

REPORT OF CONFERENCE COMMITTEE

MR. PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 3004: Substance abuse treatment; dual diagnosed patients may receive mental health treatment contemporaneously.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

30 **SECTION 1.** The following shall be codified as Section
31 1-3-24, Mississippi Code of 1972:

32 1-3-24. The term "intellectual disability," when used in any
33 statute, means a disability characterized by significant
34 limitations both in intellectual functioning and in adaptive
35 behavior, originates before the age of eighteen (18) years, and
36 refers to persons who were, are and continue to be diagnosed with
37 mental retardation.

38 **SECTION 2.** Section 1-3-57, Mississippi Code of 1972, is
39 amended as follows:

40 1-3-57. The term "unsound mind," when used in any statute in
41 reference to persons, shall include persons with an intellectual
42 disability, persons with mental illness, and persons non compos
43 mentis.

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

46 1-3-58. Whenever the term "ward" is used, it shall be
47 liberally construed and held to include any and all persons under
48 every form of legal disability, including, but not limited to, the
49 disabilities of minority, intellectual disability, mental illness,



50 unsound mind, alcoholism, addiction to drugs, and convicted
51 felons.

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

54 11-5-49. In proceedings in matters testamentary and of
55 administration, in minors' business, and in cases of persons with
56 an intellectual disability, persons with mental illness and
57 persons of unsound mind, as provided for by law, no answer shall
58 be required to any petition or application of any sort. Such a
59 petition or application shall not be taken as confessed because of
60 the lack of an answer, but every petition, application, or account
61 shall be supported by the proper evidence and may be contested
62 without an answer. All such proceedings shall be as summary, as
63 the statutes authorizing and regulating them contemplate; however,
64 when either of the parties having a controversy in court as to any
65 of those several matters requires and the court sees proper, it
66 may direct plenary proceedings by bill or petition, to which there
67 shall be an answer on oath or affirmation. If an adult or sane
68 party refuses to answer as to any matter alleged in the bill or
69 petition and proper for the court to decide upon, the party
70 refusing may be attached, fined, and imprisoned at the discretion
71 of the court, and the matter set forth in the bill or petition
72 shall be taken as confessed and a decree shall be made
73 accordingly.

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

76 11-5-113. All the provisions of this chapter on the subject
77 of sales shall apply to all sales of real estate under any decree
78 in the chancery court made in matters testamentary and of
79 administration, minors' business, cases of persons with an
80 intellectual disability, persons with mental illness and persons
81 of unsound mind, of partition, and all other matters.



82 **SECTION 6.** Section 25-3-25, Mississippi Code of 1972, is
83 amended as follows:

84 25-3-25. (1) Except as otherwise provided in subsections
85 (2) through (9), the salaries of sheriffs of the various counties
86 are fixed as full compensation for their services.

87 From and after October 1, 1998, the annual salary for each
88 sheriff shall be based upon the total population of his county
89 according to the latest federal decennial census in the following
90 categories and for the following amounts; however, no sheriff
91 shall be paid less than the salary authorized under this section
92 to be paid the sheriff based upon the population of the county
93 according to the 1980 federal decennial census:

94 (a) For counties with a total population of more than
95 two hundred thousand (200,000), a salary of Ninety Thousand
96 Dollars (\$90,000.00).

97 (b) For counties with a total population of more than
98 one hundred thousand (100,000) and not more than two hundred
99 thousand (200,000), a salary of Eighty-four Thousand Dollars
100 (\$84,000.00).

101 (c) For counties with a total population of more than
102 forty-five thousand (45,000) and not more than one hundred
103 thousand (100,000), a salary of Seventy-eight Thousand Dollars
104 (\$78,000.00).

105 (d) For counties with a total population of more than
106 thirty-four thousand (34,000) and not more than forty-five
107 thousand (45,000), a salary of Seventy-two Thousand Dollars
108 (\$72,000.00).

109 (e) For counties with a total population of more than
110 twenty-five thousand (25,000) and not more than thirty-four
111 thousand (34,000), a salary of Sixty-two Thousand Four Hundred
112 Dollars (\$62,400.00).



113 (f) For counties with a total population of more than
114 fifteen thousand (15,000) and not more than twenty-five thousand
115 (25,000), a salary of Sixty Thousand Dollars (\$60,000.00).

116 (g) For counties with a total population of more than
117 nine thousand five hundred (9,500) and not more than fifteen
118 thousand (15,000), a salary of Fifty-six Thousand Four Hundred
119 Dollars (\$56,400.00).

120 (h) For counties with a total population of not more
121 than nine thousand five hundred (9,500), a salary of Fifty-five
122 Thousand Dollars (\$55,000.00).

123 (2) In addition to the salary provided for in subsection (1)
124 of this section, the Board of Supervisors of Leflore County, in
125 its discretion, may pay an annual supplement to the sheriff of the
126 county in an amount not to exceed Ten Thousand Dollars
127 (\$10,000.00). The Legislature finds and declares that the annual
128 supplement authorized by this subsection is justified in such
129 county for the following reasons:

130 (a) The Mississippi Department of Corrections operates
131 and maintains a restitution center within the county;

132 (b) The Mississippi Department of Corrections operates
133 and maintains a community work center within the county;

134 (c) There is a resident circuit court judge in the
135 county whose office is located at the Leflore County Courthouse;

136 (d) There is a resident chancery court judge in the
137 county whose office is located at the Leflore County Courthouse;

138 (e) The Magistrate for the Fourth Circuit Court
139 District is located in the county and maintains his office at the
140 Leflore County Courthouse;

141 (f) The Region VI Mental Health-Mental Retardation
142 Center, which serves a multicounty area, calls upon the sheriff to
143 provide security for out-of-town mental patients, as well as
144 patients from within the county;



145 (g) The increased activity of the Child Support
146 Division of the Department of Human Services in enforcing in the
147 courts parental obligations has imposed additional duties on the
148 sheriff; and

149 (h) The dispatchers of the enhanced E-911 system in
150 place in Leflore County has been placed under the direction and
151 control of the sheriff.

152 (3) In addition to the salary provided for in subsection (1)
153 of this section, the Board of Supervisors of Rankin County, in its
154 discretion, may pay an annual supplement to the sheriff of the
155 county in an amount not to exceed Ten Thousand Dollars
156 (\$10,000.00). The Legislature finds and declares that the annual
157 supplement authorized by this subsection is justified in such
158 county for the following reasons:

159 (a) The Mississippi Department of Corrections operates
160 and maintains the Central Mississippi Correctional Facility within
161 the county;

162 (b) The State Hospital is operated and maintained
163 within the county at Whitfield;

164 (c) Hudspeth Regional Center, a facility maintained for
165 the care and treatment of persons with an intellectual disability,
166 is located within the county;

167 (d) The Mississippi Law Enforcement Officers Training
168 Academy is operated and maintained within the county;

169 (e) The State Fire Academy is operated and maintained
170 within the county;

171 (f) The Pearl River Valley Water Supply District,
172 ordinarily known as the "Reservoir District," is located within
173 the county;

174 (g) The Jackson International Airport is located within
175 the county;



176 (h) The patrolling of the state properties located
177 within the county has imposed additional duties on the sheriff;
178 and

179 (i) The sheriff, in addition to providing security to
180 the nearly one hundred thousand (100,000) residents of the county,
181 has the duty to investigate, solve and assist in the prosecution
182 of any misdemeanor or felony committed upon any state property
183 located in Rankin County.

184 (4) In addition to the salary provided for in subsection (1)
185 of this section, the Board of Supervisors of Neshoba County shall
186 pay an annual supplement to the sheriff of the county an amount
187 equal to Ten Thousand Dollars (\$10,000.00).

188 (5) In addition to the salary provided for in subsection (1)
189 of this section, the Board of Supervisors of Tunica County, in its
190 discretion, may pay an annual supplement to the sheriff of the
191 county an amount equal to Ten Thousand Dollars (\$10,000.00),
192 payable beginning April 1, 1997.

193 (6) In addition to the salary provided for in subsection (1)
194 of this section, the Board of Supervisors of Hinds County shall
195 pay an annual supplement to the sheriff of the county in an amount
196 equal to Fifteen Thousand Dollars (\$15,000.00). The Legislature
197 finds and declares that the annual supplement authorized by this
198 subsection is justified in such county for the following reasons:

199 (a) Hinds County has the greatest population of any
200 county, two hundred fifty-four thousand four hundred forty-one
201 (254,441) by the 1990 census, being almost one hundred thousand
202 (100,000) more than the next most populous county;

203 (b) Hinds County is home to the State Capitol and the
204 seat of all state government offices;

205 (c) Hinds County is the third largest county in
206 geographic area, containing eight hundred seventy-five (875)
207 square miles;



208 (d) Hinds County is comprised of two (2) judicial
209 districts, each having a courthouse and county office buildings;

210 (e) There are four (4) resident circuit judges, four
211 (4) resident chancery judges, and three (3) resident county judges
212 in Hinds County, the most of any county, with the sheriff acting
213 as chief executive officer and provider of bailiff services for
214 all;

215 (f) The main offices for the clerk and most of the
216 judges and magistrates for the United States District Court for
217 the Southern District of Mississippi are located within the
218 county;

219 (g) The state's only urban university, Jackson State
220 University, is located within the county;

221 (h) The University of Mississippi Medical Center,
222 combining the medical school, dental school, nursing school and
223 hospital, is located within the county;

224 (i) Mississippi Veterans Memorial Stadium, the state's
225 largest sports arena, is located within the county;

226 (j) The Mississippi State Fairgrounds, including the
227 Coliseum and Trade Mart, are located within the county;

228 (k) Hinds County has the largest criminal population in
229 the state, such that the Hinds County Sheriff's Department
230 operates the largest county jail system in the state, housing
231 almost one thousand (1,000) inmates in three (3) separate
232 detention facilities;

233 (l) The Hinds County Sheriff's Department handles more
234 mental and drug and alcohol commitments cases than any other
235 sheriff's department in the state;

236 (m) The Mississippi Department of Corrections maintains
237 a restitution center within the county;



238 (n) The Mississippi Department of Corrections regularly
239 houses as many as one hundred (100) state convicts within the
240 Hinds County jail system; and

241 (o) The Hinds County Sheriff's Department is regularly
242 asked to provide security services not only at the Fairgrounds and
243 Memorial Stadium, but also for events at the Mississippi Museum of
244 Art and Jackson City Auditorium.

245 (7) In addition to the salary provided for in subsection (1)
246 of this section, the Board of Supervisors of Wilkinson County, in
247 its discretion, may pay an annual supplement to the sheriff of the
248 county in an amount not to exceed Ten Thousand Dollars
249 (\$10,000.00). The Legislature finds and declares that the annual
250 supplement authorized by this subsection is justified in such
251 county because the Mississippi Department of Corrections contracts
252 for the private incarceration of state inmates at a private
253 correctional facility within the county.

254 (8) In addition to the salary provided for in subsection (1)
255 of this section, the Board of Supervisors of Marshall County, in
256 its discretion, may pay an annual supplement to the sheriff of the
257 county in an amount not to exceed Ten Thousand Dollars
258 (\$10,000.00). The Legislature finds and declares that the annual
259 supplement authorized by this subsection is justified in such
260 county because the Mississippi Department of Corrections contracts
261 for the private incarceration of state inmates at a private
262 correctional facility within the county.

263 (9) In addition to the salary provided in subsection (1) of
264 this section, the Board of Supervisors of Greene County, in its
265 discretion, may pay an annual supplement to the sheriff of the
266 county in an amount not to exceed Ten Thousand Dollars
267 (\$10,000.00). The Legislature finds and declares that the annual
268 supplement authorized by this subsection is justified in such
269 county for the following reasons:



270 (a) The Mississippi Department of Corrections operates
271 and maintains the South Mississippi Correctional Facility within
272 the county;

273 (b) In 1996, additional facilities to house another one
274 thousand four hundred sixteen (1,416) male offenders were
275 constructed at the South Mississippi Correctional Facility within
276 the county; and

277 (c) The patrolling of the state properties located
278 within the county has imposed additional duties on the sheriff
279 justifying additional compensation.

280 (10) In addition to the salary provided in subsection (1) of
281 this section, the board of supervisors of any county, in its
282 discretion, may pay an annual supplement to the sheriff of the
283 county in an amount not to exceed Ten Thousand Dollars
284 (\$10,000.00). The amount of the supplement shall be spread on the
285 minutes of the board. The annual supplement authorized in this
286 subsection shall not be in addition to the annual supplements
287 authorized in subsections (2) through (9).

288 (11) The salaries provided in this section shall be payable
289 monthly on the first day of each calendar month by chancery
290 clerk's warrant drawn on the general fund of the county; however,
291 the board of supervisors, by resolution duly adopted and entered
292 on its minutes, may provide that such salaries shall be paid
293 semimonthly on the first and fifteenth day of each month. If a
294 pay date falls on a weekend or legal holiday, salary payments
295 shall be made on the workday immediately preceding the weekend or
296 legal holiday.

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

299 **[Effective until January 1, 2008, or such time as the Lengthy**
300 **Trial Fund is fully funded by a specific appropriation of the**



301 **Legislature, whichever is later, this section shall read as**
302 **follows:]**

303 25-7-61. (1) Fees of jurors shall be payable as follows:

304 (a) Grand jurors and petit jurors in the chancery,
305 county, circuit and special eminent domain courts shall be paid an
306 amount to be set by the board of supervisors, not to be less than
307 Twenty-five Dollars (\$25.00) per day and not to be greater than
308 Forty Dollars (\$40.00) per day, plus mileage authorized in Section
309 25-3-41. In the trial of all cases where jurors are in charge of
310 bailiffs and are not permitted to separate, the sheriff with the
311 approval of the trial judge may pay for room and board of jurors
312 on panel for actual time of trial.

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

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

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



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

- 337 (a) The local public library;
- 338 (b) Local law enforcement;
- 339 (c) The Mississippi Burn Care Fund created in Section
340 7-9-70; or
- 341 (d) Any other governmental agency.

342 **[From and after January 1, 2008, or such time as the Lengthy**
343 **Trial Fund is fully funded by a specific appropriation of the**
344 **Legislature, whichever is later, this section shall read as**
345 **follows:]**

346 25-7-61. (1) Fees of jurors shall be payable as follows:

347 (a) Grand jurors and petit jurors in the chancery,
348 county, circuit and special eminent domain courts shall be paid an
349 amount to be set by the board of supervisors, not to be less than
350 Twenty-five Dollars (\$25.00) per day and not to be greater than
351 Forty Dollars (\$40.00) per day, plus mileage authorized in Section
352 25-3-41. In the trial of all cases where jurors are in the charge
353 of bailiffs and are not permitted to separate, the sheriff with
354 the approval of the trial judge may pay for room and board of
355 jurors on panel for actual time of trial.

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

362 (b) Jurors making inquisitions of intellectual
363 disability, mental illness or unsound mind and jurors on coroner's



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

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

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

- 381 (a) The local public library;
- 382 (b) Local law enforcement;
- 383 (c) The Mississippi Burn Care Fund created in Section
384 7-9-70; or
- 385 (d) Any other governmental agency.

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

390 (a) The Uniform Circuit and County Court Rules shall
391 provide for the following:

- 392 (i) The selection and appointment of an
393 administrator for the fund.



394 (ii) Procedures for the administration of the
395 fund, including payments of salaries of the administrator and
396 other necessary personnel.

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

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

403 (v) The Lengthy Trial Fund Administrator and all
404 other necessary personnel shall be employees of the Administrative
405 Office of Courts.

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

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



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

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

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

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

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

453 **SECTION 8.** Section 35-5-31, Mississippi Code of 1972, is
454 amended as follows:

455 35-5-31. (1) Whenever, in any proceeding under the laws of
456 this state for the commitment of a person alleged to be a person



457 with mental illness, person with an intellectual disability, or
458 otherwise of unsound mind, or otherwise in need of confinement in
459 a hospital or other institution for his proper care, it is
460 determined after the adjudication of the status of the person as
461 may be required by law that commitment to a state psychiatric
462 hospital or institution or other institution is necessary for
463 safe-keeping or treatment, and it appears that the person is
464 eligible for care or treatment by the Veterans Administration or
465 other agency of the United States government, the court, upon
466 receipt of a certificate from the Veterans Administration or such
467 other agency showing that facilities are available and that the
468 person is eligible for care or treatment in those facilities, may
469 commit the person to the Veterans Administration or other agency.
470 The person whose commitment is sought shall be personally served
471 with notice of the pending commitment proceeding in the manner
472 provided by the law of this state; and nothing in this section
473 shall affect his right to appear and be heard in the proceedings.
474 Upon commitment, the person, when admitted to any facility
475 operated by the Veterans Administration or other agency within or
476 without this state shall be subject to the rules and regulations
477 of the Veterans Administration or other agency. The chief officer
478 of any facility of the Veterans Administration or institution
479 operated by any other agency of the United States to which the
480 person is so committed shall, with respect to the person, be
481 vested with the same powers as superintendents of state
482 psychiatric hospitals or institutions within this state with
483 respect to retention of custody, transfer, parole or discharge.
484 Jurisdiction is retained in the committing or other appropriate
485 court of this state at any time to inquire into the mental
486 condition of the person so committed, and to determine the
487 necessity for continuance of his restraint, and all commitments
488 under this section are so conditioned.



489 (2) The judgment or order of commitment by a court of
490 competent jurisdiction of another state or of the District of
491 Columbia, committing a person to the Veterans Administration or
492 other agency of the United States government for care or
493 treatment, shall have the same force and effect as to the
494 committed person while in this state as in the jurisdiction in
495 which is situated the court entering the judgment or making the
496 order, and the courts of the committing state or of the District
497 of Columbia shall be deemed to have retained jurisdiction of the
498 person so committed for the purpose of inquiring into the mental
499 condition of the person and of determining the necessity for
500 continuance of his restraint, as is provided in subsection (1) of
501 this section with respect to persons committed by the courts of
502 this state. Consent is given to the application of the law of the
503 committing state or District of Columbia in respect to the
504 authority of the chief officer of any facility of the Veterans
505 Administration or of any institution operated in this state by any
506 other agency of the United States to retain custody, or transfer,
507 parole or discharge the committed person.

508 (3) Upon receipt of a certificate of the Veterans
509 Administration or such other agency of the United States that
510 facilities are available for the care or treatment of any person
511 committed to a state psychiatric hospital or institution or for
512 the care or treatment of persons similarly afflicted, and that the
513 person is eligible for care or treatment, the superintendent of
514 the state psychiatric hospital or institution may cause the
515 transfer of the person to the Veterans Administration or other
516 agency of the United States for care or treatment. Upon effecting
517 any such transfer, the committing court or proper officer of the
518 court shall be notified of the transfer by the transferring
519 agency. No person shall be transferred to the Veterans
520 Administration or other agency of the United States if he is



521 confined because of conviction of any felony or misdemeanor or if
522 he has been acquitted of the charge solely on the ground of
523 insanity, unless before transfer, the court or other authority
524 originally committing the person enters an order for the transfer
525 after appropriate motion and hearing.

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

529 **SECTION 9.** Section 37-3-85, Mississippi Code of 1972, is
530 amended as follows:

531 37-3-85. (1) The Legislature finds that:

532 (a) Students who are serious behavior problems in
533 school are at risk of becoming juvenile and adult offenders;

534 (b) Growing numbers of children live in conditions that
535 place them at risk of school failure;

536 (c) The provision of school and support services to
537 these children and their families by public and nonprofit agencies
538 is fragmented and does not prepare these children to learn
539 effectively and have a successful school experience;

540 (d) The lack of collaboration among schools, families,
541 local agencies and other groups involved in family support and
542 youth development activities results in the inefficient and
543 ineffective use of resources to meet the needs of these children;

544 (e) Schools are dedicating an increasing amount of
545 their time and resources to responding to disruptive and violent
546 behavior rather than fulfilling their mission to challenge with
547 high expectations each child to learn, to achieve and to fulfill
548 his or her potential;

549 (f) Responding to the needs of students who are at risk
550 of school failure and providing for a safe and secure learning
551 environment are cost-effective because it enables the state to



552 substitute preventive measures for expensive crisis intervention;
553 and

554 (g) Differing local needs and local resources
555 necessitate the development of locally generated, community-based
556 plans that coordinate and leverage existing resources, not the
557 imposition of uniform and inflexible, state-mandated plans.

