

By: Senator(s) King

To: Public Health and Welfare

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 FOR
5 RELATED PURPOSES.

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

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

9 41-21-73. (1) The hearing shall be conducted before the
10 chancellor. Within a reasonable period of time before the
11 hearing, notice of same shall be provided the respondent and his
12 attorney which shall include: (a) notice of the date, time and
13 place of the hearing; (b) a clear statement of the purpose of the
14 hearing; (c) the possible consequences or outcome of the hearing;
15 (d) the facts which have been alleged in support of the need for
16 commitment; (e) the names, addresses and telephone numbers of the
17 examiner(s); and (f) other witnesses expected to testify.

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

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

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

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

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

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

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

58 (6) The court shall state the findings of fact and
59 conclusions of law which constitute the basis for the order of
60 commitment. The findings shall include a listing of less

61 restrictive alternatives considered by the court and the reasons
62 that each was found not suitable.

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

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

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