

By: Representative Holland

To: Public Health and Human Services; Judiciary A

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1525

1 AN ACT TO AMEND SECTION 25-7-9, MISSISSIPPI CODE OF 1972, TO
2 SET THE FEE THAT CHANCERY CLERKS SHALL CHARGE FOR A COMMITMENT
3 ACTION; TO AMEND SECTION 41-21-63, MISSISSIPPI CODE OF 1972, TO
4 ALLOW THE COMMITMENT OF PERSONS WITH MINOR CRIMINAL CHARGES
5 PENDING AS LONG AS THERE ARE NOT FELONY CHARGES PENDING; TO AMEND
6 SECTION 41-21-65, MISSISSIPPI CODE OF 1972, TO SIMPLIFY AND MAKE
7 UNIFORM THE BEGINNING OF THE COMMITMENT PROCESS; TO ALLOW
8 CHANCELLORS TO DECIDE IF THEY WANT TO HEAR A CASE OF A PERSON WHO
9 IS FOUND IN THEIR COUNTY, OR TRANSFER THE CASE TO THE COUNTY OF
10 RESIDENCE; TO SIMPLIFY THE AFFIDAVIT PROCESS BY GENERALIZING THE
11 INFORMATION REQUIRED FOR THE AFFIDAVIT, REQUIRING THE CHANCERY
12 CLERK TO PROVIDE THE AFFIANT WITH A SIMPLE, ONE-PAGE FORM
13 DEVELOPED BY THE DEPARTMENT OF MENTAL HEALTH TO FILL OUT AS AN
14 AFFIDAVIT, AND PREVENTING CHANCERY CLERKS FROM REQUIRING THE
15 AFFIANT TO HIRE AN ATTORNEY; TO PREVENT "ADD ON" FEES BEING
16 CHARGED TO THE AFFIANT AND ALLOW THE FILING FEE TO BE WAIVED AT
17 THE AFFIANT'S REQUEST; TO REMOVE THE REQUIREMENT OF FILING A BOND;
18 TO PROVIDE FOR PUNISHMENT WITH CRIMINAL CHARGES AND CONTEMPT FOR
19 INDIVIDUALS WHO FILE AN INTENTIONALLY FALSE AFFIDAVIT FOR
20 COMMITMENT; TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972,
21 TO PROHIBIT PERSONS WAITING FOR COMMITMENT FROM BEING HELD IN
22 JAIL; TO AMEND SECTION 41-21-71, MISSISSIPPI CODE OF 1972, TO
23 ALLOW THE JUDGE TO DISMISS THE AFFIDAVIT WITHOUT THE NEED FOR A
24 HEARING IF THE EXAMINERS DETERMINE A PERSON IS NOT IN NEED OF
25 TREATMENT; TO AMEND SECTION 41-21-79, MISSISSIPPI CODE OF 1972, TO
26 SET A CAP ON THE TOTAL AMOUNT THAT MAY BE CHARGED FOR ALL OF THE
27 COSTS INCIDENTAL TO THE COURT PROCEEDINGS; TO AMEND SECTION
28 41-31-15, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS
29 OF THIS ACT; AND FOR RELATED PURPOSES.

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

31 **SECTION 1.** Section 25-7-9, Mississippi Code of 1972, is
32 amended as follows:

33 25-7-9. (1) The clerks of the chancery courts shall charge
34 the following fees:

35 (a) For the act of certifying copies of filed
36 documents, for each complete document.....\$ 1.00

37 (b) (i) Recording each deed, will, lease, amendment,
38 subordination, lien, release, cancellation, order, decree, oath,



39 etc., per book and page listed where applicable; for the first
 40 fifteen (15) pages.....\$ 10.00
 41 Each additional page.....\$ 1.00
 42 (ii) Sectional index entries per section or
 43 subdivision lot.....\$ 1.00
 44 (c) Recording each deed of trust, for the first fifteen
 45 (15) pages.....\$ 15.00
 46 Each additional page.....\$ 1.00
 47 Sectional index entries per section or subdivision
 48 lot.....\$ 1.00
 49 (d) (i) Recording oil and gas leases, cancellations,
 50 etc., including indexing in general indices; for the first fifteen
 51 (15) pages\$ 18.00
 52 Each additional page.....\$ 1.00
 53 (ii) Sectional index entries per section or
 54 subdivision lot.....\$ 1.00
 55 (iii) Recording each oil and gas assignment
 56 per assignee.....\$ 18.00
 57 (e) (i) Furnishing copies of any papers of record or
 58 on file:
 59 If performed by the clerk or his employee,
 60 per page.....\$.50
 61 If performed by any other person, per page.....\$.25
 62 (ii) Entering marginal notations on
 63 documents of record.....\$ 1.00
 64 (f) For each day's attendance on the board of
 65 supervisors, for himself and one (1) deputy, each.....\$ 20.00
 66 (g) For other services as clerk of the board of
 67 supervisors an allowance shall be made to him (payable
 68 semiannually at the July and January meetings) out of the county
 69 treasury, an annual sum not exceeding.....\$3,000.00
 70 (h) For each day's attendance on the chancery court, to
 71 be approved by the chancellor:



72 For the first chancellor sitting only, clerk and two (2)
73 deputies, each.....\$ 50.00

74 For the second chancellor sitting, clerk only.....\$ 50.00

75 Provided that the fees herein prescribed shall be the total
76 remuneration for the clerk and his deputies for attending chancery
77 court.

78 (i) On order of the court, clerks and not more than two
79 (2) deputies may be allowed five (5) extra days for each term of
80 court for attendance upon the court to get up records.

81 (j) For public service not otherwise specifically
82 provided for, the chancery court may by order allow the clerk to
83 be paid by the county on the order of the board of supervisors, an
84 annual sum not exceeding.....\$5,000.00

85 (k) For each civil filing, to be deposited into the
86 Civil Legal Assistance Fund.....\$ 5.00

87 The chancery clerk shall itemize on the original document a
88 detailed fee bill of all charges due or paid for filing, recording
89 and abstracting same. No person shall be required to pay such
90 fees until same have been so itemized, but those fees may be
91 demanded before the document is recorded.

92 (2) The following fees shall be a total fee for all services
93 performed by the clerk with respect to a complaint which shall be
94 payable upon filing and shall accrue to the chancery clerk at the
95 time of filing. The clerk or his successor in office shall
96 perform all duties set forth without additional compensation or
97 fee to wit:

98 (a) Divorce to be contested.....\$75.00

99 (b) Divorce uncontested.....\$30.00

100 (c) Alteration of birth or marriage certificate..\$25.00

101 (d) Removal of minority.....\$25.00

102 (e) Guardianship or conservatorship.....\$75.00

103 (f) Estate of deceased, intestate.....\$75.00

104 (g) Estate of deceased, testate.....\$75.00



105	(h)	Adoption.....	\$75.00
106	(i)	Land dispute.....	\$75.00
107	(j)	Injunction.....	\$75.00
108	(k)	Settlement of small claim.....	\$30.00
109	(l)	Contempt in child support.....	\$75.00
110	(m)	Partition suit.....	\$75.00
111	(n)	Any cross-complaint.....	\$25.00
112	(o)	<u>Commitment</u>	<u>\$75.00</u>

113 (3) For every civil case filed, an additional fee to be
114 deposited to the credit of the Comprehensive Electronic Court
115 Systems Fund established in Section 9-21-14.....\$10.00

116 (4) Cost of process shall be borne by the issuing party.
117 Additionally, should the attorney or person filing the pleadings
118 desire the clerk to pay the cost to the sheriff for serving
119 process on one (1) person or more, or to pay the cost of
120 publication, the clerk shall demand the actual charges therefor,
121 at the time of filing.

122 **SECTION 2.** Section 41-21-63, Mississippi Code of 1972, is
123 amended as follows:

124 41-21-63. (1) No person, other than persons charged with
125 crime, shall be committed to a public treatment facility except
126 under the provisions of Sections 41-21-61 through 41-21-107 or
127 43-21-611 or 43-21-315. However, nothing herein shall be
128 construed to repeal, alter or otherwise affect the provisions of
129 Section 35-5-31 or to affect or prevent the commitment of persons
130 to the Veterans Administration or other agency of the United
131 States under the provisions of and in the manner specified in
132 those sections.

133 (2) The chancery court, or the chancellor in vacation shall
134 have jurisdiction under Sections 41-21-61 through 41-21-107 except
135 over persons with unresolved felony charges pending.

136 (3) The circuit court shall have jurisdiction under Sections
137 99-13-7, 99-13-9 and 99-13-11.



138 **SECTION 3.** Section 41-21-65, Mississippi Code of 1972, is
139 amended as follows:

140 41-21-65. (1) It is the intention of the Legislature that
141 the filing of an affidavit under this section be a simple,
142 inexpensive, uniform, and streamlined process for the purpose of
143 facilitating and expediting the care of individuals in need of
144 treatment.