558 (2) There is * * * established within the State Department
559 of Education the Support Our Students (S.O.S.) program. The
560 purpose of the program is to award grants to neighborhood- and
561 community-based organizations to establish local S.O.S. programs
562 that provide high quality after-school mentoring activities for
563 school-aged children and provide for comprehensive, collaborative
564 delivery of mentoring services by public and nonpublic agencies to
565 these children. These services shall be designed to enrich and
566 make a positive impact on the lives of school-aged children.
567 These after-school activities may include activities after the
568 regular school day and activities on days that students are not
569 required to attend school.

570 (3) The goals of the S.O.S. program are to:

571 (a) Reduce juvenile crime in local communities served
572 by the program;

573 (b) Recruit community volunteers to provide positive
574 adult role models for school-aged children and to help supervise
575 after-school activities;

576 (c) Reduce the number of students who are unsupervised
577 after school, otherwise known as "latchkey" children;

578 (d) Improve the academic performance of students
579 participating in the program;

580 (e) Meet the physical, intellectual, emotional and
581 social needs of students participating in the program and improve
582 their attitudes and behavior; and



583 (f) Improve coordination of existing resources and
584 enhance collaboration so as to provide services to school-aged
585 children effectively and efficiently.

586 (4) As used in this section, "school-aged children" means
587 children enrolled in kindergarten through the ninth grade.

588 (5) The State Department of Education shall develop and
589 implement the Support Our Students (S.O.S.) program. The
590 department shall:

591 (a) Sponsor a statewide conference each year for teams
592 of interested representatives to provide background information
593 and assistance regarding all aspects of the program;

594 (b) Disseminate information regarding the program to
595 interested neighborhood and community groups;

596 (c) Develop and disseminate a request for applications
597 to establish local S.O.S. programs;

598 (d) Provide initial technical assistance to grant
599 applicants and ongoing technical assistance as grants are
600 implemented;

601 (e) Administer funds appropriated by the Legislature;

602 (f) Monitor the grants funded;

603 (g) Revoke a grant if necessary or appropriate;

604 (h) Develop and implement a performance-based
605 evaluation system to evaluate the program;

606 (i) Report on the program implementation to the
607 Legislature and the Office of the Governor;

608 (j) Adopt any rules necessary to implement this
609 section.

610 (6) A community- or neighborhood-based 501(c)(3) entity or a
611 consortium consisting of one or more local 501(c)(3) entities and
612 one or more local school districts may apply for a grant.



613 (7) Applicants for grants shall submit to the State
614 Department of Education an application that includes the following
615 information:

616 (a) Identification of one or more neighborhoods to be
617 served by the local S.O.S. program, based on a needs assessment of
618 existing conditions for school-aged children to be served. Data
619 used in the needs assessment may include for each neighborhood to
620 be served by a local program (i) dropout statistics, (ii) the
621 number and percentage of school-aged children who participate in
622 the federal subsidized lunch program, (iii) the number of
623 suspensions and expulsions involving school-aged children, (iv)
624 the number of children to be served, (v) the number and percentage
625 of students with two (2) working parents or one (1) single parent
626 to be served at a site; (vi) the incidence of juvenile crime in
627 the neighborhood, and (vii) any other relevant or unique local
628 demographic data.

629 Local authorities shall provide this or related information
630 on a timely basis to local 501(c)(3) entities submitting
631 applications to establish local S.O.S. programs;

632 (b) A three-year plan that addresses data used in the
633 needs assessment and that includes proposed goals and anticipated
634 outcomes of the local S.O.S. program. The plan shall be prepared
635 after consultation with local after-school programs, schools,
636 community organizations or groups which have as their purpose
637 assisting or helping school-aged children who are at risk of
638 failing in school or entering the juvenile justice system, or
639 other appropriate groups. In addition, the three-year plan shall
640 provide for regular collaborative efforts to seek input and advice
641 from parents of the students being served and from other citizens
642 who reflect the demographic conditions of the students being
643 served;



644 (c) A statement of how grant funds would be used to
645 address local problems and what other resources would be used to
646 address the problems. This statement should include a list of
647 services to be offered that are related to the goals and outcomes
648 and should include plans for recruiting volunteers to assist in
649 the program's activities; and

650 (d) A process for assessing on an annual basis the
651 success of the local plan for addressing the goals of the local
652 S.O.S. program.

653 (8) The department shall develop and disseminate a request
654 for applications and establish procedures to be followed in
655 developing and submitting applications to establish local S.O.S.
656 programs and administering grants to establish local S.O.S.
657 programs.

658 In reviewing grant applications, the State Superintendent of
659 Education shall consider the prevalence of under-served students
660 and families in low-income neighborhoods and in isolated rural
661 areas in the area for which the grant is requested, the severity
662 of the local problems with regard to children at risk of school
663 failure and with regard to school discipline, whether the proposed
664 program meets state standards, and the likelihood that the locally
665 designed plan will deal with the problems successfully. During
666 the review process, the superintendent may recommend modifications
667 in grant applications to applicants. The superintendent shall
668 submit recommendations to the State Board of Education on which
669 applicants should receive grants and the amount they should
670 receive.

671 In selecting grant recipients, the State Board of Education
672 shall consider (a) the recommendations of the superintendent, (b)
673 the geographic location of the applicants, and (c) the demographic
674 profile of the applicants. After considering these factors, the
675 State Board of Education shall give priority to grant applications



676 that will serve areas that have a high incidence of juvenile crime
677 and that propose different approaches that can serve as models for
678 other communities. The State Board of Education shall select the
679 grant recipients prior to July 1, 1995, for local programs that
680 will be in operation at the beginning of the 1995-1996 school
681 year, and prior to July 1 and thereafter for the appropriate
682 school year.

683 A grant recipient may request a modification of a grant or
684 additional funds to implement a grant through the grant
685 application process. The request shall be reviewed and accepted
686 or rejected in the same manner as a grant application.

687 (9) The State Department of Education shall administer the
688 grant program under the direction of the State Board of Education.
689 The State Department of Education shall provide technical
690 assistance to grant applicants and recipients.

691 (10) All agencies of the state and local government,
692 including departments of human services, health departments, local
693 mental health, and intellectual disability commissions, court
694 personnel, law enforcement agencies and cities and counties shall
695 cooperate with the State Department of Education and local school
696 boards that receive grants in coordinating the S.O.S. program at
697 the state level and in implementing the S.O.S. program at the
698 local level.

699 (11) The Department of Education shall develop and implement
700 an evaluation system, under the direction of the State Board of
701 Education, that will assess the efficiency and effectiveness of
702 the S.O.S. program. However, private schools shall not be
703 included under the provisions of this act.

704 **SECTION 10.** Section 37-16-11, Mississippi Code of 1972, is
705 amended as follows:

706 37-16-11. (1) A student who has been properly classified,
707 in accordance with rules established by the state board as



708 "educable person with an intellectual disability," "trainable
709 person with an intellectual disability," "deaf," "specific
710 learning disabled," "physically handicapped whose ability to
711 communicate orally or in writing is seriously impaired" or
712 "emotionally handicapped" shall not be required to meet all
713 requirements of Section 37-16-7, and shall, upon meeting all
714 applicable requirements prescribed by the district school board,
715 be awarded a special diploma in a form prescribed by the state
716 board; * * * however, * * * such special graduation requirements
717 prescribed by the district school board shall include minimum
718 graduation requirements as prescribed by the state board. Any
719 such student who meets all special requirements of the district
720 school board for his exceptionality, but is unable to meet the
721 appropriate special state minimum requirements, shall be awarded a
722 special certificate of completion in a form prescribed by the
723 state board. Nothing provided in this section, however, shall be
724 construed to limit or restrict the right of an exceptional student
725 solely to a special diploma. Any such student shall, upon proper
726 request, be afforded the opportunity to fully meet all
727 requirements of Section 37-16-7 through the standard procedures
728 established therein and thereby qualify for a standard diploma
729 upon graduation.

730 (2) The State Board of Education shall develop and issue
731 criteria for a Mississippi Occupational Diploma for students
732 having a disability as defined by the federal Individuals with
733 Disabilities Education Act. Beginning with the 2002-2003 school
734 year, any such student, upon proper request, shall be afforded the
735 opportunity to fully meet such requirements and qualify for an
736 occupational diploma upon graduation.

737 **SECTION 11.** Section 37-23-3, Mississippi Code of 1972, is
738 amended as follows:



739 37-23-3. (1) An exceptional child shall be defined as any
740 child as herein defined, in the age range birth through twenty
741 (20) years of age with an intellectual disability, hearing
742 impairments (including deafness), speech or language impairments,
743 visual impairments (including blindness), emotional disturbance,
744 orthopedic impairments, autism, traumatic brain injury, other
745 health impairments, or specific learning disabilities and, by
746 reason thereof, needs special education and related services. Such
747 children shall be determined by competent professional persons in
748 such disciplines as medicine, psychology, special education,
749 speech pathology and social work and shall be considered
750 exceptional children for the purposes of Sections 37-23-1 through
751 37-23-159. Such professional persons shall be approved by the
752 State Department of Education. The mandate for the provision of
753 educational programs to exceptional children shall only apply to
754 the children in the age range three (3) through twenty (20).
755 Children who are potentially in need of special educational and
756 related services must be considered for the services on an
757 individual basis.

758 (2) During the Fiscal Year 1995 and Fiscal Year 1996, the
759 State Department of Education shall conduct a pilot project in one
760 or more school districts which shall test the method of providing
761 language services described in this subsection. For purposes of
762 this pilot project, a child with a disability as defined in the
763 Individuals with Disabilities Education Act (IDEA) may not be
764 denied language services because his measured cognitive
765 functioning is equivalent to or lower than his measured
766 functioning level in the language area. In order for language
767 services to be provided for a child, the measure functioning level
768 of the child in the language area must indicate a delay relative
769 to the child's chronological age. Individual determination of a
770 child's needs must take into consideration the need for



771 development in the language area, the need for support for basic
772 adaptive skills in language development an the extent to which the
773 child's lack of ability in the language area may have interfered
774 with academic achievement or development milestones. In the area
775 of language development, a child's need of alternative or
776 augmentative communication modes and the need for language
777 development must be considered fundamental in making their
778 determination of need for services.

779 (3) The State Department of Education shall report to the
780 Education Committees of the House of Representatives and the
781 Senate by December 1, 1995, and December 1, 1996, on the results
782 of the pilot project described in subsection (2) of this section.
783 Such reports shall include, but not be limited to, the project;
784 the number and ages of the children who applied for participation
785 and who did participate in the pilot project; and evaluation of
786 the benefits obtained by the children who participated in the
787 pilot project; an estimate of the number of children who would
788 likely utilize similar services if provided on a statewide basis;
789 and an estimate of the cost of providing such services on a
790 statewide basis.

791 (4) The State Board of Education shall promulgate
792 regulations which ensure services are provided to children as such
793 services are defined in this chapter.

794 **SECTION 12.** Section 37-23-61, Mississippi Code of 1972, is
795 amended as follows:

796 37-23-61. As used in Sections 37-23-61 through 37-23-75, the
797 word "child" shall mean any child who cannot pursue all regular
798 classwork due to reasons of defective hearing, vision, speech,
799 intellectual disability, or other mental or physical conditions as
800 determined by competent medical authorities and psychologists.
801 Those medical authorities and psychologists shall be approved by
802 the State Department of Education.



803 **SECTION 13.** Section 37-23-63, Mississippi Code of 1972, is
804 amended as follows:

805 37-23-63. Every child who is a resident citizen of the State
806 of Mississippi under twenty-one (21) years of age, who cannot
807 pursue all regular class work due to reasons of defective hearing,
808 vision, speech, intellectual disability or other mental or
809 physical conditions as determined by competent medical authorities
810 and psychologists, who has not finished or graduated from high
811 school, and who is in attendance in a private school, parochial
812 school or speech, hearing and/or language clinic that is
813 accredited by a state or regional accrediting agency or
814 approved/licensed by the State Department of Education, shall be
815 eligible and entitled to receive state financial assistance in the
816 amount set forth in Section 37-23-69. Exceptional children as
817 defined in Section 37-23-3(1) and who are certified by the
818 designated state authority as requiring inpatient care in a
819 private intermediate care facility for the mentally retarded or
820 psychiatric residential treatment facility, with Medicaid
821 reimbursement, shall be eligible and entitled to receive state
822 financial assistance under the provisions of Section 37-23-69, if
823 an approved private school is operated as an integral part of the
824 facility that provides twenty-four (24) hours a day monitoring,
825 treatment and education.

826 **SECTION 14.** Section 37-23-91, Mississippi Code of 1972, is
827 amended as follows:

828 37-23-91. The board of education in any Class 1 county of
829 the state having a total population of more than one hundred
830 thousand according to the 1960 census and having a total assessed
831 valuation in excess of Sixty Million Dollars (\$60,000,000.00),
832 bordering on the Gulf of Mexico and in which there is a federal
833 military base, under the methods set out in Sections 37-23-91
834 through 37-23-111, may establish a child development center for



835 children in the county who have an intellectual or physical
836 disability or are otherwise unable to attend public school,
837 including, but not limited to, any child of educable or trainable
838 mind under twenty-one (21) years of age for whose particular
839 educational needs institutional care and training are not
840 available in such county, or who cannot pursue regular classwork
841 due to reason or reasons of defective hearing, vision, speech,
842 intellectual disability or physical conditions, as determined by
843 competent medical authorities and psychologists who are approved
844 by the State Board of Education. This specifically includes, but
845 shall not be limited to, provision for the deaf and blind of an
846 age under six (6) years, where early training is in accordance
847 with the most advanced and best approved scientific methods of
848 instruction, always taking into consideration the best interests
849 of the child and his improvement at a time during which he is most
850 susceptible to improvement.

851 **SECTION 15.** Section 37-101-285, Mississippi Code of 1972, is
852 amended as follows:

853 37-101-285. For the purposes of Section 37-101-291, the
854 following terms shall have the following meanings unless context
855 shall prescribe otherwise:

856 (1) "State health institution" or "state health
857 institutions" means all facilities operated within the Department
858 of Mental Health, mental health/intellectual disability facilities
859 under the administration of a regional commission as established
860 under Section 41-19-31, that are certified by the Department of
861 Mental Health, University of Mississippi Hospital, the State Board
862 of Health, health care facilities operated by the Department of
863 Corrections, and any other public health care facility.

864 (2) "Health care professions" means nurses, nurse
865 practitioners, speech pathologists, psychologists, occupational



866 therapists, physical therapists, and any other critical need
867 profession determined by the sponsoring state health institution.

868 **SECTION 16.** Section 37-143-13, Mississippi Code of 1972, is
869 amended as follows:

870 37-143-13. (1) There is established a health care
871 professions' loan program. It is the intent of the Legislature
872 that persons declaring an intention to work at certain state
873 health institutions as nurses, nurse practitioners, speech
874 pathologists, psychologists, occupational therapists and physical
875 therapists, shall be eligible for a loan for the purpose of
876 acquiring an education in such professions. The board of trustees
877 shall enter into contracts with applicants, providing that such
878 loans may be discharged by working as a health care professional
879 in a state health institution, as defined in this section, for a
880 period of time after graduation equal to the period of study
881 provided under the scholarship. Such contracts shall provide that
882 for each year of service, the appropriate portion of the
883 outstanding balance of principal and interest of such loan shall
884 be converted to interest-free scholarships and discharged.

885 (2) "State health institution" shall mean any of the
886 following: Any facility or program operated by the Department of
887 Mental Health; the State Board of Health; mental
888 health/intellectual disability facilities under the administration
889 of a regional commission as established under Section 41-19-31
890 which are certified by the Department of Mental Health; and health
891 care facilities under the Department of Corrections.

892 (3) The board of trustees shall establish rules and
893 regulations as it deems necessary and proper to carry out the
894 purposes and intent of this section.

895 **SECTION 17.** Section 41-4-1, Mississippi Code of 1972, is
896 amended as follows:



897 41-4-1. The purpose of this chapter is to coordinate,
898 develop, improve, plan for, and provide all services for persons
899 of this state with mental illness, emotional disturbance,
900 alcoholism, drug dependence, and an intellectual disability; to
901 promote, safeguard and protect human dignity, social well-being
902 and general welfare of these persons under the cohesive control of
903 one (1) coordinating and responsible agency so that mental health
904 and intellectual disability services and facilities may be
905 uniformly provided more efficiently and economically to any
906 resident of the State of Mississippi; and further to seek means
907 for the prevention of these disabilities.

908 **SECTION 18.** Section 41-4-5, Mississippi Code of 1972, is
909 amended as follows:

910 41-4-5. There is * * * created the State Department of
911 Mental Health, herein referred to as "department," which shall
912 consist of four (4) or more divisions, among them the Division of
913 Intellectual Disabilities, the Division of Alcohol and Drug
914 Misuse, the Division of Mental Health, and the Division of
915 Administration, Planning and Coordination, and such other
916 divisions as the board * * * deems appropriate.

917 **SECTION 19.** Section 41-4-7, Mississippi Code of 1972, is
918 amended as follows:

919 41-4-7. The State Board of Mental Health shall have the
920 following powers and duties:

921 (a) To appoint a full-time Executive Director of the
922 Department of Mental Health, who shall be employed by the board
923 and shall serve as executive secretary to the board. The first
924 director shall be a duly licensed physician with special interest
925 and competence in psychiatry, and shall possess a minimum of three
926 (3) years' experience in clinical and administrative psychiatry.
927 Subsequent directors shall possess at least a master's degree or
928 its equivalent, and shall possess at least ten (10) years'



929 administrative experience in the field of mental health. The
930 salary of the executive director shall be determined by the board;

931 (b) To set up state plans for the purpose of
932 controlling and treating any and all forms of mental and emotional
933 illness, alcoholism, drug misuse and developmental disabilities;

934 (c) To supervise, coordinate and establish standards
935 for all operations and activities of the state related to mental
936 health and providing mental health services. Nothing in this
937 chapter shall preclude the services of a psychiatric/mental health
938 nurse practitioner in accordance with an established nurse
939 practitioner-physician protocol. The board shall have the
940 authority to develop and implement all standards and plans and
941 shall have the authority to establish appropriate actions,
942 including financially punitive actions, to ensure enforcement of
943 these established standards, in accordance with the Administrative
944 Procedures Law (Section 25-43-1 et seq.). This paragraph (c)
945 shall stand repealed on July 1, 2010;

946 (d) To enter into contracts with any other state or
947 federal agency, or with any private person, organization or group
948 capable of contracting, if it finds such action to be in the
949 public interest;

950 (e) To collect reasonable fees for its services;
951 however, if it is determined that a person receiving services is
952 unable to pay the total fee, the department shall collect any
953 amount such person is able to pay;

954 (f) To certify, coordinate and establish minimum
955 standards and establish minimum required services for regional
956 mental health and intellectual disability commissions and other
957 community service providers for community or regional programs and
958 services in mental health, intellectual disabilities, alcoholism,
959 drug misuse, developmental disabilities, compulsive gambling,
960 addictive disorders and related programs throughout the state.



