

By: Representative Upshaw

To: Public Health and Human  
Services; Appropriations

## HOUSE BILL NO. 164

1 AN ACT TO AMEND SECTIONS 1-3-57, 1-3-58, 7-1-5, 11-5-49,  
 2 11-5-113, 11-5-117, 11-51-101, 19-5-43, 19-7-31, 23-15-11,  
 3 25-7-61, 29-1-101, 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,  
 6 97-3-13, 97-9-25, 99-13-1, 99-13-3, 99-13-5, 99-13-7, 99-13-9,  
 7 99-19-57, 99-38-9, 99-39-23 AND 99-39-27, MISSISSIPPI CODE OF  
 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  
 13 CREATE NEW SECTIONS 41-19-108, 41-19-112, 41-19-114, 41-19-116 AND  
 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,  
 18 41-19-117, 41-19-119, 41-21-43, 41-21-45 AND 41-45-1 THROUGH  
 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.



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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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



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

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

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



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

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

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

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



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

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

311 **[Effective until January 1, 2008, this section shall read as**  
312 **follows:]**

313 25-7-61. (1) Fees of jurors shall be payable as follows:

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

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

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

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



338 in which the prosecution fails, the fees of jurors shall be paid  
339 by the county treasurer on order of the board of supervisors on  
340 certificate of the county attorney in all counties that have  
341 county attorneys, otherwise by the justice court judge.

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

347 (a) The local public library;

348 (b) Local law enforcement;

349 (c) The Mississippi Burn Care Fund created in Section  
350 7-9-70; or

351 (d) Any other governmental agency.

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

354 25-7-61. (1) Fees of jurors shall be payable as follows:

355 (a) Grand jurors and petit jurors in the chancery,  
356 county, circuit and special eminent domain courts shall be paid an  
357 amount to be set by the board of supervisors, not to be less than  
358 Twenty-five Dollars (\$25.00) per day and not to be greater than  
359 Forty Dollars (\$40.00) per day, plus mileage authorized in Section  
360 25-3-41. In the trial of all cases where jurors are in charge of  
361 bailiffs and are not permitted to separate, the sheriff with the  
362 approval of the trial judge may pay for room and board of jurors  
363 on panel for actual time of trial.

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

369 (b) Jurors making inquisitions of mental retardation,  
370 mental illness or \* \* \* unsound mind and jurors on coroner's



371 inquest shall be paid Five Dollars (\$5.00) per day plus mileage  
372 authorized in Section 25-3-41 by the county treasurer on order of  
373 the board of supervisors on certificate of the clerk of the  
374 chancery court in which the inquisition is held.

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

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

- 388 (a) The local public library;  
389 (b) Local law enforcement;  
390 (c) The Mississippi Burn Care Fund created in Section  
391 7-9-70; or  
392 (d) Any other governmental agency.

393 (3) The Administrative Office of Courts shall promulgate  
394 rules to establish a Lengthy Trial Fund to be used to provide full  
395 or partial wage replacement or wage supplementation to jurors who  
396 serve as petit jurors in civil cases for more than ten (10) days.

397 (a) The court rules shall provide for the following:

398 (i) The selection and appointment of an  
399 administrator for the fund.

400 (ii) Procedures for the administration of the  
401 fund, including payments of salaries of the administrator and  
402 other necessary personnel.



403 (iii) Procedures for the accounting, auditing and  
404 investment of money in the Lengthy Trial Fund.

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

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

414 (c) To the extent funds are available in the Lengthy  
415 Trial Fund, and in accordance with any rules or regulations  
416 promulgated by the Administrative Office of Courts, the court may  
417 pay replacement or supplemental wages out of the Lengthy Trial  
418 Fund not to exceed Three Hundred Dollars (\$300.00) per day per  
419 juror beginning on the eleventh day of jury service. In addition,  
420 for any jurors who qualify for payment by virtue of having served  
421 on a jury for more than ten (10) days, the court, upon finding  
422 that the service posed a significant financial hardship to a  
423 juror, even in light of payments made with respect to jury service  
424 after the tenth day, may award replacement or supplemental wages  
425 out of the Lengthy Trial Fund not to exceed One Hundred Dollars  
426 (\$100.00) per day from the fourth to the tenth day of jury  
427 service.

428 (d) Any juror who is serving or has served on a jury  
429 that qualifies for payment from the Lengthy Trial Fund, provided  
430 the service began on or after January 1, 2008, may submit a  
431 request for payment from the Lengthy Trial Fund on a form that the  
432 administrator provides. Payment shall be limited to the  
433 difference between the jury fee specified in subsection (1) of  
434 this section and the actual amount of wages a juror earns, up to



435 the maximum level payable, minus any amount the juror actually  
436 receives from the employer during the same time period.

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

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

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

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

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

458 29-1-101. The Secretary of State, for and on behalf of the  
459 state, may convey an easement or easements for the construction  
460 and maintenance of pipe lines in, on, under, and across all of the  
461 state land owned (including that submerged or wherever the tide  
462 may ebb and flow) now or hereafter acquired, excepting, however,  
463 state highway rights of way, sixteenth section school land, lieu  
464 lands, and \* \* \* forfeited tax land and property the title to  
465 which is subject to any lawful redemption, and excepting the state  
466 land comprising the old asylum property located in the City of  
467 Jackson, \* \* \* property of the Department of Mental Health, the



468 Parchman Penitentiary property located in Sunflower County,  
469 Mississippi, and all other Penitentiary property, to any person,  
470 firm, or corporation constructing or operating a refinery for the  
471 refining of oil, gas, or petroleum products in the state, or to  
472 any person, firm, or corporation transporting by pipe line any  
473 substance to or from any such refinery in this state, for such  
474 consideration as the Secretary of State deems just and proper,  
475 which shall be subject to approval by the Secretary of State, the  
476 Governor, and the Attorney General of the state, for easements in,  
477 on, under, and across the state-owned land.

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

480 35-5-31. (1) Whenever, in any proceeding under the laws of  
481 this state for the commitment of a person alleged to be a person  
482 with mental illness, person with mental retardation, or otherwise  
483 of unsound mind, or otherwise in need of confinement in a hospital  
484 or other institution for his proper care, it is determined after  
485 the adjudication of the status of the person as may be required by  
486 law that commitment to a state psychiatric hospital or institution  
487 or other institution is necessary for safe-keeping or treatment,  
488 and it appears that the person is eligible for care or treatment  
489 by the Veterans Administration or other agency of the United  
490 States government, the court, upon receipt of a certificate from  
491 the Veterans Administration or such other agency showing that  
492 facilities are available and that the person is eligible for care  
493 or treatment in those facilities, may commit the person to the  
494 Veterans Administration or other agency. The person whose  
495 commitment is sought shall be personally served with notice of the  
496 pending commitment proceeding in the manner provided by the law of  
497 this state; and nothing in this section shall affect his right to  
498 appear and be heard in the proceedings. Upon commitment, the  
499 person, when admitted to any facility operated by the Veterans  
500 Administration or other agency within or without this state shall



501 be subject to the rules and regulations of the Veterans  
502 Administration or other agency. The chief officer of any facility  
503 of the Veterans Administration or institution operated by any  
504 other agency of the United States to which the person is so  
505 committed shall, with respect to the person, be vested with the  
506 same powers as superintendents of state psychiatric hospitals or  
507 institutions within this state with respect to retention of  
508 custody, transfer, parole or discharge. Jurisdiction is retained  
509 in the committing or other appropriate court of this state at any  
510 time to inquire into the mental condition of the person so  
511 committed, and to determine the necessity for continuance of his  
512 restraint, and all commitments under this section are so  
513 conditioned.