145 (2) If any person is alleged to be in need of treatment, any
146 relative of the person, or any interested person, may make
147 affidavit of that fact and shall file the affidavit with the clerk
148 of the chancery court of the county in which the person alleged to
149 be in need of treatment resides or may be found. The chancellor
150 is authorized to immediately transfer the cause of a person
151 alleged to be in need of treatment from the county where the
152 person was found to the person's county of residence, or at the
153 chancellor's discretion may hear the matter in the county in which
154 the person was found. * * * The affidavit shall set forth the
155 name and address of the proposed patient's nearest relatives, if
156 known, and the reasons for the affidavit. The affidavit must
157 contain factual descriptions of the proposed patient's recent
158 behavior, including a description of the behavior, where it
159 occurred, and over what period of time it occurred, if known.
160 Each factual allegation may be supported by observations of
161 witnesses named in the affidavit. Because of the emergency nature
162 of those affidavits, at the affiant's request the chancery clerk
163 shall provide the affiant with the one-page affidavit form
164 developed by the Department of Mental Health, which the affiant
165 may complete and file without the need for consulting or retaining
166 an attorney. The Department of Mental Health, in consultation
167 with the Mississippi Chancery Clerks' Association, shall develop a
168 simple, one-page affidavit form for the use of affiants as
169 provided in this subsection, which shall be used in all counties
170 in the state. No chancery clerk shall require an affiant to



171 retain an attorney for the filing of an affidavit under this
172 section, or for an application or petition under Sections 41-30-27
173 or 41-31-3 respectively.

174 (3) Notwithstanding any other section, the chancery clerk
175 may charge the affiant a total fee for all services equal to the
176 amount set out in Section 25-7-9(o), but the affiant shall not be
177 responsible for any other fee, expense, or cost. In addition,
178 upon request of the affiant, the filing fee set out in Section
179 25-7-9(o) shall be waived without a showing of indigence or
180 pauper's oath. No other cost shall be charged to the affiant
181 either by the chancery clerk or chancery court or any other
182 entity, including, but not limited to, court costs, prehearing
183 hospitalization costs, cost of transportation, reasonable
184 physician's, psychologist's, nurse practitioner's or physician
185 assistant's fees set by the court, and reasonable attorney's fees
186 set by the court.

187 (4) The prohibition against charging the affiant other fees,
188 expenses, or costs shall not preclude the imposition of monetary
189 criminal penalties under Section 41-21-107 or any other criminal
190 statute, or the imposition by the chancellor of monetary penalties
191 for contempt if the affiant is found to have filed an
192 intentionally false affidavit or filed the affidavit in bad faith
193 for a malicious purpose.

194 **SECTION 4.** Section 41-21-67, Mississippi Code of 1972, is
195 amended as follows:

196 41-21-67. (1) Whenever the affidavit provided for in
197 Section 41-21-65 is filed with the chancery clerk, the clerk, upon
198 direction of the chancellor of the court, shall issue a writ
199 directed to the sheriff of the proper county to take into his or
200 her custody the person alleged to be in need of treatment and to
201 bring the person before the clerk or chancellor, who shall order
202 pre-evaluation screening and treatment by the appropriate
203 community mental health center established under Section 41-19-31



204 and for examination as set forth in Section 41-21-69. However,
205 when the affidavit fails to set forth factual allegations and
206 witnesses sufficient to support the need for treatment, the
207 chancellor shall refuse to direct issuance of the writ.

208 Reapplication may be made to the chancellor. * * *

209 (2) Upon issuance of the writ, the chancellor shall
210 immediately appoint and summon two (2) reputable, licensed
211 physicians or one (1) reputable, licensed physician and either one
212 (1) psychologist, nurse practitioner or physician assistant to
213 conduct a physical and mental examination of the person at a place
214 to be designated by the clerk or chancellor and to report their
215 findings to the clerk or chancellor. * * * However, * * * any
216 nurse practitioner or physician assistant conducting the
217 examination shall be independent from, and not under the
218 supervision of, the other physician conducting the examination.
219 In all counties in which there is a county health officer, the
220 county health officer, if available, may be one (1) of the
221 physicians so appointed. Neither of the physicians nor the
222 psychologist, nurse practitioner or physician assistant selected
223 shall be related to that person in any way, nor have any direct or
224 indirect interest in the estate of that person nor shall any
225 full-time staff of residential treatment facilities operated
226 directly by the Department of Mental Health serve as examiner.

227 (3) The clerk shall ascertain whether the respondent is
228 represented by an attorney, and if it is determined that
229 respondent does not have an attorney, the clerk shall immediately
230 notify the chancellor of that fact. If the chancellor determines
231 that respondent for any reason does not have the services of an
232 attorney, the chancellor shall immediately appoint an attorney for
233 the respondent at the time the examiners are appointed.