961 Such regional mental health and intellectual disability
962 commissions and other community service providers shall submit an
963 annual operational plan to the State Department of Mental Health
964 for approval or disapproval based on the minimum standards and
965 minimum required services established by the department for
966 certification. If the department finds deficiencies in the plan
967 of any regional commission or community service provider based on
968 the minimum standards and minimum required services established
969 for certification, the department shall give the regional
970 commission or community service provider a six-month probationary
971 period to bring its standards and services up to the established
972 minimum standards and minimum required services. After the
973 six-month probationary period, if the department determines that
974 the regional commission or community service provider still does
975 not meet the minimum standards and minimum required services
976 established for certification, the department may remove the
977 certification of the commission or provider. However, the
978 department shall not mandate a standard or service, or decertify a
979 regional commission or community service provider for not meeting
980 a standard or service, if the standard or service does not have
981 funding appropriated by the Legislature or have a funding source
982 from the State Department of Mental Health or a local funding
983 source. The State Board of Mental Health shall promulgate rules
984 and regulations necessary to implement the provisions of this
985 paragraph (f), in accordance with the Administrative Procedures
986 Law (Section 25-43-1 et seq.);

987 (g) To establish and promulgate reasonable minimum
988 standards for the construction and operation of state and all
989 Department of Mental Health certified facilities, including
990 reasonable minimum standards for the admission, diagnosis, care,
991 treatment, transfer of patients and their records, and also
992 including reasonable minimum standards for providing day care,



993 outpatient care, emergency care, inpatient care and follow-up
994 care, when such care is provided for persons with mental or
995 emotional illness, an intellectual disability, alcoholism, drug
996 misuse and developmental disabilities;

997 (h) To assist community or regional programs consistent
998 with the purposes of this chapter by making grants and contracts
999 from available funds;

1000 (i) To establish and collect reasonable fees for
1001 necessary inspection services incidental to certification or
1002 compliance;

1003 (j) To accept gifts, trusts, bequests, grants,
1004 endowments or transfers of property of any kind;

1005 (k) To receive monies coming to it by way of fees for
1006 services or by appropriations;

1007 (l) To serve as the single state agency in receiving
1008 and administering any and all funds available from any source for
1009 the purpose of service delivery, training, research and education
1010 in regard to all forms of mental illness, intellectual
1011 disabilities, alcoholism, drug misuse and developmental
1012 disabilities, unless such funds are specifically designated to a
1013 particular agency or institution by the federal government, the
1014 Mississippi Legislature or any other grantor;

1015 (m) To establish mental health holding centers for the
1016 purpose of providing short-term emergency mental health treatment,
1017 places for holding persons awaiting commitment proceedings or
1018 awaiting placement in a state mental health facility following
1019 commitment, and for diverting placement in a state mental health
1020 facility. These mental health holding facilities shall be readily
1021 accessible, available statewide, and be in compliance with
1022 emergency services' minimum standards. They shall be
1023 comprehensive and available to triage and make appropriate
1024 clinical disposition, including the capability to access inpatient



1025 services or less restrictive alternatives, as needed, as
1026 determined by medical staff. Such facility shall have medical,
1027 nursing and behavioral services available on a
1028 twenty-four-hour-a-day basis. The board may provide for all or
1029 part of the costs of establishing and operating the holding
1030 centers in each district from such funds as may be appropriated to
1031 the board for such use, and may participate in any plan or
1032 agreement with any public or private entity under which the entity
1033 will provide all or part of the costs of establishing and
1034 operating a holding center in any district;

1035 (n) To certify/license case managers, mental health
1036 therapists, intellectual disability therapists, mental
1037 health/intellectual disability program administrators, addiction
1038 counselors and others as deemed appropriate by the board. Persons
1039 already professionally licensed by another state board or agency
1040 are not required to be certified/licensed under this section by
1041 the Department of Mental Health. The department shall not use
1042 professional titles in its certification/licensure process for
1043 which there is an independent licensing procedure. Such
1044 certification/licensure shall be valid only in the state mental
1045 health system, in programs funded and/or certified by the
1046 Department of Mental Health, and/or in programs certified/licensed
1047 by the State Department of Health that are operated by the state
1048 mental health system serving persons with mental illness, an
1049 intellectual disability, a developmental disability or * * *
1050 addictions, and shall not be transferable;

1051 (o) To develop formal mental health worker
1052 qualifications for regional mental health and intellectual
1053 disability commissions and other community service providers. The
1054 State Personnel Board shall develop and promulgate a recommended
1055 salary scale and career ladder for all regional mental
1056 health/intellectual disability center therapists and case managers



1057 who work directly with clients. The State Personnel Board shall
1058 also develop and promulgate a career ladder for all direct care
1059 workers employed by the State Department of Mental Health;

1060 (p) The employees of the department shall be governed
1061 by personnel merit system rules and regulations, the same as other
1062 employees in state services;

1063 (q) To establish such rules and regulations as may be
1064 necessary in carrying out the provisions of this chapter,
1065 including the establishment of a formal grievance procedure to
1066 investigate and attempt to resolve consumer complaints;

1067 (r) To grant easements for roads, utilities and any
1068 other purpose it finds to be in the public interest;

1069 (s) To survey statutory designations, building markers
1070 and the names given to mental health/intellectual disability
1071 facilities and proceedings in order to recommend deletion of
1072 obsolete and offensive terminology relative to the mental
1073 health/intellectual disability system. Based upon a
1074 recommendation of the executive director, the board shall have the
1075 authority to name/rename any facility operated under the auspices
1076 of the Department of Mental Health for the sole purpose of
1077 deleting such terminology;

1078 (t) To ensure an effective case management system
1079 directed at persons who have been discharged from state and
1080 private psychiatric hospitals to ensure their continued well-being
1081 in the community;

1082 (u) To develop formal service delivery standards
1083 designed to measure the quality of services delivered to community
1084 clients, as well as the timeliness of services to community
1085 clients provided by regional mental health/intellectual disability
1086 commissions and other community services providers;

1087 (v) To establish regional state offices to provide
1088 mental health crisis intervention centers and services available



1089 throughout the state to be utilized on a case-by-case emergency
1090 basis. The regional services director, other staff and delivery
1091 systems shall meet the minimum standards of the Department of
1092 Mental Health;

1093 (w) To require performance contracts with community
1094 mental health/intellectual disability service providers to contain
1095 performance indicators to measure successful outcomes, including
1096 diversion of persons from inpatient psychiatric hospitals,
1097 rapid/timely response to emergency cases, client satisfaction with
1098 services and other relevant performance measures;

1099 (x) To enter into interagency agreements with other
1100 state agencies, school districts and other local entities as
1101 determined necessary by the department to ensure that local mental
1102 health service entities are fulfilling their responsibilities to
1103 the overall state plan for behavioral services;

1104 (y) To establish and maintain a toll-free grievance
1105 reporting telephone system for the receipt and referral for
1106 investigation of all complaints by clients of state and community
1107 mental health/intellectual disability facilities;

1108 (z) To establish a peer review/quality assurance
1109 evaluation system that assures that appropriate assessment,
1110 diagnosis and treatment is provided according to established
1111 professional criteria and guidelines;

1112 (aa) To develop and implement state plans for the
1113 purpose of assisting with the care and treatment of persons with
1114 Alzheimer's disease and other dementia. This plan shall include
1115 education and training of service providers, caregivers in the
1116 home setting and others who deal with persons with Alzheimer's
1117 disease and other dementia, and development of adult day care,
1118 family respite care and counseling programs to assist families who
1119 maintain persons with Alzheimer's disease and other dementia in
1120 the home setting. No agency shall be required to provide any



1121 services under this section until such time as sufficient funds
1122 have been appropriated or otherwise made available by the
1123 Legislature specifically for the purposes of the treatment of
1124 persons with Alzheimer's and other dementia;

1125 (bb) Working with the advice and consent of the
1126 administration of Ellisville State School, to enter into
1127 negotiations with the Economic Development Authority of Jones
1128 County for the purpose of negotiating the possible exchange, lease
1129 or sale of lands owned by Ellisville State School to the Economic
1130 Development Authority of Jones County. It is the intent of the
1131 Mississippi Legislature that such negotiations shall ensure that
1132 the financial interest of the persons with an intellectual
1133 disability served by Ellisville State School will be held
1134 paramount in the course of these negotiations. The Legislature
1135 also recognizes the importance of economic development to the
1136 citizens of the State of Mississippi and Jones County, and
1137 encourages fairness to the Economic Development Authority of Jones
1138 County. Any negotiations proposed which would result in the
1139 recommendation for exchange, lease or sale of lands owned by
1140 Ellisville State School must have the approval of the State Board
1141 of Mental Health. The State Board of Mental Health may and has
1142 the final authority as to whether or not these negotiations result
1143 in the exchange, lease or sale of the properties it currently
1144 holds in trust for persons with an intellectual disability served
1145 at Ellisville State School.

1146 If the State Board of Mental Health authorizes the sale of
1147 lands owned by Ellisville State School, as provided for under this
1148 paragraph (bb), the monies derived from the sale shall be placed
1149 into a special fund that is created in the State Treasury to be
1150 known as the "Ellisville State School Client's Trust Fund." The
1151 principal of the trust fund shall remain inviolate and shall never
1152 be expended. Any interest earned on the principal may be expended



1153 solely for the benefits of clients served at Ellisville State
1154 School. The State Treasurer shall invest the monies of the trust
1155 fund in any of the investments authorized for the Mississippi
1156 Prepaid Affordable College Tuition Program under Section 37-155-9,
1157 and those investments shall be subject to the limitations
1158 prescribed by Section 37-155-9. Unexpended amounts remaining in
1159 the trust fund at the end of a fiscal year shall not lapse into
1160 the State General Fund, and any interest earned on amounts in the
1161 trust fund shall be deposited to the credit of the trust fund.
1162 The administration of Ellisville State School may use any interest
1163 earned on the principal of the trust fund, upon appropriation by
1164 the Legislature, as needed for services or facilities by the
1165 clients of Ellisville State School. Ellisville State School shall
1166 make known to the Legislature, through the Legislative Budget
1167 Committee and the respective Appropriations Committees of the
1168 House and Senate, its proposed use of interest earned on the
1169 principal of the trust fund for any fiscal year in which it
1170 proposes to make expenditures thereof. The State Treasurer shall
1171 provide Ellisville State School with an annual report on the
1172 Ellisville State School Client's Trust Fund to indicate the total
1173 monies in the trust fund, interest earned during the year,
1174 expenses paid from the trust fund and such other related
1175 information.

1176 Nothing in this section shall be construed as applying to or
1177 affecting mental health/intellectual disability services provided
1178 by hospitals as defined in Section 41-9-3(a), and/or their
1179 subsidiaries and divisions, which hospitals, subsidiaries and
1180 divisions are licensed and regulated by the Mississippi State
1181 Department of Health unless such hospitals, subsidiaries or
1182 divisions voluntarily request certification by the Mississippi
1183 State Department of Mental Health.



1184 All new programs authorized under this section shall be
1185 subject to the availability of funds appropriated therefor by the
1186 Legislature;

1187 (cc) Working with the advice and consent of the
1188 administration of Boswell Regional Center, to enter into
1189 negotiations with the Economic Development Authority of Simpson
1190 County for the purpose of negotiating the possible exchange, lease
1191 or sale of lands owned by Boswell Regional Center to the Economic
1192 Development Authority of Simpson County. It is the intent of the
1193 Mississippi Legislature that such negotiations shall ensure that
1194 the financial interest of the persons with an intellectual
1195 disability served by Boswell Regional Center will be held
1196 paramount in the course of these negotiations. The Legislature
1197 also recognizes the importance of economic development to the
1198 citizens of the State of Mississippi and Simpson County, and
1199 encourages fairness to the Economic Development Authority of
1200 Simpson County. Any negotiations proposed which would result in
1201 the recommendation for exchange, lease or sale of lands owned by
1202 Boswell Regional Center must have the approval of the State Board
1203 of Mental Health. The State Board of Mental Health may and has
1204 the final authority as to whether or not these negotiations result
1205 in the exchange, lease or sale of the properties it currently
1206 holds in trust for persons with an intellectual disability served
1207 at Boswell Regional Center. In any such exchange, lease or sale
1208 of such lands owned by Boswell Regional Center, title to all
1209 minerals, oil and gas on such lands shall be reserved, together
1210 with the right of ingress and egress to remove same, whether such
1211 provisions be included in the terms of any such exchange, lease or
1212 sale or not.

1213 If the State Board of Mental Health authorizes the sale of
1214 lands owned by Boswell Regional Center, as provided for under this
1215 paragraph (cc), the monies derived from the sale shall be placed



1216 into a special fund that is created in the State Treasury to be
1217 known as the "Boswell Regional Center Client's Trust Fund." The
1218 principal of the trust fund shall remain inviolate and shall never
1219 be expended. Any earnings on the principal may be expended solely
1220 for the benefits of clients served at Boswell Regional Center.
1221 The State Treasurer shall invest the monies of the trust fund in
1222 any of the investments authorized for the Mississippi Prepaid
1223 Affordable College Tuition Program under Section 37-155-9, and
1224 those investments shall be subject to the limitations prescribed
1225 by Section 37-155-9. Unexpended amounts remaining in the trust
1226 fund at the end of a fiscal year shall not lapse into the State
1227 General Fund, and any earnings on amounts in the trust fund shall
1228 be deposited to the credit of the trust fund. The administration
1229 of Boswell Regional Center may use any earnings on the principal
1230 of the trust fund, upon appropriation by the Legislature, as
1231 needed for services or facilities by the clients of Boswell
1232 Regional Center. Boswell Regional Center shall make known to the
1233 Legislature, through the Legislative Budget Committee and the
1234 respective Appropriations Committees of the House and Senate, its
1235 proposed use of the earnings on the principal of the trust fund
1236 for any fiscal year in which it proposes to make expenditures
1237 thereof. The State Treasurer shall provide Boswell Regional
1238 Center with an annual report on the Boswell Regional Center
1239 Client's Trust Fund to indicate the total monies in the trust
1240 fund, interest and other income earned during the year, expenses
1241 paid from the trust fund and such other related information.

1242 Nothing in this section shall be construed as applying to or
1243 affecting mental health/intellectual disability services provided
1244 by hospitals as defined in Section 41-9-3(a), and/or their
1245 subsidiaries and divisions, which hospitals, subsidiaries and
1246 divisions are licensed and regulated by the Mississippi State
1247 Department of Health unless such hospitals, subsidiaries or



1248 divisions voluntarily request certification by the Mississippi
1249 State Department of Mental Health.

1250 All new programs authorized under this section shall be
1251 subject to the availability of funds appropriated therefor by the
1252 Legislature;

1253 (dd) Notwithstanding any other section of the code, the
1254 Board of Mental Health shall be authorized to fingerprint and
1255 perform a criminal history record check on every employee or
1256 volunteer. Every employee and volunteer shall provide a valid
1257 current social security number and/or driver's license number
1258 which shall be furnished to conduct the criminal history record
1259 check. If no disqualifying record is identified at the state
1260 level, fingerprints shall be forwarded to the Federal Bureau of
1261 Investigation for a national criminal history record check;

1262 (ee) The Department of Mental Health shall have the
1263 authority for the development of a consumer friendly single point
1264 of intake and referral system within its service areas for persons
1265 with mental illness, an intellectual disability, developmental
1266 disabilities or alcohol or substance abuse who need assistance
1267 identifying or accessing appropriate services. The department
1268 will develop and implement a comprehensive evaluation procedure
1269 ensuring that, where appropriate, the affected person or their
1270 parent or legal guardian will be involved in the assessment and
1271 planning process. The department, as the point of intake and as
1272 service provider, shall have the authority to determine the
1273 appropriate institutional, hospital or community care setting for
1274 persons who have been diagnosed with mental illness, an
1275 intellectual disability, developmental disabilities and/or alcohol
1276 or substance abuse, and may provide for the least restrictive
1277 placement if the treating professional believes such a setting is
1278 appropriate, if the person affected or their parent or legal
1279 guardian wants such services, and if the department can do so with



1280 a reasonable modification of the program without creating a
1281 fundamental alteration of the program. The least restrictive
1282 setting could be an institution, hospital or community setting,
1283 based upon the needs of the affected person or their parent or
1284 legal guardian;

1285 (ff) To have the sole power and discretion to enter
1286 into, sign, execute and deliver long-term or multiyear leases of
1287 real and personal property owned by the Department of Mental
1288 Health to and from other state and federal agencies and private
1289 entities deemed to be in the public's best interest. Any monies
1290 derived from such leases shall be deposited into the funds of the
1291 Department of Mental Health for its exclusive use. Leases to
1292 private entities shall be approved by the Department of Finance
1293 and Administration and all leases shall be filed with the
1294 Secretary of State;

1295 (gg) To certify and establish minimum standards and
1296 minimum required services for county facilities used for housing,
1297 feeding and providing medical treatment for any person who has
1298 been involuntarily ordered admitted to a treatment center by a
1299 court of competent jurisdiction. If the department finds
1300 deficiencies in any such county facility or its provider based on
1301 the minimum standards and minimum required services established
1302 for certification, the department shall give the county or its
1303 provider a six-month probationary period to bring its standards
1304 and services up to the established minimum standards and minimum
1305 required services. After the six-month probationary period, if
1306 the department determines that the county or its provider still
1307 does not meet the minimum standards and minimum required services,
1308 the department may remove the certification of the county or
1309 provider and require the county to contract with another county
1310 having a certified facility to hold those persons for that period
1311 of time pending transportation and admission to a state treatment



1312 facility. Any cost incurred by a county receiving an
1313 involuntarily committed person from a county with a decertified
1314 holding facility shall be reimbursed by the home county to the
1315 receiving county.

1316 **SECTION 20.** Section 41-4-8, Mississippi Code of 1972, is
1317 amended as follows:

1318 41-4-8. (1) A person shall not make, present or cause to be
1319 made or presented a material falsification of diagnosis of a
1320 Medicaid-eligible client for a claim for Medicaid mental health
1321 services benefits, knowing the diagnosis and claim to be false,
1322 fictitious or fraudulent.

1323 (2) A person who violates this section shall be guilty of a
1324 felony and, upon conviction thereof, shall be punished by
1325 imprisonment for not more than five (5) years, or by a fine of not
1326 more than One Hundred Thousand Dollars (\$100,000.00), or both.

1327 (3) For purposes of subsection (1), if a regional mental
1328 health/intellectual disability center submits claims for Medicaid
1329 reimbursement or other funds from the Department of Mental Health,
1330 the lack of a certified physician or psychologist evaluation of
1331 the client for such claim as required under Section 41-4-7(c)
1332 shall be deemed a material falsification of diagnosis by the
1333 person responsible for making or presenting such claim.

1334 **SECTION 21.** Section 41-4-11, Mississippi Code of 1972, is
1335 amended as follows:

1336 41-4-11. (1) On July 1, 1974, the Board of Trustees of
1337 Mental Institutions of the State of Mississippi and the
1338 Mississippi Interagency Commission on Mental Illness and Mental
1339 Retardation shall be abolished. The authority now vested in the
1340 State Board of Health relating to mental health, drug misuse and
1341 alcoholism is * * * rescinded as of July 1, 1974.

1342 (2) As of July 1, 1974, the Mississippi State Hospital at
1343 Whitfield, the East Mississippi State Hospital at Meridian, the



1344 Ellisville State School at Ellisville, the North Mississippi
1345 Regional Center at Oxford, and any other mental or intellectual
1346 disability facility that may be established, shall become subject
1347 to the jurisdiction and control of the State Department of Mental
1348 Health.

1349 (3) All duties, responsibilities, authority, power, assets,
1350 liabilities, contractual rights and obligations, and property
1351 rights, whether accruing or vesting in the abolished agencies
1352 before or after the effective date of this chapter, are * * *
1353 vested in the State Board of Mental Health.

1354 (4) The board upon recommendation of the executive director
1355 shall select the heads of divisions and institutions necessary to
1356 carry out the provisions of this chapter who shall have
1357 qualifications appropriate to the duties they must discharge.

1358 (5) Employees of the abolished agencies or divisions of
1359 agencies holding positions on June 30, 1974, shall be employees of
1360 the State Department of Mental Health on July 1, 1974. The board
1361 may combine or abolish positions as necessary to carry out the
1362 provisions of this chapter.

1363 (6) Subject to the provisions and limitations of this
1364 chapter as expressly set forth in section 41-4-13, all offices,
1365 services, programs and other activities of the abolished agencies
1366 or divisions of agencies are * * * made offices, services,
1367 programs or other activities of the State Department of Mental
1368 Health, and the board is * * * authorized to reorganize such
1369 offices, services, programs or other activities so as to achieve
1370 economy and efficiency; and the * * * board may establish bureaus,
1371 divisions, hospitals, clinics, mental health centers, homes for
1372 persons with an intellectual disability, or other facilities for
1373 providing mental health services if it finds such action to be in
1374 the public interest.



