powers and duties:

17 (a) To appoint a full-time executive director of the
 18 Department of Mental Health, who shall be employed by the board
 19 and shall serve as executive secretary to the board. The first
 20 director shall be a duly licensed physician with special interest
 21 and competence in psychiatry, and shall possess a minimum of three
 22 (3) years' experience in clinical and administrative psychiatry.
 23 Subsequent directors shall possess at least a master's degree or
 24 its equivalent, and shall possess at least ten (10) years'
 25 administrative experience in the field of mental health. The
 26 salary of the executive director shall be determined by the board;

27 (b) To set up state plans for the purpose of
 28 controlling and treating any and all forms of mental and emotional
 29 illness, alcoholism, drug misuse and developmental disabilities;

30 (c) To supervise, coordinate and establish standards
31 for all operations and activities of the state related to mental
32 health and providing mental health services, including but not
33 limited to: the requirement that no person be approved for
34 treatment which is paid for by funds made available through the
35 department who has not had a treatment plan established as a
36 result of having been seen by a licensed physician or licensed
37 clinical psychologist and that physician or clinical psychologist
38 signing these plans stating that he/she has personally evaluated
39 the client and that the treatment plan is medically necessary. A
40 physician or clinical psychologist shall recertify each client's
41 record at least semiannually (except for persons with a diagnosis
42 of mental retardation/developmental disability which shall be
43 completed annually), and more often if medically indicated by
44 physically visiting the client and certifying same in the record.
45 The board shall have the authority to develop and implement all
46 standards and plans and shall have the authority to establish
47 appropriate actions, including financially punitive actions, to
48 insure enforcement of these established standards, in accordance
49 with the Administrative Procedures Law (Section 25-43-1 et seq.);

50 (d) To enter into contracts with any other state or
51 federal agency, or with any private person, organization or group
52 capable of contracting, if it finds such action to be in the
53 public interest;

54 (e) To collect reasonable fees for its services;
55 provided, however, if it is determined that a person receiving
56 services is unable to pay the total fee, the department shall
57 collect any amount such person is able to pay;

58 (f) To certify, coordinate and establish minimum
59 standards and establish minimum required services for regional
60 mental health and mental retardation commissions and other
61 community service providers for community or regional programs and
62 services in mental health, mental retardation, alcoholism, drug

63 misuse, developmental disabilities, compulsive gambling, addictive
64 disorders and related programs throughout the state. Such
65 regional mental health and mental retardation commissions and
66 other community service providers shall submit an annual
67 operational plan to the State Department of Mental Health for
68 approval or disapproval based on the minimum standards and minimum
69 required services established by the department for certification.
70 If the department finds deficiencies in the plan of any regional
71 commission or community service provider based on the minimum
72 standards and minimum required services established for
73 certification, the department shall give the regional commission
74 or community service provider a six-month probationary period to
75 bring its standards and services up to the established minimum
76 standards and minimum required services. After the six-month
77 probationary period, if the department determines that the
78 regional commission or community service provider still does not
79 meet the minimum standards and minimum required services
80 established for certification, the department may remove the
81 certification of the commission or provider. However, the
82 department shall not mandate a standard or service, or decertify a
83 regional commission or community service provider for not meeting
84 a standard or service, if the standard or service does not have
85 funding appropriated by the Legislature or have a funding source
86 from the State Department of Mental Health or a local funding
87 source. The State Board of Mental Health shall promulgate rules
88 and regulations necessary to implement the provisions of this
89 paragraph (f), in accordance with the Administrative Procedures
90 Law (Section 25-43-1 et seq.).