514 (2) The judgment or order of commitment by a court of  
515 competent jurisdiction of another state or of the District of  
516 Columbia, committing a person to the Veterans Administration or  
517 other agency of the United States government for care or  
518 treatment, shall have the same force and effect as to the  
519 committed person while in this state as in the jurisdiction in  
520 which is situated the court entering the judgment or making the  
521 order, and the courts of the committing state or of the District  
522 of Columbia shall be deemed to have retained jurisdiction of the  
523 person so committed for the purpose of inquiring into the mental  
524 condition of the person and of determining the necessity for  
525 continuance of his restraint, as is provided in subsection (1) of  
526 this section with respect to persons committed by the courts of  
527 this state. Consent is \* \* \* given to the application of the law  
528 of the committing state or District of Columbia in respect to the  
529 authority of the chief officer of any facility of the Veterans  
530 Administration or of any institution operated in this state by any  
531 other agency of the United States to retain custody, or transfer,  
532 parole or discharge the committed person.



533 (3) Upon receipt of a certificate of the Veterans  
534 Administration or such other agency of the United States that  
535 facilities are available for the care or treatment of any  
536 person \* \* \* committed to a state psychiatric hospital or \* \* \*  
537 institution \* \* \* or for the care or treatment of persons  
538 similarly afflicted, and that the person is eligible for care or  
539 treatment, the superintendent of the state psychiatric hospital  
540 or institution may cause the transfer of the person to the  
541 Veterans Administration or other agency of the United States for  
542 care or treatment. Upon effecting any such transfer, the  
543 committing court or proper officer of the court shall be notified  
544 of the transfer by the transferring agency. No person shall be  
545 transferred to the Veterans Administration or other agency of the  
546 United States if he is confined because of conviction of any  
547 felony or misdemeanor or if he has been acquitted of the charge  
548 solely on the ground of insanity, unless before transfer, the  
549 court or other authority originally committing the person \* \* \*  
550 enters an order for the transfer after appropriate motion and  
551 hearing.

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

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

557 41-17-3. The state psychiatric hospital and institution  
558 established at Meridian by the Act of March 8, 1882, shall  
559 continue to exist as a body politic and corporate, under the name  
560 of the "East Mississippi State Hospital," with all the privileges  
561 conferred and the duties enjoined by law. It may hold and use, as  
562 required by law, all the property, real and personal, belonging to  
563 or that may be given to it for the purposes of its establishment.

564 **SECTION 15.** Section 41-17-11, Mississippi Code of 1972, is  
565 amended as follows:



566           41-17-11. The directors of the state institutions listed in  
567 Section 41-7-73 each may receive any monies that the United States  
568 government may offer as federal aid in taking care of and giving  
569 special attention to those persons who served with the Armed  
570 Forces of the United States during time of war \* \* \* and who are  
571 now in or may hereafter be in any of those state institutions.  
572 Each of those directors may expend that part of the money paid to  
573 him or his institution, according to his best judgment and the  
574 requirements of the United States government under which the money  
575 is received.

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

578           41-21-35. The rule as to the legal settlement of paupers  
579 shall apply in cases of persons with mental illness and \* \* \*  
580 persons with mental retardation.

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

583           43-31-35. If any person commanding a ship, vessel,  
584 steamboat, or other watercraft imports into this state, or brings  
585 to the shores or within the limits thereof, any infant, person  
586 with mental illness, maimed, aged or infirm person or vagrant who  
587 is likely to become chargeable on the county, on the requisition  
588 of the supervisor of the district or the mayor of any  
589 municipality, the captain, master, or commander of the ship,  
590 vessel, steamboat, or other watercraft shall enter into bond with  
591 sufficient sureties, payable to the county, conditioned to  
592 indemnify the county against all charges that may be incurred in  
593 the support and care of that person. Any captain, master, or  
594 commander failing or refusing to give the bond required shall  
595 forfeit and pay to the county the sum of Two Hundred Dollars  
596 (\$200.00) for each infant, person with mental illness, maimed,  
597 aged, or infirm person or vagrant so brought into the state, to be  
598 recovered by action.



599           **SECTION 18.** Section 67-1-83, Mississippi Code of 1972, is  
600 amended as follows:

601           67-1-83. (1) It shall be unlawful for any permittee or  
602 other person to sell or furnish any alcoholic beverage \* \* \* to  
603 any person who is visibly intoxicated, or to any person who is  
604 known to habitually drink alcoholic beverages to excess, or to any  
605 person who is known to be an habitual user of narcotics or other  
606 habit-forming drugs. It shall also be unlawful for the holder of  
607 any package retailer's permit to sell any alcoholic beverages  
608 except by delivery in person to the purchaser at the place of  
609 business of the permittee.

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

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

627           (4) Any person who \* \* \* violates any of the provisions of  
628 this section shall be guilty of a misdemeanor and, upon  
629 conviction, shall be punished by a fine of not more than Five  
630 Hundred Dollars (\$500.00) or by imprisonment in the county jail  
631 for a term of not more than six (6) months or by both that fine



632 and imprisonment, in the discretion of the court. In addition,  
633 the commission shall immediately revoke the permit of any  
634 permittee who violates the provisions of this section.

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

637 67-3-53. In addition to any act declared to be unlawful by  
638 this chapter, or by Sections 27-71-301 through 27-71-347, and  
639 Sections 67-3-17, 67-3-27, 67-3-29 and 67-3-57, it shall be  
640 unlawful for the holder of a permit authorizing the sale of beer  
641 or light wine at retail or for the employee of the holder of such  
642 a permit:

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

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

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

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



665 (e) To permit persons of ill repute, known criminals,  
666 prostitutes or minors to frequent the licensed premises, except  
667 minors accompanied by parents or guardians, or under proper  
668 supervision.

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

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

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

678 73-19-23. (1) The board shall refuse to grant a certificate  
679 of licensure to any applicant and may cancel, revoke or suspend  
680 the operation of any certificate by it granted for any or all of  
681 the following reasons \* \* \*: unprofessional and unethical conduct  
682 or the conviction of a crime involving moral turpitude, habitual  
683 intemperance in the use of ardent spirits, or stimulants,  
684 narcotics, or any other substance that impairs the intellect and  
685 judgment to such an extent as to incapacitate one for the  
686 performance of the duties of an optometrist. The certificate of  
687 licensure of any person can be revoked for violating any section  
688 of this chapter.

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

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

696 (b) Cheating on or attempting to subvert the optometric  
697 licensing examination(s).



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

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

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

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

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

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

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

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

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

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

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

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

728           (o) Obtaining any fee by fraud, deceit or  
729 misrepresentation.



730           (p) Disciplinary action of another state or  
731 jurisdiction against a licensee or other authorization to practice  
732 optometry based upon acts or conduct by the licensee similar to  
733 acts or conduct that would constitute grounds for action as  
734 defined in this chapter, a certified copy of the record of the  
735 action taken by the other state or jurisdiction being conclusive  
736 evidence thereof.

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

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

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

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

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

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

753           (3) Any person who is holder of a certificate of licensure  
754 or who is an applicant for examination for a certificate of  
755 licensure, against whom is preferred any charges, shall be  
756 furnished by the board with a copy of the complaint and shall have  
757 a hearing in Jackson, Mississippi, before the board, at which  
758 hearing he may be represented by counsel. At the hearing,  
759 witnesses may be examined for and against the accused respecting  
760 those charges, and the hearing orders or appeals will be conducted  
761 according to the procedure now provided in Section 73-25-27. The  
762 suspension of a certificate of licensure by reason of the use of



763 stimulants or narcotics may be removed when the holder of the  
764 certificate has been adjudged by the \* \* \* board to be cured and  
765 capable of practicing optometry.

