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

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

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

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

(a) He is the supreme executive officer of the state.
(b) He is the commander in chief of the militia of the state and may call out the militia to execute the laws, to suppress insurrections or riots, and to repel invasions.
(c) He shall see that the laws are faithfully executed.
(d) He is to supervise the official conduct of all executive and ministerial officers.
(e) He is to see that all offices are filled and the duties of the offices are performed or, in default thereof, apply such remedy as the law allows; and if the remedy is inadequate, he shall inform the Legislature * * * at its next session.
(f) He shall make appointments and fill vacancies as prescribed by law.
(g) Whenever any suit or legal proceeding is pending that affects the title of the state to any property, or that may result in any claim against the state, he may direct the Attorney General to appear on behalf of the state and protect its interest.
(h) He may require the Attorney General, or district attorney of any district, to inquire into the affairs or
management of any corporation existing under the laws of this
state, or doing business in this state under the laws of the
state.

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

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

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

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

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

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

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

11-5-49. In proceedings in matters testamentary and of
administration, in minors' business, and in cases of persons with
mental retardation, persons with mental illness and persons of
unsound mind, as provided for by law, no answer shall be required
to any petition or application of any sort. Such a petition or
application shall not be taken as confessed because of the lack of
an answer, but every petition, application, or account shall be
supported by the proper evidence and may be contested without an
answer. All such proceedings shall be as summary, as the statutes
authorizing and regulating them contemplate; however, when either
of the parties having a controversy in court as to any of those
several matters requires and the court sees proper, it
may direct plenary proceedings by bill or petition, to which there
shall be an answer on oath or affirmation. If an adult or sane
party refuses to answer as to any matter alleged in the bill or
petition and proper for the court to decide upon, the party
refusing may be attached, fined, and imprisoned at the discretion
of the court, and the matter set forth in the bill or petition
shall be taken as confessed and a decree shall be made
accordingly.

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

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

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

11-5-117. (1) In addition to the law now in force
authorizing the chancery court to decree the sale of land and
personal property, the chancery court and the chancellor in
vacation are authorized in all matters providing for a sale or
lease of real and personal property, including matters
testamentary and of administration, minor's business, persons with
mental illness, partition and receivers, to order or decree the
sale or lease of real and personal property or any interest in the
property, including timber, oil, gas and minerals, at private
sale, under such terms and conditions as the chancellor may
impose. If all of the terms of sale are made certain by the order or decree, a deed or lease executed in full compliance with the order or decree shall become immediately effective without further confirmation by the court or chancellor.

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

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

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

(2) Any person who is a party to a suit or action in his individual capacity, which suit arises from allegedly tortious actions and deeds committed by him during the time he was a member, trustee, director, superintendent, official or employee, as the case may be, of the Department of Corrections, the State Penitentiary or the state psychiatric hospitals or institutions, and which allegedly tortious acts and deeds were committed by the person in the performance of his duties or employment, shall be entitled to appeal from a judgment, decree, decision or order of any court or judge from which an appeal may be taken without
prepayment of costs in the lower court, including the costs of the
preparation of the record of the proceedings in the trial court.
In those cases, if a supersedeas is allowed and desired, a bond
for supersedeas shall not be required. The provisions of this
section shall not apply to any such judgment, decree, decision or
order in favor of the State of Mississippi.

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

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

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

19-7-31. The board of supervisors of each county in the
state shall have power, by an appropriate order or orders on its
minutes, to establish and maintain in the county courthouse or
other suitable public building adjacent or near thereto, a public
county law library under such rules, regulations and supervision
as it may from time to time ordain and establish, and to that end,
the board may accept gifts, grants, donations or bequests of
money, furniture, fixtures, books, documents, maps, plats or other
property suitable for that purpose.
The board of supervisors shall have power to exchange or sell duplicate volumes or sets of any such books or furniture, and in case of sale, to invest the proceeds in other suitable books or furniture. The board may also purchase or lease from time to time additional books, furniture, or equipment for the public law library.

