

By: Representative Cummings

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 1554

1 AN ACT TO AMEND SECTION 41-21-73, MISSISSIPPI CODE OF 1972,  
2 TO DELETE THE PROVISION IN THE CIVIL COMMITMENT STATUTES THAT  
3 TREATMENT BEFORE ADMISSION TO A STATE-OPERATED FACILITY SHALL BE  
4 LOCATED AS CLOSELY AS POSSIBLE TO THE PATIENT'S COUNTY OF  
5 RESIDENCE AND THE COUNTY OF RESIDENCE SHALL BE RESPONSIBLE FOR  
6 THAT COST; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

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

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

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

58 (6) The court shall state the findings of fact and  
59 conclusions of law that constitute the basis for the order of  
60 commitment. The findings shall include a listing of less  
61 restrictive alternatives considered by the court and the reasons  
62 that each was found not suitable.

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

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

73           (9) The county where a person in need of treatment is found  
74 is authorized to charge the county of such person's residence for  
75 the costs incurred while such person is confined in the county  
76 where such person was found.

77           **SECTION 2.** This act shall take effect and be in force from  
78 and after July 1, 2005.