

By: Representatives Upshaw, Ishee

To: Public Health and Human
Services; Judiciary A

HOUSE BILL NO. 504

1 AN ACT TO AMEND SECTIONS 1-3-57, 1-3-58, 7-1-5, 11-5-49,
 2 11-5-113, 11-5-117, 11-51-101, 19-5-43, 19-7-31, 23-15-11,
 3 25-7-61, 29-1-101, 31-11-3, 35-5-31, 41-17-3, 41-17-11, 41-21-35,
 4 43-31-35, 67-1-83, 67-3-53, 73-19-23, 73-39-19, 81-5-33,
 5 81-27-6.307, 89-1-29, 93-1-5, 93-5-1, 93-5-13, 93-5-15, 93-7-3,
 6 93-13-123, 93-13-121, 93-13-131, 97-3-13, 97-9-25, 99-13-1,
 7 99-13-3, 99-13-5, 99-13-7, 99-13-9, 99-19-57, 99-38-9, 99-39-23
 8 AND 99-39-27, MISSISSIPPI CODE OF 1972, TO MODERNIZE THE
 9 TERMINOLOGY THAT IS USED TO REFER TO PERSONS WITH MENTAL ILLNESS
 10 AND PERSONS WITH MENTAL RETARDATION AND THE INSTITUTIONS THAT
 11 PROVIDE TREATMENT AND CARE TO THOSE PERSONS; TO AMEND SECTION
 12 41-19-103, MISSISSIPPI CODE OF 1972, TO UPDATE THE PROVISION
 13 ESTABLISHING ELLISVILLE STATE SCHOOL; TO CREATE NEW SECTIONS
 14 41-19-108, 41-19-112, 41-19-114, 41-19-116 AND 41-19-118,
 15 MISSISSIPPI CODE OF 1972, AND TO AMEND SECTION 41-19-121,
 16 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION;
 17 TO REPEAL SECTIONS 41-5-55, 41-5-81, 41-17-5, 41-17-7, 41-17-9,
 18 41-17-13, 41-19-105, 41-19-107, 41-19-109, 41-19-115, 41-19-117,
 19 41-19-119, 41-21-43, 41-21-45 AND 41-45-1 THROUGH 41-45-19,
 20 MISSISSIPPI CODE OF 1972, WHICH PROHIBIT THE APPRENTICING OF
 21 MENTAL PATIENTS, PROVIDE CERTAIN CRIMINAL PENALTIES, PROVIDE
 22 CERTAIN VISITATION DUTIES FOR DIRECTORS OF MENTAL HOSPITALS,
 23 EXEMPT RESIDENT MENTAL HOSPITAL OFFICERS FROM JURY SERVICE,
 24 REQUIRE A DRUG STORE TO BE KEPT AT EACH MENTAL HOSPITAL, REQUIRE
 25 SEPARATE ACCOMMODATIONS AT WHITFIELD FOR ALCOHOLIC AND DRUG
 26 ADDICTS, PROVIDE FOR THE PLAN OF ELLISVILLE STATE SCHOOL, REQUIRE
 27 ELLISVILLE'S DIRECTOR TO KEEP CERTAIN RECORDS, AUTHORIZE
 28 ELLISVILLE'S DIRECTOR TO SELL CERTAIN PRODUCTS OF THE SCHOOL,
 29 PROVIDE DISCHARGE PROCEDURES FOR ELLISVILLE PATIENTS, PROVIDE FOR
 30 HABEAS CORPUS PROCEEDINGS FOR ELLISVILLE PATIENTS, AUTHORIZE THE
 31 RECEIPT OF GIFTS FOR THE SUPPORT OF ELLISVILLE, REQUIRE COUNTIES
 32 TO TEMPORARILY PROVIDE FOR THE MAINTENANCE OF INDIGENT MENTALLY
 33 RETARDED PERSONS, PROHIBIT COHABITATION WITH MENTALLY RETARDED
 34 PERSONS AND AUTHORIZE THE STERILIZATION OF MENTALLY ILL AND
 35 MENTALLY RETARDED PATIENTS; AND FOR RELATED PURPOSES.

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

37 **SECTION 1.** Section 1-3-57, Mississippi Code of 1972, is
 38 amended as follows:

39 1-3-57. The term "unsound mind," when used in any statute in
 40 reference to persons, shall include persons with mental
 41 retardation, persons with mental illness, and persons non compos
 42 mentis.

43 **SECTION 2.** Section 1-3-58, Mississippi Code of 1972, is
44 amended as follows:

45 1-3-58. Whenever the term "ward" is used, it shall be
46 liberally construed and held to include any and all persons under
47 every form of legal disability, including, but not limited to, the
48 disabilities of minority, mental retardation, mental illness,
49 unsound mind, alcoholism, addiction to drugs, and convicted
50 felons.

51 **SECTION 3.** Section 7-1-5, Mississippi Code of 1972, is
52 amended as follows:

53 7-1-5. In addition to the powers conferred and duties
54 imposed on the Governor by the constitution and by the laws as
55 elsewhere provided, he shall have the powers and perform the
56 duties following * * *:

57 (a) He is the supreme executive officer of the state.

58 (b) He is the commander in chief of the militia of the
59 state and may call out the militia to execute the laws, to
60 suppress insurrections or riots, and to repel invasions.

61 (c) He shall see that the laws are faithfully executed.

62 (d) He is to supervise the official conduct of all
63 executive and ministerial officers.

64 (e) He is to see that all offices are filled and the
65 duties of the offices are performed or, in default thereof, apply
66 such remedy as the law allows; and if the remedy is inadequate, he
67 shall inform the Legislature * * * at its next session.

68 (f) He shall make appointments and fill vacancies as
69 prescribed by law.

70 (g) Whenever any suit or legal proceeding is pending
71 that affects the title of the state to any property, or that may
72 result in any claim against the state, he may direct the Attorney
73 General to appear on behalf of the state and protect its interest.

74 (h) He may require the Attorney General, or district
75 attorney of any district, to inquire into the affairs or

76 management of any corporation existing under the laws of this
77 state, or doing business in this state under the laws of the
78 state.

79 (i) He may require the Attorney General to aid any
80 district attorney in the discharge of his duties.

81 (j) He may offer rewards, not exceeding Two Hundred
82 Dollars (\$200.00), for persons with mental illness who have
83 escaped and are dangerous, and such other rewards as are
84 authorized by law.

85 (k) He may require any officer or board to make special
86 reports to him upon demand in writing.

87 (l) He shall transact all necessary business with state
88 officers, shall require them to be present at their respective
89 offices at all reasonable business hours, and may require
90 information, in writing, from any such officer relating to the
91 duties of his office.

92 (m) When deemed advisable upon proceedings for the
93 arrest in this state of fugitives from justice from other states
94 or countries, he may commission a special officer to arrest the
95 fugitive in any part of the state.

96 (n) He may bring any proper suit affecting the general
97 public interests, in his own name for the State of Mississippi, if
98 after first requesting the proper officer so to do, the * * *
99 officer * * * refuses or neglects to do the same.

100 **SECTION 4.** Section 11-5-49, Mississippi Code of 1972, is
101 amended as follows:

102 11-5-49. In proceedings in matters testamentary and of
103 administration, in minors' business, and in cases of persons with
104 mental retardation, persons with mental illness and persons of
105 unsound mind, as provided for by law, no answer shall be required
106 to any petition or application of any sort. Such a petition or
107 application shall not be taken as confessed because of the lack of
108 an answer, but every petition, application, or account shall be

109 supported by the proper evidence and may be contested without an
110 answer. All such proceedings shall be as summary, as the statutes
111 authorizing and regulating them contemplate; however, when either
112 of the parties having a controversy in court as to any of those
113 several matters * * * requires and the court * * * sees proper, it
114 may direct plenary proceedings by bill or petition, to which there
115 shall be an answer on oath or affirmation. If an adult or sane
116 party refuses to answer as to any matter alleged in the bill or
117 petition and proper for the court to decide upon, the * * * party
118 refusing may be attached, fined, and imprisoned at the discretion
119 of the court, and the matter set forth in the bill or petition
120 shall be taken as confessed and a decree shall be made
121 accordingly.

122 **SECTION 5.** Section 11-5-113, Mississippi Code of 1972, is
123 amended as follows:

124 11-5-113. All the provisions of this chapter on the subject
125 of sales shall apply to all sales of real estate under any decree
126 in the chancery court made in matters testamentary and of
127 administration, minors' business, cases of persons with mental
128 retardation, persons with mental illness and persons of unsound
129 mind, of partition, and all other matters.

130 **SECTION 6.** Section 11-5-117, Mississippi Code of 1972, is
131 amended as follows:

132 11-5-117. (1) In addition to the law now in force
133 authorizing the chancery court to decree the sale of land and
134 personal property, the chancery court and the chancellor in
135 vacation are authorized in all matters providing for a sale or
136 lease of real and personal property, including matters
137 testamentary and of administration, minor's business, persons with
138 mental illness, partition and receivers, to order or decree the
139 sale or lease of real and personal property or any interest in the
140 property, including timber, oil, gas and minerals, at private
141 sale, under such terms and conditions as the chancellor may

142 impose. If all of the terms of sale are made certain by the order
143 or decree, a deed or lease executed in full compliance with the
144 order or decree shall become immediately effective without further
145 confirmation by the court or chancellor.

146 (2) This section shall not be construed to invalidate any
147 proceedings previously done in conformity with this section.

148 **SECTION 7.** Section 11-51-101, Mississippi Code of 1972, is
149 amended as follows:

150 11-51-101. (1) The state and any county or municipality of
151 the state, and the officials representing the state, county or
152 municipality, in any suit or action, and any state, county or
153 municipal officer who is a party to any suit or action in his
154 official character, in which suit or action the state, county or
155 municipality is beneficially interested, and the several
156 incorporated charitable or educational institutions established
157 and maintained by the state, and all corporate instrumentalities
158 wholly owned by the United States government, shall be entitled to
159 appeal from a judgment, decree, decision or order of any court or
160 judge from which an appeal may be taken without prepayment of
161 costs in the lower court; however, * * * the cost of the
162 preparation of the record of the proceedings in the trial court
163 shall be prepaid. In any such case, if a supersedeas is allowed
164 and desired, a bond for supersedeas shall not be required.

165 (2) Any person who is a party to a suit or action in his
166 individual capacity, which suit arises from allegedly tortious
167 actions and deeds committed by him during the time he was a
168 member, trustee, director, superintendent, official or employee,
169 as the case may be, of the Department of Corrections, the State
170 Penitentiary or the state psychiatric hospitals or institutions,
171 and which allegedly tortious acts and deeds were committed by the
172 person in the performance of his duties or employment, shall be
173 entitled to appeal from a judgment, decree, decision or order of
174 any court or judge from which an appeal may be taken without

175 prepayment of costs in the lower court, including the costs of the
176 preparation of the record of the proceedings in the trial court.
177 In those cases, if a supersedeas is allowed and desired, a bond
178 for supersedeas shall not be required. The provisions of this
179 section shall not apply to any such judgment, decree, decision or
180 order in favor of the State of Mississippi.

181 **SECTION 8.** Section 19-5-43, Mississippi Code of 1972, is
182 amended as follows:

183 19-5-43. The boards of supervisors in their respective
184 counties shall temporarily provide for the care and maintenance of
185 any person alleged to have mental illness when the person has no
186 means of paying that expense, pending an investigation into the
187 mental status of the person alleged to have mental illness before
188 the chancery clerk of the county, and provide for the care and
189 maintenance of those persons by the sheriff of their respective
190 counties after being adjudged as a person with mental illness by
191 the properly constituted authority, when there is no room in one
192 (1) of the state psychiatric hospitals or institutions for the
193 person with mental illness. The boards shall cause all reasonable
194 and proper allowance for that care and maintenance to be paid out
195 of the county treasury.