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

In case the public law library is so established, all books, documents, furniture and other property then belonging to the county library, as provided for in Section 19-7-25, shall be transferred to and become part of the public law library, and all books, documents and publications donated by the state to the county library shall also become a part of the public law library. In that case, Sections 19-7-25 and 19-25-65, relating to the county library, shall be superseded in that county for as long as the public law library is maintained in the county. The board of supervisors of any such county, in its discretion, may levy, by way of resolution, additional court costs not exceeding Two Dollars and Fifty Cents ($2.50) per case for each case, both civil and criminal, filed in the chancery, circuit
and county courts or any of these in the county, and may levy, by way of resolution, additional court costs not exceeding One Dollar and Fifty Cents ($1.50) per case for each case, both civil and criminal, filed in the justice courts of the county for the support of the library authorized in the county. If the additional court costs authorized in this section are levied, the clerk or judge of those courts shall collect those costs for all cases filed in his court and forward same to the chancery clerk, who shall deposit the same in a special account in a county depository for support and maintenance of the library, and the chancery clerk shall be accountable for those funds. However, no such levy shall be made against any cause of action the purpose of which is to commit any person with mental illness, alcoholic or narcotic addict to any institution for custodial or medical care, and no such tax shall be collected under this subsection on any cause of action that the proper clerk handling same deems to be in its very nature charitable and in which cause the clerk has not collected his own legal fees.

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

The board of supervisors of each county in which there are two (2) judicial districts, in its discretion, may maintain a law library in each judicial district. In those counties the board, in its discretion, may pay from the county general fund or from the special fund authorized in this section all the costs authorized in this section, provided that the board shall not spend in each judicial district less than the
amount of the special court costs authorized in this section and
collected in each such district.

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

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

23-15-11. Every inhabitant of this state, except persons
adjudicated to be non compos mentis, who is a citizen of the
United States of America, eighteen (18) years old and upwards, who
has resided in this state for thirty (30) days and for thirty (30)
days in the county in which he seeks to vote, and for thirty (30)
days in the incorporated municipality in which he seeks to vote,
and who has been duly registered as an elector under Section
23-15-33, and who has never been convicted of any crime listed in
Section 241, Mississippi Constitution of 1890, shall be a
qualified elector in and for the county, municipality and voting
precinct of his residence, and shall be entitled to vote at any
election. Any person who will be eighteen (18) years of age or
older on or before the date of the general election and who is
duly registered to vote not less than thirty (30) days before the
primary election associated with the general election, may vote in
the primary election even though the person has not reached his or
her eighteenth birthday at the time the person seeks to vote at the primary election. No others than those specified in this section shall be entitled, or shall be allowed, to vote at any election.

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

> [Effective until January 1, 2008, this section shall read as follows:]

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

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

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

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

(c) Jurors in the justice courts shall be paid an amount of not less than Ten Dollars ($10.00) per day and not more than Fifteen Dollars ($15.00) per day, to be established by the board of supervisors. In all criminal cases in the justice court
in which the prosecution fails, the fees of jurors shall be paid by the county treasurer on order of the board of supervisors on certificate of the county attorney in all counties that have county attorneys, otherwise by the justice court judge.

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

(a) The local public library;
(b) Local law enforcement;
(c) The Mississippi Burn Care Fund created in Section 7-9-70; or
(d) Any other governmental agency.

[Effective from and after January 1, 2008, this section shall read as follows:]

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

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

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

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

(c) Jurors in the justice courts shall be paid an
amount of not less than Ten Dollars ($10.00) per day and not more
than Fifteen Dollars ($15.00) per day, to be established by the
board of supervisors. In all criminal cases in the justice court
in which the prosecution fails, the fees of jurors shall be paid
by the county treasurer on order of the board of supervisors on
certificate of the county attorney in all counties that have
county attorneys, otherwise by the justice court judge.

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

(a) The local public library;
(b) Local law enforcement;
(c) The Mississippi Burn Care Fund created in Section
7-9-70; or
(d) Any other governmental agency.

(3) The Administrative Office of Courts shall promulgate
rules to establish a Lengthy Trial Fund to be used to provide full
or partial wage replacement or wage supplementation to jurors who
serve as petit jurors in civil cases for more than ten (10) days.
(a) The court rules shall provide for the following:
(i) The selection and appointment of an
administrator for the fund.
(ii) Procedures for the administration of the
fund, including payments of salaries of the administrator and
other necessary personnel.
(iii) Procedures for the accounting, auditing and investment of money in the Lengthy Trial Fund.

(iv) A report by the Administrative Office of Courts on the administration of the Lengthy Trial Fund in its annual report on the judicial branch, setting forth the money collected for and disbursed from the fund.

(b) The administrator shall use any monies deposited in the Lengthy Trial Fund to pay full or partial wage replacement or supplementation to jurors whose employers pay less than full regular wages when the period of jury service lasts more than ten (10) days.

