

By: Senator(s) Tollison

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2231

1 AN ACT TO AMEND SECTIONS 41-21-73 AND 41-21-77, MISSISSIPPI
2 CODE OF 1972, TO DELETE THE PROVISION CHARGING THE COUNTY OF
3 RESIDENCE WITH THE RESPONSIBILITY FOR THE COST OF PREADMISSION
4 CARE FOR PERSONS COMMITTED FOR TREATMENT OF MENTAL ILLNESS, AND TO
5 DELETE CERTAIN CERTIFICATION STANDARDS FOR NON-STATE TREATMENT
6 FACILITIES FOR SUCH PERSONS; 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.** Section 41-21-77, Mississippi Code of 1972, is
78 amended as follows:

79 41-21-77. If admission is ordered at a treatment facility,
80 the sheriff, his deputy or any other person appointed or
81 authorized by the court shall immediately deliver the respondent
82 to the director of the appropriate facility. Neither the Board of
83 Mental Health or its members, nor the Department of Mental Health
84 or its related facilities, nor any employee of the Department of
85 Mental Health or its related facilities, shall be appointed,
86 authorized or ordered to deliver the respondent for treatment, and
87 no person shall be so delivered or admitted until the director of
88 the admitting institution determines that facilities and services
89 are available. Persons who have been ordered committed and are
90 awaiting admission may be given any such treatment in the facility
91 by a licensed physician as is indicated by standard medical
92 practice. * * * The clerk shall provide the director of the
93 admitting institution with a certified copy of the court order, a
94 certified copy of the physician's and any psychologist's
95 certificate, a certified copy of the affidavit, and any other

96 information available concerning the physical and mental condition
97 of the respondent; provided, upon notification from the United
98 States Veterans Administration or other agency of the United
99 States government, that facilities are available and the
100 respondent is eligible for care and treatment therein, the court
101 may enter an order for delivery of the respondent to or retention
102 by the Veterans Administration or other agency of the United
103 States government, and, in such cases such chief officer to whom
104 the respondent is so delivered or by whom he is retained shall,
105 with respect to the respondent, be vested with the same powers as
106 the director of the Mississippi State Hospital at Whitfield, or
107 the East Mississippi State Hospital at Meridian, with respect to
108 retention and discharge of the respondent.

109 **SECTION 3.** This act shall take effect and be in force from
110 and after July 1, 2005.