196 **SECTION 9.** Section 19-7-31, Mississippi Code of 1972, is
197 amended as follows:

198 19-7-31. The board of supervisors of each county in the
199 state shall have power, by an appropriate order or orders on its
200 minutes, to establish and maintain in the county courthouse or
201 other suitable public building adjacent or near thereto, a public
202 county law library under such rules, regulations and supervision
203 as it may from time to time ordain and establish, and to that end,
204 the board may accept gifts, grants, donations or bequests of
205 money, furniture, fixtures, books, documents, maps, plats or other
206 property suitable for that purpose.

207 The board of supervisors shall have power to exchange or sell
208 duplicate volumes or sets of any such books or furniture, and in
209 case of sale, to invest the proceeds in other suitable books or
210 furniture. The * * * board may also purchase or lease from time
211 to time additional books, furniture, or equipment for the public
212 law library.

213 For the purpose of providing suitable quarters for the public
214 law library, the * * * board of supervisors may, in its
215 discretion, expend such sums as may be deemed necessary or proper
216 for that purpose, and may also employ a suitable person as
217 librarian and pay the law librarian such salary as the board, in
218 its discretion, may determine. The board may employ additional
219 librarians or other employees on either a part-time or full-time
220 basis and may pay these additional employees as the board, in its
221 discretion, may determine. The board of supervisors, in their
222 discretion, may contract with the county or municipal library for
223 any staff or facilities as they deem necessary for the overall
224 management and operation of the county law library. The board of
225 supervisors may contract with the State Law Library for law
226 library services that may be offered by the State Law Library.

227 In case the public law library is so established, all books,
228 documents, furniture and other property then belonging to the
229 county library, as provided for in Section 19-7-25, shall be
230 transferred to and become part of the public law library, and all
231 books, documents and publications * * * donated by the state to
232 the county library shall also become a part of the public law
233 library. * * * In that case, Sections 19-7-25 and 19-25-65,
234 relating to the county library, shall be superseded in that county
235 for as long as the public law library is maintained in the county.

236 The board of supervisors of any such county * * *, in its
237 discretion, may levy, by way of resolution, additional court costs
238 not exceeding Two Dollars and Fifty Cents (\$2.50) per case for
239 each case, both civil and criminal, filed in the chancery, circuit

240 and county courts or any of these in the county, and may levy, by
241 way of resolution, additional court costs not exceeding One Dollar
242 and Fifty Cents (\$1.50) per case for each case, both civil and
243 criminal, filed in the justice courts of the county, for the
244 support of the library * * * authorized in the county. If the
245 additional court costs * * * authorized in this section are
246 levied, the clerk or judge of those courts shall collect those
247 costs for all cases * * * filed in his court and forward same to
248 the chancery clerk, who shall deposit the same in a special
249 account in a county depository for support and maintenance of the
250 library, and the chancery clerk shall be accountable for those
251 funds. However, no such levy shall be made against any cause of
252 action the purpose of which is to commit any person with mental
253 illness, alcoholic or narcotic addict to any institution for
254 custodial or medical care, and no such tax shall be collected
255 under this subsection on any cause of action that the proper clerk
256 handling same deems to be in its very nature charitable and in
257 which cause the clerk has not collected his own legal fees.

258 To accomplish the purposes of this section, the board of
259 supervisors may enter into such arrangement or arrangements with
260 the county bar association of any such county as may seem
261 advisable for the care and operation of the law library, and the
262 board may receive and consider, from time to time, such
263 recommendations as the bar association may deem appropriate
264 regarding the library.

265 The board of supervisors of each county in which there are
266 two (2) judicial districts * * *, in its discretion, may maintain
267 a law library in each judicial district. In those counties the
268 board * * *, in its discretion, may pay from the county general
269 fund or from the special fund * * * authorized in this section all
270 the costs * * * authorized in this section, provided that the
271 board shall not spend in each judicial district less than the

272 amount of the special court costs authorized in this section and
273 collected in each such district.

274 The governing authorities of any municipality * * *, in their
275 discretion, by resolution duly adopted and entered on their
276 official minutes, may levy additional court costs not exceeding
277 One Dollar and Fifty Cents (\$1.50) per case for each conviction in
278 the municipal court of the municipality, for the support and
279 maintenance of the county law library in the county within which
280 the municipality is located. The additional costs shall be
281 collected by the clerk of the court, forwarded to the chancery
282 clerk of the county for deposit in a special account in the county
283 depository, and expended for support and maintenance of the county
284 law library in the same manner and in accordance with the same
285 procedure as provided for costs similarly collected in the
286 chancery, circuit, county and justice courts of the county.

287 **SECTION 10.** Section 23-15-11, Mississippi Code of 1972, is
288 amended as follows:

289 23-15-11. Every inhabitant of this state, except persons
290 adjudicated to be non compos mentis, who is a citizen of the
291 United States of America, eighteen (18) years old and upwards, who
292 has resided in this state for thirty (30) days and for thirty (30)
293 days in the county in which he seeks to vote, and for thirty (30)
294 days in the incorporated municipality in which he seeks to vote,
295 and who has been duly registered as an elector under Section
296 23-15-33, and who has never been convicted of any crime listed in
297 Section 241, Mississippi Constitution of 1890, shall be a
298 qualified elector in and for the county, municipality and voting
299 precinct of his residence, and shall be entitled to vote at any
300 election. Any person who will be eighteen (18) years of age or
301 older on or before the date of the general election and who is
302 duly registered to vote not less than thirty (30) days before the
303 primary election associated with the general election, may vote in
304 the primary election even though the person has not reached his or

305 her eighteenth birthday at the time that the person seeks to vote
306 at the primary election. No others than those specified in this
307 section shall be entitled, or shall be allowed, to vote at any
308 election.

309 **SECTION 11.** Section 25-7-61, Mississippi Code of 1972, is
310 amended as follows:

311 25-7-61. (1) Fees of jurors shall be payable as follows:

312 (a) Grand jurors and petit jurors in the chancery,
313 county, circuit and special eminent domain courts shall be paid an
314 amount to be set by the board of supervisors, not to be less than
315 Twenty-five Dollars (\$25.00) per day and not to be greater than
316 Forty Dollars (\$40.00) per day, plus mileage authorized in Section
317 25-3-41. In the trial of all cases where jurors are in charge of
318 bailiffs and are not permitted to separate, the sheriff with the
319 approval of the trial judge may pay for room and board of jurors
320 on panel for actual time of trial.

321 No grand juror shall receive any compensation except mileage
322 unless he has been sworn as provided by Section 13-5-45; and no
323 petit juror except those jurors called on special venires shall
324 receive any compensation authorized under this subsection except
325 mileage unless he has been sworn as provided by Section 13-5-71.

326 (b) Jurors making inquisitions of mental retardation,
327 mental illness or * * * unsound mind and jurors on coroner's
328 inquest shall be paid Five Dollars (\$5.00) per day plus mileage
329 authorized in Section 25-3-41 by the county treasurer on order of
330 the board of supervisors on certificate of the clerk of the
331 chancery court in which the inquisition is held.

332 (c) Jurors in the justice courts shall be paid an
333 amount of not less than Ten Dollars (\$10.00) per day and not more
334 than Fifteen Dollars (\$15.00) per day, to be established by the
335 board of supervisors. In all criminal cases in the justice court
336 in which the prosecution fails, the fees of jurors shall be paid
337 by the county treasurer on order of the board of supervisors on

338 certificate of the county attorney in all counties that have
339 county attorneys, otherwise by the justice court judge.

340 (2) Any juror may return the fees provided as compensation
341 for service as a juror to the county that paid for the person's
342 service as a juror. The fees returned to the county may be
343 earmarked for a particular purpose to be selected by the juror,
344 including:

345 (a) The local public library;

346 (b) Local law enforcement;

347 (c) The Mississippi Fire Fighters Memorial Burn Center
348 Fund created in Section 7-9-70; or

349 (d) Any other governmental agency.

350 * * *

351 **SECTION 12.** Section 29-1-101, Mississippi Code of 1972, is
352 amended as follows:

353 29-1-101. The Secretary of State, for and on behalf of the
354 state, may convey an easement or easements for the construction
355 and maintenance of pipe lines in, on, under, and across all of the
356 state land owned (including that submerged or wherever the tide
357 may ebb and flow) now or hereafter acquired, excepting, however,
358 state highway rights of way, sixteenth section school land, lieu
359 lands, and * * * forfeited tax land and property the title to
360 which is subject to any lawful redemption, and excepting the state
361 land comprising the old asylum property located in the City of
362 Jackson, * * * property of the Department of Mental Health, the
363 Parchman Penitentiary property located in Sunflower County,
364 Mississippi, and all other Penitentiary property, to any person,
365 firm, or corporation constructing or operating a refinery for the
366 refining of oil, gas, or petroleum products in the state, or to
367 any person, firm, or corporation transporting by pipe line any
368 substance to or from any such refinery in this state, for such
369 consideration as the Secretary of State deems just and proper,
370 which shall be subject to approval by the Secretary of State, the

371 Governor, and the Attorney General of the state, for easements in,
372 on, under, and across the state-owned land.

373 **SECTION 13.** Section 31-11-3, Mississippi Code of 1972, is
374 amended as follows:

375 31-11-3. (1) The Department of Finance and Administration,
376 for the purposes of carrying out the provisions of this chapter,
377 in addition to all other rights and powers granted by law, shall
378 have full power and authority to employ and compensate architects
379 or other employees necessary for the purpose of making
380 inspections, preparing plans and specifications, supervising the
381 erection of any buildings, and making any repairs or additions as
382 may be determined by the Department of Finance and Administration
383 to be necessary, under the rules and regulations of the State
384 Personnel Board. The department shall have entire control and
385 supervision of, and determine what, if any, buildings, additions,
386 repairs or improvements are to be made under the provisions of
387 this chapter, subject to the approval of the Public Procurement
388 Review Board.

389 (2) The department shall have full power to erect buildings,
390 make repairs, additions or improvements, and buy materials,
391 supplies and equipment for any of the institutions or departments
392 of the state subject to the approval of the Public Procurement
393 Review Board. In addition to other powers conferred, the
394 department shall have full power and authority as directed by the
395 Legislature, or when funds have been appropriated for its use for
396 these purposes, to:

397 (a) Build a state office building;

398 (b) Build suitable plants or buildings for the use and
399 housing of any state schools or institutions, including the
400 building of plants or buildings for new state schools or
401 institutions, as provided for by the Legislature;

402 (c) Provide state aid for the construction of school
403 buildings;

404 (d) Promote and develop the training of returned
405 veterans of the United States in all sorts of educational and
406 vocational learning to be supplied by the proper educational
407 institution of the State of Mississippi, and in so doing, allocate
408 monies appropriated to it for these purposes to the Governor for
409 use by him in setting up, maintaining and operating an office and
410 employing a state director of on-the-job training for veterans and
411 the personnel necessary in carrying out Public Law No. 346 of the
412 United States;

413 (e) Build and equip a hospital and administration
414 building at the Mississippi State Penitentiary;

415 (f) Build and equip additional buildings and wards at
416 the Boswell Retardation Center;

417 (g) Construct * * * sewage disposal and treatment
418 plants at the state psychiatric hospitals or institutions, and in
419 so doing, acquire additional land as may be necessary, and to
420 exercise the right of eminent domain in the acquisition of this
421 land;

422 (h) Build and equip the Mississippi central market and
423 purchase or acquire by eminent domain, if necessary, any lands
424 needed for this purpose;

425 (i) Build and equip suitable facilities for a training
426 and employing center for the blind;

427 (j) Build and equip a gymnasium at Columbia Training
428 School;

429 (k) Approve or disapprove the expenditure of any money
430 appropriated by the Legislature when authorized by the bill making
431 the appropriation;

432 (l) Expend monies appropriated to it in paying the
433 state's part of the cost of any street paving;

434 (m) Sell and convey state lands when authorized by the
435 Legislature, cause those lands to be properly surveyed and
436 platted, execute all deeds or other legal instruments, and do any

437 and all other things required to effectively carry out the purpose
438 and intent of the Legislature. Any transaction that involves
439 state lands under the provisions of this paragraph shall be done
440 in a manner consistent with the provisions of Section 29-1-1;

441 (n) Collect and receive from educational institutions
442 of the State of Mississippi monies required to be paid by these
443 institutions to the state in carrying out any veterans'
444 educational programs;

445 (o) Purchase lands for building sites, or as additions
446 to building sites, for the erection of buildings and other
447 facilities that the department is authorized to erect, and
448 demolish and dispose of old buildings, when necessary for the
449 proper construction of new buildings. Any transaction that
450 involves state lands under the provisions of this paragraph shall
451 be done in a manner consistent with the provisions of Section
452 29-1-1; and

453 (p) Obtain business property insurance with a
454 deductible of not less than One Hundred Thousand Dollars
455 (\$100,000.00) on state-owned buildings under the management and
456 control of the department.