1375 **SECTION 22.** Section 41-4-23, Mississippi Code of 1972, is
1376 amended as follows:

1377 41-4-23. (a) It will be the duty of the director of any
1378 mental health or intellectual disability facility under the
1379 direction or control of the State Department of Mental Health to
1380 designate certain employees as security guards and campus police.
1381 The names, qualifications, and training of such campus police will
1382 be reported to the Executive Director of the State Department of
1383 Mental Health and spread upon the official minutes of the State
1384 Board of Mental Health.

1385 All campus police, subsequent to employment but prior to
1386 performing duties as campus police, will attend and satisfactorily
1387 complete the training course required for law enforcement officers
1388 at the Law Enforcement Officer's Training Academy or an equivalent
1389 facility. Campus police training may be at the expense of the
1390 Department of Mental Health and conditioned upon work repayment by
1391 the employee in accordance with educational leave regulations
1392 promulgated by the State Board of Mental Health. Failure to meet
1393 repayment obligations may result in revocation of law enforcement
1394 certification in the same manner provided in Section 37-101-291.
1395 A complete record of all law enforcement training of each employee
1396 will be maintained in each employee's record of employment. A
1397 master file of all such employees' training will be kept in the
1398 central office of the State Department of Mental Health.

1399 (b) All campus police will be duly constituted peace
1400 officers with powers and duties of a constable but such authority
1401 may be exercised only on the premises of institutions under the
1402 control of the State Department of Mental Health and public
1403 property immediately adjacent to such premises. Each person
1404 designated as a security guard or campus police will enter into
1405 bond in the penalty amount of not less than Ten Thousand Dollars



1406 (\$10,000.00), the premium for which shall be paid by the facility
1407 employing such security guard or campus police.

1408 (c) All security guards and campus police will exercise
1409 their authority while in performance of their duty on any of the
1410 facilities under the direction or control of the State Department
1411 of Mental Health and public property immediately adjacent to such
1412 facilities; will be required to dress in uniforms prescribed by
1413 the State Board of Mental Health; and will be authorized to carry
1414 weapons. Employees designated as campus police shall be duly
1415 sworn and vested with authority to bear arms and make arrests, and
1416 shall exercise primarily the responsibilities of the prevention
1417 and detection of crime, the apprehension of criminals, and the
1418 enforcement of the ordinances and policies of the Department of
1419 Mental Health, a political subdivision of the State of
1420 Mississippi. Employees designated as campus police shall be
1421 considered law enforcement officers within the meaning of Section
1422 45-6-3.

1423 **SECTION 23.** Section 41-5-44, Mississippi Code of 1972, is
1424 amended as follows:

1425 41-5-44. (a) The Board of Mental Health is * * * directed,
1426 if such is determined to be feasible by the board, to establish,
1427 equip, staff and operate nursing homes for * * * patients with an
1428 intellectual disability. Those nursing homes shall be equipped,
1429 staffed and operated in accordance with the minimum standards
1430 established by the State Department of Health, and shall meet all
1431 the requirements for the admission and care of patients eligible
1432 for Medicare and Medicaid assistance as required by Titles XVIII
1433 and XIX of the Social Security Act, as amended.

1434 (b) Admission to the nursing homes shall be limited to those
1435 patients who have been admitted to the mental institutions or
1436 intellectual disability centers or eligible for admission to the
1437 mental institutions or intellectual disability centers according



1438 to state laws and who have been certified as eligible for Medicare
1439 or Medicaid assistance as determined by the provisions of
1440 Mississippi laws governing the administration of Titles XVIII and
1441 XIX of the Social Security Act, as amended.

1442 (c) The purpose of this section is to provide a nursing
1443 facility within the environs of the former Tuberculosis Sanatorium
1444 of Mississippi, thereby providing a needed service to eligible
1445 patients by making use of available buildings and resources for
1446 their care and constituting an additional service rendered by the
1447 institution.

1448 **SECTION 24.** Section 41-7-173, Mississippi Code of 1972, is
1449 amended as follows:

1450 41-7-173. For the purposes of Section 41-7-171 et seq., the
1451 following words shall have the meanings ascribed herein, unless
1452 the context otherwise requires:

1453 (a) "Affected person" means (i) the applicant; (ii) a
1454 person residing within the geographic area to be served by the
1455 applicant's proposal; (iii) a person who regularly uses health
1456 care facilities or HMO's located in the geographic area of the
1457 proposal which provide similar service to that which is proposed;
1458 (iv) health care facilities and HMO's which have, prior to receipt
1459 of the application under review, formally indicated an intention
1460 to provide service similar to that of the proposal being
1461 considered at a future date; (v) third-party payers who reimburse
1462 health care facilities located in the geographical area of the
1463 proposal; or (vi) any agency that establishes rates for health
1464 care services or HMO's located in the geographic area of the
1465 proposal.

1466 (b) "Certificate of need" means a written order of the
1467 State Department of Health setting forth the affirmative finding
1468 that a proposal in prescribed application form, sufficiently
1469 satisfies the plans, standards and criteria prescribed for such



1470 service or other project by Section 41-7-171 et seq., and by rules
1471 and regulations promulgated thereunder by the State Department of
1472 Health.

1473 (c) (i) "Capital expenditure," when pertaining to
1474 defined major medical equipment, shall mean an expenditure which,
1475 under generally accepted accounting principles consistently
1476 applied, is not properly chargeable as an expense of operation and
1477 maintenance and which exceeds One Million Five Hundred Thousand
1478 Dollars (\$1,500,000.00).

1479 (ii) "Capital expenditure," when pertaining to
1480 other than major medical equipment, shall mean any expenditure
1481 which under generally accepted accounting principles consistently
1482 applied is not properly chargeable as an expense of operation and
1483 maintenance and which exceeds Two Million Dollars (\$2,000,000.00).

1484 (iii) A "capital expenditure" shall include the
1485 acquisition, whether by lease, sufferance, gift, devise, legacy,
1486 settlement of a trust or other means, of any facility or part
1487 thereof, or equipment for a facility, the expenditure for which
1488 would have been considered a capital expenditure if acquired by
1489 purchase. Transactions which are separated in time but are
1490 planned to be undertaken within twelve (12) months of each other
1491 and are components of an overall plan for meeting patient care
1492 objectives shall, for purposes of this definition, be viewed in
1493 their entirety without regard to their timing.

1494 (iv) In those instances where a health care
1495 facility or other provider of health services proposes to provide
1496 a service in which the capital expenditure for major medical
1497 equipment or other than major medical equipment or a combination
1498 of the two (2) may have been split between separate parties, the
1499 total capital expenditure required to provide the proposed service
1500 shall be considered in determining the necessity of certificate of
1501 need review and in determining the appropriate certificate of need



1502 review fee to be paid. The capital expenditure associated with
1503 facilities and equipment to provide services in Mississippi shall
1504 be considered regardless of where the capital expenditure was
1505 made, in state or out of state, and regardless of the domicile of
1506 the party making the capital expenditure, in state or out of
1507 state.

1508 (d) "Change of ownership" includes, but is not limited
1509 to, inter vivos gifts, purchases, transfers, lease arrangements,
1510 cash and/or stock transactions or other comparable arrangements
1511 whenever any person or entity acquires or controls a majority
1512 interest of the facility or service. Changes of ownership from
1513 partnerships, single proprietorships or corporations to another
1514 form of ownership are specifically included. However, "change of
1515 ownership" shall not include any inherited interest acquired as a
1516 result of a testamentary instrument or under the laws of descent
1517 and distribution of the State of Mississippi.

1518 (e) "Commencement of construction" means that all of
1519 the following have been completed with respect to a proposal or
1520 project proposing construction, renovating, remodeling or
1521 alteration:

1522 (i) A legally binding written contract has been
1523 consummated by the proponent and a lawfully licensed contractor to
1524 construct and/or complete the intent of the proposal within a
1525 specified period of time in accordance with final architectural
1526 plans which have been approved by the licensing authority of the
1527 State Department of Health;

1528 (ii) Any and all permits and/or approvals deemed
1529 lawfully necessary by all authorities with responsibility for such
1530 have been secured; and

1531 (iii) Actual bona fide undertaking of the subject
1532 proposal has commenced, and a progress payment of at least one
1533 percent (1%) of the total cost price of the contract has been paid



1534 to the contractor by the proponent, and the requirements of this
1535 paragraph (e) have been certified to in writing by the State
1536 Department of Health.

1537 Force account expenditures, such as deposits, securities,
1538 bonds, et cetera, may, in the discretion of the State Department
1539 of Health, be excluded from any or all of the provisions of
1540 defined commencement of construction.

1541 (f) "Consumer" means an individual who is not a
1542 provider of health care as defined in paragraph (q) of this
1543 section.

1544 (g) "Develop," when used in connection with health
1545 services, means to undertake those activities which, on their
1546 completion, will result in the offering of a new institutional
1547 health service or the incurring of a financial obligation as
1548 defined under applicable state law in relation to the offering of
1549 such services.

1550 (h) "Health care facility" includes hospitals,
1551 psychiatric hospitals, chemical dependency hospitals, skilled
1552 nursing facilities, end-stage renal disease (ESRD) facilities,
1553 including freestanding hemodialysis units, intermediate care
1554 facilities, ambulatory surgical facilities, intermediate care
1555 facilities for the mentally retarded, home health agencies,
1556 psychiatric residential treatment facilities, pediatric skilled
1557 nursing facilities, long-term care hospitals, comprehensive
1558 medical rehabilitation facilities, including facilities owned or
1559 operated by the state or a political subdivision or
1560 instrumentality of the state, but does not include Christian
1561 Science sanatoriums operated or listed and certified by the First
1562 Church of Christ, Scientist, Boston, Massachusetts. This
1563 definition shall not apply to facilities for the private practice,
1564 either independently or by incorporated medical groups, of
1565 physicians, dentists or health care professionals except where



1566 such facilities are an integral part of an institutional health
1567 service. The various health care facilities listed in this
1568 paragraph shall be defined as follows:

1569 (i) "Hospital" means an institution which is
1570 primarily engaged in providing to inpatients, by or under the
1571 supervision of physicians, diagnostic services and therapeutic
1572 services for medical diagnosis, treatment and care of injured,
1573 disabled or sick persons, or rehabilitation services for the
1574 rehabilitation of injured, disabled or sick persons. Such term
1575 does not include psychiatric hospitals.

1576 (ii) "Psychiatric hospital" means an institution
1577 which is primarily engaged in providing to inpatients, by or under
1578 the supervision of a physician, psychiatric services for the
1579 diagnosis and treatment of * * * persons with mental illness.

1580 (iii) "Chemical dependency hospital" means an
1581 institution which is primarily engaged in providing to inpatients,
1582 by or under the supervision of a physician, medical and related
1583 services for the diagnosis and treatment of chemical dependency
1584 such as alcohol and drug abuse.

1585 (iv) "Skilled nursing facility" means an
1586 institution or a distinct part of an institution which is
1587 primarily engaged in providing to inpatients skilled nursing care
1588 and related services for patients who require medical or nursing
1589 care or rehabilitation services for the rehabilitation of injured,
1590 disabled or sick persons.

1591 (v) "End-stage renal disease (ESRD) facilities"
1592 means kidney disease treatment centers, which includes
1593 freestanding hemodialysis units and limited care facilities. The
1594 term "limited care facility" generally refers to an
1595 off-hospital-premises facility, regardless of whether it is
1596 provider or nonprovider operated, which is engaged primarily in



1597 furnishing maintenance hemodialysis services to stabilized
1598 patients.

1599 (vi) "Intermediate care facility" means an
1600 institution which provides, on a regular basis, health-related
1601 care and services to individuals who do not require the degree of
1602 care and treatment which a hospital or skilled nursing facility is
1603 designed to provide, but who, because of their mental or physical
1604 condition, require health-related care and services (above the
1605 level of room and board).

1606 (vii) "Ambulatory surgical facility" means a
1607 facility primarily organized or established for the purpose of
1608 performing surgery for outpatients and is a separate identifiable
1609 legal entity from any other health care facility. Such term does
1610 not include the offices of private physicians or dentists, whether
1611 for individual or group practice, and does not include any
1612 abortion facility as defined in Section 41-75-1(e).

1613 (viii) "Intermediate care facility for the
1614 mentally retarded" means an intermediate care facility that
1615 provides health or rehabilitative services in a planned program of
1616 activities to persons with an intellectual disability, also
1617 including, but not limited to, cerebral palsy and other conditions
1618 covered by the Federal Developmentally Disabled Assistance and
1619 Bill of Rights Act, Public Law 94-103.

1620 (ix) "Home health agency" means a public or
1621 privately owned agency or organization, or a subdivision of such
1622 an agency or organization, properly authorized to conduct business
1623 in Mississippi, which is primarily engaged in providing to
1624 individuals at the written direction of a licensed physician, in
1625 the individual's place of residence, skilled nursing services
1626 provided by or under the supervision of a registered nurse
1627 licensed to practice in Mississippi, and one or more of the
1628 following services or items:



- 1629 1. Physical, occupational or speech therapy;
1630 2. Medical social services;
1631 3. Part-time or intermittent services of a
1632 home health aide;
1633 4. Other services as approved by the
1634 licensing agency for home health agencies;
1635 5. Medical supplies, other than drugs and
1636 biologicals, and the use of medical appliances; or
1637 6. Medical services provided by an intern or
1638 resident-in-training at a hospital under a teaching program of
1639 such hospital.

1640 Further, all skilled nursing services and those services
1641 listed in items 1 through 4 of this subparagraph (ix) must be
1642 provided directly by the licensed home health agency. For
1643 purposes of this subparagraph, "directly" means either through an
1644 agency employee or by an arrangement with another individual not
1645 defined as a health care facility.

1646 This subparagraph (ix) shall not apply to health care
1647 facilities which had contracts for the above services with a home
1648 health agency on January 1, 1990.

1649 (x) "Psychiatric residential treatment facility"
1650 means any nonhospital establishment with permanent licensed
1651 facilities which provides a twenty-four-hour program of care by
1652 qualified therapists, including, but not limited to, duly licensed
1653 mental health professionals, psychiatrists, psychologists,
1654 psychotherapists and licensed certified social workers, for
1655 emotionally disturbed children and adolescents referred to such
1656 facility by a court, local school district or by the Department of
1657 Human Services, who are not in an acute phase of illness requiring
1658 the services of a psychiatric hospital, and are in need of such
1659 restorative treatment services. For purposes of this paragraph,
1660 the term "emotionally disturbed" means a condition exhibiting one



1661 or more of the following characteristics over a long period of
1662 time and to a marked degree, which adversely affects educational
1663 performance:

- 1664 1. An inability to learn which cannot be
1665 explained by intellectual, sensory or health factors;
- 1666 2. An inability to build or maintain
1667 satisfactory relationships with peers and teachers;
- 1668 3. Inappropriate types of behavior or
1669 feelings under normal circumstances;
- 1670 4. A general pervasive mood of unhappiness or
1671 depression; or
- 1672 5. A tendency to develop physical symptoms or
1673 fears associated with personal or school problems. An
1674 establishment furnishing primarily domiciliary care is not within
1675 this definition.

1676 (xi) "Pediatric skilled nursing facility" means an
1677 institution or a distinct part of an institution that is primarily
1678 engaged in providing to inpatients skilled nursing care and
1679 related services for persons under twenty-one (21) years of age
1680 who require medical or nursing care or rehabilitation services for
1681 the rehabilitation of injured, disabled or sick persons.

1682 (xii) "Long-term care hospital" means a
1683 freestanding, Medicare-certified hospital that has an average
1684 length of inpatient stay greater than twenty-five (25) days, which
1685 is primarily engaged in providing chronic or long-term medical
1686 care to patients who do not require more than three (3) hours of
1687 rehabilitation or comprehensive rehabilitation per day, and has a
1688 transfer agreement with an acute care medical center and a
1689 comprehensive medical rehabilitation facility. Long-term care
1690 hospitals shall not use rehabilitation, comprehensive medical
1691 rehabilitation, medical rehabilitation, sub-acute rehabilitation,



1692 nursing home, skilled nursing facility, or sub-acute care facility
1693 in association with its name.

1694 (xiii) "Comprehensive medical rehabilitation
1695 facility" means a hospital or hospital unit that is licensed
1696 and/or certified as a comprehensive medical rehabilitation
1697 facility which provides specialized programs that are accredited
1698 by the Commission on Accreditation of Rehabilitation Facilities
1699 and supervised by a physician board certified or board eligible in
1700 Physiatry or other doctor of medicine or osteopathy with at least
1701 two (2) years of training in the medical direction of a
1702 comprehensive rehabilitation program that:

1703 1. Includes evaluation and treatment of
1704 individuals with physical disabilities;

1705 2. Emphasizes education and training of
1706 individuals with disabilities;

1707 3. Incorporates at least the following core
1708 disciplines:

- 1709 (i) Physical Therapy;
- 1710 (ii) Occupational Therapy;
- 1711 (iii) Speech and Language Therapy;
- 1712 (iv) Rehabilitation Nursing; and

1713 4. Incorporates at least three (3) of the
1714 following disciplines:

- 1715 (i) Psychology;
- 1716 (ii) Audiology;
- 1717 (iii) Respiratory Therapy;
- 1718 (iv) Therapeutic Recreation;
- 1719 (v) Orthotics;
- 1720 (vi) Prosthetics;
- 1721 (vii) Special Education;
- 1722 (viii) Vocational Rehabilitation;
- 1723 (ix) Psychotherapy;



1724 (x) Social Work;

1725 (xi) Rehabilitation Engineering.

1726 These specialized programs include, but are not limited to:
1727 spinal cord injury programs, head injury programs and infant and
1728 early childhood development programs.

1729 (i) "Health maintenance organization" or "HMO" means a
1730 public or private organization organized under the laws of this
1731 state or the federal government which:

1732 (i) Provides or otherwise makes available to
1733 enrolled participants health care services, including
1734 substantially the following basic health care services: usual
1735 physician services, hospitalization, laboratory, x-ray, emergency
1736 and preventive services, and out-of-area coverage;

1737 (ii) Is compensated (except for copayments) for
1738 the provision of the basic health care services listed in
1739 subparagraph (i) of this paragraph to enrolled participants on a
1740 predetermined basis; and

1741 (iii) Provides physician services primarily:

1742 1. Directly through physicians who are either
1743 employees or partners of such organization; or

1744 2. Through arrangements with individual
1745 physicians or one or more groups of physicians (organized on a
1746 group practice or individual practice basis).

1747 (j) "Health service area" means a geographic area of
1748 the state designated in the State Health Plan as the area to be
1749 used in planning for specified health facilities and services and
1750 to be used when considering certificate of need applications to
1751 provide health facilities and services.

1752 (k) "Health services" means clinically related (i.e.,
1753 diagnostic, treatment or rehabilitative) services and includes
1754 alcohol, drug abuse, mental health and home health care services.



1755 (l) "Institutional health services" shall mean health
1756 services provided in or through health care facilities and shall
1757 include the entities in or through which such services are
1758 provided.

1759 (m) "Major medical equipment" means medical equipment
1760 designed for providing medical or any health-related service which
1761 costs in excess of One Million Five Hundred Thousand Dollars
1762 (\$1,500,000.00). However, this definition shall not be applicable
1763 to clinical laboratories if they are determined by the State
1764 Department of Health to be independent of any physician's office,
1765 hospital or other health care facility or otherwise not so defined
1766 by federal or state law, or rules and regulations promulgated
1767 thereunder.

1768 (n) "State Department of Health" shall mean the state
1769 agency created under Section 41-3-15, which shall be considered to
1770 be the State Health Planning and Development Agency, as defined in
1771 paragraph (t) of this section.

1772 (o) "Offer," when used in connection with health
1773 services, means that it has been determined by the State
1774 Department of Health that the health care facility is capable of
1775 providing specified health services.