234 (4) If the chancellor determines that there is probable
235 cause to believe that the respondent is mentally ill and that
236 there is no reasonable alternative to detention, the chancellor



237 may order that the respondent be retained as an emergency patient
238 at any available regional mental health facility or any other
239 available suitable location as the court may so designate pending
240 an admission hearing and may, if necessary, order a peace officer
241 or other person to transport the respondent to that mental health
242 facility or suitable location. Any respondent so retained may be
243 given such treatment * * * as is indicated by standard medical
244 practice. However, the respondent shall not be held in a hospital
245 operated directly by the Department of Mental Health, and shall
246 not be held in jail * * *.

247 (5) Whenever a licensed physician, psychologist, nurse
248 practitioner or physician assistant certified to complete
249 examinations for the purpose of commitment has reason to believe
250 that a person poses an immediate substantial likelihood of
251 physical harm to himself or others or is gravely disabled and
252 unable to care for himself by virtue of mental illness, as defined
253 in Section 41-21-61(e), then the physician, psychologist, nurse
254 practitioner or physician assistant may hold the person or * * *
255 may admit the person to and treat the person in a licensed medical
256 facility, without a civil order or warrant for a period not to
257 exceed seventy-two (72) hours or the end of the next business day
258 of the chancery clerk's office. The person may be held and
259 treated as an emergency patient at any licensed medical facility,
260 available regional mental health facility, or crisis intervention
261 center. The physician, psychologist, nurse practitioner or
262 physician assistant who holds the person shall certify in writing
263 the reasons for the need for holding. Any respondent so held may
264 be given such treatment * * * as indicated by standard medical
265 practice. Persons acting in good faith in connection with the
266 detention of a person believed to be mentally ill shall incur no
267 liability, civil or criminal, for those acts.

268 **SECTION 5.** Section 41-21-71, Mississippi Code of 1972, is
269 amended as follows:



270 41-21-71. If, as a result of the examination, the examiners
271 certify that the person is not in need of treatment, the
272 chancellor or clerk shall dismiss the affidavit without the need
273 for a further hearing. If the chancellor or chancery clerk finds,
274 based upon the physicians' or the physician and a psychologist's,
275 nurse practitioner's or physician assistant's certificate and any
276 other relevant evidence, that the respondent is in need of
277 treatment and that certificate is filed with the chancery clerk
278 within forty-eight (48) hours after the order for examination, or
279 extension of that time as provided in Section 41-21-69, the clerk
280 shall immediately set the matter for a hearing. The hearing shall
281 be set within seven (7) days of the filing of the certificate
282 unless an extension is requested by the respondent's attorney. In
283 no event shall the hearing be more than ten (10) days after the
284 filing of the certificate.

285 **SECTION 6.** Section 41-21-79, Mississippi Code of 1972, is
286 amended as follows:

287 41-21-79. The costs incidental to the court proceedings
288 including, but not limited to, court costs, prehearing
289 hospitalization costs, cost of transportation, reasonable
290 physician's, psychologist's, nurse practitioner's or physician
291 assistant's fees set by the court, and reasonable attorney's fees
292 set by the court, shall be paid out of the funds of the county of
293 residence of the respondent in those instances where the patient
294 is indigent unless funds for those purposes are made available by
295 the state. However, if the respondent is not indigent, those
296 costs shall be taxed against the respondent or his or her estate.
297 The total amount that may be charged for all of the costs
298 incidental to the court proceedings shall not exceed Four Hundred
299 Dollars (\$400.00).

300 **SECTION 7.** Section 41-31-15, Mississippi Code of 1972, is
301 amended as follows:



302 41-31-15. The provisions of the law with respect to the
303 costs of commitment and the cost of support, including the
304 prohibition in Section 41-21-65 regarding the charging of extra
305 fees and expenses to persons initiating commitment proceedings,
306 methods of determination of persons liable therefor, and methods
307 of determination of financial ability, and all provisions of law
308 enabling the state to secure reimbursement of any such items of
309 cost, applicable to the commitment to and support of the mentally
310 ill persons in state hospitals, shall apply with equal force in
311 respect to each item of expense incurred by the state in
312 connection with the commitment, care, custody, treatment, and
313 rehabilitation of any person committed to the state hospitals and
314 maintained in any institution or hospital operated by the State of
315 Mississippi under the provisions of this chapter.

316 **SECTION 8.** This act shall take effect and be in force from
317 and after July 1, 2010.