457 (3) The department shall survey state-owned and
458 state-utilized buildings to establish an estimate of the costs of
459 architectural alterations under the Americans With Disabilities
460 Act of 1990, 42 USCS, Section 12111 et seq. The department shall
461 establish priorities for making the identified architectural
462 alterations and shall make known to the Legislative Budget Office
463 and to the Legislature the required cost to effectuate those
464 alterations. To meet the requirements of this subsection, the
465 department shall use standards of accessibility that are at least
466 as stringent as any applicable federal requirements and may
467 consider:

468 (a) Federal minimum guidelines and requirements issued
469 by the United States Architectural and Transportation Barriers
470 Compliance Board and standards issued by other federal agencies;

471 (b) The criteria contained in the American Standard
472 Specifications for Making Buildings Accessible and Usable by the
473 Physically Handicapped and any amendments thereto as approved by
474 the American Standards Association, Incorporated (ANSI Standards);

475 (c) Design manuals;

476 (d) Applicable federal guidelines;

477 (e) Current literature in the field;

478 (f) Applicable safety standards; and

479 (g) Any applicable environmental impact statements.

480 (4) The department shall observe the provisions of Section
481 31-5-23, in letting contracts and shall use Mississippi products,
482 including paint, varnish and lacquer that contain as vehicles tung
483 oil and either ester gum or modified resin (with rosin as the
484 principal base of constituents), and turpentine shall be used as a
485 solvent or thinner, where these products are available at a cost
486 not to exceed the cost of products grown, produced, prepared, made
487 or manufactured outside of the State of Mississippi.

488 (5) The department shall have authority to accept grants,
489 loans or donations from the United States government or from any
490 other sources for the purpose of matching funds in carrying out
491 the provisions of this chapter.

492 (6) The department shall build a wheelchair ramp at the War
493 Memorial Building that complies with all applicable federal laws,
494 regulations and specifications regarding wheelchair ramps.

495 (7) The department shall review and preapprove all
496 architectural or engineering service contracts entered into by any
497 state agency, institution, commission, board or authority
498 regardless of the source of funding used to defray the costs of
499 the construction or renovation project for which services are to
500 be obtained. The provisions of this subsection (7) shall not

501 apply to any architectural or engineering contract paid for by
502 self-generated funds of any of the state institutions of higher
503 learning, nor shall they apply to community college projects that
504 are funded from local funds or other nonstate sources that are
505 outside the Department of Finance and Administration's
506 appropriations or as directed by the Legislature. The provisions
507 of this subsection (7) shall not apply to any construction or
508 design projects of the State Military Department that are funded
509 from federal funds or other nonstate sources.

510 (8) The department shall have the authority to obtain
511 annually from the state institutions of higher learning
512 information on all building, construction and renovation projects
513 including duties, responsibilities and costs of any architect or
514 engineer hired by any of those institutions.

515 (9) (a) As an alternative to other methods of awarding
516 contracts as prescribed by law, the department may use the
517 design-build method or the design-build bridging method of
518 contracting for new capital construction projects to be used as a
519 pilot program for the following projects:

520 (i) Projects for the Mississippi Development
521 Authority under agreements between both governmental entities;

522 (ii) Any project with an estimated cost of not
523 more than Ten Million Dollars (\$10,000,000.00), not to exceed two
524 (2) projects per fiscal year; and

525 (iii) Any project that has an estimated cost of
526 more than Fifty Million Dollars (\$50,000,000.00), not to exceed
527 one (1) project per fiscal year.

528 (b) As used in this subsection:

529 (i) "Design-build method of contracting" means a
530 contract that combines the design and construction phases of a
531 project into a single contract and the contractor is required to
532 satisfactorily perform, at a minimum, both the design and
533 construction of the project.

534 (ii) "Design-build bridging method of contracting"
535 means a contract that requires design through the design
536 development phase by a professional designer, after which a
537 request for qualifications for design completion and construction
538 is required for the completion of the project from a single
539 contractor that combines the balance of design and construction
540 phases of a project into a single contract. The contractor is
541 required to satisfactorily perform, at a minimum, both the balance
542 of design and construction of the project.

543 (c) The department shall establish detailed criteria
544 for the selection of the successful design-build/design-build
545 bridging contractor in each request for design-build/design-build
546 bridging proposals. The request for qualifications evaluation of
547 the selection committee is a public record and shall be maintained
548 for a minimum of three (3) years after project completion.

549 (d) The department shall maintain detailed records on
550 projects separate and apart from its regular record keeping. The
551 department shall file a report with the Legislature evaluating the
552 design-build/design-build bridging method of contracting by
553 comparing it to the low-bid method of contracting. At a minimum,
554 the report must include:

555 (i) The management goals and objectives for the
556 design-build/design-build bridging system of management;

557 (ii) A complete description of the components of
558 the design-build/design-build bridging management system,
559 including a description of the system the department put into
560 place on all projects managed under the system to insure that it
561 has the complete information on building segment costs and to
562 insure proper analysis of any proposal the department receives
563 from a contractor;

564 (iii) The accountability systems the department
565 established to monitor any design-build/design-build bridging

566 project's compliance with specific goals and objectives for the
567 project;

568 (iv) The outcome of any project or any interim
569 report on an ongoing project let under a design-build/design-build
570 bridging management system showing compliance with the goals,
571 objectives, policies and procedures the department set for the
572 project; and

573 (v) The method used by the department to select
574 projects to be let under the design-build/design-build bridging
575 system of management and all other systems, policies and
576 procedures that the department considered as necessary components
577 to a design-build/design-build bridging management system.

578 (e) All contracts let under the provisions of this
579 subsection shall be subject to oversight and review by the State
580 Auditor.

581 **SECTION 14.** Section 35-5-31, Mississippi Code of 1972, is
582 amended as follows:

583 35-5-31. (1) Whenever, in any proceeding under the laws of
584 this state for the commitment of a person alleged to be a person
585 with mental illness, person with mental retardation, or otherwise
586 of unsound mind, or otherwise in need of confinement in a hospital
587 or other institution for his proper care, it is determined after
588 the adjudication of the status of the person as may be required by
589 law that commitment to a state psychiatric hospital or institution
590 or other institution is necessary for safe-keeping or treatment,
591 and it appears that the person is eligible for care or treatment
592 by the Veterans Administration or other agency of the United
593 States government, the court, upon receipt of a certificate from
594 the Veterans Administration or such other agency showing that
595 facilities are available and that the person is eligible for care
596 or treatment in those facilities, may commit the person to the
597 Veterans Administration or other agency. The person whose
598 commitment is sought shall be personally served with notice of the

599 pending commitment proceeding in the manner provided by the law of
600 this state; and nothing in this section shall affect his right to
601 appear and be heard in the proceedings. Upon commitment, the
602 person, when admitted to any facility operated by the Veterans
603 Administration or other agency within or without this state shall
604 be subject to the rules and regulations of the Veterans
605 Administration or other agency. The chief officer of any facility
606 of the Veterans Administration or institution operated by any
607 other agency of the United States to which the person is so
608 committed shall, with respect to the person, be vested with the
609 same powers as superintendents of state psychiatric hospitals or
610 institutions within this state with respect to retention of
611 custody, transfer, parole or discharge. Jurisdiction is retained
612 in the committing or other appropriate court of this state at any
613 time to inquire into the mental condition of the person so
614 committed, and to determine the necessity for continuance of his
615 restraint, and all commitments under this section are so
616 conditioned.

617 (2) The judgment or order of commitment by a court of
618 competent jurisdiction of another state or of the District of
619 Columbia, committing a person to the Veterans Administration or
620 other agency of the United States government for care or
621 treatment, shall have the same force and effect as to the
622 committed person while in this state as in the jurisdiction in
623 which is situated the court entering the judgment or making the
624 order, and the courts of the committing state or of the District
625 of Columbia shall be deemed to have retained jurisdiction of the
626 person so committed for the purpose of inquiring into the mental
627 condition of the person and of determining the necessity for
628 continuance of his restraint, as is provided in subsection (1) of
629 this section with respect to persons committed by the courts of
630 this state. Consent is * * * given to the application of the law
631 of the committing state or District of Columbia in respect to the

632 authority of the chief officer of any facility of the Veterans
633 Administration or of any institution operated in this state by any
634 other agency of the United States to retain custody, or transfer,
635 parole or discharge the committed person.

636 (3) Upon receipt of a certificate of the Veterans
637 Administration or such other agency of the United States that
638 facilities are available for the care or treatment of any
639 person * * * committed to a state psychiatric hospital or * * *
640 institution * * * or for the care or treatment of persons
641 similarly afflicted, and that the person is eligible for care or
642 treatment, the superintendent of the state psychiatric hospital
643 or institution may cause the transfer of the person to the
644 Veterans Administration or other agency of the United States for
645 care or treatment. Upon effecting any such transfer, the
646 committing court or proper officer of the court shall be notified
647 of the transfer by the transferring agency. No person shall be
648 transferred to the Veterans Administration or other agency of the
649 United States if he is confined because of conviction of any
650 felony or misdemeanor or if he has been acquitted of the charge
651 solely on the ground of insanity, unless before transfer, the
652 court or other authority originally committing the person * * *
653 enters an order for the transfer after appropriate motion and
654 hearing.

655 Any person transferred as provided in this section shall be
656 deemed to be committed to the Veterans Administration or other
657 agency of the United States under the original commitment.

658 **SECTION 15.** Section 41-17-3, Mississippi Code of 1972, is
659 amended as follows:

660 41-17-3. The state psychiatric hospital and institution
661 established at Meridian by the Act of March 8, 1882, shall
662 continue to exist as a body politic and corporate, under the name
663 of the "East Mississippi State Hospital," with all the privileges
664 conferred and the duties enjoined by law. It may hold and use, as

665 required by law, all the property, real and personal, belonging to
666 or that may be given to it for the purposes of its establishment.

667 **SECTION 16.** Section 41-17-11, Mississippi Code of 1972, is
668 amended as follows:

669 41-17-11. The directors of the state institutions listed in
670 Section 41-7-73 each may receive any monies that the United States
671 government may offer as federal aid in taking care of and giving
672 special attention to those persons who served with the Armed
673 Forces of the United States during time of war * * * and who are
674 now in or may hereafter be in any of those state institutions.
675 Each of those directors may expend that part of the money paid to
676 him or his institution, according to his best judgment and the
677 requirements of the United States government under which the money
678 is received.

679 **SECTION 17.** Section 41-21-35, Mississippi Code of 1972, is
680 amended as follows:

681 41-21-35. The rule as to the legal settlement of paupers
682 shall apply in cases of persons with mental illness and * * *
683 persons with mental retardation.

684 **SECTION 18.** Section 43-31-35, Mississippi Code of 1972, is
685 amended as follows:

686 43-31-35. If any person commanding a ship, vessel,
687 steamboat, or other watercraft imports into this state, or brings
688 to the shores or within the limits thereof, any infant, person
689 with mental illness, maimed, aged or infirm person or vagrant who
690 is likely to become chargeable on the county, on the requisition
691 of the supervisor of the district or the mayor of any
692 municipality, the captain, master, or commander of the ship,
693 vessel, steamboat, or other watercraft shall enter into bond with
694 sufficient sureties, payable to the county, conditioned to
695 indemnify the county against all charges that may be incurred in
696 the support and care of that person. Any captain, master, or
697 commander failing or refusing to give the bond required shall

698 forfeit and pay to the county the sum of Two Hundred Dollars
699 (\$200.00) for each infant, person with mental illness, maimed,
700 aged, or infirm person or vagrant so brought into the state, to be
701 recovered by action.