1776 (p) "Person" means an individual, a trust or estate,
1777 partnership, corporation (including associations, joint-stock
1778 companies and insurance companies), the state or a political
1779 subdivision or instrumentality of the state.

1780 (q) "Provider" shall mean any person who is a provider
1781 or representative of a provider of health care services requiring
1782 a certificate of need under Section 41-7-171 et seq., or who has
1783 any financial or indirect interest in any provider of services.

1784 (r) "Secretary" means the Secretary of Health and Human
1785 Services, and any officer or employee of the Department of Health



1786 and Human Services to whom the authority involved has been
1787 delegated.

1788 (s) "State Health Plan" means the sole and official
1789 statewide health plan for Mississippi which identifies priority
1790 state health needs and establishes standards and criteria for
1791 health-related activities which require certificate of need review
1792 in compliance with Section 41-7-191.

1793 (t) "State Health Planning and Development Agency"
1794 means the agency of state government designated to perform health
1795 planning and resource development programs for the State of
1796 Mississippi.

1797 **SECTION 25.** Section 41-19-1, Mississippi Code of 1972, is
1798 amended as follows:

1799 41-19-1. The purpose of Sections 41-19-1 through 41-19-17 is
1800 to create, construct, equip and maintain a center, to be located
1801 in North Mississippi, for the care and treatment of persons with
1802 an intellectual disability, which shall be known as the North
1803 Mississippi Regional Center.

1804 **SECTION 26.** Section 41-19-7, Mississippi Code of 1972, is
1805 amended as follows:

1806 41-19-7. The center shall be administered by the State Board
1807 of Mental Health. Provisions relating to the admission and care
1808 of residents and patients provided for hereinafter shall apply to
1809 all institutions for persons with an intellectual disability
1810 administered by the board.

1811 **SECTION 27.** Section 41-19-15, Mississippi Code of 1972, is
1812 amended as follows:

1813 41-19-15. Any person who (1) under the provisions of Section
1814 41-19-11, knowingly and unlawfully or improperly causes a person
1815 to be adjudged a person with an intellectual disability, (2)
1816 procures the escape of a legally committed resident or knowingly
1817 conceals an escaped legally committed resident of the center, or



1818 (3) unlawfully brings any firearm, deadly weapon or explosive into
1819 the center or its grounds, or passes any thereof to resident,
1820 employee or officer of the center, is guilty of a misdemeanor and,
1821 upon conviction, shall be punished by a fine of not less than
1822 Fifty Dollars (\$50.00), nor more than Two Hundred Dollars
1823 (\$200.00), imprisonment for not less than six (6) months, or both.

1824 **SECTION 28.** Section 41-19-17, Mississippi Code of 1972, is
1825 amended as follows:

1826 41-19-17. The North Mississippi Regional Center is * * *
1827 designated as a state agency for carrying out the purposes of any
1828 act of the Congress of the United States of America, now existing
1829 or at any time hereafter enacted, pertaining to intellectual
1830 disabilities.

1831 **SECTION 29.** Section 41-19-31, Mississippi Code of 1972, is
1832 amended as follows:

1833 41-19-31. For the purpose of authorizing the establishment
1834 of mental illness and intellectual disability facilities and
1835 services in the State of Mississippi, the boards of supervisors of
1836 one or more counties are * * * authorized to act singularly or as
1837 a group in the selection of a regional district by spreading upon
1838 their minutes by resolution such designation.

1839 **SECTION 30.** Section 41-19-33, Mississippi Code of 1972, is
1840 amended as follows:

1841 41-19-33. (1) Each region so designated or established
1842 under Section 41-19-31 shall establish a regional commission to be
1843 composed of members appointed by the boards of supervisors of the
1844 various counties in the region. It shall be the duty of such
1845 regional commission to administer mental health/intellectual
1846 disability programs certified by the State Board of Mental Health.
1847 In addition, once designated and established as provided
1848 hereinabove, a regional commission shall have the following



1849 authority and shall pursue and promote the following general
1850 purposes:

1851 (a) To establish, own, lease, acquire, construct,
1852 build, operate and maintain mental illness, mental health,
1853 intellectual disability, alcoholism and general rehabilitative
1854 facilities and services designed to serve the needs of the people
1855 of the region so designated; provided that the services supplied
1856 by the regional commissions shall include those services
1857 determined by the Department of Mental Health to be necessary and
1858 may include, in addition to the above, services for persons with
1859 developmental and learning disabilities; for persons suffering
1860 from narcotic addiction and problems of drug abuse and drug
1861 dependence; and for the aging as designated and certified by the
1862 Department of Mental Health.

1863 (b) To provide facilities and services for the
1864 prevention of mental illness, mental disorders, developmental and
1865 learning disabilities, alcoholism, narcotic addiction, drug abuse,
1866 drug dependence and other related handicaps or problems (including
1867 the problems of the aging) among the people of the region so
1868 designated, and for the rehabilitation of persons suffering from
1869 such illnesses, disorders, handicaps or problems as designated and
1870 certified by the Department of Mental Health.

1871 (c) To promote increased understanding of the problems
1872 of mental illness, intellectual disabilities, alcoholism,
1873 developmental and learning disabilities, narcotic addiction, drug
1874 abuse and drug dependence and other related problems (including
1875 the problems of the aging) by the people of the region, and also
1876 to promote increased understanding of the purposes and methods of
1877 the rehabilitation of persons suffering from such illnesses,
1878 disorders, handicaps or problems as designated and certified by
1879 the Department of Mental Health.



1880 (d) To enter into contracts and to make such other
1881 arrangements as may be necessary, from time to time, with the
1882 United States government, the government of the State of
1883 Mississippi and such other agencies or governmental bodies as may
1884 be approved by and acceptable to the regional commission for the
1885 purpose of establishing, funding, constructing, operating and
1886 maintaining facilities and services for the care, treatment and
1887 rehabilitation of persons suffering from mental illness, an
1888 intellectual disability, alcoholism, developmental and learning
1889 disabilities, narcotic addiction, drug abuse, drug dependence and
1890 other illnesses, disorders, handicaps and problems (including the
1891 problems of the aging) as designated and certified by the
1892 Department of Mental Health.

1893 (e) To enter into contracts and make such other
1894 arrangements as may be necessary with any and all private
1895 businesses, corporations, partnerships, proprietorships or other
1896 private agencies, whether organized for profit or otherwise, as
1897 may be approved by and acceptable to the regional commission for
1898 the purpose of establishing, funding, constructing, operating and
1899 maintaining facilities and services for the care, treatment and
1900 rehabilitation of persons suffering from mental illness, an
1901 intellectual disability, alcoholism, developmental and learning
1902 disabilities, narcotic addiction, drug abuse, drug dependence and
1903 other illnesses, disorders, handicaps and problems (including the
1904 problems of the aging) relating to minimum services established by
1905 the Department of Mental Health.

1906 (f) To promote the general mental health of the people
1907 of the region.

1908 (g) To pay the administrative costs of the operation of
1909 the regional commissions, including per diem for the members of
1910 the commission and its employees, attorney's fees, if and when
1911 such are required in the opinion of the commission, and such other



1912 expenses of the commission as may be necessary. The Department of
1913 Mental Health standards and audit rules shall determine what
1914 administrative cost figures shall consist of for the purposes of
1915 this paragraph. Each regional commission shall submit a cost
1916 report annually to the Department of Mental Health in accordance
1917 with guidelines promulgated by the department.

1918 (h) To employ and compensate any personnel that may be
1919 necessary to effectively carry out the programs and services
1920 established under the provisions of the aforesaid act, provided
1921 such person meets the standards established by the Department of
1922 Mental Health.

1923 (i) To acquire whatever hazard, casualty or workers'
1924 compensation insurance that may be necessary for any property,
1925 real or personal, owned, leased or rented by the commissions, or
1926 any employees or personnel hired by the * * * commissions.

1927 (j) To acquire professional liability insurance on all
1928 employees as may be deemed necessary and proper by the commission,
1929 and to pay, out of the funds of the commission, all premiums due
1930 and payable on account thereof.

1931 (k) To provide and finance within their own facilities,
1932 or through agreements or contracts with other local, state or
1933 federal agencies or institutions, nonprofit corporations, or
1934 political subdivisions or representatives thereof, programs and
1935 services for persons with mental illness, including treatment for
1936 alcoholics, and promulgating and administering of programs to
1937 combat drug abuse and programs for services for persons with an
1938 intellectual disability.

1939 (l) To borrow money from private lending institutions
1940 in order to promote any of the foregoing purposes. A commission
1941 may pledge collateral, including real estate, to secure the
1942 repayment of money borrowed under the authority of this paragraph.
1943 Any such borrowing undertaken by a commission shall be on terms



1944 and conditions that are prudent in the sound judgment of the
1945 members of the commission, and the interest on any such loan shall
1946 not exceed the amount specified in Section 75-17-105. Any money
1947 borrowed, debts incurred or other obligations undertaken by a
1948 commission, regardless of whether borrowed, incurred or undertaken
1949 before or after the effective date of this act, shall be valid,
1950 binding and enforceable if it or they are borrowed, incurred or
1951 undertaken for any purpose specified in this section and otherwise
1952 conform to the requirements of this paragraph.

1953 (m) To acquire, own and dispose of real and personal
1954 property. Any real and personal property paid for with state
1955 and/or county appropriated funds must have the written approval of
1956 the Department of Mental Health and/or the county board of
1957 supervisors, depending on the original source of funding, before
1958 being disposed of under this paragraph.

1959 (n) To enter into managed care contracts and make such
1960 other arrangements as may be deemed necessary or appropriate by
1961 the regional commission in order to participate in any managed
1962 care program. Any such contract or arrangement affecting more
1963 than one (1) region must have prior written approval of the
1964 Department of Mental Health before being initiated and annually
1965 thereafter.

1966 (o) To provide facilities and services on a discounted
1967 or capitated basis. Any such action when affecting more than one
1968 (1) region must have prior written approval of the Department of
1969 Mental Health before being initiated and annually thereafter.

1970 (p) To enter into contracts, agreements or other
1971 arrangements with any person, payor, provider or other entity,
1972 under which the regional commission assumes financial risk for the
1973 provision or delivery of any services, when deemed to be necessary
1974 or appropriate by the regional commission. Any action under this
1975 paragraph affecting more than one (1) region must have prior



1976 written approval of the Department of Mental Health before being
1977 initiated and annually thereafter.

1978 (q) To provide direct or indirect funding, grants,
1979 financial support and assistance for any health maintenance
1980 organization, preferred provider organization or other managed
1981 care entity or contractor, where such organization, entity or
1982 contractor is operated on a nonprofit basis. Any action under
1983 this paragraph affecting more than one (1) region must have prior
1984 written approval of the Department of Mental Health before being
1985 initiated and annually thereafter.

1986 (r) To form, establish, operate, and/or be a member of
1987 or participant in, either individually or with one or more other
1988 regional commissions, any managed care entity as defined in
1989 Section 83-41-403(c). Any action under this paragraph affecting
1990 more than one (1) region must have prior written approval of the
1991 Department of Mental Health before being initiated and annually
1992 thereafter.

1993 (s) To meet at least annually with the board of
1994 supervisors of each county in its region for the purpose of
1995 presenting its total annual budget and total mental
1996 health/intellectual disability services system.

1997 (t) To provide alternative living arrangements for
1998 persons with serious mental illness, including, but not limited
1999 to, group homes for persons with chronic mental illness.

2000 (u) To make purchases and enter into contracts for
2001 purchasing in compliance with the public purchasing law, Sections
2002 31-7-12 and 31-7-13, with compliance with the public purchasing
2003 law subject to audit by the State Department of Audit.

2004 (v) To insure that all available funds are used for the
2005 benefit of persons with mental illness, persons with an
2006 intellectual disability, substance abusers and persons with
2007 developmental disabilities with maximum efficiency and minimum



2008 administrative cost. At any time a regional commission, and/or
2009 other related organization whatever it may be, accumulates surplus
2010 funds in excess of one-half (1/2) of its annual operating budget,
2011 the entity must submit a plan to the Department of Mental Health
2012 stating the capital improvements or other projects that require
2013 such surplus accumulation. If the required plan is not submitted
2014 within forty-five (45) days of the end of the applicable fiscal
2015 year, the Department of Mental Health shall withhold all state
2016 appropriated funds from such regional commission until such time
2017 as the capital improvement plan is submitted. If the submitted
2018 capital improvement plan is not accepted by the department,
2019 the * * * surplus funds shall be expended by the regional
2020 commission in the local mental health region on group homes for
2021 persons with mental illness, persons with an intellectual
2022 disability, substance abusers, children or other mental
2023 health/intellectual disability services approved by the Department
2024 of Mental Health.

2025 (w) Notwithstanding any other provision of law, to
2026 fingerprint and perform a criminal history record check on every
2027 employee or volunteer. Every employee or volunteer shall provide
2028 a valid current social security number and/or driver's license
2029 number that will be furnished to conduct the criminal history
2030 record check. If no disqualifying record is identified at the
2031 state level, fingerprints shall be forwarded to the Federal Bureau
2032 of Investigation for a national criminal history record check.

2033 (x) In general to take any action which will promote,
2034 either directly or indirectly, any and all of the foregoing
2035 purposes.

2036 (2) The types of services established by the State
2037 Department of Mental Health that must be provided by the regional
2038 mental health/intellectual disability centers for certification by
2039 the department, and the minimum levels and standards for those



2040 services established by the department, shall be provided by the
2041 regional mental health/intellectual disability centers to children
2042 when such services are appropriate for children, in the
2043 determination of the department.

2044 **SECTION 31.** Section 41-19-37, Mississippi Code of 1972, is
2045 amended as follows:

2046 41-19-37. The location of any mental illness and
2047 intellectual disability facilities or services in any of the
2048 regions shall be determined by the regional commission. However,
2049 such location and such services shall not conflict with the state
2050 plan for services or facilities developed by the Department of
2051 Mental Health.

2052 **SECTION 32.** Section 41-19-38, Mississippi Code of 1972, is
2053 amended as follows:

2054 41-19-38. Any regional mental health or intellectual
2055 disability commission established according to the provisions of
2056 Section 41-19-31 et seq. shall not construct or operate any
2057 facility in an area in violation of any local zoning ordinances or
2058 regulations.

2059 **SECTION 33.** Section 41-19-39, Mississippi Code of 1972, is
2060 amended as follows:

2061 41-19-39. After a plan for mental illness and intellectual
2062 disability facilities or services has been submitted by any
2063 regional commission and approved by the Department of Mental
2064 Health, the * * * regional commission may request the boards of
2065 supervisors of the various counties in the region to levy a
2066 special tax for the construction, operation and maintenance of
2067 those mental illness and intellectual disability facilities or
2068 services in such region. The boards of supervisors of the
2069 counties desiring to participate in the program in each region
2070 are * * * authorized to use any available funds and, if necessary,
2071 to levy a special tax, not to exceed two (2) mills, for the



2072 construction, operation and maintenance of the * * * mental
2073 illness and intellectual disability facilities or services
2074 provided for and authorized in Sections 41-19-31 through 41-19-39.

2075 The governing authority of any municipality in the region
2076 may, upon resolution spread upon its minutes, make a voluntary
2077 contribution for the construction, operation or maintenance of the
2078 mental illness and intellectual disability facilities in the
2079 region in which the municipality lies.

2080 In addition to the purposes for which the county tax levies
2081 and municipal contributions may be used as authorized under this
2082 section, the county tax levies and municipal contributions may
2083 also be used for repayment of any loans from private lending
2084 institutions made by the commission under the authority of Section
2085 41-19-33(1).

2086 **SECTION 34.** Section 41-19-41, Mississippi Code of 1972, is
2087 amended as follows:

2088 41-19-41. Any regional mental health or intellectual
2089 disability facility or service established and operated according
2090 to the provisions set forth in Sections 41-19-31 through 41-19-39,
2091 is eligible to admit and treat patients committed by either the
2092 chancellors or chancery clerks in the same manner as is provided
2093 by the laws of Mississippi for commitment to the state mental
2094 institutions.

2095 **SECTION 35.** Section 41-19-43, Mississippi Code of 1972, is
2096 amended as follows:

2097 41-19-43. Whenever it is necessary to commit and transport
2098 any eligible patient to a regional mental health or intellectual
2099 disability facility for treatment or care, the chancery clerk and
2100 sheriff shall be entitled to expenses as provided for by the laws
2101 of Mississippi for commitment and transportation to state mental
2102 institutions.



2103 **SECTION 36.** Section 41-19-91, Mississippi Code of 1972, is
2104 amended as follows:

2105 41-19-91. (1) Any board of supervisors, mayor and board of
2106 selectmen of any city in which Mississippi State Highway No. 50
2107 and United States Highway No. 45 Alternate intersect, are * * *
2108 authorized and empowered, in their discretion, to contribute a sum
2109 not to exceed Ten Thousand Dollars (\$10,000.00) each to a
2110 nonprofit corporation, the purpose of which is to develop and
2111 operate programs for * * * children with an intellectual
2112 disability. The contribution may be made from the general fund of
2113 such county and/or city wherein funds may be available.

2114 (2) To acquire the funds in which to make such contribution,
2115 the board of supervisors of such county and/or mayor and board of
2116 selectmen of such city are * * * authorized and empowered, in its
2117 discretion, to set aside, appropriate and expend moneys from the
2118 general fund.

2119 **SECTION 37.** Section 41-19-103, Mississippi Code of 1972, is
2120 amended as follows:

2121 41-19-103. The Ellisville State School established by
2122 Chapter 210, Laws of Mississippi 1920, is recognized as now
2123 existing and shall hereafter be known under the name of Ellisville
2124 State School for the care and treatment of persons with an
2125 intellectual disability. The school shall have the power to
2126 receive and hold property, real, personal and mixed, as a body
2127 corporate. The school shall be under the direction and control of
2128 the State Board of Mental Health.

2129 **SECTION 38.** Section 41-19-116, Mississippi Code of 1972, is
2130 amended as follows:

2131 41-19-116. Any person who (a) knowingly and unlawfully or
2132 improperly causes a person to be adjudged to be a person with an
2133 intellectual disability, (b) procures the escape of a legally
2134 committed resident or knowingly conceals an escaped legally



2135 committed resident of Ellisville State School, or (c) unlawfully
2136 brings any firearm, deadly weapon or explosive into the school or
2137 its grounds, or passes any thereof to a resident, employee or
2138 officer of the school, is guilty of a misdemeanor and, upon
2139 conviction, shall be punished by a fine of not less than Fifty
2140 Dollars (\$50.00), nor more than Two Hundred Dollars (\$200.00),
2141 imprisonment for not less than six (6) months, or both.

2142 **SECTION 39.** Section 41-19-118, Mississippi Code of 1972, is
2143 amended as follows:

2144 41-19-118. Ellisville State School is designated as a state
2145 agency for carrying out the purposes of any act of the Congress of
2146 the United States, now existing or at any time hereafter enacted,
2147 pertaining to intellectual disabilities.

2148 **SECTION 40.** Section 41-19-141, Mississippi Code of 1972, is
2149 amended as follows:

2150 41-19-141. The purpose of Sections 41-19-141 through
2151 41-19-157 is to create, construct, equip and maintain a center to
2152 be located in South Mississippi for the care and treatment of
2153 persons with an intellectual disability, which shall be known as
2154 the South Mississippi Regional Center.

2155 **SECTION 41.** Section 41-19-147, Mississippi Code of 1972, is
2156 amended as follows:

2157 41-19-147. The center shall be administered by the board of
2158 trustees of mental institutions, as provided for in Sections
2159 41-5-31 through 41-5-55, inclusive, and all subsequent laws
2160 enacted which define the powers and authority of the board.
2161 Provisions relating to the admission and care of residents and
2162 patients provided for hereinafter shall apply to all institutions
2163 for persons with an intellectual disability administered by the
2164 board, unless they are in conflict with the provisions of the
2165 above-mentioned laws.