(c) To the extent funds are available in the Lengthy Trial Fund, and in accordance with any rules or regulations promulgated by the Administrative Office of Courts, the court may pay replacement or supplemental wages out of the Lengthy Trial Fund not to exceed Three Hundred Dollars ($300.00) per day per juror beginning on the eleventh day of jury service. In addition, for any jurors who qualify for payment by virtue of having served on a jury for more than ten (10) days, the court, upon finding that the service posed a significant financial hardship to a juror, even in light of payments made with respect to jury service after the tenth day, may award replacement or supplemental wages out of the Lengthy Trial Fund not to exceed One Hundred Dollars ($100.00) per day from the fourth to the tenth day of jury service.

(d) Any juror who is serving or has served on a jury that qualifies for payment from the Lengthy Trial Fund, provided the service began on or after January 1, 2008, may submit a request for payment from the Lengthy Trial Fund on a form that the administrator provides. Payment shall be limited to the difference between the jury fee specified in subsection (1) of this section and the actual amount of wages a juror earns, up to
the maximum level payable, minus any amount the juror actually
receives from the employer during the same time period.

(i) The form shall disclose the juror's regular
wages, the amount the employer will pay during the term of jury
service starting on the eleventh day and thereafter, the amount of
replacement or supplemental wages requested, and any other
information the administrator deems necessary for proper payment.

(ii) The juror also shall be required to submit
verification from the employer as to the wage information provided
to the administrator, for example, the employee's most recent
earnings statement or similar document, prior to initiation of
payment from the fund.

(iii) If an individual is self-employed or
receives compensation other than wages, the individual may provide
a sworn affidavit attesting to his or her approximate gross weekly
income, together with such other information as the administrator
may require, in order to verify weekly income.

(4) Nothing in this section shall be construed to impose an
obligation on any county to place monies in the Lengthy Trial Fund
or to pay replacement or supplemental wages to any juror from
county funds.

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

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

SECTION 13. Section 35-5-31, Mississippi Code of 1972, is amended as follows:

35-5-31. (1) Whenever, in any proceeding under the laws of this state for the commitment of a person alleged to be a person with mental illness, person with mental retardation, or otherwise of unsound mind, or otherwise in need of confinement in a hospital or other institution for his proper care, it is determined after the adjudication of the status of the person as may be required by law that commitment to a state psychiatric hospital or institution or other institution is necessary for safe-keeping or treatment, and it appears that the person is eligible for care or treatment by the Veterans Administration or other agency of the United States government, the court, upon receipt of a certificate from the Veterans Administration or such other agency showing that facilities are available and that the person is eligible for care or treatment in those facilities, may commit the person to the Veterans Administration or other agency. The person whose commitment is sought shall be personally served with notice of the pending commitment proceeding in the manner provided by the law of this state; and nothing in this section shall affect his right to appear and be heard in the proceedings. Upon commitment, the person, when admitted to any facility operated by the Veterans Administration or other agency within or without this state shall
be subject to the rules and regulations of the Veterans Administration or other agency. The chief officer of any facility of the Veterans Administration or institution operated by any other agency of the United States to which the person is so committed shall, with respect to the person, be vested with the same powers as superintendents of state psychiatric hospitals or institutions within this state with respect to retention of custody, transfer, parole or discharge. Jurisdiction is retained in the committing or other appropriate court of this state at any time to inquire into the mental condition of the person so committed, and to determine the necessity for continuance of his restraint, and all commitments under this section are so conditioned.

(2) The judgment or order of commitment by a court of competent jurisdiction of another state or of the District of Columbia, committing a person to the Veterans Administration or other agency of the United States government for care or treatment, shall have the same force and effect as to the committed person while in this state as in the jurisdiction in which is situated the court entering the judgment or making the order, and the courts of the committing state or of the District of Columbia shall be deemed to have retained jurisdiction of the person so committed for the purpose of inquiring into the mental condition of the person and of determining the necessity for continuance of his restraint, as is provided in subsection (1) of this section with respect to persons committed by the courts of this state. Consent is * * * given to the application of the law of the committing state or District of Columbia in respect to the authority of the chief officer of any facility of the Veterans Administration or of any institution operated in this state by any other agency of the United States to retain custody, or transfer, parole or discharge the committed person.
(3) Upon receipt of a certificate of the Veterans Administration or such other agency of the United States that facilities are available for the care or treatment of any person * * * committed to a state psychiatric hospital or * * * institution * * * or for the care or treatment of persons similarly afflicted, and that the person is eligible for care or treatment, the superintendent of the state psychiatric hospital or institution may cause the transfer of the person to the Veterans Administration or other agency of the United States for care or treatment. Upon effecting any such transfer, the committing court or proper officer of the court shall be notified of the transfer by the transferring agency. No person shall be transferred to the Veterans Administration or other agency of the United States if he is confined because of conviction of any felony or misdemeanor or if he has been acquitted of the charge solely on the ground of insanity, unless before transfer, the court or other authority originally committing the person * * * enters an order for the transfer after appropriate motion and hearing.