702 **SECTION 19.** Section 67-1-83, Mississippi Code of 1972, is
703 amended as follows:

704 67-1-83. (1) It shall be unlawful for any permittee or
705 other person to sell or furnish any alcoholic beverage * * * to
706 any person who is visibly intoxicated, or to any person who is
707 known to habitually drink alcoholic beverages to excess, or to any
708 person who is known to be an habitual user of narcotics or other
709 habit-forming drugs. It shall also be unlawful for the holder of
710 any package retailer's permit to sell any alcoholic beverages
711 except by delivery in person to the purchaser at the place of
712 business of the permittee.

713 (2) It shall be unlawful for any permittee or other person
714 to sell or furnish any alcoholic beverage to any person to whom
715 the commission has, after investigation, decided to prohibit the
716 sale of those beverages because of an appeal to the commission so
717 to do by the husband, wife, father, mother, brother, sister,
718 child, or employer of the person. The interdiction in those cases
719 shall last until removed by the commission, but no person shall be
720 held to have violated this subsection unless he has been informed
721 by the commission, by registered letter, that it is forbidden to
722 sell to that individual or unless that fact is otherwise known to
723 the permittee or other person.

724 (3) It shall be unlawful for any holder of a package
725 retailer's permit, or any employee or agent thereof, engaged
726 solely in the business of package retail sales under this chapter
727 to sell or furnish any alcoholic beverage before 10:00 a.m. and
728 after 10:00 p.m. or to sell alcoholic beverages on Sunday and
729 Christmas Day.

730 (4) Any person who * * * violates any of the provisions of
731 this section shall be guilty of a misdemeanor and, upon
732 conviction, shall be punished by a fine of not more than Five
733 Hundred Dollars (\$500.00) or by imprisonment in the county jail
734 for a term of not more than six (6) months or by both that fine
735 and imprisonment, in the discretion of the court. In addition,
736 the commission shall immediately revoke the permit of any
737 permittee who violates the provisions of this section.

738 **SECTION 20.** Section 67-3-53, Mississippi Code of 1972, is
739 amended as follows:

740 67-3-53. In addition to any act declared to be unlawful by
741 this chapter, or by Sections 27-71-301 through 27-71-347, and
742 Sections 67-3-17, 67-3-27, 67-3-29 and 67-3-57, it shall be
743 unlawful for the holder of a permit authorizing the sale of beer
744 or light wine at retail or for the employee of the holder of such
745 a permit:

746 (a) To sell or give to be consumed in or upon any
747 licensed premises any beer or light wine between the hours of
748 midnight and seven o'clock the following morning or during any
749 time the licensed premises may be required to be closed by
750 municipal ordinance or order of the board of supervisors; * * *
751 however, in areas where the sale of alcoholic beverages is legal
752 under the provisions of the Local Option Alcoholic Beverage
753 Control Law and the hours for selling those alcoholic beverages
754 have been extended beyond midnight for on-premises permittees
755 under Section 67-1-37, the hours for selling beer or light wines
756 are likewise extended in areas where the sale of beer and light
757 wines is legal in accordance with the provisions of this chapter.

758 (b) To sell, give or furnish any beer or light wine to
759 any person visibly or noticeably intoxicated, * * * or to any
760 habitual drunkard, or to any person under the age of twenty-one
761 (21) years.

762 (c) To permit in the premises any lewd, immoral or
763 improper entertainment, conduct or practices.

764 (d) To permit loud, boisterous or disorderly conduct of
765 any kind upon the premises or to permit the use of loud musical
766 instruments if either or any of the same may disturb the peace and
767 quietude of the community in which the business is located.

768 (e) To permit persons of ill repute, known criminals,
769 prostitutes or minors to frequent the licensed premises, except
770 minors accompanied by parents or guardians, or under proper
771 supervision.

772 (f) To permit or suffer illegal gambling or the
773 operation of illegal games of chance upon the licensed premises.

774 (g) To receive, possess or sell on the licensed
775 premises any beverage of any kind or character containing more
776 than five percent (5%) of alcohol by weight unless the licensee
777 also possesses an on-premises permit under the Local Option
778 Alcoholic Beverage Control Law.

779 **SECTION 21.** Section 73-19-23, Mississippi Code of 1972, is
780 amended as follows:

781 73-19-23. (1) The board shall refuse to grant a certificate
782 of licensure to any applicant and may cancel, revoke or suspend
783 the operation of any certificate by it granted for any or all of
784 the following reasons * * *: unprofessional and unethical conduct
785 or the conviction of a crime involving moral turpitude, habitual
786 intemperance in the use of ardent spirits, or stimulants,
787 narcotics, or any other substance that impairs the intellect and
788 judgment to such an extent as to incapacitate one for the
789 performance of the duties of an optometrist. The certificate of
790 licensure of any person can be revoked for violating any section
791 of this chapter.

792 (2) The board shall further be authorized to take
793 disciplinary action against a licensee for any unlawful acts,

794 which shall include violations of regulations promulgated by the
795 board, as well as the following acts:

796 (a) Fraud or misrepresentation in applying for or
797 procuring an optometric license or in connection with applying for
798 or procuring periodic renewal of an optometric license.

799 (b) Cheating on or attempting to subvert the optometric
800 licensing examination(s).

801 (c) The conviction of a felony in this state or any
802 other jurisdiction, or the entry of guilty or nolo contendere plea
803 to a felony charge.

804 (d) The conviction of a felony as defined by federal
805 law, or the entry of a guilty or nolo contendere plea to a felony
806 charge.

807 (e) Conduct likely to deceive, defraud or harm the
808 public.

809 (f) Making a false or misleading statement regarding
810 his or her skill or the efficacy or value of the medicine, device,
811 treatment or remedy prescribed by him or her or used at his or her
812 direction in the treatment of any disease or other condition.

813 (g) Willfully or negligently violating the
814 confidentiality between doctor and patient, except as required by
815 law.

816 (h) Negligence or gross incompetence in the practice of
817 optometry as determined by the board.

818 (i) Being found to be a person with mental illness or
819 mental retardation by any court of competent jurisdiction.

820 (j) The use of any false, fraudulent, deceptive or
821 misleading statement in any document connected with the practice
822 of optometry.

823 (k) Aiding or abetting the practice of optometry by an
824 unlicensed, incompetent or impaired person.

825 (l) Commission of any act of sexual abuse, misconduct
826 or exploitation related to the licensee's practice of optometry.

827 (m) Being addicted or habituated to a drug or
828 intoxicant.

829 (n) Violating any state or federal law or regulation
830 relating to a drug legally classified as a controlled substance.

831 (o) Obtaining any fee by fraud, deceit or
832 misrepresentation.

833 (p) Disciplinary action of another state or
834 jurisdiction against a licensee or other authorization to practice
835 optometry based upon acts or conduct by the licensee similar to
836 acts or conduct that would constitute grounds for action as
837 defined in this chapter, a certified copy of the record of the
838 action taken by the other state or jurisdiction being conclusive
839 evidence thereof.

840 (q) Failure to report to the board the relocation of
841 his or her office in or out of the jurisdiction, or to furnish
842 floor plans as required by regulation.

843 (r) Violation of any provision(s) of the Optometry
844 Practice Act or the rules and regulations of the board or of an
845 action, stipulation or agreement of the board.

846 (s) To advertise in a manner that tends to deceive,
847 mislead or defraud the public.

848 (t) The designation of any person licensed under this
849 chapter, other than by the terms "optometrist," "Doctor of
850 Optometry" or "O.D."

851 (u) To knowingly submit or cause to be submitted any
852 misleading, deceptive or fraudulent representation on a claim
853 form, bill or statement.

854 (v) To practice or attempt to practice optometry while
855 his or her license is suspended.

856 (3) Any person who is holder of a certificate of licensure
857 or who is an applicant for examination for a certificate of
858 licensure, against whom is preferred any charges, shall be
859 furnished by the board with a copy of the complaint and shall have

860 a hearing in Jackson, Mississippi, before the board, at which
861 hearing he may be represented by counsel. At the hearing,
862 witnesses may be examined for and against the accused respecting
863 those charges, and the hearing orders or appeals will be conducted
864 according to the procedure now provided in Section 73-25-27. The
865 suspension of a certificate of licensure by reason of the use of
866 stimulants or narcotics may be removed when the holder of the
867 certificate has been adjudged by the * * * board to be cured and
868 capable of practicing optometry.

869 (4) In addition to the reasons specified in subsections (1)
870 and (2) of this section, the board shall be authorized to suspend
871 the license of any licensee for being out of compliance with an
872 order for support, as defined in Section 93-11-153. The procedure
873 for suspension of a license for being out of compliance with an
874 order for support, and the procedure for the reissuance or
875 reinstatement of a license suspended for that purpose, and the
876 payment of any fees for the reissuance or reinstatement of a
877 license suspended for that purpose, shall be governed by Section
878 93-11-157 or 93-11-163, as the case may be. If there is any
879 conflict between any provision of Section 93-11-157 or 93-11-163
880 and any provision of this chapter, the provisions of Section
881 93-11-157 or 93-11-163, as the case may be, shall control.

882 **SECTION 22.** Section 73-39-19, Mississippi Code of 1972, is
883 amended as follows:

884 73-39-19. (1) After a hearing held as set out in this
885 chapter, the board, on concurrence of three (3) members, shall
886 have the right and power to revoke or suspend the license of a
887 veterinarian, or the certificate of an animal technician and may
888 place the veterinarian or technician on probation conditioned on
889 future good conduct and compliance with this chapter, and may
890 impose an administrative fine not to exceed One Thousand Dollars
891 (\$1,000.00) for each such separate offense, for any of the
892 following reasons:

893 (a) * * * An adjudication of * * * mental incompetence
894 by a court of competent jurisdiction.

895 (b) Chronic inebriety or habitual use of drugs, or any
896 adjudication by a court of competent jurisdiction that the
897 veterinarian is an alcoholic or habitual user of drugs. Decrees
898 of divorce shall not be construed as an adjudication that a
899 veterinarian is an alcoholic or habitual user of drugs.

900 (c) A final conviction of a felony or of an offense
901 involving moral turpitude by a court of competent jurisdiction.

902 (d) Fraud or dishonesty in the application or reporting
903 of any test for disease in animals, including intentional
904 misrepresentation on any forms filed with any governmental agency.

905 (e) Failure to report or making a false report of any
906 contagious or infectious disease required by state or federal law
907 to be reported.

908 (f) Dishonesty, intentional misrepresentation or gross
909 negligence in the inspection of foodstuffs or the issuance of
910 health or inspection certificates.

911 (g) The refusal of licensing authority of another state
912 to issue or renew a license, permit or certificate to practice
913 veterinary medicine in that state or the revocation, suspension or
914 other restriction imposed on a license, permit or certificate
915 issued by the licensing authority that prevents or restricts
916 practice in that state; in addition, any probationary status
917 imposed by another state that, if the offense occurred in this
918 state, would have been a violation of this chapter.

919 (h) The employment of fraud, misrepresentation or
920 deception in obtaining a license.

921 (i) The use of advertising or solicitation that is
922 false or misleading or is deemed unprofessional under rules or
923 regulations adopted by the board.

924 (j) Incompetence, gross negligence, cruelty or gross
925 malpractice in the practice of veterinary medicine.

926 (k) Employing any person practicing veterinary medicine
927 unlawfully with the knowledge of that illegal practice by the
928 employee.

929 (l) Failure to keep veterinary premises and equipment
930 in a clean and sanitary condition.

931 (m) Cruelty to animals in the practice of veterinary
932 medicine.

933 (n) Unprofessional or unethical conduct as defined in
934 regulations adopted by the board.