766 (4) In addition to the reasons specified in subsections (1)  
767 and (2) of this section, the board shall be authorized to suspend  
768 the license of any licensee for being out of compliance with an  
769 order for support, as defined in Section 93-11-153. The procedure  
770 for suspension of a license for being out of compliance with an  
771 order for support, and the procedure for the reissuance or  
772 reinstatement of a license suspended for that purpose, and the  
773 payment of any fees for the reissuance or reinstatement of a  
774 license suspended for that purpose, shall be governed by Section  
775 93-11-157 or 93-11-163, as the case may be. If there is any  
776 conflict between any provision of Section 93-11-157 or 93-11-163  
777 and any provision of this chapter, the provisions of Section  
778 93-11-157 or 93-11-163, as the case may be, shall control.

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

781 81-5-33. Banks may accept and execute all such trusts and  
782 perform such duties of every description as may be committed to  
783 them by any person or corporation or that may be committed or  
784 transferred to them by order of any court of record. They may  
785 receive money in trust, take and accept by grant, assignment,  
786 transfer, devise or bequest, and hold any real or personal estate  
787 or trusts created according to the laws of this or any other state  
788 or of the United States, and execute those legal trusts in regard  
789 to the same, on such terms as may be directed or agreed  
790 upon \* \* \*. They may act as agent for the investment of money or  
791 the management of property for other persons, and as agent for  
792 persons and corporations for the purpose of issuing, registering,  
793 transferring or countersigning the certificates of stock, bonds or  
794 other evidences of debt of any corporation, association,  
795 municipality, state, county or public authority on such terms as



796 may be agreed upon. They also may act as guardian for any minor  
797 or \* \* \* person with mental illness under the appointment of any  
798 court of record having jurisdiction of the person or estate of  
799 the minor or \* \* \* person with mental illness and may act as  
800 administrator or executor of the estate of any deceased person.  
801 They may act as agent or attorney in fact and as commissioner for  
802 the sale of property, both real and personal, and may act as  
803 assignee or receiver, or as trustee in mortgages or bond issues,  
804 or in any other fiduciary capacity authorized by law. They may  
805 accept trust funds or other property upon specially agreed terms  
806 and pay or deliver the same to the owners, beneficiaries or  
807 others, as the case may be, when and as the same should be paid or  
808 delivered according to the terms of the trust agreement under  
809 which it is held. Whenever under the laws of this or any other  
810 state or under the rule or order of any court, the execution of a  
811 bond for the protection of a private or court trust is required, a  
812 trust company shall be authorized to execute the bond for the  
813 protection of any trust or trust estate being administered by it.

814 Banking corporations created, organized and doing business  
815 under the laws of the State of Mississippi may exercise, without  
816 amendment of their charters, and under their charter authority to  
817 engage in the general business of banking, all or any of the  
818 foregoing powers. However, before any bank whose charter merely  
819 authorizes the exercise of general banking functions may exercise  
820 those powers, the previous written consent of the Commissioner of  
821 Banking and Consumer Finance shall be obtained.

822 Banks exercising any or all of those powers shall segregate  
823 all assets held in any fiduciary capacity from the general assets  
824 of the bank and shall keep a separate set of books and records  
825 showing in proper detail all transactions engaged in under the  
826 authority of this section or under the authority \* \* \* granted to  
827 them in their charter or otherwise. Those books and records shall



828 be inspected and examined by the state bank examiners at each and  
829 every examination of the bank.

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

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

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

851 In making investments of trust funds, it shall be unlawful  
852 for any bank to purchase securities from itself or to purchase  
853 securities in which it may be interested, directly or indirectly.  
854 However, any bank, including a national bank, authorized to do  
855 business in this state in a fiduciary capacity may, unless  
856 prohibited or otherwise limited by the instrument governing the  
857 fiduciary relationship, in the exercise of its investment  
858 discretion or at the direction of another person authorized to  
859 direct the investment of funds held by the bank as fiduciary,  
860 invest and reinvest in the securities of, or other interests in,



861 any open-end or closed-end management type investment company or  
862 investment trust registered under the Investment Company Act of  
863 1940, 15 USCS Section 80a-1, et seq., as amended, notwithstanding  
864 that the banking institution or affiliate of the banking  
865 institution provides services to the investment company or  
866 investment trust, such as that of an investment advisor,  
867 custodian, transfer agent, registrar, sponsor, distributor,  
868 manager or otherwise, and receives reasonable remuneration for  
869 those services, so long as the total compensation paid by the  
870 trust or custodial estate as trustee's fees and mutual fund fees  
871 is reasonable, taking into account the nature and extent of the  
872 trustee's duties, the nature and extent of the services provided  
873 to the investment company or investment trust, and the total  
874 compensation, costs and fees that would otherwise be paid,  
875 directly or indirectly, by the trust or custodial estate if the  
876 investment were made in an investment company or investment trust  
877 for which the bank or its affiliates provided no services. With  
878 respect to any funds so invested, the banking institution shall  
879 make available by statement, prospectus or otherwise to all  
880 current income beneficiaries of an account the basis, expressed as  
881 a percentage of asset value or otherwise, upon which the  
882 remuneration is calculated. No bank shall lend to any officer,  
883 director or employee of the bank any funds held in trust by it,  
884 and any officer, director or employee making a loan, or to whom  
885 such a loan is made, shall be guilty of a felony and, upon  
886 conviction, may be fined not more than Five Thousand Dollars  
887 (\$5,000.00) or imprisoned in the State Penitentiary for not more  
888 than five (5) years, or by both that fine and imprisonment, in the  
889 discretion of the court.

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

892 81-27-6.307. (a) A limited liability trust company  
893 organized under this article is dissolved on:



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

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

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

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

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

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

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

923 89-1-29. A conveyance, mortgage, deed of trust or other  
924 incumbrance upon a homestead exempted from execution shall not be  
925 valid or binding unless signed by the spouse of the owner if the  
926 owner is married and living with the spouse. But where the spouse



927 of the owner of the homestead exempted from execution has been  
928 adjudicated incompetent, then the owner of the homestead, may file  
929 a petition in the chancery court and allege in the petition the  
930 incompetence of the spouse and the adjudication of incompetency of  
931 the spouse \* \* \* and the facts of the case. The summons for the  
932 spouse who has been adjudicated incompetent shall be issued and be  
933 served in the same manner as process is served in other cases on  
934 \* \* \* persons who are incompetent. The court shall hear the case  
935 in vacation or in termtime as in other cases, and if the court  
936 finds the spouse to be incompetent and the owner entitled to  
937 relief, the court by decree shall authorize and empower the owner  
938 to execute a conveyance, mortgage, deed of trust or other  
939 incumbrance upon the homestead without the signature of the  
940 spouse. However, no mortgage or deed of trust executed in favor  
941 of the Farmers Home Administration at the time of the purchase of  
942 real estate to secure the payment of the money used to purchase  
943 the real estate shall be invalid because it is not signed by the  
944 spouse of the owner.