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

SECTION 14. Section 41-17-3, Mississippi Code of 1972, is amended as follows:

41-17-3. The state psychiatric hospital and institution established at Meridian by the Act of March 8, 1882, shall continue to exist as a body politic and corporate, under the name of the "East Mississippi State Hospital," with all the privileges conferred and the duties enjoined by law. It may hold and use, as required by law, all the property, real and personal, belonging to or that may be given to it for the purposes of its establishment.

SECTION 15. Section 41-17-11, Mississippi Code of 1972, is amended as follows:
41-17-11. The directors of the state institutions listed in Section 41-7-73 each may receive any monies that the United States government may offer as federal aid in taking care of and giving special attention to those persons who served with the Armed Forces of the United States during time of war * * * and who are now in or may hereafter be in any of those state institutions.

Each of those directors may expend that part of the money paid to him or his institution, according to his best judgment and the requirements of the United States government under which the money is received.

SECTION 16. Section 41-21-35, Mississippi Code of 1972, is amended as follows:

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

SECTION 17. Section 43-31-35, Mississippi Code of 1972, is amended as follows:

43-31-35. If any person commanding a ship, vessel, steamboat, or other watercraft imports into this state, or brings to the shores or within the limits thereof, any infant, person with mental illness, maimed, aged or infirm person or vagrant who is likely to become chargeable on the county, on the requisition of the supervisor of the district or the mayor of any municipality, the captain, master, or commander of the ship, vessel, steamboat, or other watercraft shall enter into bond with sufficient sureties, payable to the county, conditioned to indemnify the county against all charges that may be incurred in the support and care of that person. Any captain, master, or commander failing or refusing to give the bond required shall forfeit and pay to the county the sum of Two Hundred Dollars ($200.00) for each infant, person with mental illness, maimed, aged, or infirm person or vagrant so brought into the state, to be recovered by action.
SECTION 18. Section 67-1-83, Mississippi Code of 1972, is amended as follows:

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

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

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

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

**SECTION 19.** Section 67-3-53, Mississippi Code of 1972, is amended as follows:

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

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

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

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

(d) To permit loud, boisterous or disorderly conduct of any kind upon the premises or to permit the use of loud musical instruments if either or any of the same may disturb the peace and quietude of the community in which the business is located.
(e) To permit persons of ill repute, known criminals, prostitutes or minors to frequent the licensed premises, except minors accompanied by parents or guardians, or under proper supervision.

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

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

SECTION 20. Section 73-19-23, Mississippi Code of 1972, is amended as follows:

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

(2) The board shall further be authorized to take disciplinary action against a licensee for any unlawful acts, which shall include violations of regulations promulgated by the board, as well as the following acts:

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

(b) Cheating on or attempting to subvert the optometric licensing examination(s).
(c) The conviction of a felony in this state or any other jurisdiction, or the entry of guilty or nolo contendere plea to a felony charge.

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

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

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

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

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

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

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

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

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

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

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

(o) Obtaining any fee by fraud, deceit or misrepresentation.
(p) Disciplinary action of another state or jurisdiction against a licensee or other authorization to practice optometry based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for action as defined in this chapter, a certified copy of the record of the action taken by the other state or jurisdiction being conclusive evidence thereof.

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

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

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

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

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

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

(3) Any person who is holder of a certificate of licensure or who is an applicant for examination for a certificate of licensure, against whom is preferred any charges, shall be furnished by the board with a copy of the complaint and shall have a hearing in Jackson, Mississippi, before the board, at which hearing he may be represented by counsel. At the hearing witnesses may be examined for and against the accused respecting those charges, and the hearing orders or appeals will be conducted according to the procedure now provided in Section 73-25-27. The suspension of a certificate of licensure by reason of the use of
stimulants or narcotics may be removed when the holder of the certificate has been adjudged by the * * * board to be cured and capable of practicing optometry.