935 (o) Administering, dispensing or prescribing any
936 narcotic drug having addiction-forming, addiction-sustaining or
937 habituating liability otherwise than in the course of legitimate
938 professional practice.

939 (p) Conviction of violation of any federal or state law
940 regulating the possession, distribution or use of any narcotic
941 drug or any drug considered a controlled substance under state or
942 federal law.

943 (q) Obtaining or procuring, or attempting to obtain or
944 procure by misrepresentation, fraud, deception or subterfuge, any
945 narcotic or drug classified as a controlled substance.

946 (r) Making or causing to be made any false claims
947 concerning the licensee's professional excellence.

948 (s) Being guilty of any dishonorable or unethical
949 conduct likely to deceive, defraud or harm the public.

950 (t) Refusing to permit the board or any legal
951 representative of the board to inspect the business premises of
952 the licensee during regular business hours.

953 (u) Failure to complete requirement of continuing
954 education.

955 (2) A certified copy of any judgment of conviction or
956 finding of guilt by a court of competent jurisdiction or by a
957 governmental board or agency authorized to issue licenses or
958 permits, including the United States Department of Agriculture,

959 Animal and Plant Health Inspection Service, the Mississippi Board
960 of Animal Health and the Mississippi State Board of Health, of a
961 veterinarian or animal technician of any of the matters listed in
962 paragraph (a), (b), (c), (d), (e), (f) or (g) of subsection (1)
963 shall be admissible in evidence in any hearing held by the board
964 to discipline the veterinarian and shall constitute prima facie
965 evidence of the commission of any such act.

966 (3) In addition to the reasons specified in subsection (1)
967 of this section, the board shall be authorized to suspend the
968 license or certificate of any licensee or certificate holder for
969 being out of compliance with an order for support, as defined in
970 Section 93-11-153. The procedure for suspension of a license or
971 certificate for being out of compliance with an order for support,
972 and the procedure for the reissuance or reinstatement of a license
973 or certificate suspended for that purpose, and the payment of any
974 fees for the reissuance or reinstatement of a license or
975 certificate suspended for that purpose, shall be governed by
976 Section 93-11-157 or 93-11-163, as the case may be. If there is
977 any conflict between any provision of Section 93-11-157 or
978 93-11-163 and any provision of this chapter, the provisions of
979 Section 93-11-157 or 93-11-163, as the case may be, shall control.

980 **SECTION 23.** Section 81-5-33, Mississippi Code of 1972, is
981 amended as follows:

982 81-5-33. Banks may accept and execute all such trusts and
983 perform such duties of every description as may be committed to
984 them by any person or corporation or that may be committed or
985 transferred to them by order of any court of record. They may
986 receive money in trust, take and accept by grant, assignment,
987 transfer, devise or bequest, and hold any real or personal estate
988 or trusts created according to the laws of this or any other state
989 or of the United States, and execute those legal trusts in regard
990 to the same, on such terms as may be directed or agreed
991 upon * * *. They may act as agent for the investment of money or

992 the management of property for other persons, and as agent for
993 persons and corporations for the purpose of issuing, registering,
994 transferring or countersigning the certificates of stock, bonds or
995 other evidences of debt of any corporation, association,
996 municipality, state, county or public authority on such terms as
997 may be agreed upon. They also may act as guardian for any minor
998 or * * * person with mental illness under the appointment of any
999 court of record having jurisdiction of the person or estate of
1000 the minor or * * * person with mental illness and may act as
1001 administrator or executor of the estate of any deceased person.
1002 They may act as agent or attorney in fact and as commissioner for
1003 the sale of property, both real and personal, and may act as
1004 assignee or receiver, or as trustee in mortgages or bond issues,
1005 or in any other fiduciary capacity authorized by law. They may
1006 accept trust funds or other property upon specially agreed terms
1007 and pay or deliver the same to the owners, beneficiaries or
1008 others, as the case may be, when and as the same should be paid or
1009 delivered according to the terms of the trust agreement under
1010 which it is held. Whenever under the laws of this or any other
1011 state or under the rule or order of any court, the execution of a
1012 bond for the protection of a private or court trust is required, a
1013 trust company shall be authorized to execute the bond for the
1014 protection of any trust or trust estate being administered by it.

1015 Banking corporations created, organized and doing business
1016 under the laws of the State of Mississippi may exercise, without
1017 amendment of their charters, and under their charter authority to
1018 engage in the general business of banking, all or any of the
1019 foregoing powers. However, before any bank whose charter merely
1020 authorizes the exercise of general banking functions may exercise
1021 those powers, the previous written consent of the Commissioner of
1022 Banking and Consumer Finance shall be obtained.

1023 Banks exercising any or all of those powers shall segregate
1024 all assets held in any fiduciary capacity from the general assets

1025 of the bank and shall keep a separate set of books and records
1026 showing in proper detail all transactions engaged in under the
1027 authority of this section or under the authority * * * granted to
1028 them in their charter or otherwise. Those books and records shall
1029 be inspected and examined by the state bank examiners at each and
1030 every examination of the bank.

1031 No bank shall receive in its trust department deposits of
1032 current funds subject to check or the deposit of checks, drafts,
1033 bills of exchange or other items for collection or exchange
1034 purposes. Funds deposited or held in trust by the bank awaiting
1035 investment or distribution shall be carried in a separate account
1036 and shall not be used by the bank in the conduct of its business,
1037 unless it * * * first sets aside in the trust department United
1038 States bonds or bonds of the State of Mississippi or any
1039 subdivision of the state, the market value of which shall at all
1040 times be not less than ten percent (10%) in excess of the total
1041 funds so held, exclusive of the portion of funds insured by the
1042 Federal Deposit Insurance Corporation.

1043 In the event of the failure or liquidation of the bank, the
1044 owners of the funds held in trust for investment or distribution
1045 shall have a prior lien on the bonds or other securities so set
1046 apart in addition to their claim against the assets of the bank.

1047 In any case in which the laws of this state require that one
1048 acting as trustee, executor, administrator or in any fiduciary
1049 capacity must take an oath or make an affidavit, the president,
1050 vice president, cashier or trust officer of a bank may take the
1051 necessary oath or execute the necessary affidavit.

1052 In making investments of trust funds, it shall be unlawful
1053 for any bank to purchase securities from itself or to purchase
1054 securities in which it may be interested, directly or indirectly.
1055 However, any bank, including a national bank, authorized to do
1056 business in this state in a fiduciary capacity may, unless
1057 prohibited or otherwise limited by the instrument governing the

1058 fiduciary relationship, in the exercise of its investment
1059 discretion or at the direction of another person authorized to
1060 direct the investment of funds held by the bank as fiduciary,
1061 invest and reinvest in the securities of, or other interests in,
1062 any open-end or closed-end management type investment company or
1063 investment trust registered under the Investment Company Act of
1064 1940, 15 USCS Section 80a-1, et seq., as amended, notwithstanding
1065 that the banking institution or affiliate of the banking
1066 institution provides services to the investment company or
1067 investment trust, such as that of an investment advisor,
1068 custodian, transfer agent, registrar, sponsor, distributor,
1069 manager or otherwise, and receives reasonable remuneration for
1070 those services, so long as the total compensation paid by the
1071 trust or custodial estate as trustee's fees and mutual fund fees
1072 is reasonable, taking into account the nature and extent of the
1073 trustee's duties, the nature and extent of the services provided
1074 to the investment company or investment trust, and the total
1075 compensation, costs and fees that would otherwise be paid,
1076 directly or indirectly, by the trust or custodial estate if the
1077 investment were made in an investment company or investment trust
1078 for which the bank or its affiliates provided no services. With
1079 respect to any funds so invested, the banking institution shall
1080 make available by statement, prospectus or otherwise to all
1081 current income beneficiaries of an account the basis, expressed as
1082 a percentage of asset value or otherwise, upon which the
1083 remuneration is calculated. No bank shall lend to any officer,
1084 director or employee of the bank any funds held in trust by it,
1085 and any officer, director or employee making a loan, or to whom
1086 such a loan is made, shall be guilty of a felony and, upon
1087 conviction, may be fined not more than Five Thousand Dollars
1088 (\$5,000.00) or imprisoned in the State Penitentiary for not more
1089 than five (5) years, or by both that fine and imprisonment, in the
1090 discretion of the court.

1091 **SECTION 24.** Section 81-27-6.307, Mississippi Code of 1972,
1092 is amended as follows:

1093 81-27-6.307. (a) A limited liability trust company
1094 organized under this article is dissolved on:

1095 (1) The expiration of the period fixed for the duration
1096 of the limited liability trust company;

1097 (2) A vote to dissolve or the execution of a written
1098 consent to dissolve by all full liability participants, if any,
1099 and a sufficient number of other participants that combined with
1100 all full liability participants hold at least two-thirds (2/3) of
1101 the participation shares in each class in the association, or a
1102 greater fraction as provided by the articles of association;

1103 (3) Except as provided by the articles of association,
1104 the death, adjudication of incompetence, expulsion, bankruptcy,
1105 retirement, or resignation of a participant unless a majority in
1106 interest of all remaining participants elect in writing not later
1107 than the ninetieth day after the date of the event to continue the
1108 business of the association; or

1109 (4) The occurrence of an event of dissolution specified
1110 in the articles of association.

1111 (b) A dissolution under this section is considered to be the
1112 initiation of a voluntary liquidation under Subarticle B of
1113 Article 7 of this chapter.

1114 (c) An event of dissolution described by subsection (a)(3)
1115 of this section does not cancel or revoke a contract to which the
1116 state trust company is a party, including a trust indenture or
1117 agreement or voluntary dissolution under Subarticle B of Article 7
1118 of this chapter, until the period for the remaining participants
1119 to continue the business of the state trust company has expired
1120 without the remaining participants having completed the necessary
1121 action to continue the business of the state trust company.

1122 **SECTION 25.** Section 89-1-29, Mississippi Code of 1972, is
1123 amended as follows:

1124 89-1-29. A conveyance, mortgage, deed of trust or other
1125 incumbrance upon a homestead exempted from execution shall not be
1126 valid or binding unless signed by the spouse of the owner if the
1127 owner is married and living with the spouse. But where the spouse
1128 of the owner of the homestead exempted from execution has been
1129 adjudicated incompetent, then the owner of the homestead, may file
1130 a petition in the chancery court and allege in the petition the
1131 incompetence of the spouse and the adjudication of incompetency of
1132 the spouse * * * and the facts of the case. The summons for the
1133 spouse who has been adjudicated incompetent shall be issued and be
1134 served in the same manner as process is served in other cases on
1135 * * * persons who are incompetent. The court shall hear the case
1136 in vacation or in termtime as in other cases, and if the court
1137 finds the spouse to be incompetent and the owner entitled to
1138 relief, the court by decree shall authorize and empower the owner
1139 to execute a conveyance, mortgage, deed of trust or other
1140 incumbrance upon the homestead without the signature of the
1141 spouse. However, no mortgage or deed of trust executed in favor
1142 of the Farmers Home Administration at the time of the purchase of
1143 real estate to secure the payment of the money used to purchase
1144 the real estate shall be invalid because it is not signed by the
1145 spouse of the owner.

1146 **SECTION 26.** Section 93-1-5, Mississippi Code of 1972, is
1147 amended as follows:

1148 93-1-5. It shall be unlawful for the circuit court clerk to
1149 issue a marriage license until the following conditions precedent
1150 have been complied with:

1151 (a) Parties desiring a marriage license shall make
1152 application for the license in writing to the clerk of the circuit
1153 court of any county in the State of Mississippi; * * *
1154 however, * * * if the female applicant is under the age of
1155 twenty-one (21) years and is a resident of the State of
1156 Mississippi, the application shall be made to the circuit court

1157 clerk of the county of residence of the female applicant. The
1158 application shall be immediately filed with the circuit court
1159 clerk and shall include the names, ages and addresses of the
1160 parties applying; the names and addresses of the parents of the
1161 parties applying, and if no parents, then names and addresses of
1162 the guardian or next of kin; the signatures of witnesses; and any
1163 other data that may be required by law or the * * * State Board of
1164 Health. The application shall be sworn to by both applicants.