91 (g) To establish and promulgate reasonable minimum
92 standards for the construction and operation of state and all
93 Department of Mental Health certified facilities, including
94 reasonable minimum standards for the admission, diagnosis, care,
95 treatment, transfer of patients and their records, and also

96 including reasonable minimum standards for providing day care,
97 outpatient care, emergency care, inpatient care and follow-up
98 care, when such care is provided for persons with mental or
99 emotional illness, mental retardation, alcoholism, drug misuse and
100 developmental disabilities;

101 (h) To assist community or regional programs consistent
102 with the purposes of this chapter by making grants and contracts
103 from available funds;

104 (i) To establish and collect reasonable fees for
105 necessary inspection services incidental to certification or
106 compliance;

107 (j) To accept gifts, trusts, bequests, grants,
108 endowments or transfers of property of any kind;

109 (k) To receive monies coming to it by way of fees for
110 services or by appropriations;

111 (l) To serve as the single state agency in receiving
112 and administering any and all funds available from any source for
113 the purpose of service delivery, training, research and education
114 in regard to all forms of mental illness, mental retardation,
115 alcoholism, drug misuse and developmental disabilities, unless
116 such funds are specifically designated to a particular agency or
117 institution by the federal government, the Mississippi Legislature
118 or any other grantor;

119 (m) To establish mental health holding centers for the
120 purpose of providing short-term emergency mental health treatment,
121 places for holding persons awaiting commitment proceedings or
122 awaiting placement in a state mental health facility following
123 commitment, and for diverting placement in a state mental health
124 facility. These mental health holding facilities shall be readily
125 accessible, available statewide, and be in compliance with
126 emergency services' minimum standards. They shall be
127 comprehensive and available to triage and make appropriate
128 clinical disposition including the capability to access inpatient

129 services or less restrictive alternatives, as needed, as
130 determined by medical staff. Such facility shall have medical,
131 nursing and behavioral services available on a 24-hour-a-day
132 basis. The board may provide for all or part of the costs of
133 establishing and operating the holding centers in each district
134 from such funds as may be appropriated to the board for such use,
135 and may participate in any plan or agreement with any public or
136 private entity under which the entity will provide all or part of
137 the costs of establishing and operating a holding center in any
138 district;

139 (n) To certify/license case managers, mental health
140 therapists, mental retardation therapists, mental
141 health/retardation program administrators, addiction counselors
142 and others as deemed appropriate by the board. Persons already
143 professionally licensed by another state board or agency are not
144 required to be certified/licensed under this section by the
145 Department of Mental Health. The department shall not use
146 professional titles in its certification/licensure process for
147 which there is an independent licensing procedure. Such
148 certification/licensure shall be valid only in the state mental
149 health system, in programs funded and/or certified by the
150 Department of Mental Health, and/or in programs certified/licensed
151 by the State Department of Health that are operated by the state
152 mental health system serving the mentally ill, mentally retarded,
153 developmental disabled or persons with addictions, and shall not
154 be transferable;

155 (o) To develop formal mental health worker
156 qualifications for regional mental health and mental retardation
157 commissions and other community service providers. The State
158 Personnel Board shall develop and promulgate a recommended salary
159 scale and career ladder for all regional mental health/retardation
160 center therapists and case managers who work directly with
161 clients. The State Personnel Board shall also develop and

162 promulgate a career ladder for all direct care workers employed by
163 the State Department of Mental Health;

164 (p) The employees of the department shall be governed
165 by personnel merit system rules and regulations, the same as other
166 employees in state services;

167 (q) To establish such rules and regulations as may be
168 necessary in carrying out the provisions of this chapter,
169 including the establishment of a formal grievance procedure to
170 investigate and attempt to resolve consumer complaints;

171 (r) To grant easements for roads, utilities and any
172 other purpose it finds to be in the public interest;

173 (s) To survey statutory designations, building markers
174 and the names given to mental health/retardation facilities and
175 proceedings in order to recommend deletion of obsolete and
176 offensive terminology relative to the mental health/retardation
177 system;

178 (t) To ensure an effective case management system
179 directed at persons who have been discharged from state and
180 private psychiatric hospitals to ensure their continued well-being
181 in the community;

182 (u) To develop formal service delivery standards
183 designed to measure the quality of services delivered to community
184 clients, as well as the timeliness of services to community
185 clients provided by regional mental health/retardation commissions
186 and other community services providers;

187 (v) To establish regional state offices to provide
188 mental health crisis intervention centers and services available
189 throughout the state to be utilized on a case-by-case emergency
190 basis. The regional services director, other staff and delivery
191 systems shall meet the minimum standards of the Department of
192 Mental Health;