2166 **SECTION 42.** Section 41-19-155, Mississippi Code of 1972, is
2167 amended as follows:

2168 41-19-155. Any person who: (1) under the provisions of
2169 Sections 41-19-141 through 41-19-157 knowingly and unlawfully or
2170 improperly causes a person to be adjudged to be a person with an
2171 intellectual disability; (2) procures the escape of a legally
2172 committed resident or knowingly conceals an escaped legally
2173 committed resident of the center; or (3) unlawfully brings any
2174 firearm, deadly weapon or explosive into the center or its grounds
2175 or passes any thereof to a resident, employee or officer of the
2176 center is guilty of a misdemeanor and, upon conviction, shall be
2177 punished by a fine of not more than Two Hundred Dollars (\$200.00),
2178 imprisonment for not more than one (1) year, or both.

2179 **SECTION 43.** Section 41-19-157, Mississippi Code of 1972, is
2180 amended as follows:

2181 41-19-157. The South Mississippi Regional Center is * * *
2182 designated as a state agency for carrying out the purposes of any
2183 act of the Congress of the United States of America now existing
2184 or at any time hereafter enacted pertaining to intellectual
2185 disabilities.

2186 **SECTION 44.** Section 41-19-201, Mississippi Code of 1972, is
2187 amended as follows:

2188 41-19-201. The purpose of Sections 41-19-201 through
2189 41-19-213 is to create, construct, equip and maintain a center
2190 located in Central Mississippi for the care and treatment of
2191 persons with an intellectual disability, which shall be known as
2192 the Boswell Regional Center. Sections 41-19-201 through 41-19-213
2193 shall not supersede Section 41-5-44, but shall be supplemental to
2194 that section.

2195 **SECTION 45.** Section 41-19-203, Mississippi Code of 1972, is
2196 amended as follows:



2197 41-19-203. The center shall be located on the site of the
2198 Tuberculosis Sanatorium of Mississippi.

2199 With funds provided by the Legislature, by direct
2200 appropriation or authorized bond issue, with federal matching
2201 funds, or with any other available funds, the state building
2202 commission is * * * authorized to construct and equip the
2203 necessary residential and service buildings and other facilities
2204 for the care and treatment of persons with an intellectual
2205 disability. The general design of the center and all construction
2206 plans shall be approved and recommended by the State Board of
2207 Mental Health.

2208 The center shall be administered by the State Board of Mental
2209 Health.

2210 **SECTION 46.** Section 41-19-205, Mississippi Code of 1972, is
2211 amended as follows:

2212 41-19-205. A person may be deemed eligible for admission to
2213 the center if:

2214 (a) His parents or guardian or person in loco parentis
2215 has resided in the state not less than one (1) year prior to the
2216 date of admission; and

2217 (b) He is at least five (5) years of age and has such
2218 an intellectual disability that he is incapable of managing
2219 himself or his affairs, or he has an intellectual disability to
2220 the extent that special care, training and education provided at
2221 the center will enable him to better function in society; or

2222 (c) He is committed to the center by the chancery court
2223 in the manner hereinafter provided; or

2224 (d) He is under five (5) years of age and is approved
2225 for admission by the board of mental health, upon the
2226 recommendation of the director, because of having an exceptional
2227 handicap.



2228 **SECTION 47.** Section 41-19-207, Mississippi Code of 1972, is
2229 amended as follows:

2230 41-19-207. Admission of an eligible person to the center
2231 shall be as follows:

2232 (a) The parents or guardian or person in loco parentis
2233 of any person thought to have an intellectual disability may file
2234 an application for admission to the center. Such application
2235 shall be made on an official form approved or furnished by the
2236 center. Within ten (10) days after the admission of the person to
2237 the center, the director shall have him examined by a qualified
2238 physician or psychologist or both. If he is found not to have an
2239 intellectual disability, the parents, guardian or person in loco
2240 parentis shall be required to take him from the center. The
2241 results of the examination shall be entered upon the person's
2242 record if he is found to have an intellectual disability and
2243 eligible to remain at the center.

2244 (b) If any * * * person with an intellectual disability
2245 is afflicted to the extent that he needs care, supervision or
2246 control, or to the extent that he is likely to become dangerous or
2247 a menace if left at large, any relative or any citizen of the
2248 State of Mississippi may make affidavit of such fact and shall
2249 file such affidavit with the clerk of the chancery court of the
2250 county of such person's residence or with the clerk of the
2251 chancery court of any county in which such person might be found.
2252 When such affidavit is received by the chancery clerk, he shall
2253 follow the same procedure for commitment to the center as is
2254 provided for in state law for the commitment of persons to the
2255 state mental hospitals.

2256 (c) * * * Persons with an intellectual disability may
2257 be admitted to the center by the director for a time sufficient
2258 for diagnosis, evaluation and training without formal commitment,
2259 provided such person is referred by another state agency or



2260 department. In such cases the person so admitted shall be subject
2261 to all regulations governing the center for such time as he
2262 remains.

2263 (d) The final determination of admission to the center
2264 shall be the decision of the director of the center.

2265 **SECTION 48.** Section 41-19-211, Mississippi Code of 1972, is
2266 amended as follows:

2267 41-19-211. Any person who (a) under the provisions of
2268 Section 41-19-207, knowingly and unlawfully or improperly causes a
2269 person to be adjudged to be a person with an intellectual
2270 disability, (b) procures the escape of a legally committed
2271 resident or knowingly conceals an escaped legally committed
2272 resident of the center, or (c) unlawfully brings any firearm,
2273 deadly weapon or explosive into the center or its grounds, or
2274 passes any thereof to a resident, employee or officer of the
2275 center, is guilty of a misdemeanor and, upon conviction, shall be
2276 punished by a fine of not less than Fifty Dollars (\$50.00) nor
2277 more than Two Hundred Dollars (\$200.00), imprisonment for not less
2278 than six (6) months nor more than one (1) year, or both.

2279 **SECTION 49.** Section 41-19-213, Mississippi Code of 1972, is
2280 amended as follows:

2281 41-19-213. The Boswell Regional Center is * * * designated
2282 as a state agency for carrying out the purposes of any act of the
2283 Congress of the United States of America now existing or at any
2284 time hereafter enacted pertaining to intellectual disabilities.

2285 **SECTION 50.** Section 41-19-231, Mississippi Code of 1972, is
2286 amended as follows:

2287 41-19-231. The purpose of Sections 41-19-231 through
2288 41-19-245 is to create, construct, equip and maintain a center
2289 located in Central Mississippi for the care and treatment of
2290 persons with an intellectual disability, which shall be known as
2291 the Hudspeth Regional Center.



2292 **SECTION 51.** Section 41-19-235, Mississippi Code of 1972, is
2293 amended as follows:

2294 41-19-235. With funds provided by the Legislature, by direct
2295 appropriation or authorized bond issue, with federal matching
2296 funds, or with any other available funds, the Department of
2297 Finance and Administration is * * * authorized to construct and
2298 equip the necessary residential and service buildings and other
2299 facilities for the care and treatment of persons with an
2300 intellectual disability. The general design of the center and all
2301 construction plans shall be approved and recommended by the State
2302 Board of Mental Health.

2303 The center shall be administered by the State Board of Mental
2304 Health.

2305 **SECTION 52.** Section 41-19-237, Mississippi Code of 1972, is
2306 amended as follows:

2307 41-19-237. A person may be deemed eligible for admission to
2308 the center if:

2309 (a) His parents or guardian or person in loco parentis
2310 has resided in the state not less than one (1) year before the
2311 date of admission; and

2312 (b) He is at least five (5) years of age and has such
2313 an intellectual disability that he is incapable of managing
2314 himself or his affairs, or he has an intellectual disability to
2315 the extent that special care, training and education provided at
2316 the center will enable him to better function in society; or

2317 (c) He is committed to the center by the chancery court
2318 in the manner hereinafter provided; or

2319 (d) He is under five (5) years of age and is approved
2320 for admission by the Board of Mental Health, upon the
2321 recommendation of the director, because of having an exceptional
2322 handicap.



2323 **SECTION 53.** Section 41-19-239, Mississippi Code of 1972, is
2324 amended as follows:

2325 41-19-239. Admission of eligible persons to the center shall
2326 be as follows:

2327 (a) The parents or guardian or person in loco parentis
2328 of any person thought to have an intellectual disability may file
2329 an application for admission to the center. Such application
2330 shall be made on an official form approved or furnished by the
2331 center. Within ten (10) days after the admission of the person to
2332 the center, the director shall have him examined by a qualified
2333 physician or psychologist or both. If he is found not to have an
2334 intellectual disability, the parents, guardian or person in loco
2335 parentis shall be required to take him from the center. The
2336 results of the examination shall be entered upon the person's
2337 record if he is found to have an intellectual disability and
2338 eligible to remain at the center.

2339 (b) If any * * * person with an intellectual disability
2340 is afflicted to the extent that he needs care, supervision or
2341 control, or to the extent that he is likely to become dangerous or
2342 a menace if left at large, any relative or any citizen of the
2343 State of Mississippi may make affidavit of such fact and shall
2344 file such affidavit with the clerk of the chancery court of the
2345 county of such person's residence or with the clerk of the
2346 chancery court of any county in which such person might be found.
2347 When such affidavit is received by the chancery clerk, he shall
2348 follow the same procedure for commitment to the center as is
2349 provided for in state law for the commitment of persons to the
2350 state mental hospitals.

2351 (c) * * * Persons with an intellectual disability may
2352 be admitted to the center by the director for a time sufficient
2353 for diagnosis, evaluation and training without formal commitment,
2354 provided such person is referred by another state agency or



2355 department. In such cases the person so admitted shall be subject
2356 to all regulations governing the center for such time as he
2357 remains.

2358 (d) The final determination of admission to the center
2359 shall be the decision of the director of the center.

2360 **SECTION 54.** Section 41-19-243, Mississippi Code of 1972, is
2361 amended as follows:

2362 41-19-243. Any person who (a) under the provisions of
2363 Section 41-19-237, knowingly and unlawfully or improperly causes a
2364 person to be adjudged to be a person with an intellectual
2365 disability, (b) procures the escape of a legally committed
2366 resident or knowingly conceals an escaped legally committed
2367 resident of the center, or (c) unlawfully brings any firearm,
2368 deadly weapon or explosive into the center or its grounds, or
2369 passes any thereof to a resident, employee or officer of the
2370 center, is guilty of a misdemeanor and, upon conviction, shall be
2371 punished by a fine of not less than Fifty Dollars (\$50.00) nor
2372 more than Two Hundred Dollars (\$200.00), imprisonment for not less
2373 than six (6) months nor more than one (1) year, or both.

2374 **SECTION 55.** Section 41-19-245, Mississippi Code of 1972, is
2375 amended as follows:

2376 41-19-245. The Hudspeth Regional Center is * * * designated
2377 as a state agency for carrying out the purposes of any act of the
2378 Congress of the United States of America now existing or at any
2379 time hereafter enacted pertaining to intellectual disabilities.

2380 **SECTION 56.** Section 41-19-301, Mississippi Code of 1972, is
2381 amended as follows:

2382 41-19-301. (1) The Mississippi Adolescent Center located in
2383 Brookhaven, Mississippi, is recognized as now existing and shall
2384 be for the care and treatment of persons with an intellectual
2385 disability. The facility shall have the power to receive and hold
2386 property, real, personal and mixed, as a body corporate. The



2387 facility shall be under the direction and control of the State
2388 Board of Mental Health.

2389 (2) Admissions shall be limited to * * * adolescents with an
2390 intellectual disability who have been committed to the center by a
2391 youth court judge or chancellor in accordance with Section
2392 41-21-109, or who are voluntarily admitted to the center.

2393 (3) The Mississippi Adolescent Center is authorized to
2394 establish and operate a school to meet the educational needs of
2395 its clients.

2396 (4) With funds provided by the Legislature, by direct
2397 appropriation or authorized bond issue, with federal matching
2398 funds, or with any other available funds, the Bureau of Building,
2399 Grounds and Real Property Management may construct and equip the
2400 necessary residential and service buildings and other facilities
2401 to care for the residents of the Mississippi Adolescent Center.
2402 The general design of the facility and all construction plans
2403 shall be approved and recommended by the State Department of
2404 Mental Health.

2405 (5) The Mississippi Adolescent Center shall be administered
2406 by the State Board of Mental Health. Provisions relating to the
2407 admission and care of residents at the facility shall be
2408 promulgated by the board.

2409 (6) Persons admitted to the Mississippi Adolescent Center
2410 shall be assessed support and maintenance costs in accordance with
2411 the provisions of the state reimbursement laws as they apply to
2412 other state institutions.

2413 (7) Any person who (a) knowingly and unlawfully or
2414 improperly causes a person to be adjudged to be a person with an
2415 intellectual disability, (b) procures the escape of a legally
2416 committed resident or knowingly conceals an escaped legally
2417 committed resident of the facility, or (c) unlawfully brings any
2418 firearm, deadly weapon or explosive into the facility or its



2419 grounds, or passes any thereof to a resident, employee or officer
2420 of the school, is guilty of a misdemeanor and, upon conviction,
2421 shall be punished by a fine of not less than Fifty Dollars
2422 (\$50.00), or more than Two Hundred Dollars (\$200.00), imprisonment
2423 for not less than six (6) months, or both.

2424 (8) The Mississippi Adolescent Center is designated as a
2425 state agency for carrying out the purposes of any act of the
2426 Congress of the United States, now existing or at any time
2427 hereafter enacted, pertaining to intellectual disabilities.

2428 **SECTION 57.** Section 41-21-35, Mississippi Code of 1972, is
2429 amended as follows:

2430 41-21-35. The rule as to the legal settlement of paupers
2431 shall apply in cases of persons with mental illness and persons
2432 with an intellectual disability.

2433 **SECTION 58.** Section 41-21-61, Mississippi Code of 1972, is
2434 amended as follows:

2435 41-21-61. As used in Sections 41-21-61 through 41-21-107,
2436 unless the context otherwise requires, the following terms defined
2437 have the meanings ascribed to them:

2438 (a) "Chancellor" means a chancellor or a special master
2439 in chancery.

2440 (b) "Clerk" means the clerk of the chancery court.

2441 (c) "Director" means the chief administrative officer
2442 of a treatment facility or other employee designated by him as his
2443 deputy.

2444 (d) "Interested person" means an adult, including but
2445 not limited to, a public official, and the legal guardian, spouse,
2446 parent, legal counsel, adult, child next of kin, or other person
2447 designated by a proposed patient.

2448 (e) "*** * *** Person with mental illness" means any person
2449 who has a substantial psychiatric disorder of thought, mood,
2450 perception, orientation, or memory which grossly impairs judgment,



2451 behavior, capacity to recognize reality, or to reason or
2452 understand, which (i) is manifested by instances of grossly
2453 disturbed behavior or faulty perceptions; and (ii) poses a
2454 substantial likelihood of physical harm to himself or others as
2455 demonstrated by (A) a recent attempt or threat to physically harm
2456 himself or others, or (B) a failure to provide necessary food,
2457 clothing, shelter or medical care for himself, as a result of the
2458 impairment. " * * * Person with mental illness" includes a person
2459 who, based on treatment history and other applicable psychiatric
2460 indicia, is in need of treatment in order to prevent further
2461 disability or deterioration which would predictably result in
2462 dangerousness to himself or others when his current mental
2463 illness limits or negates his ability to make an informed decision
2464 to seek or comply with recommended treatment. " * * * Person with
2465 mental illness" does not include a person having only one or more
2466 of the following conditions: (1) epilepsy, (2) an intellectual
2467 disability, (3) brief periods of intoxication caused by alcohol or
2468 drugs, (4) dependence upon or addiction to any alcohol or drugs,
2469 or (5) senile dementia.

2470 (f) " * * * Person with an intellectual disability"
2471 means any person (i) who has been diagnosed as having substantial
2472 limitations in present functioning, manifested before age eighteen
2473 (18), characterized by significantly subaverage intellectual
2474 functioning, existing concurrently with related limitations in two
2475 or more of the following applicable adaptive skill areas:
2476 communication, self-care, home living, social skills, community
2477 use, self-direction, health and safety, functional academics,
2478 leisure and work, and (ii) whose recent conduct is a result of
2479 having an intellectual disability and poses a substantial
2480 likelihood of physical harm to himself or others in that there has
2481 been (A) a recent attempt or threat to physically harm himself or



2482 others, or (B) a failure and inability to provide necessary food,
2483 clothing, shelter, safety, or medical care for himself.

2484 (g) "Physician" means any person licensed by the State
2485 of Mississippi to practice medicine in any of its branches.

2486 (h) "Psychologist" when used in Sections 41-21-61
2487 through 41-21-107, means a licensed psychologist who has been
2488 certified by the State Board of Psychological Examiners as
2489 qualified to perform examinations for the purpose of civil
2490 commitment.

2491 (i) "Treatment facility" means a hospital, community
2492 mental health center, or other institution qualified to provide
2493 care and treatment for persons with mental illness, persons with
2494 an intellectual disability or chemically dependent persons.

2495 **SECTION 59.** Section 41-21-67, Mississippi Code of 1972, as
2496 amended by House Bill No. 1525, 2010 Regular Session, is amended
2497 as follows:

2498 41-21-67. (1) Whenever the affidavit provided for in
2499 Section 41-21-65 is filed with the chancery clerk, the clerk, upon
2500 direction of the chancellor of the court, shall issue a writ
2501 directed to the sheriff of the proper county to take into his or
2502 her custody the person alleged to be in need of treatment and to
2503 bring the person before the clerk or chancellor, who shall order
2504 pre-evaluation screening and treatment by the appropriate
2505 community mental health center established under Section 41-19-31
2506 and for examination as set forth in Section 41-21-69. However,
2507 when the affidavit fails to set forth factual allegations and
2508 witnesses sufficient to support the need for treatment, the
2509 chancellor shall refuse to direct issuance of the writ.
2510 Reapplication may be made to the chancellor. If a pauper's
2511 affidavit is filed by a guardian for commitment of the ward of the
2512 guardian, the court shall determine if the ward is a pauper and if
2513 the ward is determined to be a pauper, the county of the residence



2514 of the respondent shall bear the costs of commitment, unless funds
2515 for those purposes are made available by the state.

2516 (2) Upon issuance of the writ, the chancellor shall
2517 immediately appoint and summon two (2) reputable, licensed
2518 physicians or one (1) reputable, licensed physician and either one
2519 (1) psychologist, nurse practitioner or physician assistant to
2520 conduct a physical and mental examination of the person at a place
2521 to be designated by the clerk or chancellor and to report their
2522 findings to the clerk or chancellor. * * * However, * * * any
2523 nurse practitioner or physician assistant conducting the
2524 examination shall be independent from, and not under the
2525 supervision of, the other physician conducting the examination.
2526 In all counties in which there is a county health officer, the
2527 county health officer, if available, may be one (1) of the
2528 physicians so appointed. Neither of the physicians nor the
2529 psychologist, nurse practitioner or physician assistant selected
2530 shall be related to that person in any way, nor have any direct or
2531 indirect interest in the estate of that person nor shall any
2532 full-time staff of residential treatment facilities operated
2533 directly by the Department of Mental Health serve as examiner.

2534 (3) The clerk shall ascertain whether the respondent is
2535 represented by an attorney, and if it is determined that
2536 respondent does not have an attorney, the clerk shall immediately
2537 notify the chancellor of that fact. If the chancellor determines
2538 that respondent for any reason does not have the services of an
2539 attorney, the chancellor shall immediately appoint an attorney for
2540 the respondent at the time the examiners are appointed.

2541 (4) If the chancellor determines that there is probable
2542 cause to believe that the respondent has mental illness and that
2543 there is no reasonable alternative to detention, the chancellor
2544 may order that the respondent be retained as an emergency patient
2545 at any available regional mental health facility or any other



2546 available suitable location as the court may so designate pending
2547 an admission hearing and may, if necessary, order a peace officer
2548 or other person to transport the respondent to that mental health
2549 facility or suitable location. Any respondent so retained may be
2550 given such treatment * * * as is indicated by standard medical
2551 practice. However, the respondent shall not be held in a hospital
2552 operated directly by the Department of Mental Health, and shall
2553 not be held in jail, unless the court finds that there is no
2554 reasonable alternative.