1165 (b) The application shall remain on file, open to the
1166 public, in the office of the circuit court clerk for a period of
1167 three (3) days before the clerk is authorized to issue the
1168 marriage license. * * * However, * * * if satisfactory proof is
1169 furnished to the judge of any circuit, chancery or county court
1170 that sufficient reasons exist, then the judge of any such court in
1171 the judicial district where either of the parties resides if they
1172 are over the age of twenty-one (21) years, or where the female
1173 resides if she is under the age of twenty-one (21), may waive the
1174 three-day waiting period and by written instrument authorize the
1175 clerk of the court to issue the marriage license to the parties if
1176 they are otherwise qualified by law. Authorization shall be a
1177 part of the confidential files of the clerk of the court, subject
1178 to inspection only by written permission of the judge. If either
1179 of the applying parties appears from the evidence to be under
1180 twenty-one (21) years of age, the circuit court clerk, immediately
1181 upon filing the application, shall cause notice of the filing of
1182 the application to be sent by prepaid certified mail to the
1183 father, mother, guardian or next of kin of both applying parties
1184 at the address named in the application.

1185 (c) An affidavit showing the age of both applying
1186 parties shall be made by either the father, mother, guardian or
1187 next of kin of each of the contracting parties and filed with the
1188 clerk of the circuit court along with the application; or in lieu
1189 thereof, * * * both applying parties shall appear in person before

1190 the circuit court clerk and make and subscribe an oath in person,
1191 which * * * affidavit shall be attached to and noted on the
1192 application for the marriage license. In addition to either of
1193 the previous conditions stated, further proof of age shall be
1194 presented to the circuit court clerk in the form of either a birth
1195 certificate, baptismal record, armed service discharge, armed
1196 service identification card, life insurance policy, insurance
1197 certificate, school record, driver's license, or other official
1198 document evidencing age. The document substantiating age and date
1199 of birth shall be examined by the circuit court clerk before whom
1200 application is made, and the circuit court clerk shall retain in
1201 his file with the application the document or a certified or
1202 photostatic copy of the document.

1203 (d) The clerk shall not issue a marriage license under
1204 the provisions of this section unless the male applicant is at
1205 least seventeen (17) years of age and the female is at least
1206 fifteen (15) years of age; * * * however, * * * if satisfactory
1207 proof is furnished to the judge of any circuit, chancery or county
1208 court that sufficient reasons exist and that the parties desire to
1209 be married to each other and that the parents or other person in
1210 loco parentis of the person or persons so under age consent to the
1211 marriage, then the judge of any such court in the county where
1212 either of the parties resides may waive the minimum age
1213 requirement and by written instrument authorize the clerk of the
1214 court to issue the marriage license to the parties if they are
1215 otherwise qualified by law. Authorization shall be a part of the
1216 confidential files of the clerk of the court, subject to
1217 inspection only by written permission of the judge.

1218 (e) A medical certificate dated within thirty (30) days
1219 before the application shall be presented to the circuit court
1220 clerk showing that the applicant is free from syphilis, as nearly
1221 as can be determined by a blood test performed in a laboratory
1222 approved by the State Board of Health. The medical certificate

1223 may be obtained through the local health department by the
1224 applicant or applicants, or it may be obtained through any private
1225 laboratory approved by the State Board of Health. The medical
1226 certificate shall be examined by the circuit court clerk and filed
1227 in a permanent file kept by the clerk for this purpose.

1228 (f) In no event shall a license be issued by the
1229 circuit court clerk when it appears to the circuit court clerk
1230 that the applicants are, or either of them is, drunk or a person
1231 with mental illness or mental retardation, to the extent that the
1232 clerk believes that the person does not understand the nature and
1233 consequences of the request.

1234 Any circuit clerk shall be liable under his official bond
1235 because of noncompliance with the provisions of this section.

1236 Any circuit court clerk who issues a marriage license without
1237 complying with the provisions of this section shall be guilty of a
1238 misdemeanor and, upon conviction, shall be punished by a fine of
1239 not less than Fifty Dollars (\$50.00) and not more than Five
1240 Hundred Dollars (\$500.00).

1241 **SECTION 27.** Section 93-5-1, Mississippi Code of 1972, is
1242 amended as follows:

1243 93-5-1. Divorces from the bonds of matrimony may be decreed
1244 to the injured party for any one or more of the following twelve
1245 (12) causes * * *:

1246 First. Natural impotency.

1247 Second. Adultery, unless it should appear that it was
1248 committed by collusion of the parties for the purpose of procuring
1249 a divorce, or unless the parties cohabited after a knowledge by
1250 complainant of the adultery.

1251 Third. Being sentenced to any penitentiary, and not pardoned
1252 before being sent there.

1253 Fourth. Wilful, continued and obstinate desertion for the
1254 space of one (1) year.

1255 Fifth. Habitual drunkenness.

1256 Sixth. Habitual and excessive use of opium, morphine or
1257 other like drug.

1258 Seventh. Habitual cruel and inhuman treatment.

1259 Eighth. Mental illness or mental retardation at the time of
1260 marriage, if the party complaining did not know of that infirmity.

1261 Ninth. Marriage to some other person at the time of the
1262 pretended marriage between the parties.

1263 Tenth. Pregnancy of the wife by another person at the time
1264 of the marriage, if the husband did not know of the pregnancy.

1265 Eleventh. Either party may have a divorce if they are
1266 related to each other within the degrees of kindred between whom
1267 marriage is prohibited by law.

1268 Twelfth. Incurable mental illness. However, no divorce
1269 shall be granted upon this ground unless the * * * party with
1270 mental illness has been under regular treatment for mental illness
1271 and causes thereof, confined in an institution for persons with
1272 mental illness for a period of at least three (3) years
1273 immediately preceding the commencement of the action. * * *

1274 However, * * * transfer of a party with mental illness to his or
1275 her home for treatment or a trial visit on prescription or
1276 recommendation of a licensed physician, which treatment or trial
1277 visit proves unsuccessful after a bona fide effort by the
1278 complaining party to effect a cure, upon the reconfinement of
1279 the * * * party with mental illness in an institution for persons
1280 with mental illness, shall be regular treatment for mental illness
1281 and causes thereof, and the period of time so consumed in seeking
1282 to effect a cure or while on a trial visit home shall be added to
1283 the period of actual confinement in an institution for persons
1284 with mental illness in computing the required period of three (3)
1285 years confinement immediately preceding the beginning of the
1286 action. No divorce shall be granted because of mental illness
1287 until after a thorough examination of the person with mental
1288 illness by two (2) physicians who are recognized authorities on

1289 mental diseases. One of those physicians shall be either the
1290 superintendent of a state psychiatric hospital or institution or a
1291 veterans hospital for persons with mental illness in which the
1292 patient is confined, or a member of the medical staff of that
1293 hospital or institution who has had the patient in charge. Before
1294 incurable mental illness can be successfully proven as a ground
1295 for divorce, it shall be necessary that both of those physicians
1296 make affidavit that the patient is a * * * person with mental
1297 illness at the time of the examination, and both affidavits shall
1298 be made a part of the permanent record of the divorce proceedings
1299 and shall create the prima facie presumption of incurable mental
1300 illness, such as would justify a divorce based on that ground.
1301 Service of process shall be made on the superintendent of the
1302 hospital or institution in which the defendant is a patient. If
1303 the patient is in an hospital or institution outside the state,
1304 process shall be served by publication, as in other cases of
1305 service by publication, together with the sending of a copy by
1306 registered mail to the superintendent of the hospital or
1307 institution. In addition * * *, process shall be served upon the
1308 next blood relative and guardian, if any. If there is no legal
1309 guardian, the court shall appoint a guardian ad litem to represent
1310 the interest of the * * * person with mental illness. The
1311 relative or guardian and superintendent of the hospital or
1312 institution shall be entitled to appear and be heard upon any and
1313 all issues. The status of the parties as to the support and
1314 maintenance of the * * * person with mental illness shall not be
1315 altered in any way by the granting of the divorce.

1316 However, in the discretion of the chancery court, and in
1317 those cases as the court may deem it necessary and proper, before
1318 any such decree is granted on the ground of incurable mental
1319 illness, the complainant, when ordered by the court, shall enter
1320 into bond, to be approved by the court, in such an amount as the
1321 court may think just and proper, conditioned for the care and

1322 keeping of the person with mental illness during the remainder of
1323 his or her natural life, unless the person with mental illness has
1324 a sufficient estate in his or her own right for that purpose.

1325 **SECTION 28.** Section 93-5-13, Mississippi Code of 1972, is
1326 amended as follows:

1327 93-5-13. If the defendant is an infant or a person with
1328 mental illness, the court may appoint a guardian ad litem for the
1329 defendant.

1330 **SECTION 29.** Section 93-5-15, Mississippi Code of 1972, is
1331 amended as follows:

1332 93-5-15. From and after March 15, 1934, any marital contract
1333 previously or hereafter solemnized by and under which parties have
1334 been duly and legally married, and one (1) of the parties to the
1335 marriage contract has * * * become or becomes mentally ill to such
1336 an extent that it is necessary for a guardian to be appointed for
1337 that party, and the other party to the marital contract has
1338 committed any act that constitutes ground for divorce under the
1339 present laws, the guardian for the party with mental illness to
1340 the contract of marriage shall have the right to file a bill as
1341 the guardian, in the name of his ward, for the dissolution of the
1342 marriage, in the same way and manner and at the same place and on
1343 the same process that the person with mental illness could have
1344 done, if he had * * * not become mentally ill.

1345 **SECTION 30.** Section 93-7-3, Mississippi Code of 1972, is
1346 amended as follows:

1347 93-7-3. A marriage may be annulled for any one (1) of the
1348 following causes existing at the time of the marriage
1349 ceremony * * *:

1350 (a) Incurable impotency.

1351 (b) Adjudicated mental illness or incompetence of
1352 either or both parties. Action of a spouse who has been
1353 adjudicated mentally ill or incompetent may be brought by
1354 guardian, or in the absence of a guardian, by next friend,

1355 provided that the suit is brought within six (6) months after
1356 marriage.

1357 (c) Failure to comply with the provisions of Sections
1358 93-1-5 through 93-1-9 when any marriage affected by that failure
1359 has not been followed by cohabitation.

1360 Or, in the absence of ratification:

1361 (d) When either of the parties to a marriage is
1362 incapable, from want of age or understanding, of consenting to any
1363 marriage, or is incapable from physical causes of entering into
1364 the marriage state, or where the consent of either party has been
1365 obtained by force or fraud, the marriage shall be void from the
1366 time its nullity is declared by a court of competent jurisdiction.

1367 (e) Pregnancy of the wife by another person, if the
1368 husband did not know of the pregnancy.

1369 Suits for annulment under paragraphs (d) and (e) shall be
1370 brought within six (6) months after the ground for annulment is or
1371 should be discovered, and not thereafter.

1372 The causes for annulment of marriage set forth in this
1373 section are intended to be new remedies and shall in no way affect
1374 the causes for divorce declared elsewhere to be the law of the
1375 State of Mississippi as they presently exist or as they may from
1376 time to time be amended.

1377 **SECTION 31.** Section 93-13-123, Mississippi Code of 1972, is
1378 amended as follows:

1379 93-13-123. The chancery court of any county in which may be
1380 situated the property or any part of the property, or debt due to,
1381 or right of action of any person who has been adjudicated to be
1382 incompetent by proper proceedings in another state, or of a
1383 citizen of this state * * * who is incompetent and is confined out
1384 of this state in a psychiatric hospital or institution, shall have
1385 jurisdiction to appoint a guardian of the estate of the person
1386 who is incompetent. The chancery court of the county of residence
1387 of those persons shall likewise have that jurisdiction.