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

947 93-1-5. It shall be unlawful for the circuit court clerk to  
948 issue a marriage license until the following conditions precedent  
949 have been complied with:

950 (a) Parties desiring a marriage license shall make  
951 application for the license in writing to the clerk of the circuit  
952 court of any county in the State of Mississippi; \* \* \*  
953 however, \* \* \* if the female applicant is under the age of  
954 twenty-one (21) years and is a resident of the State of  
955 Mississippi, the application shall be made to the circuit court  
956 clerk of the county of residence of the female applicant. The  
957 application shall be immediately filed with the circuit court  
958 clerk and shall include the names, ages and addresses of the  
959 parties applying; the names and addresses of the parents of the



960 parties applying, and if no parents, then names and addresses of  
961 the guardian or next of kin; the signatures of witnesses; and any  
962 other data that may be required by law or the \* \* \* State Board of  
963 Health. The application shall be sworn to by both applicants.

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

984 (c) An affidavit showing the age of both applying  
985 parties shall be made by either the father, mother, guardian or  
986 next of kin of each of the contracting parties and filed with the  
987 clerk of the circuit court along with the application; or in lieu  
988 thereof, \* \* \* both applying parties shall appear in person before  
989 the circuit court clerk and make and subscribe an oath in person,  
990 which \* \* \* affidavit shall be attached to and noted on the  
991 application for the marriage license. In addition to either of  
992 the previous conditions stated, further proof of age shall be



993 presented to the circuit court clerk in the form of either a birth  
994 certificate, baptismal record, armed service discharge, armed  
995 service identification card, life insurance policy, insurance  
996 certificate, school record, driver's license, or other official  
997 document evidencing age. The document substantiating age and date  
998 of birth shall be examined by the circuit court clerk before whom  
999 application is made, and the circuit court clerk shall retain in  
1000 his file with the application the document or a certified or  
1001 photostatic copy of the document.

1002 (d) The clerk shall not issue a marriage license under  
1003 the provisions of this section unless the male applicant is at  
1004 least seventeen (17) years of age and the female is at least  
1005 fifteen (15) years of age; \* \* \* however, \* \* \* if satisfactory  
1006 proof is furnished to the judge of any circuit, chancery or county  
1007 court that sufficient reasons exist and that the parties desire to  
1008 be married to each other and that the parents or other person in  
1009 loco parentis of the person or persons so under age consent to the  
1010 marriage, then the judge of any such court in the county where  
1011 either of the parties resides may waive the minimum age  
1012 requirement and by written instrument authorize the clerk of the  
1013 court to issue the marriage license to the parties if they are  
1014 otherwise qualified by law. Authorization shall be a part of the  
1015 confidential files of the clerk of the court, subject to  
1016 inspection only by written permission of the judge.

1017 (e) A medical certificate dated within thirty (30) days  
1018 before the application shall be presented to the circuit court  
1019 clerk showing that the applicant is free from syphilis, as nearly  
1020 as can be determined by a blood test performed in a laboratory  
1021 approved by the State Board of Health. The medical certificate  
1022 may be obtained through the local health department by the  
1023 applicant or applicants, or it may be obtained through any private  
1024 laboratory approved by the State Board of Health. The medical



1025 certificate shall be examined by the circuit court clerk and filed  
1026 in a permanent file kept by the clerk for this purpose.

1027 (f) In no event shall a license be issued by the  
1028 circuit court clerk when it appears to the circuit court clerk  
1029 that the applicants are, or either of them is, drunk or a person  
1030 with mental illness or mental retardation, to the extent that the  
1031 clerk believes that the person does not understand the nature and  
1032 consequences of the request.

1033 Any circuit clerk shall be liable under his official bond  
1034 because of noncompliance with the provisions of this section.

1035 Any circuit court clerk who issues a marriage license without  
1036 complying with the provisions of this section shall be guilty of a  
1037 misdemeanor and, upon conviction, shall be punished by a fine of  
1038 not less than Fifty Dollars (\$50.00) and not more than Five  
1039 Hundred Dollars (\$500.00).

1040 **SECTION 25.** Section 93-5-1, Mississippi Code of 1972, is  
1041 amended as follows:

1042 93-5-1. Divorces from the bonds of matrimony may be decreed  
1043 to the injured party for any one or more of the following twelve  
1044 (12) causes \* \* \*:

1045 First. Natural impotency.

1046 Second. Adultery, unless it should appear that it was  
1047 committed by collusion of the parties for the purpose of procuring  
1048 a divorce, or unless the parties cohabited after a knowledge by  
1049 complainant of the adultery.

1050 Third. Being sentenced to any penitentiary, and not pardoned  
1051 before being sent there.

1052 Fourth. Wilful, continued and obstinate desertion for the  
1053 space of one (1) year.

1054 Fifth. Habitual drunkenness.

1055 Sixth. Habitual and excessive use of opium, morphine or  
1056 other like drug.

1057 Seventh. Habitual cruel and inhuman treatment.



1058 Eighth. Mental illness or mental retardation at the time of  
1059 marriage, if the party complaining did not know of that infirmity.

1060 Ninth. Marriage to some other person at the time of the  
1061 pretended marriage between the parties.

1062 Tenth. Pregnancy of the wife by another person at the time  
1063 of the marriage, if the husband did not know of the pregnancy.

1064 Eleventh. Either party may have a divorce if they are  
1065 related to each other within the degrees of kindred between whom  
1066 marriage is prohibited by law.

1067 Twelfth. Incurable mental illness. However, no divorce  
1068 shall be granted upon this ground unless the \* \* \* party with  
1069 mental illness has been under regular treatment for mental illness  
1070 and causes thereof, confined in an institution for persons with  
1071 mental illness for a period of at least three (3) years

1072 immediately preceding the commencement of the action. \* \* \*

1073 However, \* \* \* transfer of a party with mental illness to his or  
1074 her home for treatment or a trial visit on prescription or  
1075 recommendation of a licensed physician, which treatment or trial  
1076 visit proves unsuccessful after a bona fide effort by the  
1077 complaining party to effect a cure, upon the reconfinement of  
1078 the \* \* \* party with mental illness in an institution for persons  
1079 with mental illness, shall be regular treatment for mental illness  
1080 and causes thereof, and the period of time so consumed in seeking  
1081 to effect a cure or while on a trial visit home shall be added to  
1082 the period of actual confinement in an institution for persons  
1083 with mental illness in computing the required period of three (3)  
1084 years confinement immediately preceding the beginning of the  
1085 action. No divorce shall be granted because of mental illness  
1086 until after a thorough examination of the person with mental  
1087 illness by two (2) physicians who are recognized authorities on  
1088 mental diseases. One of those physicians shall be either the  
1089 superintendent of a state psychiatric hospital or institution or a  
1090 veterans hospital for persons with mental illness in which the



1091 patient is confined, or a member of the medical staff of that  
1092 hospital or institution who has had the patient in charge. Before  
1093 incurable mental illness can be successfully proven as a ground  
1094 for divorce, it shall be necessary that both of those physicians  
1095 make affidavit that the patient is a \* \* \* person with mental  
1096 illness at the time of the examination, and both affidavits shall  
1097 be made a part of the permanent record of the divorce proceedings  
1098 and shall create the prima facie presumption of incurable mental  
1099 illness, such as would justify a divorce based on that ground.  
1100 Service of process shall be made on the superintendent of the  
1101 hospital or institution in which the defendant is a patient. If  
1102 the patient is in an hospital or institution outside the state,  
1103 process shall be served by publication, as in other cases of  
1104 service by publication, together with the sending of a copy by  
1105 registered mail to the superintendent of the hospital or  
1106 institution. In addition \* \* \*, process shall be served upon the  
1107 next blood relative and guardian, if any. If there is no legal  
1108 guardian, the court shall appoint a guardian ad litem to represent  
1109 the interest of the \* \* \* person with mental illness. The  
1110 relative or guardian and superintendent of the hospital or  
1111 institution shall be entitled to appear and be heard upon any and  
1112 all issues. The status of the parties as to the support and  
1113 maintenance of the \* \* \* person with mental illness shall not be  
1114 altered in any way by the granting of the divorce.