2555 (5) Whenever a licensed physician, psychologist, nurse
2556 practitioner or physician assistant certified to complete
2557 examinations for the purpose of commitment has reason to believe
2558 that a person poses an immediate substantial likelihood of
2559 physical harm to himself or others or is gravely disabled and
2560 unable to care for himself by virtue of having mental illness, as
2561 defined in Section 41-21-61(e), then the physician, psychologist,
2562 nurse practitioner or physician assistant may hold the person
2563 or * * * may admit the person to and treat the person in a
2564 licensed medical facility, without a civil order or warrant for a
2565 period not to exceed seventy-two (72) hours or the end of the next
2566 business day of the chancery clerk's office. The person may be
2567 held and treated as an emergency patient at any licensed medical
2568 facility, available regional mental health facility, or crisis
2569 intervention center. The physician, psychologist, nurse
2570 practitioner or physician assistant who holds the person shall
2571 certify in writing the reasons for the need for holding. Any
2572 respondent so held may be given such treatment * * * as indicated
2573 by standard medical practice. Persons acting in good faith in
2574 connection with the detention of a person believed to have mental
2575 illness shall incur no liability, civil or criminal, for those
2576 acts.



2577 **SECTION 60.** Section 41-21-69, Mississippi Code of 1972, is
2578 amended as follows:

2579 41-21-69. (1) (a) The physicians or physician and
2580 psychologist, nurse practitioner or physician assistant so
2581 appointed shall immediately make a full inquiry into the condition
2582 of the person alleged to be in need of treatment and shall make a
2583 mental examination and physical evaluation of the person, and
2584 shall make a report and certificate of their findings of all
2585 mental and acute physical problems to the clerk of the court. The
2586 report and certificate shall set forth the facts as found by the
2587 physicians or physician and psychologist, nurse practitioner or
2588 physician assistant and shall state whether or not the examiner is
2589 of the opinion that the proposed patient is suffering a disability
2590 defined in Sections 41-21-61 through 41-21-107 and should be
2591 committed to a treatment facility. The statement shall include
2592 the reasons for that opinion. The examination may be based upon a
2593 history provided by the patient and the report and certificate of
2594 findings shall include an identification of all mental and
2595 physical problems identified by the examination.

2596 (b) If the physicians or the physician and
2597 psychologist, nurse practitioner or physician assistant so
2598 appointed finds: (i) the respondent has mental illness; (ii) the
2599 respondent is capable of surviving safely in the community with
2600 available supervision from family, friends or others; (iii) based
2601 on the respondent's treatment history and other applicable medical
2602 or psychiatric indicia, the respondent is in need of treatment in
2603 order to prevent further disability or deterioration that would
2604 result in significant deterioration in the ability to carry out
2605 activities of daily living; and (iv) his or her current mental
2606 status or the nature of his or her illness limits or negates his
2607 or her ability to make an informed decision to seek voluntarily or
2608 comply with recommended treatment; the physicians or the physician



2609 and psychologist, nurse practitioner or physician assistant so
2610 appointed shall so show on the examination report and
2611 certification and shall recommend outpatient commitment. The
2612 examining physicians or the physician and psychologist, nurse
2613 practitioner or physician assistant shall also show the name,
2614 address and telephone number at the proposed outpatient treatment
2615 physician or facility.

2616 (2) The examinations shall be conducted and concluded within
2617 forty-eight (48) hours after the order for examination and
2618 appointment of attorney, and the certificates of the physicians or
2619 the physician and psychologist, nurse practitioner or physician
2620 assistant shall be filed with the clerk of the court within that
2621 time, unless the running of that period extends into nonbusiness
2622 hours, in which event the certificate shall be filed at the
2623 beginning of the next business day. However, if the examining
2624 physicians or the physician and psychologist, nurse practitioner
2625 or physician assistant is of the opinion that additional time to
2626 complete the examination is necessary, and this fact is
2627 communicated to the chancery clerk or chancellor, the clerk or
2628 chancellor shall have authority to extend the time for completion
2629 of the examination and the filing of the certificate, the
2630 extension to be not more than eight (8) hours.

2631 (3) At the beginning of the examination, the respondent
2632 shall be told in plain language of the purpose of the examination,
2633 the possible consequences of the examination, of his or her right
2634 to refuse to answer any questions, and his or her right to have
2635 his or her attorney present.

2636 **SECTION 61.** Section 41-21-73, Mississippi Code of 1972, is
2637 amended as follows:

2638 41-21-73. (1) The hearing shall be conducted before the
2639 chancellor. Within a reasonable period of time before the
2640 hearing, notice of same shall be provided the respondent and his



2641 attorney, which shall include: (a) notice of the date, time and
2642 place of the hearing; (b) a clear statement of the purpose of the
2643 hearing; (c) the possible consequences or outcome of the hearing;
2644 (d) the facts that have been alleged in support of the need for
2645 commitment; (e) the names, addresses and telephone numbers of the
2646 examiner(s); and (f) other witnesses expected to testify.

2647 (2) The respondent must be present at the hearing unless the
2648 chancellor determines that the respondent is unable to attend and
2649 makes that determination and the reasons therefor part of the
2650 record. At the time of the hearing the respondent shall not be so
2651 under the influence or suffering from the effects of drugs,
2652 medication or other treatment so as to be hampered in
2653 participating in the proceedings. The court, at the time of the
2654 hearing, shall be presented a record of all drugs, medication or
2655 other treatment that the respondent has received pending the
2656 hearing, unless the court determines that such a record would be
2657 impractical and documents the reasons for that determination.

2658 (3) The respondent shall have the right to offer evidence,
2659 to be confronted with the witnesses against him and to
2660 cross-examine them and shall have the privilege against
2661 self-incrimination. The rules of evidence applicable in other
2662 judicial proceedings in this state shall be followed.

2663 (4) If the court finds by clear and convincing evidence that
2664 the proposed patient is a * * * person with mental illness or a
2665 person with an intellectual disability and, if after careful
2666 consideration of reasonable alternative dispositions, including,
2667 but not limited to, dismissal of the proceedings, the court finds
2668 that there is no suitable alternative to judicial commitment, the
2669 court shall commit the patient for treatment in the least
2670 restrictive treatment facility that can meet the patient's
2671 treatment needs. Treatment prior to admission to a state-operated
2672 facility shall be located as closely as possible to the patient's



2673 county of residence and the county of residence shall be
2674 responsible for that cost. Admissions to state-operated
2675 facilities shall be in compliance with the catchment areas
2676 established by the Department of Mental Health. A nonresident of
2677 the state may be committed for treatment or confinement in the
2678 county where such person was found.

2679 Alternatives to commitment to inpatient care may include, but
2680 shall not be limited to: voluntary or court-ordered outpatient
2681 commitment for treatment with specific reference to a treatment
2682 regimen, day treatment in a hospital, night treatment in a
2683 hospital, placement in the custody of a friend or relative or the
2684 provision of home health services.

2685 For persons committed as having mental illness or having an
2686 intellectual disability, the initial commitment shall not exceed
2687 three (3) months.

2688 (5) No person shall be committed to a treatment facility
2689 whose primary problems are the physical disabilities associated
2690 with old age or birth defects of infancy.

2691 (6) The court shall state the findings of fact and
2692 conclusions of law that constitute the basis for the order of
2693 commitment. The findings shall include a listing of less
2694 restrictive alternatives considered by the court and the reasons
2695 that each was found not suitable.

2696 (7) A stenographic transcription shall be recorded by a
2697 stenographer or electronic recording device and retained by the
2698 court.

2699 (8) Notwithstanding any other provision of law to the
2700 contrary, neither the Board of Mental Health or its members, nor
2701 the Department of Mental Health or its related facilities, nor any
2702 employee of the Department of Mental Health or its related
2703 facilities, unless related to the respondent by blood or marriage,



2704 shall be assigned or adjudicated custody, guardianship, or
2705 conservatorship of the respondent.

2706 (9) The county where a person in need of treatment is found
2707 is authorized to charge the county of such person's residence for
2708 the costs incurred while such person is confined in the county
2709 where such person was found.

2710 **SECTION 62.** Section 41-21-77, Mississippi Code of 1972, is
2711 amended as follows:

2712 41-21-77. If admission is ordered at a treatment facility,
2713 the sheriff, his or her deputy or any other person appointed or
2714 authorized by the court shall immediately deliver the respondent
2715 to the director of the appropriate facility. Neither the Board of
2716 Mental Health or its members, nor the Department of Mental Health
2717 or its related facilities, nor any employee of the Department of
2718 Mental Health or its related facilities, shall be appointed,
2719 authorized or ordered to deliver the respondent for treatment, and
2720 no person shall be so delivered or admitted until the director of
2721 the admitting institution determines that facilities and services
2722 are available. Persons who have been ordered committed and are
2723 awaiting admission may be given any such treatment in the facility
2724 by a licensed physician as is indicated by standard medical
2725 practice. Any county facility used for providing housing,
2726 maintenance and medical treatment for involuntarily committed
2727 persons pending their transportation and admission to a state
2728 treatment facility shall be certified by the State Department of
2729 Mental Health under the provisions of Section 41-4-7(gg). No
2730 person shall be delivered or admitted to any non-Department of
2731 Mental Health treatment facility unless the treatment facility is
2732 licensed and/or certified to provide the appropriate level of
2733 psychiatric care for persons with mental illness. It is the
2734 intent of this Legislature that county-owned hospitals work with
2735 regional community mental health/intellectual disability centers



2736 in providing care to local patients. The clerk shall provide the
2737 director of the admitting institution with a certified copy of the
2738 court order, a certified copy of the physicians' or the
2739 physician's and psychologist's, nurse practitioner's or physician
2740 assistant's certificate, a certified copy of the affidavit, and
2741 any other information available concerning the physical and mental
2742 condition of the respondent. Upon notification from the United
2743 States Veterans Administration or other agency of the United
2744 States government, that facilities are available and the
2745 respondent is eligible for care and treatment in those facilities,
2746 the court may enter an order for delivery of the respondent to or
2747 retention by the Veterans Administration or other agency of the
2748 United States government, and, in those cases the chief officer to
2749 whom the respondent is so delivered or by whom he is retained
2750 shall, with respect to the respondent, be vested with the same
2751 powers as the director of the Mississippi State Hospital at
2752 Whitfield, or the East Mississippi State Hospital at Meridian,
2753 with respect to retention and discharge of the respondent.

2754 **SECTION 63.** Section 41-21-82, Mississippi Code of 1972, is
2755 amended as follows:

2756 41-21-82. Prior to the termination of the initial commitment
2757 order, the director of the facility shall cause an impartial
2758 evaluation of the patient to be made in order to assess the extent
2759 to which the grounds for initial commitment persist, the patient
2760 continues to have mental illness, and alternatives to involuntary
2761 commitment are available. If the results of this impartial
2762 evaluation do not support the need for continued commitment, the
2763 patient shall be discharged.

2764 The director shall file a written report with the committing
2765 court setting forth in detail the results of this evaluation and
2766 other facts indicating that the patient satisfies the statutory
2767 requirement for continued commitment and the findings of the



2768 examiner to support this conclusion. If, after reviewing the
2769 director's report, the court finds that the patient continues to
2770 have mental illness and that there is no alternative to
2771 involuntary commitment, the commitment may be continued.

2772 Nothing in this section shall preclude the patient, his
2773 counsel or another person acting in his behalf from requesting a
2774 hearing under Sections 41-21-81 or 41-21-99.

2775 **SECTION 64.** Section 41-21-83, Mississippi Code of 1972, is
2776 amended as follows:

2777 41-21-83. If a hearing is requested as provided in Section
2778 41-21-74, 41-21-81 or 41-21-99, the court shall not make a
2779 determination of the need for continued commitment unless a
2780 hearing is held and the court finds by clear and convincing
2781 evidence that (a) the person continues to have mental illness or
2782 have an intellectual disability; and (b) involuntary commitment is
2783 necessary for the protection of the patient or others; and (c)
2784 there is no alternative to involuntary commitment. Hearings held
2785 under this section shall be held in the chancery court of the
2786 county where the facility is located; * * * however, * * * if the
2787 patient is confined at the Mississippi State Hospital at
2788 Whitfield, Mississippi, the hearing shall be conducted by the
2789 Chancery Court of the First Judicial District of Hinds County,
2790 Mississippi.

2791 The hearing shall be held within fourteen (14) days after
2792 receipt by the court of the request for a hearing. The court may
2793 continue the hearing for good cause shown. The clerk shall
2794 ascertain whether the patient is represented by counsel, and, if
2795 the patient is not represented, shall notify the chancellor who
2796 shall appoint counsel for him if the chancellor determines that
2797 the patient for any reason does not have the services of an
2798 attorney; however, the patient may waive the appointment of
2799 counsel subject to the approval of the court. Notice of the time



2800 and place of the hearing shall be served at least seventy-two (72)
2801 hours before the time of the hearing upon the patient, his
2802 attorney, the director, and the person requesting the hearing, if
2803 other than the patient, and any witnesses requested by the patient
2804 or his attorney, or any witnesses the court may deem necessary or
2805 desirable.

2806 The patient must be present at the hearing unless the
2807 chancellor determines that the patient is unable to attend and
2808 makes that determination and the reasons therefor part of the
2809 record.

2810 The court shall put its findings and the reasons supporting
2811 its findings in writing and shall have copies delivered to the
2812 patient, his attorney, and the director of the treatment facility.
2813 An appeal from the final commitment order by either party may be
2814 had on the terms prescribed for appeals in civil cases; however,
2815 such appeal shall be without supersedeas. The record on appeal
2816 shall include the transcript of the commitment hearing.

2817 **SECTION 65.** Section 41-21-87, Mississippi Code of 1972, as
2818 amended by Senate Bill No. 2841, 2010 Regular Session, is amended
2819 as follows:

2820 41-21-87. (1) The director of either the treatment facility
2821 where the patient is committed or the treatment facility where the
2822 patient resides while awaiting admission to any other treatment
2823 facility may discharge any civilly committed patient upon filing
2824 his certificate of discharge with the clerk of the committing
2825 court, certifying that the patient, in his judgment, no longer
2826 poses a substantial threat of physical harm to himself or others.

2827 (2) A director of a treatment facility specified in
2828 subsection (1) above may return any patient to the custody of the
2829 committing court upon providing seven (7) days' notice and upon
2830 filing his certificate of same as follows:



2831 (a) When, in the judgment of the director, the patient
2832 may be treated in a less restrictive environment; * * *
2833 however, * * * treatment in such less restrictive environment
2834 shall be implemented within seven (7) days after notification of
2835 the court; or

2836 (b) When, in the judgment of the director, adequate
2837 facilities or treatment are not available at the treatment
2838 facility.

2839 (3) Except as provided in Section 41-21-88, no committing
2840 court shall enjoin or restrain any director of a treatment
2841 facility specified in subsection (1) above from discharging a
2842 patient under this section whose treating professionals have
2843 determined that the patient meets one of the criteria for
2844 discharge as outlined in subsection (1) or (2) of this section.
2845 The director of the treatment facility where the patient is
2846 committed may transfer any civilly committed patient from one
2847 facility operated directly by the Department of Mental Health to
2848 another as necessary for the welfare of that or other patients.
2849 Upon receiving the director's certificate of transfer, the court
2850 shall enter an order accordingly.

2851 (4) Within twenty-four (24) hours prior to the release or
2852 discharge of any civilly committed patient, other than a temporary
2853 pass due to sickness or death in the patient's family, the
2854 director shall give or cause to be given notice of such release or
2855 discharge to one (1) member of the patient's immediate family,
2856 provided the member of the patient's immediate family has signed
2857 the consent to release form provided under subsection (5) and has
2858 furnished in writing a current address and telephone number, if
2859 applicable, to the director for such purpose. The notice of
2860 release shall also be provided to any victim of such person and/or
2861 to any person to whom a restraining order has been entered to
2862 protect from such person. The notice to the family member shall



2863 include the psychiatric diagnosis of any chronic mental disorder
2864 incurred by the civilly committed patient and any medications
2865 provided or prescribed to the patient for such conditions.

2866 (5) All providers of service in a treatment facility,
2867 whether in a community mental health/intellectual disability
2868 center, region or state psychiatric hospital, are authorized and
2869 directed to request a consent to release information from all
2870 patients which will allow that entity to involve the family in the
2871 patient's treatment. Such release form shall be developed by the
2872 Department of Mental Health and provided to all treatment
2873 facilities, community mental health/intellectual disability
2874 centers and state facilities. All such facilities shall request
2875 such a release of information upon the date of admission of the
2876 patient to the facility or at least by the time the patient is
2877 discharged.

2878 **SECTION 66.** Section 41-21-103, Mississippi Code of 1972, is
2879 amended as follows:

2880 41-21-103. (1) Unless he or she has a legal guardian or
2881 conservator, a married person or a person eighteen (18) years of
2882 age or older may be admitted to a treatment facility as a
2883 voluntary admittee for treatment, provided that the director deems
2884 the person suitable for admission, upon the filing of an
2885 application with the director, accompanied by certificates of two
2886 (2) physicians or by one (1) physician and one (1) psychologist,
2887 one (1) nurse practitioner or one (1) physician assistant who
2888 certify that they examined the person within the last five (5)
2889 days and that the person is in need of observation, diagnosis and
2890 treatment. The director may accept applications from the person
2891 seeking admission or any interested person with the applicant's
2892 written consent.

2893 (2) A * * * person with an intellectual disability who is
2894 under the age of eighteen (18) years and who is not married may be



2895 admitted to a treatment facility upon application of his or her
2896 parent or legal guardian if the following has occurred:

2897 (a) An investigation by the director that carefully
2898 probes the person's social, psychological and developmental
2899 background; and

2900 (b) A determination by the director that the person
2901 will benefit from care and treatment of his or her disorder at the
2902 facility and that services and facilities are available. The
2903 reasons for the determination shall be recorded in writing.

2904 (3) A * * * person with an intellectual disability or with
2905 mental illness who is married or eighteen (18) years of age or
2906 older and who has a legal guardian or conservator may be admitted
2907 to a treatment facility upon application of his or her legal
2908 guardian or conservator if authorization to make the application
2909 has been received from the court having jurisdiction of the
2910 guardianship or conservatorship and the following has occurred:

2911 (a) An investigation by the director that carefully
2912 probes the person's social, psychological and developmental
2913 background; and

2914 (b) A determination by the director that the person
2915 will benefit from care and treatment of his or her disorder at the
2916 facility and that services and facilities are available. The
2917 reasons for the determination shall be recorded in writing.

2918 (4) A * * * person with mental illness who is under the age
2919 of fourteen (14) years may be admitted to a treatment facility
2920 upon the application of his or her parent or legal guardian if the
2921 following has occurred:

2922 (a) An investigation by the director that carefully
2923 probes the person's social, psychological and developmental
2924 background; and

2925 (b) A determination by the director that the person
2926 will benefit from care and treatment of his or her disorder at the



2927 facility and that services and facilities are available. The
2928 reasons for the determination shall be recorded in writing.

2929 (5) A * * * person with mental illness who is fourteen (14)
2930 years of age or older but less than eighteen (18) years of age may
2931 be admitted to a treatment facility in the same manner as an adult
2932 may be involuntarily committed.

2933 (6) Any voluntary admittee may leave a treatment facility
2934 after five (5) days, excluding Saturdays, Sundays and holidays,
2935 after he or she gives any member of the treatment facility staff
2936 written notice of his or her desire to leave, unless before
2937 leaving, the patient withdraws the notice by written withdrawal or
2938 unless within those five (5) days a petition and the certificates
2939 of two (2) examining physicians, or one (1) examining physician
2940 and one (1) psychologist, nurse practitioner or physician
2941 assistant, stating that the patient is in need of treatment, are
2942 filed with the chancery clerk in the county of the patient's
2943 residence or the county in which the treatment facility is
2944 located; however, if the admittee is at Mississippi State Hospital
2945 at Whitfield, the petition and certificate shall be filed with the
2946 chancery clerk in the county of patient's residence or with the
2947 Chancery Clerk for the First Judicial District of Hinds County,
2948 and the chancellor or clerk shall order a hearing under Sections
2949 41-21-61 through 41-21-107. The patient may continue to be
2950 hospitalized pending a final order of the court in the court
2951 proceedings.

