

By: Senator(s) King

To: Public Health and Welfare

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2961

1 AN ACT TO AMEND SECTION 41-21-73, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE CIVIL COMMITMENT FOR MENTAL ILLNESS OR MENTAL
3 RETARDATION AND TREATMENT PRIOR TO ADMISSION TO BE LOCATED AS
4 CLOSELY AS POSSIBLE TO THE PATIENT'S COUNTY OF RESIDENCE AND TO
5 REQUIRE THE COUNTY OF RESIDENCE TO BE RESPONSIBLE FOR THE COST
6 THEREOF; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 41-21-73, Mississippi Code of 1972, is
9 amended as follows:

10 41-21-73. (1) The hearing shall be conducted before the
11 chancellor. Within a reasonable period of time before the
12 hearing, notice of same shall be provided the respondent and his
13 attorney which shall include: (a) notice of the date, time and
14 place of the hearing; (b) a clear statement of the purpose of the
15 hearing; (c) the possible consequences or outcome of the hearing;
16 (d) the facts which have been alleged in support of the need for
17 commitment; (e) the names, addresses and telephone numbers of the
18 examiner(s); and (f) other witnesses expected to testify.

19 (2) The respondent must be present at the hearing unless the
20 chancellor determines that the respondent is unable to attend and
21 makes that determination and the reasons therefor part of the
22 record. At the time of the hearing the respondent shall not be so
23 under the influence or suffering from the effects of drugs,
24 medication or other treatment so as to be hampered in
25 participating in the proceedings. * * * At the time of the
26 hearing, the court shall be presented a record of all drugs,
27 medication or other treatment which the respondent has received
28 pending the hearing, unless the court determines that such a

29 record would be impractical and documents the reasons for that
30 determination.

31 (3) The respondent shall have the right to offer evidence,
32 to be confronted with the witnesses against him and to
33 cross-examine them and shall have the privilege against
34 self-incrimination. The rules of evidence applicable in other
35 judicial proceedings in this state shall be followed.

36 (4) If the court finds by clear and convincing evidence that
37 the proposed patient is a mentally ill or mentally retarded person
38 and, if after careful consideration of reasonable alternative
39 dispositions, including, but not limited to, dismissal of the
40 proceedings, the court finds that there is no suitable alternative
41 to judicial commitment, the court shall commit the patient for
42 treatment in the least restrictive treatment facility which can
43 meet the patient's treatment needs. Treatment prior to admission
44 to a state-operated facility shall be located as closely as
45 possible to the patient's county of residence and the county of
46 residence shall be responsible for the cost. Admissions to
47 state-operated facilities shall be in compliance with the
48 catchment areas established by the Department of Mental Health.

49 Alternatives to commitment to inpatient care may include, but
50 shall not be limited to: voluntary or court-ordered outpatient
51 commitment for treatment with specific reference to a treatment
52 regimen, day treatment in a hospital, night treatment in a
53 hospital, placement in the custody of a friend or relative or the
54 provision of home health services.

55 For persons committed as mentally ill or mentally retarded,
56 the initial commitment shall not exceed three (3) months.

57 (5) No person shall be committed to a treatment facility
58 whose primary problems are the physical disabilities associated
59 with old age or birth defects of infancy.

60 (6) The court shall state the findings of fact and
61 conclusions of law which constitute the basis for the order of

62 commitment. The findings shall include a listing of less
63 restrictive alternatives considered by the court and the reasons
64 that each was found not suitable.

65 (7) A stenographic transcription shall be recorded by a
66 stenographer or electronic recording device and retained by the
67 court.

68 (8) Notwithstanding any other provision of law to the
69 contrary, neither the Board of Mental Health or its members, nor
70 the Department of Mental Health or its related facilities, nor any
71 employee of the Department of Mental Health or its related
72 facilities, unless related to the respondent by blood or marriage,
73 shall be assigned or adjudicated custody, guardianship, or
74 conservatorship of the respondent.

75 **SECTION 2.** This act shall take effect and be in force from
76 and after July 1, 2004.