1115         However, in the discretion of the chancery court, and in  
1116 those cases as the court may deem it necessary and proper, before  
1117 any such decree is granted on the ground of incurable mental  
1118 illness, the complainant, when ordered by the court, shall enter  
1119 into bond, to be approved by the court, in such an amount as the  
1120 court may think just and proper, conditioned for the care and  
1121 keeping of the person with mental illness during the remainder of  
1122 his or her natural life, unless the person with mental illness has  
1123 a sufficient estate in his or her own right for that purpose.



1124           **SECTION 26.** Section 93-5-13, Mississippi Code of 1972, is  
1125 amended as follows:

1126           93-5-13. If the defendant is an infant or a person with  
1127 mental illness, the court may appoint a guardian ad litem for the  
1128 defendant.

1129           **SECTION 27.** Section 93-5-15, Mississippi Code of 1972, is  
1130 amended as follows:

1131           93-5-15. From and after March 15, 1934, any marital contract  
1132 previously or hereafter solemnized by and under which parties have  
1133 been duly and legally married, and one (1) of the parties to the  
1134 marriage contract has \* \* \* become or becomes mentally ill to such  
1135 an extent that it is necessary for a guardian to be appointed for  
1136 that party, and the other party to the marital contract has  
1137 committed any act that constitutes ground for divorce under the  
1138 present laws, the guardian for the party with mental illness to  
1139 the contract of marriage shall have the right to file a bill as  
1140 the guardian, in the name of his ward, for the dissolution of the  
1141 marriage, in the same way and manner and at the same place and on  
1142 the same process that the person with mental illness could have  
1143 done, if he had \* \* \* not become mentally ill.

1144           **SECTION 28.** Section 93-7-3, Mississippi Code of 1972, is  
1145 amended as follows:

1146           93-7-3. A marriage may be annulled for any one (1) of the  
1147 following causes existing at the time of the marriage  
1148 ceremony \* \* \*:

1149           (a) Incurable impotency.

1150           (b) Adjudicated mental illness or incompetence of  
1151 either or both parties. Action of a spouse who has been  
1152 adjudicated mentally ill or incompetent may be brought by  
1153 guardian, or in the absence of a guardian, by next friend,  
1154 provided that the suit is brought within six (6) months after  
1155 marriage.



1156 (c) Failure to comply with the provisions of Sections  
1157 93-1-5 through 93-1-9 when any marriage affected by that failure  
1158 has not been followed by cohabitation.

1159 Or, in the absence of ratification:

1160 (d) When either of the parties to a marriage is  
1161 incapable, from want of age or understanding, of consenting to any  
1162 marriage, or is incapable from physical causes of entering into  
1163 the marriage state, or where the consent of either party has been  
1164 obtained by force or fraud, the marriage shall be void from the  
1165 time its nullity is declared by a court of competent jurisdiction.

1166 (e) Pregnancy of the wife by another person, if the  
1167 husband did not know of the pregnancy.

1168 Suits for annulment under paragraphs (d) and (e) shall be  
1169 brought within six (6) months after the ground for annulment is or  
1170 should be discovered, and not thereafter.

1171 The causes for annulment of marriage set forth in this  
1172 section are intended to be new remedies and shall in no way affect  
1173 the causes for divorce declared elsewhere to be the law of the  
1174 State of Mississippi as they presently exist or as they may from  
1175 time to time be amended.

1176 **SECTION 29.** Section 93-13-123, Mississippi Code of 1972, is  
1177 amended as follows:

1178 93-13-123. The chancery court of any county in which may be  
1179 situated the property or any part of the property, or debt due to,  
1180 or right of action of any person who has been adjudicated to be  
1181 incompetent by proper proceedings in another state, or of a  
1182 citizen of this state \* \* \* who is incompetent and is confined out  
1183 of this state in a psychiatric hospital or institution, shall have  
1184 jurisdiction to appoint a guardian of the estate of the person  
1185 who is incompetent. The chancery court of the county of residence  
1186 of those persons shall likewise have that jurisdiction.

1187 **SECTION 30.** Section 93-13-121, Mississippi Code of 1972, is  
1188 amended as follows:



1189           93-13-121. In any case where a guardian has been appointed  
1190 for an adult person by a court of competent jurisdiction of any  
1191 state, and the adult thereafter, at the time of filing the  
1192 petition provided for in this section, is a resident of this state  
1193 and is incompetent to manage his or her estate, the chancery court  
1194 of the county of the domicile of the adult shall have jurisdiction  
1195 and authority to appoint a guardian for the incompetent adult upon  
1196 the conditions \* \* \* specified in this section; however,  
1197 infirmities of old age shall not be considered elements of  
1198 infirmities.

1199           The petition for the appointment of a guardian under the  
1200 provisions of this section shall be filed by the incompetent  
1201 person or his guardian in the office of the clerk of the chancery  
1202 court in the county of the residence of the incompetent person and  
1203 process shall be served as provided in Section 93-13-281, unless  
1204 joined in by that person or those persons \* \* \* prescribed in that  
1205 section.

1206           Upon the return day of the process, the chancellor, if in  
1207 vacation, or the court, if in termtime, shall cause the applicant  
1208 to appear in person and then and there examine the applicant and  
1209 all interested parties, and if, after the examination, the  
1210 chancellor in vacation or the court in termtime is of the opinion  
1211 that the applicant is incompetent to manage his or her estate,  
1212 then it shall be the duty of the court to appoint a guardian of  
1213 the estate of the applicant; \* \* \* however, \* \* \* in no instance  
1214 shall the court have authority to appoint a guardian under the  
1215 provisions of this section unless it \* \* \* examines the applicant  
1216 in person and finds after the examination that the applicant is  
1217 incompetent to manage his or her estate.

1218           A guardian appointed under the provisions of this section  
1219 shall be required to make and file annual accounts of his acts and  
1220 doings as in case of guardians for \* \* \* persons with mental  
1221 illness.



1222           **SECTION 31.** Section 93-13-131, Mississippi Code of 1972, is  
1223 amended as follows:

1224           93-13-131. The chancery court of the county in which an  
1225 habitual drunkard, habitual user of cocaine, opium or morphine  
1226 resides may appoint a guardian to him on the application of a  
1227 relative or friend. When an application for appointment of a  
1228 guardian is presented, if the court is satisfied there is probable  
1229 grounds for the appointment, it shall direct a writ to the  
1230 sheriff, commanding him to summon the person alleged to be an  
1231 habitual drunkard, habitual user of cocaine, or opium or morphine.  
1232 On return of the summons executed, the court shall examine the  
1233 question and determine whether the person is an habitual drunkard,  
1234 habitual user of cocaine, opium or morphine, and for that purpose  
1235 may summon and hear witnesses, orally or by deposition, and hear  
1236 the parties and their evidence. If the court is satisfied that  
1237 the person is an habitual drunkard, habitual user of cocaine,  
1238 opium or morphine, it shall appoint a guardian to take care of him  
1239 and his estate, both real and personal, and the costs of the  
1240 inquisition shall be paid out of the estate. And the court or  
1241 chancellor may direct the confinement of any person adjudged to be  
1242 an habitual drunkard, habitual user of cocaine, or opium or  
1243 morphine, in a facility that treats alcohol or substance abuse.