193 (w) To require performance contracts with community
194 mental health/mental retardation service providers to contain

195 performance indicators to measure successful outcomes, including
196 diversion of persons from inpatient psychiatric hospitals,
197 rapid/timely response to emergency cases, client satisfaction with
198 services and other relevant performance measures;

199 (x) To enter into interagency agreements with other
200 state agencies, school districts and other local entities as
201 determined necessary by the department to ensure that local mental
202 health service entities are fulfilling their responsibilities to
203 the overall state plan for behavioral services;

204 (y) To establish and maintain a toll-free grievance
205 reporting telephone system for the receipt and referral for
206 investigation of all complaints by clients of state and community
207 mental health/retardation facilities;

208 (z) To establish a peer review/quality assurance
209 evaluation system that assures that appropriate assessment,
210 diagnosis and treatment is provided according to established
211 professional criteria and guidelines;

212 (aa) To develop and implement state plans for the
213 purpose of assisting with the care and treatment of persons with
214 Alzheimer's disease and other dementia. This plan shall include
215 education and training of service providers, care-givers in the
216 home setting and others who deal with persons with Alzheimer's
217 disease and other dementia, and development of adult day care,
218 family respite care and counseling programs to assist families who
219 maintain persons with Alzheimer's disease and other dementia in
220 the home setting. No agency shall be required to provide any
221 services under this section until such time as sufficient funds
222 have been appropriated or otherwise made available by the
223 Legislature specifically for the purposes of the treatment of
224 persons with Alzheimer's and other dementia; and

225 (bb) Working with the advice and consent of the
226 administration of Ellisville State School, to enter into
227 negotiations with the Economic Development Authority of Jones

228 County for the purpose of negotiating the possible exchange, lease
229 or sale of lands owned by Ellisville State School to the Economic
230 Development Authority of Jones County. It is the intent of the
231 Mississippi Legislature that such negotiations shall ensure that
232 the financial interest of the persons with mental retardation
233 served by Ellisville State School will be held paramount in the
234 course of these negotiations. The Legislature also recognizes the
235 importance of economic development to the citizens of the State of
236 Mississippi and Jones County, and encourages fairness to the
237 Economic Development Authority of Jones County. Any negotiations
238 proposed which would result in the recommendation for exchange,
239 lease or sale of lands owned by Ellisville State School must have
240 the approval of the State Board of Mental Health. The State Board
241 of Mental Health may and has the final authority as to whether or
242 not these negotiations result in the exchange, lease or sale of
243 the properties it currently holds in trust for citizens with
244 mental retardation served at Ellisville State School.

245 If the State Board of Mental Health authorizes the sale of
246 lands owned by Ellisville State School, as provided for under this
247 paragraph (bb), the monies derived from the sale shall be placed
248 into a special fund that is created in the State Treasury to be
249 known as the "Ellisville State School Client's Trust Fund." The
250 principal of the trust fund shall remain inviolate and shall never
251 be expended. Any interest earned on the principal may be expended
252 solely for the benefits of clients served at Ellisville State
253 School. The State Treasurer shall invest the monies of the trust
254 fund in any of the investments authorized for the Mississippi
255 Prepaid Affordable College Tuition Program under Section 37-155-9,
256 and those investments shall be subject to the limitations
257 prescribed by Section 37-155-9. Unexpended amounts remaining in
258 the trust fund at the end of a fiscal year shall not lapse into
259 the State General Fund, and any interest earned on amounts in the
260 trust fund shall be deposited to the credit of the trust fund.

261 The administration of Ellisville State School may use any interest
262 earned on the principal of the trust fund, upon appropriation by
263 the Legislature, as needed for services or facilities by the
264 clients of Ellisville State School. Ellisville State School shall
265 make known to the Legislature, through the Legislative Budget
266 Committee and the respective Appropriations Committees of the
267 House and Senate, its proposed use of interest earned on the
268 principal of the trust fund for any fiscal year in which it
269 proposes to make expenditures thereof. The State Treasurer shall
270 provide Ellisville State School with an annual report on the
271 Ellisville State School Client's Trust Fund to indicate the total
272 monies in the trust fund, interest earned during the year,
273 expenses paid from the trust fund and such other related
274 information.

