

By: Senator(s) Thames, Harvey, Smith

To: Public Health and Welfare; Appropriations

SENATE BILL NO. 2796
(As Passed the Senate)

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 EARNINGS ON THE PRINCIPAL MAY BE
10 EXPENDED SOLELY FOR THE BENEFIT OF CLIENTS SERVED AT BOSWELL
11 REGIONAL CENTER PURSUANT TO APPROPRIATION BY THE LEGISLATURE; AND
12 FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

295 served by Boswell Regional Center will be held paramount in the
296 course of these negotiations. The Legislature also recognizes the
297 importance of economic development to the citizens of the State of
298 Mississippi and Simpson County, and encourages fairness to the
299 Economic Development Authority of Simpson County. Any
300 negotiations proposed which would result in the recommendation for
301 exchange, lease or sale of lands owned by Boswell Regional Center
302 must have the approval of the State Board of Mental Health. The
303 State Board of Mental Health may and has the final authority as to
304 whether or not these negotiations result in the exchange, lease or
305 sale of the properties it currently holds in trust for citizens
306 with mental retardation served at Boswell Regional Center. In any
307 such exchange, lease or sale of such lands owned by Boswell
308 Regional Center, title to all minerals, oil and gas on such lands
309 shall be reserved, together with the right of ingress and egress
310 to remove same, whether such provisions be included in the terms
311 of any such exchange, lease or sale or not.

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

328 of Boswell Regional Center may use any earnings on the principal
329 of the trust fund, upon appropriation by the Legislature, as
330 needed for services or facilities by the clients of Boswell
331 Regional Center. Boswell Regional Center shall make known to the
332 Legislature, through the Legislative Budget Committee and the
333 respective Appropriations Committees of the House and Senate, its
334 proposed use of the earnings on the principal of the trust fund
335 for any fiscal year in which it proposes to make expenditures
336 thereof, not to exceed seven percent (7%) of the principal amount.
337 The State Treasurer shall provide Boswell Regional Center with an
338 annual report on the Boswell Regional Center Client's Trust Fund
339 to indicate the total monies in the trust fund, interest and other
340 income earned during the year, expenses paid from the trust fund
341 and such other related information.

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

350 All new programs authorized under this section shall be
351 subject to the availability of funds appropriated therefor by the
352 Legislature.

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