1244           **SECTION 32.** Section 97-3-13, Mississippi Code of 1972, is  
1245 amended as follows:

1246           97-3-13. Every person or officer who \* \* \* maliciously sends  
1247 to or confines in a psychiatric hospital or institution or other  
1248 place, any sane person as a person with mental illness, knowing  
1249 the person to be sane, shall be guilty of a felony, and, on  
1250 conviction, shall be punished by a fine of not more than Five  
1251 Hundred Dollars (\$500.00), or by imprisonment in the Penitentiary  
1252 not more than one (1) year, or in the county jail not more than  
1253 six (6) months.



1254           **SECTION 33.** Section 97-9-25, Mississippi Code of 1972, is  
1255 amended as follows:

1256           97-9-25. It shall be unlawful for any person, firm,  
1257 copartnership, corporation or association to knowingly entice,  
1258 harbor, employ, or aid, assist or abet in the escape, enticing,  
1259 harboring or employment of any delinquent, person with mental  
1260 illness, person with mental retardation or incorrigible person  
1261 committed to, or confined in any institution maintained by the  
1262 state for the treatment, education or welfare of delinquent  
1263 persons, persons with mental illness, persons with mental  
1264 retardation or incorrigible \* \* \* persons. Any person violating  
1265 the provisions of this section, upon conviction, shall be punished  
1266 by a fine of not less than Twenty-five Dollars (\$25.00) nor more  
1267 than Five Hundred Dollars (\$500.00), or imprisonment in the county  
1268 jail for not less than thirty (30) days, nor more than ninety (90)  
1269 days, or both.

1270           **SECTION 34.** Section 99-13-1, Mississippi Code of 1972, is  
1271 amended as follows:

1272           99-13-1. The term "person with mental retardation," within  
1273 the meaning of this chapter, shall have the same meaning as the  
1274 term "mentally retarded person" in Section 41-21-61.

1275           **SECTION 35.** Section 99-13-3, Mississippi Code of 1972, is  
1276 amended as follows:

1277           99-13-3. When any prisoner or any person charged with a  
1278 crime or delinquency is brought before any conservator of the  
1279 peace, and in the course of the investigation it \* \* \* appears  
1280 that the person was insane when the offense was committed and  
1281 still is insane, or was a person with mental retardation to such  
1282 an extent as not to be responsible for his or her act or omission  
1283 at the time when the act or omission charged was made, he shall  
1284 not be discharged, but the conservator of the peace shall remand  
1285 the prisoner to custody and immediately report the case to the  
1286 chancellor or clerk of the chancery court, whose duty it shall be



1287 to proceed with the case according to the law provided for persons  
1288 of unsound mind or \* \* \* persons with mental retardation.

1289 **SECTION 36.** Section 99-13-5, Mississippi Code of 1972, is  
1290 amended as follows:

1291 99-13-5. When any person is held in prison or on bail,  
1292 charged with an offense, and the grand jury does not find a true  
1293 bill for reason of insanity of the accused or for reason of the  
1294 mental retardation of the accused, which they judge to be such  
1295 that he or she was not responsible for his acts or omissions at  
1296 the time when the act or omission charged was committed or made,  
1297 the grand jury shall certify the fact to the circuit court and  
1298 shall state whether or not the insane \* \* \* person or person with  
1299 mental retardation is a danger to the security of persons and  
1300 property and the peace and safety of the community, and if the  
1301 grand jury reports that insanity or mental retardation and that  
1302 danger, the court shall immediately give notice of the case to the  
1303 chancellor or to the clerk of the chancery court, whose duty it  
1304 shall be to proceed with the insane person and his estate or the  
1305 person with mental retardation according to the law provided in  
1306 the case of persons of unsound mind or \* \* \* persons with mental  
1307 retardation.

1308 **SECTION 37.** Section 99-13-7, Mississippi Code of 1972, is  
1309 amended as follows:

1310 99-13-7. When any person is indicted for an offense and  
1311 acquitted on the ground of insanity, the jury rendering the  
1312 verdict shall state in the verdict that ground and whether the  
1313 accused has since been restored to his sanity and whether he is  
1314 dangerous to the community. \* \* \* If the jury certifies that the  
1315 person is still insane and dangerous, the judge shall order him to  
1316 be conveyed to and confined in one (1) of the state psychiatric  
1317 hospitals or institutions.

1318 **SECTION 38.** Section 99-13-9, Mississippi Code of 1972, is  
1319 amended as follows:



1320           99-13-9. When any person is indicted for an offense and  
1321 acquitted on the ground of mental retardation, the jury rendering  
1322 the verdict shall state in the verdict that ground and whether the  
1323 accused constitutes a danger to life or property and to the peace  
1324 and safety of the community. If the jury certifies that the  
1325 person with mental retardation is dangerous to the peace and  
1326 safety of the community or to himself, the court shall immediately  
1327 give notice of the case to the chancellor or the clerk of the  
1328 chancery court, whose duty it shall be to proceed with the person  
1329 according to the law provided in the case of \* \* \* persons with  
1330 mental retardation, the \* \* \* person with mental retardation  
1331 himself being remanded to custody to await the action of the  
1332 chancery court.

1333           **SECTION 39.** Section 99-19-57, Mississippi Code of 1972, is  
1334 amended as follows:

1335           99-19-57. (1) If the Commissioner of Corrections \* \* \* at  
1336 any time is satisfied that any female offender in his custody  
1337 under sentence of death is pregnant, he shall summon a physician  
1338 to inquire into the pregnancy. The commissioner shall summons and  
1339 swear all necessary witnesses and the commissioner after full  
1340 examination shall certify under his hand what the truth may be in  
1341 relation to the alleged pregnancy, and in case the offender is  
1342 found to be pregnant, the commissioner shall immediately transmit  
1343 his findings to the Governor, and the Governor shall suspend the  
1344 execution of the sentence until he is satisfied that the offender  
1345 is not or is no longer pregnant. The Governor shall then order,  
1346 by his warrant to the commissioner, the execution of the offender  
1347 on a day to be \* \* \* appointed by the Governor according to the  
1348 sentence and judgment of the court.

1349           (2) (a) If it is believed that an offender under sentence  
1350 of death has become mentally ill since the judgment of the court,  
1351 the following shall be the exclusive procedural and substantive  
1352 procedure. The offender, or a person acting as his next friend,



1353 or the Commissioner of Corrections may file an appropriate  
1354 application seeking post-conviction relief with the Mississippi  
1355 Supreme Court. If it is found that the offender is a person with  
1356 mental illness, as defined in this subsection, the court shall  
1357 suspend the execution of the sentence. The offender shall then be  
1358 committed to the forensic unit of the Mississippi State Hospital  
1359 at Whitfield. The order of commitment shall require that the  
1360 offender be examined and a written report be furnished to the  
1361 court at that time and every month thereafter, stating whether  
1362 there is a substantial probability that the offender will become  
1363 sane under this subsection within the foreseeable future and  
1364 whether progress is being made toward that goal. If at any time  
1365 during the commitment, the appropriate official at the state  
1366 hospital \* \* \* considers the offender to be sane under this  
1367 subsection, the official shall promptly notify the court to that  
1368 effect in writing and place the offender in the custody of the  
1369 Commissioner of Corrections. The court then shall \* \* \* conduct a  
1370 hearing on the sanity of the offender. The finding of the circuit  
1371 court is a final order appealable under the terms and conditions  
1372 of the Mississippi Uniform Post-Conviction Collateral Relief Act.