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

SECTION 21. Section 81-5-33, Mississippi Code of 1972, is amended as follows:

81-5-33. Banks may accept and execute all such trusts and perform such duties of every description as may be committed to them by any person or corporation or that may be committed or transferred to them by order of any court of record. They may receive money in trust, take and accept by grant, assignment, transfer, devise or bequest, and hold any real or personal estate or trusts created according to the laws of this or any other state or of the United States, and execute those legal trusts in regard to the same, on such terms as may be directed or agreed upon * * * . They may act as agent for the investment of money or the management of property for other persons, and as agent for persons and corporations for the purpose of issuing, registering, transferring or countersigning the certificates of stock, bonds or other evidences of debt of any corporation, association, municipality, state, county or public authority on such terms as
may be agreed upon. They also may act as guardian for any minor or *** person with mental illness under the appointment of any court of record having jurisdiction of the person or estate of the minor or *** person with mental illness and may act as administrator or executor of the estate of any deceased person. They may act as agent or attorney in fact and as commissioner for the sale of property, both real and personal, and may act as assignee or receiver, or as trustee in mortgages or bond issues, or in any other fiduciary capacity authorized by law. They may accept trust funds or other property upon specially agreed terms and pay or deliver the same to the owners, beneficiaries or others, as the case may be, when and as the same should be paid or delivered according to the terms of the trust agreement under which it is held. Whenever under the laws of this or any other state or under the rule or order of any court, the execution of a bond for the protection of a private or court trust is required, a trust company shall be authorized to execute the bond for the protection of any trust or trust estate being administered by it.

Banking corporations created, organized and doing business under the laws of the State of Mississippi may exercise, without amendment of their charters, and under their charter authority to engage in the general business of banking, all or any of the foregoing powers. However, before any bank whose charter merely authorizes the exercise of general banking functions may exercise those powers, the previous written consent of the Commissioner of Banking and Consumer Finance shall be obtained. Banks exercising any or all of those powers shall segregate all assets held in any fiduciary capacity from the general assets of the bank and shall keep a separate set of books and records showing in proper detail all transactions engaged in under the authority of this section or under the authority *** granted to them in their charter or otherwise. Those books and records shall
be inspected and examined by the state bank examiners at each and every examination of the bank.

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

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

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

In making investments of trust funds, it shall be unlawful for any bank to purchase securities from itself or to purchase securities in which it may be interested, directly or indirectly. However, any bank, including a national bank, authorized to do business in this state in a fiduciary capacity may, unless prohibited or otherwise limited by the instrument governing the fiduciary relationship, in the exercise of its investment discretion or at the direction of another person authorized to direct the investment of funds held by the bank as fiduciary, invest and reinvest in the securities of, or other interests in,
any open-end or closed-end management type investment company or
investment trust registered under the Investment Company Act of
1940, 15 USCS Section 80a-1, et seq., as amended, notwithstanding
that the banking institution or affiliate of the banking
institution provides services to the investment company or
investment trust, such as that of an investment advisor,
custodian, transfer agent, registrar, sponsor, distributor,
manager or otherwise, and receives reasonable remuneration for
those services, so long as the total compensation paid by the
trust or custodial estate as trustee's fees and mutual fund fees
is reasonable, taking into account the nature and extent of the
trustee's duties, the nature and extent of the services provided
to the investment company or investment trust, and the total
compensation, costs and fees that would otherwise be paid,
directly or indirectly, by the trust or custodial estate if the
investment were made in an investment company or investment trust
for which the bank or its affiliates provided no services. With
respect to any funds so invested, the banking institution shall
make available by statement, prospectus or otherwise to all
current income beneficiaries of an account the basis, expressed as
a percentage of asset value or otherwise, upon which the
remuneration is calculated. No bank shall lend to any officer,
director or employee of the bank any funds held in trust by it,
and any officer, director or employee making a loan, or to whom
such a loan is made, shall be guilty of a felony and upon
conviction may be fined not more than Five Thousand Dollars
($5,000.00) or imprisoned in the State Penitentiary for not more
than five (5) years, or by both fine and imprisonment, in the
discretion of the court.

SECTION 22. Section 81-27-6.307, Mississippi Code of 1972,
is amended as follows:

81-27-6.307. (a) A limited liability trust company
organized under this article is dissolved on:
(1) The expiration of the period fixed for the duration of the limited liability trust company;

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

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

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

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

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

SECTION 23. Section 89-1-29, Mississippi Code of 1972, is amended as follows:

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

SECTION 24. Section 93-1-5, Mississippi Code of 1972, is amended as follows:

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

(a) Parties desiring a marriage license shall make application for the license in writing to the clerk of the circuit court of any county in the State of Mississippi; however, if the female applicant is under the age of twenty-one (21) years and is a resident of the State of Mississippi, the application shall be made to the circuit clerk of the county of residence of the female applicant. The application shall be immediately filed with the circuit court clerk and shall include the names, ages and addresses of the parties applying; the names and addresses of the parents of the
parties applying, and if no parents, then names and addresses of
the guardian or next of kin; the signatures of witnesses; and any
other data that may be required by law or the * * * State Board of
Health. The application shall be sworn to by both applicants.