275 Nothing in this section shall be construed as applying to or
276 affecting mental health/retardation services provided by hospitals
277 as defined in Section 41-9-3(a), and/or their subsidiaries and
278 divisions, which hospitals, subsidiaries and divisions are
279 licensed and regulated by the Mississippi State Department of
280 Health unless such hospitals, subsidiaries or divisions
281 voluntarily request certification by the Mississippi State
282 Department of Mental Health.

283 All new programs authorized under this section shall be
284 subject to the availability of funds appropriated therefor by the
285 Legislature.

286 (cc) Working with the advice and consent of the
287 administration of Boswell Regional Center, to enter into
288 negotiations with the Economic Development Authority of Simpson
289 County for the purpose of negotiating the possible exchange, lease
290 or sale of lands owned by Boswell Regional Center to the Economic
291 Development Authority of Simpson County. It is the intent of the
292 Mississippi Legislature that such negotiations shall ensure that
293 the financial interest of the persons with mental retardation

294 served by Boswell Regional Center will be held paramount in the
295 course of these negotiations. The Legislature also recognizes the
296 importance of economic development to the citizens of the State of
297 Mississippi and Simpson County, and encourages fairness to the
298 Economic Development Authority of Simpson County. Any
299 negotiations proposed which would result in the recommendation for
300 exchange, lease or sale of lands owned by Boswell Regional Center
301 must have the approval of the State Board of Mental Health. The
302 State Board of Mental Health may and has the final authority as to
303 whether or not these negotiations result in the exchange, lease or
304 sale of the properties it currently holds in trust for citizens
305 with mental retardation served at Boswell Regional Center.

306 If the State Board of Mental Health authorizes the sale of
307 lands owned by Boswell Regional Center, as provided for under this
308 paragraph (cc), the monies derived from the sale shall be placed
309 into a special fund that is created in the State Treasury to be
310 known as the "Boswell Regional Center Client's Trust Fund." The
311 principal of the trust fund shall remain inviolate and shall never
312 be expended. Any interest earned on the principal may be expended
313 solely for the benefits of clients served at Boswell Regional
314 Center. The State Treasurer shall invest the monies of the trust
315 fund in any of the investments authorized for the Mississippi
316 Prepaid Affordable College Tuition Program under Section 37-155-9,
317 and those investments shall be subject to the limitations
318 prescribed by Section 37-155-9. Unexpended amounts remaining in
319 the trust fund at the end of a fiscal year shall not lapse into
320 the State General Fund, and any interest earned on amounts in the
321 trust fund shall be deposited to the credit of the trust fund.
322 The administration of Boswell Regional Center may use any interest
323 earned on the principal of the trust fund, upon appropriation by
324 the Legislature, as needed for services or facilities by the
325 clients of Boswell Regional Center. Boswell Regional Center shall
326 make known to the Legislature, through the Legislative Budget

327 Committee and the respective Appropriations Committees of the
328 House and Senate, its proposed use of interest earned on the
329 principal of the trust fund for any fiscal year in which it
330 proposes to make expenditures thereof. The State Treasurer shall
331 provide Boswell Regional Center with an annual report on the
332 Boswell Regional Center Client's Trust Fund to indicate the total
333 monies in the trust fund, interest earned during the year,
334 expenses paid from the trust fund and such other related
335 information.

336 Nothing in this section shall be construed as applying to or
337 affecting mental health/retardation services provided by hospitals
338 as defined in Section 41-9-3(a), and/or their subsidiaries and
339 divisions, which hospitals, subsidiaries and divisions are
340 licensed and regulated by the Mississippi State Department of
341 Health unless such hospitals, subsidiaries or divisions
342 voluntarily request certification by the Mississippi State
343 Department of Mental Health.

344 All new programs authorized under this section shall be
345 subject to the availability of funds appropriated therefor by the
346 Legislature.

347 SECTION 2. This act shall take effect and be in force from
348 and after its passage.