1373 (b) For the purposes of this subsection, a person shall  
1374 be deemed to be a person with mental illness if the court finds  
1375 that the offender does not have sufficient intelligence to  
1376 understand the nature of the proceedings against him, what he was  
1377 tried for, the purpose of his punishment, the impending fate that  
1378 awaits him, and a sufficient understanding to know any fact that  
1379 might exist that would make his punishment unjust or unlawful and  
1380 the intelligence requisite to convey that information to his  
1381 attorneys or the court.

1382 **SECTION 40.** Section 99-38-9, Mississippi Code of 1972, is  
1383 amended as follows:

1384 99-38-9. (1) The Treasurer shall make payments from an  
1385 escrow account established under Section 99-38-5 to the accused or



1386 convicted person in whose name the account was established upon  
1387 the order of a court of competent jurisdiction, after a showing by  
1388 the person that those monies will be used for the exclusive  
1389 purpose of retaining legal representation at any stage of any  
1390 criminal proceedings against the person, including the appeals  
1391 process.

1392 (2) Whenever it is found that a person accused of a crime is  
1393 unfit to proceed as a result of mental illness because the person  
1394 lacks the capacity to understand the proceedings against him or to  
1395 assist in his own defense, the Treasurer shall bring an action of  
1396 interpleader to determine disposition of the escrow account. For  
1397 the purposes of this chapter, a person found not guilty by reason  
1398 of insanity shall be deemed to be a convicted person.

1399 (3) Except as otherwise provided in subsection (4) of this  
1400 section, upon dismissal of charges or acquittal or subsequent  
1401 exoneration of any person accused of an offense arising out of the  
1402 same circumstances that led to the establishment of an escrow  
1403 account under this chapter, the Treasurer shall immediately pay  
1404 over to the accused person, his legal representative, assignee,  
1405 beneficiary or heirs at law the monies in the escrow account  
1406 established on his or their behalf. Except as otherwise provided  
1407 in subsection (4) of this section, upon a showing that the accused  
1408 person has been convicted or has pleaded guilty to an offense for  
1409 which an escrow account has been established under this chapter  
1410 and that one (1) year has elapsed from the time of establishment  
1411 of the escrow account, and that no civil actions are pending under  
1412 the provisions of subsection (2) of Section 99-38-7, the Treasurer  
1413 shall immediately transfer all monies in the escrow account  
1414 established in the name of the accused person, less such costs and  
1415 expenses as the Treasurer incurs in the administration of the  
1416 account, to the Criminal Justice Fund created in Section 99-19-32.

1417 (4) Notwithstanding the provisions of subsection (3), upon a  
1418 showing that one (1) year has elapsed from the time of the



1419 establishment of the escrow account and that no civil actions are  
1420 pending under the provisions of Section 99-38-7(2), and upon a  
1421 showing that the accused in whose name the account is established  
1422 is the parent of one or more minor children and that the minor  
1423 children are in need of financial support, the chancery court of  
1424 the district in which the minor children reside may order the  
1425 Treasurer to pay over an amount set by the court for the support  
1426 of those children until they reach the age of majority. Upon  
1427 order of the court, the Treasurer shall pay the specified amount  
1428 to a guardian appointed by the court for the use and benefit of  
1429 the minor children. In no event shall the total amount to be paid  
1430 for the support of any minor children of the accused in whose name  
1431 the account is established exceed the amount of money in the  
1432 account at the time the court issues its order.

1433 (5) The Treasurer shall be authorized to promulgate such  
1434 rules and regulations as may be necessary to carry out the  
1435 provisions of this chapter.

1436 **SECTION 41.** Section 99-39-23, Mississippi Code of 1972, is  
1437 amended as follows:

1438 99-39-23. (1) If an evidentiary hearing is required, the  
1439 judge may appoint counsel for a petitioner who qualifies for the  
1440 appointment of counsel under Section 99-15-15.

1441 (2) The hearing shall be conducted as promptly as  
1442 practicable, having regard for the need of counsel for both  
1443 parties for adequate time for investigation and preparation.

1444 (3) The parties shall be entitled to subpoena witnesses and  
1445 compel their attendance, including, but not being limited to,  
1446 subpoenas duces tecum.

1447 (4) The court may receive proof by affidavits, depositions,  
1448 oral testimony or other evidence and may order the prisoner  
1449 brought before it for the hearing.

1450 (5) If the court finds in favor of the prisoner, it shall  
1451 enter an appropriate order with respect to the conviction or



1452 sentence under attack, and any supplementary orders as to  
1453 rearraignment, retrial, custody, bail, discharge, correction of  
1454 sentence or other matters that may be necessary and proper. The  
1455 court shall make specific findings of fact, and state expressly  
1456 its conclusions of law, relating to each issue presented.

1457 (6) The order as provided in subsection (5) of this section  
1458 or any order dismissing the prisoner's motion or otherwise denying  
1459 relief under this article is a final judgment and shall be  
1460 conclusive until reversed. It shall be a bar to a second or  
1461 successive motion under this article. Excepted from this  
1462 prohibition is a motion filed under Section 99-19-57(2), raising  
1463 the issue of the offender's supervening mental illness before the  
1464 execution of a sentence of death. A dismissal or denial of a  
1465 motion relating to mental illness under Section 99-19-57(2) shall  
1466 be res judicata on the issue and shall likewise bar any second or  
1467 successive motions on the issue. Likewise excepted from this  
1468 prohibition are those cases in which the prisoner can demonstrate  
1469 either that there has been an intervening decision of the Supreme  
1470 Court of either the State of Mississippi or the United States  
1471 that would have actually adversely affected the outcome of his  
1472 conviction or sentence or that he has evidence, not reasonably  
1473 discoverable at the time of trial, which is of such nature that it  
1474 would be practically conclusive that, if it had \* \* \* been  
1475 introduced at trial, it would have caused a different result in  
1476 the conviction or sentence. Likewise excepted are those cases in  
1477 which the prisoner claims that his sentence has expired or his  
1478 probation, parole or conditional release has been unlawfully  
1479 revoked.

1480 (7) No relief shall be granted under this article unless the  
1481 prisoner proves by a preponderance of the evidence that he is  
1482 entitled to the relief.

1483 (8) Proceedings under this section shall be subject to the  
1484 provisions of Section 99-19-42.



1485           (9) In cases resulting in a sentence of death and upon a  
1486 determination of indigence, appointment of post-conviction counsel  
1487 shall be made by the Office of Capital Post-Conviction Counsel  
1488 upon order entered by the Supreme Court promptly upon announcement  
1489 of the decision on direct appeal affirming the sentence of death.  
1490 The order shall direct the trial court to immediately determine  
1491 indigence and whether the inmate will accept counsel.

1492           **SECTION 42.** Section 99-39-27, Mississippi Code of 1972, is  
1493 amended as follows:

1494           99-39-27. (1) The application for leave to proceed in the  
1495 trial court filed with the Supreme Court under Section 99-39-7  
1496 shall name the State of Mississippi as the respondent.

1497           (2) The application shall contain the original and two (2)  
1498 executed copies of the motion proposed to be filed in the trial  
1499 court together with such other supporting pleadings and  
1500 documentation as the Supreme Court by rule may require.

1501           (3) The prisoner shall serve an executed copy of the  
1502 application upon the Attorney General simultaneously with the  
1503 filing of the application with the court.