1388 **SECTION 32.** Section 93-13-121, Mississippi Code of 1972, is
1389 amended as follows:

1390 93-13-121. In any case where a guardian has been appointed
1391 for an adult person by a court of competent jurisdiction of any
1392 state, and the adult thereafter, at the time of filing the
1393 petition provided for in this section, is a resident of this state
1394 and is incompetent to manage his or her estate, the chancery court
1395 of the county of the domicile of the adult shall have jurisdiction
1396 and authority to appoint a guardian for the incompetent adult upon
1397 the conditions * * * specified in this section; however,
1398 infirmities of old age shall not be considered elements of
1399 infirmities.

1400 The petition for the appointment of a guardian under the
1401 provisions of this section shall be filed by the incompetent
1402 person or his guardian in the office of the clerk of the chancery
1403 court in the county of the residence of the incompetent person and
1404 process shall be served as provided in Section 93-13-281, unless
1405 joined in by that person or those persons * * * prescribed in that
1406 section.

1407 Upon the return day of the process, the chancellor, if in
1408 vacation, or the court, if in termtime, shall cause the applicant
1409 to appear in person and then and there examine the applicant and
1410 all interested parties, and if, after the examination, the
1411 chancellor in vacation or the court in termtime is of the opinion
1412 that the applicant is incompetent to manage his or her estate,
1413 then it shall be the duty of the court to appoint a guardian of
1414 the estate of the applicant; * * * however, * * * in no instance
1415 shall the court have authority to appoint a guardian under the
1416 provisions of this section unless it * * * examines the applicant
1417 in person and finds after the examination that the applicant is
1418 incompetent to manage his or her estate.

1419 A guardian appointed under the provisions of this section
1420 shall be required to make and file annual accounts of his acts and

1421 doings as in case of guardians for * * * persons with mental
1422 illness.

1423 **SECTION 33.** Section 93-13-131, Mississippi Code of 1972, is
1424 amended as follows:

1425 93-13-131. The chancery court of the county in which an
1426 habitual drunkard, habitual user of cocaine, opium or morphine
1427 resides may appoint a guardian to him on the application of a
1428 relative or friend. When an application for appointment of a
1429 guardian is presented, if the court is satisfied there is probable
1430 grounds for the appointment, it shall direct a writ to the
1431 sheriff, commanding him to summon the person alleged to be an
1432 habitual drunkard, habitual user of cocaine, or opium or morphine.
1433 On return of the summons executed, the court shall examine the
1434 question and determine whether the person is an habitual drunkard,
1435 habitual user of cocaine, opium or morphine, and for that purpose
1436 may summon and hear witnesses, orally or by deposition, and hear
1437 the parties and their evidence. If the court is satisfied that
1438 the person is an habitual drunkard, habitual user of cocaine,
1439 opium or morphine, it shall appoint a guardian to take care of him
1440 and his estate, both real and personal, and the costs of the
1441 inquisition shall be paid out of the estate. And the court or
1442 chancellor may direct the confinement of any person adjudged to be
1443 an habitual drunkard, habitual user of cocaine, or opium or
1444 morphine, in a facility that treats alcohol or substance abuse.

1445 **SECTION 34.** Section 97-3-13, Mississippi Code of 1972, is
1446 amended as follows:

1447 97-3-13. Every person or officer who * * * maliciously sends
1448 to or confines in a psychiatric hospital or institution or other
1449 place, any sane person as a person with mental illness, knowing
1450 the person to be sane, shall be guilty of a felony, and, on
1451 conviction, shall be punished by a fine of not more than Five
1452 Hundred Dollars (\$500.00), or by imprisonment in the Penitentiary

1453 not more than one (1) year, or in the county jail not more than
1454 six (6) months.

1455 **SECTION 35.** Section 97-9-25, Mississippi Code of 1972, is
1456 amended as follows:

1457 97-9-25. It shall be unlawful for any person, firm,
1458 copartnership, corporation or association to knowingly entice,
1459 harbor, employ, or aid, assist or abet in the escape, enticing,
1460 harboring or employment of any delinquent, person with mental
1461 illness, person with mental retardation or incorrigible person
1462 committed to, or confined in any institution maintained by the
1463 state for the treatment, education or welfare of delinquent
1464 persons, persons with mental illness, persons with mental
1465 retardation or incorrigible * * * persons. Any person violating
1466 the provisions of this section, upon conviction, shall be punished
1467 by a fine of not less than Twenty-five Dollars (\$25.00) nor more
1468 than Five Hundred Dollars (\$500.00), or imprisonment in the county
1469 jail for not less than thirty (30) days, nor more than ninety (90)
1470 days, or both.

1471 **SECTION 36.** Section 99-13-1, Mississippi Code of 1972, is
1472 amended as follows:

1473 99-13-1. The term "person with mental retardation," within
1474 the meaning of this chapter, shall have the same meaning as the
1475 term "mentally retarded person" in Section 41-21-61.

1476 **SECTION 37.** Section 99-13-3, Mississippi Code of 1972, is
1477 amended as follows:

1478 99-13-3. When any prisoner or any person charged with a
1479 crime or delinquency is brought before any conservator of the
1480 peace, and in the course of the investigation it * * * appears
1481 that the person was insane when the offense was committed and
1482 still is insane, or was a person with mental retardation to such
1483 an extent as not to be responsible for his or her act or omission
1484 at the time when the act or omission charged was made, he shall
1485 not be discharged, but the conservator of the peace shall remand

1486 the prisoner to custody and immediately report the case to the
1487 chancellor or clerk of the chancery court, whose duty it shall be
1488 to proceed with the case according to the law provided for persons
1489 of unsound mind or * * * persons with mental retardation.

1490 **SECTION 38.** Section 99-13-5, Mississippi Code of 1972, is
1491 amended as follows:

1492 99-13-5. When any person is held in prison or on bail,
1493 charged with an offense, and the grand jury does not find a true
1494 bill for reason of insanity of the accused or for reason of the
1495 mental retardation of the accused, which they judge to be such
1496 that he or she was not responsible for his acts or omissions at
1497 the time when the act or omission charged was committed or made,
1498 the grand jury shall certify the fact to the circuit court and
1499 shall state whether or not the insane * * * person or person with
1500 mental retardation is a danger to the security of persons and
1501 property and the peace and safety of the community, and if the
1502 grand jury reports that insanity or mental retardation and that
1503 danger, the court shall immediately give notice of the case to the
1504 chancellor or to the clerk of the chancery court, whose duty it
1505 shall be to proceed with the insane person and his estate or the
1506 person with mental retardation according to the law provided in
1507 the case of persons of unsound mind or * * * persons with mental
1508 retardation.

1509 **SECTION 39.** Section 99-13-7, Mississippi Code of 1972, is
1510 amended as follows:

1511 99-13-7. When any person is indicted for an offense and
1512 acquitted on the ground of insanity, the jury rendering the
1513 verdict shall state in the verdict that ground and whether the
1514 accused has since been restored to his sanity and whether he is
1515 dangerous to the community. * * * If the jury certifies that the
1516 person is still insane and dangerous, the judge shall order him to
1517 be conveyed to and confined in one (1) of the state psychiatric
1518 hospitals or institutions.

1519 **SECTION 40.** Section 99-13-9, Mississippi Code of 1972, is
1520 amended as follows:

1521 99-13-9. When any person is indicted for an offense and
1522 acquitted on the ground of mental retardation, the jury rendering
1523 the verdict shall state in the verdict that ground and whether the
1524 accused constitutes a danger to life or property and to the peace
1525 and safety of the community. If the jury certifies that the
1526 person with mental retardation is dangerous to the peace and
1527 safety of the community or to himself, the court shall immediately
1528 give notice of the case to the chancellor or the clerk of the
1529 chancery court, whose duty it shall be to proceed with the person
1530 according to the law provided in the case of * * * persons with
1531 mental retardation, the * * * person with mental retardation
1532 himself being remanded to custody to await the action of the
1533 chancery court.

1534 **SECTION 41.** Section 99-19-57, Mississippi Code of 1972, is
1535 amended as follows:

1536 99-19-57. (1) If the Commissioner of Corrections * * * at
1537 any time is satisfied that any female offender in his custody
1538 under sentence of death is pregnant, he shall summon a physician
1539 to inquire into the pregnancy. The commissioner shall summons and
1540 swear all necessary witnesses and the commissioner after full
1541 examination shall certify under his hand what the truth may be in
1542 relation to the alleged pregnancy, and in case the offender is
1543 found to be pregnant, the commissioner shall immediately transmit
1544 his findings to the Governor, and the Governor shall suspend the
1545 execution of the sentence until he is satisfied that the offender
1546 is not or is no longer pregnant. The Governor shall then order,
1547 by his warrant to the commissioner, the execution of the offender
1548 on a day to be * * * appointed by the Governor according to the
1549 sentence and judgment of the court.

1550 (2) (a) If it is believed that an offender under sentence
1551 of death has become mentally ill since the judgment of the court,

1552 the following shall be the exclusive procedural and substantive
1553 procedure. The offender, or a person acting as his next friend,
1554 or the Commissioner of Corrections may file an appropriate
1555 application seeking post-conviction relief with the Mississippi
1556 Supreme Court. If it is found that the offender is a person with
1557 mental illness, as defined in this subsection, the court shall
1558 suspend the execution of the sentence. The offender shall then be
1559 committed to the forensic unit of the Mississippi State Hospital
1560 at Whitfield. The order of commitment shall require that the
1561 offender be examined and a written report be furnished to the
1562 court at that time and every month thereafter, stating whether
1563 there is a substantial probability that the offender will become
1564 sane under this subsection within the foreseeable future and
1565 whether progress is being made toward that goal. If at any time
1566 during the commitment, the appropriate official at the state
1567 hospital * * * considers the offender to be sane under this
1568 subsection, the official shall promptly notify the court to that
1569 effect in writing and place the offender in the custody of the
1570 Commissioner of Corrections. The court then shall * * * conduct a
1571 hearing on the sanity of the offender. The finding of the circuit
1572 court is a final order appealable under the terms and conditions
1573 of the Mississippi Uniform Post-Conviction Collateral Relief Act.

1574 (b) For the purposes of this subsection, a person shall
1575 be deemed to be a person with mental illness if the court finds
1576 that the offender does not have sufficient intelligence to
1577 understand the nature of the proceedings against him, what he was
1578 tried for, the purpose of his punishment, the impending fate that
1579 awaits him, and a sufficient understanding to know any fact that
1580 might exist that would make his punishment unjust or unlawful and
1581 the intelligence requisite to convey that information to his
1582 attorneys or the court.

1583 **SECTION 42.** Section 99-38-9, Mississippi Code of 1972, is
1584 amended as follows:

1585 99-38-9. (1) The Treasurer shall make payments from an
1586 escrow account established under Section 99-38-5 to the accused or
1587 convicted person in whose name the account was established upon
1588 the order of a court of competent jurisdiction, after a showing by
1589 the person that those monies will be used for the exclusive
1590 purpose of retaining legal representation at any stage of any
1591 criminal proceedings against the person, including the appeals
1592 process.

1593 (2) Whenever it is found that a person accused of a crime is
1594 unfit to proceed as a result of mental illness because the person
1595 lacks the capacity to understand the proceedings against him or to
1596 assist in his own defense, the Treasurer shall bring an action of
1597 interpleader to determine disposition of the escrow account. For
1598 the purposes of this chapter, a person found not guilty by reason
1599 of insanity shall be deemed to be a convicted person.

1600 (3) Except as otherwise provided in subsection (4) of this
1601 section, upon dismissal of charges or acquittal or subsequent
1602 exoneration of any person accused of an offense arising out of the
1603 same circumstances that led to the establishment of an escrow
1604 account under this chapter, the Treasurer shall immediately pay
1605 over to the accused person, his legal representative, assignee,
1606 beneficiary or heirs at law the monies in the escrow account
1607 established on his or their behalf. Except as otherwise provided
1608 in subsection (4) of this section, upon a showing that the accused
1609 person has been convicted or has pleaded guilty to an offense for
1610 which an escrow account has been established under this chapter
1611 and that one (1) year has elapsed from the time of establishment
1612 of the escrow account, and that no civil actions are pending under
1613 the provisions of subsection (2) of Section 99-38-7, the Treasurer
1614 shall immediately transfer all monies in the escrow account
1615 established in the name of the accused person, less such costs and
1616 expenses as the Treasurer incurs in the administration of the
1617 account, to the Criminal Justice Fund created in Section 99-19-32.