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

(c) An affidavit showing the age of both applying
parties shall be made by either the father, mother, guardian or
next of kin of each of the contracting parties and filed with the
clerk of the circuit court along with the application; or in lieu
thereof, * * * both applying parties shall appear in person before
the circuit court clerk and make and subscribe an oath in person,
which * * * affidavit shall be attached to and noted on the
application for the marriage license. In addition to either of
the previous conditions stated, further proof of age shall be
presented to the circuit court clerk in the form of either a birth
certificate, baptismal record, armed service discharge, armed
service identification card, life insurance policy, insurance
certificate, school record, driver's license, or other official
document evidencing age. The document substantiating age and date
of birth shall be examined by the circuit court clerk before whom
application is made, and the circuit court clerk shall retain in
his file with the application the document or a certified or
photostatic copy of the document.

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

(e) A medical certificate dated within thirty (30) days
before the application shall be presented to the circuit court
clerk showing that the applicant is free from syphilis, as nearly
as can be determined by a blood test performed in a laboratory
approved by the State Board of Health. The medical certificate
may be obtained through the local health department by the
applicant or applicants, or it may be obtained through any private
laboratory approved by the State Board of Health. The medical
certificate shall be examined by the circuit court clerk and filed
in a permanent file kept by the clerk for this purpose.

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

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

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

SECTION 25. Section 93-5-1, Mississippi Code of 1972, is
amended as follows:

93-5-1. Divorces from the bonds of matrimony may be decreed
to the injured party for any one or more of the following twelve
causes *

First. Natural impotency.
Second. Adultery, unless it should appear that it was
committed by collusion of the parties for the purpose of procuring
a divorce, or unless the parties cohabited after a knowledge by
complainant of the adultery.
Third. Being sentenced to any penitentiary, and not pardoned
before being sent there.
Fourth. Wilful, continued and obstinate desertion for the
space of one (1) year.
Fifth. Habitual drunkenness.
Sixth. Habitual and excessive use of opium, morphine or
other like drug.
Seventh. Habitual cruel and inhuman treatment.
Eighth. Mental illness or mental retardation at the time of marriage, if the party complaining did not know of that infirmity.

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

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

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

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

However, * * * transfer of a party with mental illness to his or her home for treatment or a trial visit on prescription or recommendation of a licensed physician, which treatment or trial visit proves unsuccessful after a bona fide effort by the complaining party to effect a cure, upon the reconfinement of the * * * party with mental illness in an institution for persons with mental illness, shall be regular treatment for mental illness and causes thereof, and the period of time so consumed in seeking to effect a cure or while on a trial visit home shall be added to the period of actual confinement in an institution for persons with mental illness in computing the required period of three (3) years confinement immediately preceding the beginning of the action. No divorce shall be granted because of mental illness until after a thorough examination of the person with mental illness by two (2) physicians who are recognized authorities on mental diseases. One of those physicians shall be either the superintendent of a state psychiatric hospital or institution or a veterans hospital for persons with mental illness in which the
patient is confined, or a member of the medical staff of that hospital or institution who has had the patient in charge. Before incurable mental illness can be successfully proven as a ground for divorce, it shall be necessary that both of those physicians make affidavit that the patient is a person with mental illness at the time of the examination, and both affidavits shall be made a part of the permanent record of the divorce proceedings and shall create the prima facie presumption of incurable mental illness, such as would justify a divorce based on that ground.

Service of process shall be made on the superintendent of the hospital or institution in which the defendant is a patient. If the patient is in an hospital or institution outside the state, process shall be served by publication, as in other cases of service by publication, together with the sending of a copy by registered mail to the superintendent of the hospital or institution. In addition, process shall be served upon the next blood relative and guardian, if any. If there is no legal guardian, the court shall appoint a guardian ad litem to represent the interest of the person with mental illness. The relative or guardian and superintendent of the hospital or institution shall be entitled to appear and be heard upon any and all issues. The status of the parties as to the support and maintenance of the person with mental illness shall not be altered in any way by the granting of the divorce.