1504           (4) The original motion, together with all files, records,  
1505 transcripts and correspondence relating to the judgment under  
1506 attack, shall promptly be examined by the court.

1507           (5) Unless it appears from the face of the application,  
1508 motion, exhibits and the prior record that the claims presented by  
1509 those documents are not procedurally barred under Section 99-39-21  
1510 and that they further present a substantial showing of the denial  
1511 of a state or federal right, the court shall by appropriate order  
1512 deny the application. The court may, in its discretion, require  
1513 the Attorney General upon sufficient notice to respond to the  
1514 application.

1515           (6) The court, upon satisfaction of the standards set forth  
1516 in this article, is empowered to grant the application.



1517 (7) In granting the application the court, in its  
1518 discretion, may:

1519 (a) Where sufficient facts exist from the face of the  
1520 application, motion, exhibits, the prior record and the state's  
1521 response, together with any exhibits submitted with those  
1522 documents, or upon stipulation of the parties, grant or deny any  
1523 or all relief requested in the attached motion.

1524 (b) Allow the filing of the motion in the trial court  
1525 for further proceedings under Sections 99-39-13 through 99-39-23.

1526 (8) No application or relief shall be granted without the  
1527 Attorney General being given at least five (5) days to respond.

1528 (9) The dismissal or denial of an application under this  
1529 section is a final judgment and shall be a bar to a second or  
1530 successive application under this article. Excepted from this  
1531 prohibition is an application filed under Section 99-19-57(2),  
1532 raising the issue of the offender's supervening mental illness  
1533 before the execution of a sentence of death. A dismissal or  
1534 denial of an application relating to mental illness under Section  
1535 99-19-57(2) shall be res judicata on the issue and shall likewise  
1536 bar any second or successive applications on the issue. Likewise  
1537 excepted from this prohibition are those cases in which the  
1538 prisoner can demonstrate either that there has been an intervening  
1539 decision of the Supreme Court of either the State of Mississippi  
1540 or the United States that would have actually adversely affected  
1541 the outcome of his conviction or sentence or that he has evidence,  
1542 not reasonably discoverable at the time of trial, that is of such  
1543 nature that it would be practically conclusive that, if it  
1544 had \* \* \* been introduced at trial, it would have caused a  
1545 different result in the conviction or sentence. Likewise exempted  
1546 are those cases in which the prisoner claims that his sentence has  
1547 expired or his probation, parole or conditional release has been  
1548 unlawfully revoked.



1549 (10) Proceedings under this section shall be subject to the  
1550 provisions of Section 99-19-42.

1551 (11) Post-conviction proceedings in which the defendant is  
1552 under sentence of death shall be governed by rules established by  
1553 the Supreme Court as well as the provisions of this section.

1554 **SECTION 43.** Section 41-19-103, Mississippi Code of 1972, is  
1555 amended as follows:

1556 41-19-103. The Ellisville State School \* \* \* established by  
1557 Chapter 210, Laws of Mississippi 1920, is recognized as now  
1558 existing and shall hereafter be known under the name of Ellisville  
1559 State School for the care and treatment of \* \* \* persons with  
1560 mental retardation. The school shall have the power to receive  
1561 and hold property, real, personal and mixed, as a body corporate.  
1562 The school shall be under the direction and control of the State  
1563 Board of \* \* \* Mental Health.

1564 **SECTION 44.** The following shall be codified as Section  
1565 41-19-108, Mississippi Code of 1972:

1566 41-19-108. With funds provided by the Legislature, by direct  
1567 appropriation or authorized bond issue, with federal matching  
1568 funds, or with any other available funds, the Bureau of Building,  
1569 Grounds and Real Property Management may construct and equip the  
1570 necessary residential and service buildings and other facilities  
1571 to care for the residents of Ellisville State School. The general  
1572 design of the school and all construction plans shall be approved  
1573 and recommended by the State Department of Mental Health.

1574 **SECTION 45.** The following shall be codified as Section  
1575 41-19-112, Mississippi Code of 1972:

1576 41-19-112. Ellisville State School shall be administered by  
1577 the State Board of Mental Health. Provisions relating to the  
1578 admission and care of residents at the school shall be promulgated  
1579 by the board.

1580 **SECTION 46.** The following shall be codified as Section  
1581 41-19-114, Mississippi Code of 1972:



1582           41-19-114. Persons admitted to Ellisville State School shall  
1583 be assessed support and maintenance costs in accordance with the  
1584 provisions of the state reimbursement laws as they apply to other  
1585 state institutions.

1586           **SECTION 47.** The following shall be codified as Section  
1587 41-19-116, Mississippi Code of 1972:

1588           41-19-116. Any person who (a) knowingly and unlawfully or  
1589 improperly causes a person to be adjudged to be a person of mental  
1590 retardation, (b) procures the escape of a legally committed  
1591 resident or knowingly conceals an escaped legally committed  
1592 resident of Ellisville State School, or (c) unlawfully brings any  
1593 firearm, deadly weapon or explosive into the school or its  
1594 grounds, or passes any thereof to a resident, employee or officer  
1595 of the school, is guilty of a misdemeanor and, upon conviction,  
1596 shall be punished by a fine of not less than Fifty Dollars  
1597 (\$50.00), nor more than Two Hundred Dollars (\$200.00),  
1598 imprisonment for not less than six (6) months, or both.

1599           **SECTION 48.** The following shall be codified as Section  
1600 41-19-118, Mississippi Code of 1972:

1601           41-19-118. Ellisville State School is designated as a state  
1602 agency for carrying out the purposes of any act of the Congress of  
1603 the United States, now existing or at any time hereafter enacted,  
1604 pertaining to mental retardation.

1605           **SECTION 49.** Section 41-19-121, Mississippi Code of 1972, is  
1606 amended as follows:

1607           41-19-121. The director of \* \* \* Ellisville State School may  
1608 receive free lodging in his institution for himself and his  
1609 family, but not free board, nor free supplies from the  
1610 school. \* \* \*

1611           **SECTION 50.** Sections 41-5-55, 41-5-81, 41-17-5, 41-17-7,  
1612 41-17-9, 41-17-13, 41-19-105, 41-19-107, 41-19-109, 41-19-115,  
1613 41-19-117, 41-19-119, 41-21-43, 41-21-45, 41-45-1, 41-45-3,  
1614 41-45-5, 41-45-7, 41-45-9, 41-45-11, 41-45-13, 41-45-15, 41-45-17



1615 and 41-45-19, Mississippi Code of 1972, which prohibit the  
1616 apprenticing of mental patients, provide certain criminal  
1617 penalties, provide certain visitation duties for directors of  
1618 mental hospitals, exempt resident mental hospital officers from  
1619 jury service, require a drug store to be kept at each mental  
1620 hospital, require separate accommodations at Whitfield for  
1621 alcoholic and drug addicts, provide for the plan of Ellisville  
1622 State School, require Ellisville's director to keep certain  
1623 records, authorize Ellisville's director to sell certain products  
1624 of the school, provide discharge procedures for Ellisville  
1625 patients, provide for habeas corpus proceedings for Ellisville  
1626 patients, authorize the receipt of gifts for the support of  
1627 Ellisville, require counties to temporarily provide for the  
1628 maintenance of indigent mentally retarded persons, prohibit  
1629 cohabitation with mentally retarded persons, and authorize the  
1630 sterilization of mentally ill and mentally retarded patients, are  
1631 repealed.

1632         **SECTION 51.** This act shall take effect and be in force from  
1633 and after July 1, 2007.

