

By: Senator(s) Browning

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2785

1 AN ACT TO AMEND SECTION 41-21-73, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE PROVISION CHARGING THE COUNTY OF RESIDENCE WITH THE
3 RESPONSIBILITY FOR THE COST OF PREADMISSION CARE FOR PERSONS
4 COMMITTED FOR TREATMENT OF MENTAL ILLNESS; AND FOR RELATED
5 PURPOSES.

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

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

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

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

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

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

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

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

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

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

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

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

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

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