1618 (4) Notwithstanding the provisions of subsection (3), upon a
1619 showing that one (1) year has elapsed from the time of the
1620 establishment of the escrow account and that no civil actions are
1621 pending under the provisions of Section 99-38-7(2), and upon a
1622 showing that the accused in whose name the account is established
1623 is the parent of one or more minor children and that the minor
1624 children are in need of financial support, the chancery court of
1625 the district in which the minor children reside may order the
1626 Treasurer to pay over an amount set by the court for the support
1627 of those children until they reach the age of majority. Upon
1628 order of the court, the Treasurer shall pay the specified amount
1629 to a guardian appointed by the court for the use and benefit of
1630 the minor children. In no event shall the total amount to be paid
1631 for the support of any minor children of the accused in whose name
1632 the account is established exceed the amount of money in the
1633 account at the time the court issues its order.

1634 (5) The Treasurer shall be authorized to promulgate such
1635 rules and regulations as may be necessary to carry out the
1636 provisions of this chapter.

1637 **SECTION 43.** Section 99-39-23, Mississippi Code of 1972, is
1638 amended as follows:

1639 99-39-23. (1) If an evidentiary hearing is required, the
1640 judge may appoint counsel for a petitioner who qualifies for the
1641 appointment of counsel under Section 99-15-15.

1642 (2) The hearing shall be conducted as promptly as
1643 practicable, having regard for the need of counsel for both
1644 parties for adequate time for investigation and preparation.

1645 (3) The parties shall be entitled to subpoena witnesses and
1646 compel their attendance, including, but not being limited to,
1647 subpoenas duces tecum.

1648 (4) The court may receive proof by affidavits, depositions,
1649 oral testimony or other evidence and may order the prisoner
1650 brought before it for the hearing.

1651 (5) If the court finds in favor of the prisoner, it shall
1652 enter an appropriate order with respect to the conviction or
1653 sentence under attack, and any supplementary orders as to
1654 rearraignment, retrial, custody, bail, discharge, correction of
1655 sentence or other matters that may be necessary and proper. The
1656 court shall make specific findings of fact, and state expressly
1657 its conclusions of law, relating to each issue presented.

1658 (6) The order as provided in subsection (5) of this section
1659 or any order dismissing the prisoner's motion or otherwise denying
1660 relief under this article is a final judgment and shall be
1661 conclusive until reversed. It shall be a bar to a second or
1662 successive motion under this article. Excepted from this
1663 prohibition is a motion filed under Section 99-19-57(2), raising
1664 the issue of the offender's supervening mental illness before the
1665 execution of a sentence of death. A dismissal or denial of a
1666 motion relating to mental illness under Section 99-19-57(2) shall
1667 be res judicata on the issue and shall likewise bar any second or
1668 successive motions on the issue. Likewise excepted from this
1669 prohibition are those cases in which the prisoner can demonstrate
1670 either that there has been an intervening decision of the Supreme
1671 Court of either the State of Mississippi or the United States
1672 that would have actually adversely affected the outcome of his
1673 conviction or sentence or that he has evidence, not reasonably
1674 discoverable at the time of trial, which is of such nature that it
1675 would be practically conclusive that, if it had * * * been
1676 introduced at trial, it would have caused a different result in
1677 the conviction or sentence. Likewise excepted are those cases in
1678 which the prisoner claims that his sentence has expired or his
1679 probation, parole or conditional release has been unlawfully
1680 revoked.

1681 (7) No relief shall be granted under this article unless the
1682 prisoner proves by a preponderance of the evidence that he is
1683 entitled to the relief.

1684 (8) Proceedings under this section shall be subject to the
1685 provisions of Section 99-19-42.

1686 (9) In cases resulting in a sentence of death and upon a
1687 determination of indigence, appointment of post-conviction counsel
1688 shall be made by the Office of Capital Post-Conviction Counsel
1689 upon order entered by the Supreme Court promptly upon announcement
1690 of the decision on direct appeal affirming the sentence of death.
1691 The order shall direct the trial court to immediately determine
1692 indigence and whether the inmate will accept counsel.

1693 **SECTION 44.** Section 99-39-27, Mississippi Code of 1972, is
1694 amended as follows:

1695 99-39-27. (1) The application for leave to proceed in the
1696 trial court filed with the Supreme Court under Section 99-39-7
1697 shall name the State of Mississippi as the respondent.

1698 (2) The application shall contain the original and two (2)
1699 executed copies of the motion proposed to be filed in the trial
1700 court together with such other supporting pleadings and
1701 documentation as the Supreme Court by rule may require.

1702 (3) The prisoner shall serve an executed copy of the
1703 application upon the Attorney General simultaneously with the
1704 filing of the application with the court.

1705 (4) The original motion, together with all files, records,
1706 transcripts and correspondence relating to the judgment under
1707 attack, shall promptly be examined by the court.

1708 (5) Unless it appears from the face of the application,
1709 motion, exhibits and the prior record that the claims presented by
1710 those documents are not procedurally barred under Section 99-39-21
1711 and that they further present a substantial showing of the denial
1712 of a state or federal right, the court shall by appropriate order
1713 deny the application. The court may, in its discretion, require
1714 the Attorney General upon sufficient notice to respond to the
1715 application.

1716 (6) The court, upon satisfaction of the standards set forth
1717 in this article, is empowered to grant the application.

1718 (7) In granting the application the court, in its
1719 discretion, may:

1720 (a) Where sufficient facts exist from the face of the
1721 application, motion, exhibits, the prior record and the state's
1722 response, together with any exhibits submitted with those
1723 documents, or upon stipulation of the parties, grant or deny any
1724 or all relief requested in the attached motion.

1725 (b) Allow the filing of the motion in the trial court
1726 for further proceedings under Sections 99-39-13 through 99-39-23.

1727 (8) No application or relief shall be granted without the
1728 Attorney General being given at least five (5) days to respond.

1729 (9) The dismissal or denial of an application under this
1730 section is a final judgment and shall be a bar to a second or
1731 successive application under this article. Excepted from this
1732 prohibition is an application filed under Section 99-19-57(2),
1733 raising the issue of the offender's supervening mental illness
1734 before the execution of a sentence of death. A dismissal or
1735 denial of an application relating to mental illness under Section
1736 99-19-57(2) shall be res judicata on the issue and shall likewise
1737 bar any second or successive applications on the issue. Likewise
1738 excepted from this prohibition are those cases in which the
1739 prisoner can demonstrate either that there has been an intervening
1740 decision of the Supreme Court of either the State of Mississippi
1741 or the United States that would have actually adversely affected
1742 the outcome of his conviction or sentence or that he has evidence,
1743 not reasonably discoverable at the time of trial, that is of such
1744 nature that it would be practically conclusive that, if it
1745 had * * * been introduced at trial, it would have caused a
1746 different result in the conviction or sentence. Likewise exempted
1747 are those cases in which the prisoner claims that his sentence has

1748 expired or his probation, parole or conditional release has been
1749 unlawfully revoked.

1750 (10) Proceedings under this section shall be subject to the
1751 provisions of Section 99-19-42.

1752 (11) Post-conviction proceedings in which the defendant is
1753 under sentence of death shall be governed by rules established by
1754 the Supreme Court as well as the provisions of this section.

1755 **SECTION 45.** Section 41-19-103, Mississippi Code of 1972, is
1756 amended as follows:

1757 41-19-103. The Ellisville State School * * * established by
1758 Chapter 210, Laws of Mississippi 1920, is recognized as now
1759 existing and shall hereafter be known under the name of Ellisville
1760 State School for the care and treatment of * * * persons with
1761 mental retardation. The school shall have the power to receive
1762 and hold property, real, personal and mixed, as a body corporate.
1763 The school shall be under the direction and control of the State
1764 Board of * * * Mental Health.

1765 **SECTION 46.** The following shall be codified as Section
1766 41-19-108, Mississippi Code of 1972:

1767 41-19-108. With funds provided by the Legislature, by direct
1768 appropriation or authorized bond issue, with federal matching
1769 funds, or with any other available funds, the Bureau of Building,
1770 Grounds and Real Property Management may construct and equip the
1771 necessary residential and service buildings and other facilities
1772 to care for the residents of Ellisville State School. The general
1773 design of the school and all construction plans shall be approved
1774 and recommended by the State Department of Mental Health.

1775 **SECTION 47.** The following shall be codified as Section
1776 41-19-112, Mississippi Code of 1972:

1777 41-19-112. Ellisville State School shall be administered by
1778 the State Board of Mental Health. Provisions relating to the
1779 admission and care of residents at the school shall be promulgated
1780 by the board.

1781 **SECTION 48.** The following shall be codified as Section
1782 41-19-114, Mississippi Code of 1972:

1783 41-19-114. Persons admitted to Ellisville State School shall
1784 be assessed support and maintenance costs in accordance with the
1785 provisions of the state reimbursement laws as they apply to other
1786 state institutions.

1787 **SECTION 49.** The following shall be codified as Section
1788 41-19-116, Mississippi Code of 1972:

1789 41-19-116. Any person who (a) knowingly and unlawfully or
1790 improperly causes a person to be adjudged to be a person of mental
1791 retardation, (b) procures the escape of a legally committed
1792 resident or knowingly conceals an escaped legally committed
1793 resident of Ellisville State School, or (c) unlawfully brings any
1794 firearm, deadly weapon or explosive into the school or its
1795 grounds, or passes any thereof to a resident, employee or officer
1796 of the school, is guilty of a misdemeanor and, upon conviction,
1797 shall be punished by a fine of not less than Fifty Dollars
1798 (\$50.00), nor more than Two Hundred Dollars (\$200.00),
1799 imprisonment for not less than six (6) months, or both.

1800 **SECTION 50.** The following shall be codified as Section
1801 41-19-118, Mississippi Code of 1972:

1802 41-19-118. Ellisville State School is designated as a state
1803 agency for carrying out the purposes of any act of the Congress of
1804 the United States, now existing or at any time hereafter enacted,
1805 pertaining to mental retardation.

1806 **SECTION 51.** Section 41-19-121, Mississippi Code of 1972, is
1807 amended as follows:

1808 41-19-121. The director of * * * Ellisville State School may
1809 receive free lodging in his institution for himself and his
1810 family, but not free board, nor free supplies from the
1811 school. * * *

1812 **SECTION 52.** Sections 41-5-55, 41-5-81, 41-17-5, 41-17-7,
1813 41-17-9, 41-17-13, 41-19-105, 41-19-107, 41-19-109, 41-19-115,

1814 41-19-117, 41-19-119, 41-21-43, 41-21-45, 41-45-1, 41-45-3,
1815 41-45-5, 41-45-7, 41-45-9, 41-45-11, 41-45-13, 41-45-15, 41-45-17
1816 and 41-45-19, Mississippi Code of 1972, which prohibit the
1817 apprenticing of mental patients, provide certain criminal
1818 penalties, provide certain visitation duties for directors of
1819 mental hospitals, exempt resident mental hospital officers from
1820 jury service, require a drug store to be kept at each mental
1821 hospital, require separate accommodations at Whitfield for
1822 alcoholic and drug addicts, provide for the plan of Ellisville
1823 State School, require Ellisville's director to keep certain
1824 records, authorize Ellisville's director to sell certain products
1825 of the school, provide discharge procedures for Ellisville
1826 patients, provide for habeas corpus proceedings for Ellisville
1827 patients, authorize the receipt of gifts for the support of
1828 Ellisville, require counties to temporarily provide for the
1829 maintenance of indigent mentally retarded persons, prohibit
1830 cohabitation with mentally retarded persons, and authorize the
1831 sterilization of mentally ill and mentally retarded patients, are
1832 repealed.

1833 **SECTION 53.** This act shall take effect and be in force from
1834 and after July 1, 2005.