However, in the discretion of the chancery court, and in those cases as the court may deem it necessary and proper, before any such decree is granted on the ground of incurable mental illness, the complainant, when ordered by the court, shall enter into bond, to be approved by the court, in such an amount as the court may think just and proper, conditioned for the care and keeping of the person with mental illness during the remainder of his or her natural life, unless the person with mental illness has a sufficient estate in his or her own right for that purpose.
SECTION 26. Section 93-5-13, Mississippi Code of 1972, is amended as follows:

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

SECTION 27. Section 93-5-15, Mississippi Code of 1972, is amended as follows:

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

SECTION 28. Section 93-7-3, Mississippi Code of 1972, is amended as follows:

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

(a) Incurable impotency.

(b) Adjudicated mental illness or incompetence of either or both parties. Action of a spouse who has been adjudicated mentally ill or incompetent may be brought by guardian, or in the absence of a guardian, by next friend, provided that the suit is brought within six (6) months after marriage.
(c) Failure to comply with the provisions of Sections 93-1-5 through 93-1-9 when any marriage affected by that failure has not been followed by cohabitation.

Or, in the absence of ratification:

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

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

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

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

**SECTION 29.** Section 93-13-123, Mississippi Code of 1972, is amended as follows:

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

**SECTION 30.** Section 93-13-121, Mississippi Code of 1972, is amended as follows:
93-13-121. In any case where a guardian has been appointed for an adult person by a court of competent jurisdiction of any state, and the adult thereafter, at the time of filing the petition provided for in this section, is a resident of this state and is incompetent to manage his or her estate, the chancery court of the county of the domicile of the adult shall have jurisdiction and authority to appoint a guardian for the incompetent adult upon the conditions * * * specified in this section; however, infirmities of old age shall not be considered elements of infirmities.

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

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

A guardian appointed under the provisions of this section shall be required to make and file annual accounts of his acts and doings as in case of guardians for * * * persons with mental illness.
SECTION 31. Section 93-13-131, Mississippi Code of 1972, is amended as follows:

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

SECTION 32. Section 97-3-13, Mississippi Code of 1972, is amended as follows:

97-3-13. Every person or officer who maliciously sends, or confines in a psychiatric hospital or institution or other place, any sane person as a person with mental illness, knowing the person to be sane, shall be guilty of a felony, and, on conviction, shall be punished by a fine of not more than Five Hundred Dollars ($500.00), or by imprisonment in the Penitentiary not more than one (1) year, or in the county jail not more than six (6) months.
SECTION 33. Section 97-9-25, Mississippi Code of 1972, is amended as follows:

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

SECTION 34. Section 99-13-1, Mississippi Code of 1972, is amended as follows:

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

SECTION 35. Section 99-13-3, Mississippi Code of 1972, is amended as follows:

99-13-3. When any prisoner or any person charged with a crime or delinquency is brought before any conservator of the peace, and in the course of the investigation it appears that the person was insane when the offense was committed and still is insane, or was a person with mental retardation to such an extent as not to be responsible for his or her act or omission at the time when the act or omission charged was made, he shall not be discharged, but the conservator of the peace shall remand the prisoner to custody and immediately report the case to the chancellor or clerk of the chancery court, whose duty it shall be
to proceed with the case according to the law provided for persons
of unsound mind or * * * persons with mental retardation.

SECTION 36. Section 99-13-5, Mississippi Code of 1972, is
amended as follows:

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

SECTION 37. Section 99-13-7, Mississippi Code of 1972, is
amended as follows:

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

SECTION 38. Section 99-13-9, Mississippi Code of 1972, is
amended as follows:
99-13-9. When any person is indicted for an offense and acquitted on the ground of mental retardation, the jury rendering the verdict shall state in the verdict that ground and whether the accused constitutes a danger to life or property and to the peace and safety of the community. If the jury certifies that the person with mental retardation is dangerous to the peace and safety of the community or to himself, the court shall immediately give notice of the case to the chancellor or the clerk of the chancery court, whose duty it shall be to proceed with the person according to the law provided in the case of * * * persons with mental retardation, the * * * person with mental retardation himself being remanded to custody to await the action of the chancery court.

SECTION 39. Section 99-19-57, Mississippi Code of 1972, is amended as follows:

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

(2) (a) If it is believed that an offender under sentence of death has become mentally ill since the judgment of the court, the following shall be the exclusive procedural and substantive procedure. The offender, or a person acting as his next friend,
or the Commissioner of Corrections may file an appropriate application seeking post-conviction relief with the Mississippi Supreme Court. If it is found that the offender is a person with mental illness, as defined in this subsection, the court shall suspend the execution of the sentence. The offender shall then be committed to the forensic unit of the Mississippi State Hospital at Whitfield. The order of commitment shall require that the offender be examined and a written report be furnished to the court at that time and every month thereafter, stating whether there is a substantial probability that the offender will become sane under this subsection within the foreseeable future and whether progress is being made toward that goal. If at any time during the commitment, the appropriate official at the state hospital * * * considers the offender to be sane under this subsection, the official shall promptly notify the court to that effect in writing and place the offender in the custody of the Commissioner of Corrections. The court then shall * * * conduct a hearing on the sanity of the offender. The finding of the circuit court is a final order appealable under the terms and conditions of the Mississippi Uniform Post-Conviction Collateral Relief Act.

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

SECTION 40. Section 99-38-9, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

SECTION 41. Section 99-39-23, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

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

(8) Proceedings under this section shall be subject to the
provisions of Section 99-19-42.
In cases resulting in a sentence of death and upon a determination of indigence, appointment of post-conviction counsel shall be made by the Office of Capital Post-Conviction Counsel upon order entered by the Supreme Court promptly upon announcement of the decision on direct appeal affirming the sentence of death. The order shall direct the trial court to immediately determine indigence and whether the inmate will accept counsel.

SECTION 42. Section 99-39-27, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

(6) The court, upon satisfaction of the standards set forth in this article, is empowered to grant the application.
(7) In granting the application the court, in its
discretion, may:

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

(b) Allow the filing of the motion in the trial court

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

(9) The dismissal or denial of an application under this
section is a final judgment and shall be a bar to a second or
successive application under this article. Excepted from this
prohibition is an application filed under Section 99-19-57(2),
raising the issue of the offender's supervening mental illness
before the execution of a sentence of death. A dismissal or
denial of an application relating to mental illness under Section
99-19-57(2) shall be res judicata on the issue and shall likewise
bar any second or successive applications on the issue. Likewise
excepted from this prohibition are those cases in which the
prisoner can demonstrate either that there has been an intervening
decision of the Supreme Court of either the State of Mississippi
or the United States that would have actually adversely affected
the outcome of his conviction or sentence or that he has evidence,
not reasonably discoverable at the time of trial, that is of such
nature that it would be practically conclusive that, if it
had been introduced at trial, it would have caused a
different result in the conviction or sentence. Likewise exempted
are those cases in which the prisoner claims that his sentence has
expired or his probation, parole or conditional release has been
unlawfully revoked.
(10) Proceedings under this section shall be subject to the provisions of Section 99-19-42.

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

SECTION 43. Section 41-19-103, Mississippi Code of 1972, is amended as follows:

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

SECTION 44. The following shall be codified as Section 41-19-108, Mississippi Code of 1972:

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

SECTION 45. The following shall be codified as Section 41-19-112, Mississippi Code of 1972:

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

SECTION 46. The following shall be codified as Section 41-19-114, Mississippi Code of 1972:
Persons admitted to Ellisville State School shall be assessed support and maintenance costs in accordance with the provisions of the state reimbursement laws as they apply to other state institutions.

**SECTION 47.** The following shall be codified as Section 41-19-116, Mississippi Code of 1972:

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

**SECTION 48.** The following shall be codified as Section 41-19-118, Mississippi Code of 1972:

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

**SECTION 49.** Section 41-19-121, Mississippi Code of 1972, is amended as follows:

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

and 41-45-19, Mississippi Code of 1972, which prohibit the
apprenticing of mental patients, provide certain criminal
penalties, provide certain visitation duties for directors of
mental hospitals, exempt resident mental hospital officers from
jury service, require a drug store to be kept at each mental
hospital, require separate accommodations at Whitfield for
alcoholic and drug addicts, provide for the plan of Ellisville
State School, require Ellisville's director to keep certain
records, authorize Ellisville's director to sell certain products
of the school, provide discharge procedures for Ellisville
patients, provide for habeas corpus proceedings for Ellisville
patients, authorize the receipt of gifts for the support of
Ellisville, require counties to temporarily provide for the
maintenance of indigent mentally retarded persons, prohibit
cohabitation with mentally retarded persons, and authorize the
sterilization of mentally ill and mentally retarded patients, are
repealed.

SECTION 51. This act shall take effect and be in force from
and after July 1, 2007.