2952 (7) The written application form for voluntary admission
2953 shall contain in large, bold-face type a statement in simple,
2954 nontechnical terms that the admittee may not leave for five (5)
2955 days, excluding Saturdays, Sundays and holidays, after giving
2956 written notice of his or her desire to leave. This right to leave
2957 must also be communicated orally to the admittee at the time of
2958 his or her admission, and a copy of the application form given to



2959 the admittee and to any parent, guardian, relative, attorney or
2960 friend who accompanied the patient to the treatment facility.

2961 **SECTION 67.** Section 41-21-109, Mississippi Code of 1972, is
2962 amended as follows:

2963 41-21-109. (1) The purpose of this section is to provide
2964 modern and efficient rehabilitation facilities for adolescents
2965 with mental illness or with an intellectual disability who have
2966 been committed for treatment by a court of competent jurisdiction
2967 under Section 41-21-61 et seq.

2968 (2) The Department of Finance and Administration, acting
2969 through the Bureau of Building, Grounds and Real Property
2970 Management, using funds from bonds, monies appropriated by the
2971 Legislature for those purposes, federal matching or other federal
2972 funds, federal grants or other available funds from whatever
2973 source, shall provide for by construction, lease, lease-purchase
2974 or otherwise and equip the following juvenile rehabilitation
2975 facilities under the jurisdiction and responsibility of the
2976 Mississippi Department of Mental Health: Construction and
2977 equipping of two (2) separate facilities each of which could serve
2978 up to fifty (50) adolescents, and each of which will be located at
2979 sites approved by the Department of Mental Health that would be
2980 specifically designed to serve adolescents who meet commitment
2981 criteria as defined by Section 41-21-61. One (1) fifty-bed
2982 facility shall house adolescent offenders with mental illness, and
2983 the other facility shall house adolescent offenders with an
2984 intellectual disability. Priority admission to these facilities
2985 shall be those adolescents who have some involvement in the
2986 judicial system. These facilities shall be self-contained and
2987 offer a secure but therapeutic environment allowing persons to be
2988 habilitated apart from persons who are more vulnerable and who
2989 have disabilities that are more disabling. The number of persons
2990 admitted to these facilities shall not exceed the number of beds



2991 authorized under this section or the number of beds licensed or
2992 authorized by the licensure and certification agency, whichever is
2993 less.

2994 Those facilities shall be on property owned by the Department
2995 of Mental Health, or its successor, at one or more sites selected
2996 by the Department of Mental Health on land that is either donated
2997 to the state or purchased by the state specifically for the
2998 location of those facilities.

2999 (3) The facility located in Harrison County shall be known
3000 as the Specialized Treatment Facility for the Emotionally
3001 Disturbed, and the facility located in Brookhaven shall be known
3002 as the Mississippi Adolescent Center.

3003 **SECTION 68.** Section 41-39-7, Mississippi Code of 1972, is
3004 amended as follows:

3005 41-39-7. Upon the request of the Secretary of the State
3006 Board of Health, the authorities in charge of the hospitals
3007 supported either wholly or partly by state funds are authorized
3008 and directed to deliver any body of any person, except the bodies
3009 of * * * persons with mental illness and persons with an
3010 intellectual disability, dying in any of those hospitals to the
3011 duly authorized representatives of the state university or any
3012 medical college or any accredited mortuary science program in any
3013 junior college in this state, giving the state university
3014 preference in the event there is an insufficiency in dissecting
3015 material for the use of all hospitals for anatomical purposes.
3016 This applies to the remains of any person, except * * * persons
3017 with mental illness and persons with an intellectual disability,
3018 who dies in any of those hospitals, when the body is not, within a
3019 reasonable time after death, claimed for burial by some fraternal
3020 order, or by some person related to the deceased by blood or
3021 marriage, or by some friend. The State Board of Health shall have
3022 authority to adopt regulations for the proper burial of



3023 those * * * persons with mental illness and persons with an
3024 intellectual disability. However, the human remains of any
3025 unknown person who is a traveler dying suddenly shall not be so
3026 delivered or used for anatomical purposes. Any human remains, so
3027 delivered, shall be properly and decently removed from the
3028 hospital, at the expense of the party to whom the same may be
3029 delivered, and shall be transported under such regulations as the
3030 State Board of Health may prescribe, and after use for strictly
3031 necessary medical study, in the medical department of the
3032 university, or in any medical college, or in any accredited
3033 mortuary science program in any junior college in this state, as
3034 the case may be, the body shall be decently interred or may be
3035 cremated and the residue interred at the expense of the party
3036 using the same. The State Board of Health shall have authority to
3037 regulate and restrict the use of dead bodies used for the above
3038 purposes. The authorities of the hospitals, the Secretary of the
3039 State Board of Health, and the authorities of the university, any
3040 medical college and any accredited mortuary science program in any
3041 junior college in this state, shall each cause a record to be kept
3042 of each body used and disposed of, under the provisions of this
3043 section, and such records shall be subject to inspection of any
3044 member of the State Board of Health at any time.

3045 **SECTION 69.** Section 43-6-171, Mississippi Code of 1972, is
3046 amended as follows:

3047 43-6-171. (1) The Legislature recognizes that language used
3048 in reference to individuals with disabilities shapes and reflects
3049 society's attitudes towards people with disabilities. Many of the
3050 terms currently used diminish the humanity and natural condition
3051 of having a disability. Certain terms are demeaning and create an
3052 invisible barrier to inclusion as equal community members. The
3053 Legislature finds it necessary to clarify preferred language for



3054 new and revised laws and rules by requiring the use of terminology
3055 that puts the person before the disability.

3056 (2) The legislative drafting offices of the House and Senate
3057 are directed to avoid all references to the terms "disabled,"
3058 "developmentally disabled," "mentally disabled," "mentally ill,"
3059 "mentally retarded," "handicapped," "cripple" and "crippled," in
3060 any new statute, memorial or resolution, and to change those
3061 references in any existing statute, memorial or resolution as
3062 sections including those references are otherwise amended by law.
3063 The drafting offices are directed to replace the terms referenced
3064 above as appropriate with the following revised terminology:
3065 "individuals with disabilities," "individuals with developmental
3066 disabilities," "individuals with mental illness" and "individuals
3067 with an intellectual disability."

3068 (3) No statute, memorial or resolution is invalid because it
3069 does not comply with this section.

3070 (4) All state agency orders creating new rules, or amending
3071 existing rules, shall be formulated in accordance with the
3072 requirements of subsection (1) of this section regarding the use
3073 of respectful language.

3074 (5) No agency rule is invalid because it does not comply
3075 with this section.

3076 **SECTION 70.** Section 43-13-105, Mississippi Code of 1972, is
3077 amended as follows:

3078 43-13-105. When used in this article, the following
3079 definitions shall apply, unless the context requires otherwise:

3080 (a) "Administering agency" means the Division of
3081 Medicaid in the Office of the Governor as created by this article.

3082 (b) "Division" or "Division of Medicaid" means the
3083 Division of Medicaid in the Office of the Governor.

3084 (c) "Medical assistance" means payment of part or all
3085 of the costs of medical and remedial care provided under the terms



3086 of this article and in accordance with provisions of Titles XIX
3087 and XXI of the Social Security Act, as amended.

3088 (d) "Applicant" means a person who applies for
3089 assistance under Titles IV, XVI, XIX or XXI of the Social Security
3090 Act, as amended, and under the terms of this article.

3091 (e) "Recipient" means a person who is eligible for
3092 assistance under Title XIX or XXI of the Social Security Act, as
3093 amended and under the terms of this article.

3094 (f) "State health agency" * * * means any agency,
3095 department, institution, board or commission of the State of
3096 Mississippi, except the University of Mississippi Medical School,
3097 which is supported in whole or in part by any public funds,
3098 including funds directly appropriated from the State Treasury,
3099 funds derived by taxes, fees levied or collected by statutory
3100 authority, or any other funds used by "state health agencies"
3101 derived from federal sources, when any funds available to such
3102 agency are expended either directly or indirectly in connection
3103 with, or in support of, any public health, hospital,
3104 hospitalization or other public programs for the preventive
3105 treatment or actual medical treatment of persons with a physical
3106 disability, mental illness or an intellectual disability.

3107 (g) "Mississippi Medicaid Commission" or "Medicaid
3108 Commission," wherever they appear in the laws of the State of
3109 Mississippi, means the Division of Medicaid in the Office of the
3110 Governor.

3111 **SECTION 71.** Section 43-13-117, Mississippi Code of 1972, is
3112 amended as follows:

3113 **[The following amendments to this section shall not become**
3114 **effective until the hospital assessment provided for in the 2009**
3115 **amendments to Section 43-13-145 becomes effective. If the**
3116 **hospital assessment shall not take effect and/or shall cease to be**



3117 **imposed, the provisions of Section 43-13-117 shall remain in**
3118 **effect as existed on June 30, 2009.]**

3119 43-13-117. (A) Medicaid as authorized by this article shall
3120 include payment of part or all of the costs, at the discretion of
3121 the division, with approval of the Governor, of the following
3122 types of care and services rendered to eligible applicants who
3123 have been determined to be eligible for that care and services,
3124 within the limits of state appropriations and federal matching
3125 funds:

3126 (1) Inpatient hospital services.

3127 (a) The division shall allow thirty (30) days of
3128 inpatient hospital care annually for all Medicaid recipients.
3129 Medicaid recipients requiring transplants shall not have those
3130 days included in the transplant hospital stay count against the
3131 thirty-day limit for inpatient hospital care. Precertification of
3132 inpatient days must be obtained as required by the division.

3133 (b) From and after July 1, 1994, the Executive
3134 Director of the Division of Medicaid shall amend the Mississippi
3135 Title XIX Inpatient Hospital Reimbursement Plan to remove the
3136 occupancy rate penalty from the calculation of the Medicaid
3137 Capital Cost Component utilized to determine total hospital costs
3138 allocated to the Medicaid program.

3139 (c) Hospitals will receive an additional payment
3140 for the implantable programmable baclofen drug pump used to treat
3141 spasticity that is implanted on an inpatient basis. The payment
3142 pursuant to written invoice will be in addition to the facility's
3143 per diem reimbursement and will represent a reduction of costs on
3144 the facility's annual cost report, and shall not exceed Ten
3145 Thousand Dollars (\$10,000.00) per year per recipient.

3146 (2) Outpatient hospital services.



3147 (a) Emergency services. The division shall allow
3148 six (6) medically necessary emergency room visits per beneficiary
3149 per fiscal year.

3150 (b) Other outpatient hospital services. The
3151 division shall allow benefits for other medically necessary
3152 outpatient hospital services (such as chemotherapy, radiation,
3153 surgery and therapy), including outpatient services in a clinic or
3154 other facility that is not located inside the hospital, but that
3155 has been designated as an outpatient facility by the hospital, and
3156 that was in operation or under construction on July 1, 2009,
3157 provided that the costs and charges associated with the operation
3158 of the hospital clinic are included in the hospital's cost report.
3159 In addition, the Medicare thirty-five-mile rule will apply to
3160 those hospital clinics not located inside the hospital that are
3161 constructed after July 1, 2009. Where the same services are
3162 reimbursed as clinic services, the division may revise the rate or
3163 methodology of outpatient reimbursement to maintain consistency,
3164 efficiency, economy and quality of care.

3165 (3) Laboratory and x-ray services.

3166 (4) Nursing facility services.

3167 (a) The division shall make full payment to
3168 nursing facilities for each day, not exceeding fifty-two (52) days
3169 per year, that a patient is absent from the facility on home
3170 leave. Payment may be made for the following home leave days in
3171 addition to the fifty-two-day limitation: Christmas, the day
3172 before Christmas, the day after Christmas, Thanksgiving, the day
3173 before Thanksgiving and the day after Thanksgiving.

3174 (b) From and after July 1, 1997, the division
3175 shall implement the integrated case-mix payment and quality
3176 monitoring system, which includes the fair rental system for
3177 property costs and in which recapture of depreciation is
3178 eliminated. The division may reduce the payment for hospital



3179 leave and therapeutic home leave days to the lower of the case-mix
3180 category as computed for the resident on leave using the
3181 assessment being utilized for payment at that point in time, or a
3182 case-mix score of 1.000 for nursing facilities, and shall compute
3183 case-mix scores of residents so that only services provided at the
3184 nursing facility are considered in calculating a facility's per
3185 diem.

3186 (c) From and after July 1, 1997, all state-owned
3187 nursing facilities shall be reimbursed on a full reasonable cost
3188 basis.

3189 (d) When a facility of a category that does not
3190 require a certificate of need for construction and that could not
3191 be eligible for Medicaid reimbursement is constructed to nursing
3192 facility specifications for licensure and certification, and the
3193 facility is subsequently converted to a nursing facility under a
3194 certificate of need that authorizes conversion only and the
3195 applicant for the certificate of need was assessed an application
3196 review fee based on capital expenditures incurred in constructing
3197 the facility, the division shall allow reimbursement for capital
3198 expenditures necessary for construction of the facility that were
3199 incurred within the twenty-four (24) consecutive calendar months
3200 immediately preceding the date that the certificate of need
3201 authorizing the conversion was issued, to the same extent that
3202 reimbursement would be allowed for construction of a new nursing
3203 facility under a certificate of need that authorizes that
3204 construction. The reimbursement authorized in this subparagraph
3205 (d) may be made only to facilities the construction of which was
3206 completed after June 30, 1989. Before the division shall be
3207 authorized to make the reimbursement authorized in this
3208 subparagraph (d), the division first must have received approval
3209 from the Centers for Medicare and Medicaid Services (CMS) of the
3210 change in the state Medicaid plan providing for the reimbursement.



3211 (e) The division shall develop and implement, not
3212 later than January 1, 2001, a case-mix payment add-on determined
3213 by time studies and other valid statistical data that will
3214 reimburse a nursing facility for the additional cost of caring for
3215 a resident who has a diagnosis of Alzheimer's or other related
3216 dementia and exhibits symptoms that require special care. Any
3217 such case-mix add-on payment shall be supported by a determination
3218 of additional cost. The division shall also develop and implement
3219 as part of the fair rental reimbursement system for nursing
3220 facility beds, an Alzheimer's resident bed depreciation enhanced
3221 reimbursement system that will provide an incentive to encourage
3222 nursing facilities to convert or construct beds for residents with
3223 Alzheimer's or other related dementia.

3224 (f) The division shall develop and implement an
3225 assessment process for long-term care services. The division may
3226 provide the assessment and related functions directly or through
3227 contract with the area agencies on aging.

3228 The division shall apply for necessary federal waivers to
3229 assure that additional services providing alternatives to nursing
3230 facility care are made available to applicants for nursing
3231 facility care.

3232 (5) Periodic screening and diagnostic services for
3233 individuals under age twenty-one (21) years as are needed to
3234 identify physical and mental defects and to provide health care
3235 treatment and other measures designed to correct or ameliorate
3236 defects and physical and mental illness and conditions discovered
3237 by the screening services, regardless of whether these services
3238 are included in the state plan. The division may include in its
3239 periodic screening and diagnostic program those discretionary
3240 services authorized under the federal regulations adopted to
3241 implement Title XIX of the federal Social Security Act, as
3242 amended. The division, in obtaining physical therapy services,



3243 occupational therapy services, and services for individuals with
3244 speech, hearing and language disorders, may enter into a
3245 cooperative agreement with the State Department of Education for
3246 the provision of those services to handicapped students by public
3247 school districts using state funds that are provided from the
3248 appropriation to the Department of Education to obtain federal
3249 matching funds through the division. The division, in obtaining
3250 medical and mental health assessments, treatment, care and
3251 services for children who are in, or at risk of being put in, the
3252 custody of the Mississippi Department of Human Services may enter
3253 into a cooperative agreement with the Mississippi Department of
3254 Human Services for the provision of those services using state
3255 funds that are provided from the appropriation to the Department
3256 of Human Services to obtain federal matching funds through the
3257 division.

3258 (6) Physician's services. The division shall allow
3259 twelve (12) physician visits annually. All fees for physicians'
3260 services that are covered only by Medicaid shall be reimbursed at
3261 ninety percent (90%) of the rate established on January 1, 1999,
3262 and as may be adjusted each July thereafter, under Medicare (Title
3263 XVIII of the federal Social Security Act, as amended). The
3264 division may develop and implement a different reimbursement model
3265 or schedule for physician's services provided by physicians based
3266 at an academic health care center and by physicians at rural
3267 health centers that are associated with an academic health care
3268 center. From and after January 1, 2010, all fees for physicians'
3269 services that are covered only by Medicaid shall be increased to
3270 ninety percent (90%) of the rate established on January 1, 2010,
3271 and as may be adjusted each July thereafter, under Medicare.

3272 (7) (a) Home health services for eligible persons, not
3273 to exceed in cost the prevailing cost of nursing facility
3274 services, not to exceed twenty-five (25) visits per year. All



3275 home health visits must be precertified as required by the
3276 division.

3277 (b) [Repealed]

3278 (8) Emergency medical transportation services. On
3279 January 1, 1994, emergency medical transportation services shall
3280 be reimbursed at seventy percent (70%) of the rate established
3281 under Medicare (Title XVIII of the federal Social Security Act, as
3282 amended). "Emergency medical transportation services" shall mean,
3283 but shall not be limited to, the following services by a properly
3284 permitted ambulance operated by a properly licensed provider in
3285 accordance with the Emergency Medical Services Act of 1974
3286 (Section 41-59-1 et seq.): (i) basic life support, (ii) advanced
3287 life support, (iii) mileage, (iv) oxygen, (v) intravenous fluids,
3288 (vi) disposable supplies, (vii) similar services.

3289 (9) (a) Legend and other drugs as may be determined by
3290 the division.

3291 The division shall establish a mandatory preferred drug list.
3292 Drugs not on the mandatory preferred drug list shall be made
3293 available by utilizing prior authorization procedures established
3294 by the division.

3295 The division may seek to establish relationships with other
3296 states in order to lower acquisition costs of prescription drugs
3297 to include single source and innovator multiple source drugs or
3298 generic drugs. In addition, if allowed by federal law or
3299 regulation, the division may seek to establish relationships with
3300 and negotiate with other countries to facilitate the acquisition
3301 of prescription drugs to include single source and innovator
3302 multiple source drugs or generic drugs, if that will lower the
3303 acquisition costs of those prescription drugs.

3304 The division shall allow for a combination of prescriptions
3305 for single source and innovator multiple source drugs and generic
3306 drugs to meet the needs of the beneficiaries, not to exceed five



3307 (5) prescriptions per month for each noninstitutionalized Medicaid
3308 beneficiary, with not more than two (2) of those prescriptions
3309 being for single source or innovator multiple source drugs.

3310 The executive director may approve specific maintenance drugs
3311 for beneficiaries with certain medical conditions, which may be
3312 prescribed and dispensed in three-month supply increments.

3313 Drugs prescribed for a resident of a psychiatric residential
3314 treatment facility must be provided in true unit doses when
3315 available. The division may require that drugs not covered by
3316 Medicare Part D for a resident of a long-term care facility be
3317 provided in true unit doses when available. Those drugs that were
3318 originally billed to the division but are not used by a resident
3319 in any of those facilities shall be returned to the billing
3320 pharmacy for credit to the division, in accordance with the
3321 guidelines of the State Board of Pharmacy and any requirements of
3322 federal law and regulation. Drugs shall be dispensed to a
3323 recipient and only one (1) dispensing fee per month may be
3324 charged. The division shall develop a methodology for reimbursing
3325 for restocked drugs, which shall include a restock fee as
3326 determined by the division not exceeding Seven Dollars and
3327 Eighty-two Cents (\$7.82).

3328 The voluntary preferred drug list shall be expanded to
3329 function in the interim in order to have a manageable prior
3330 authorization system, thereby minimizing disruption of service to
3331 beneficiaries.

3332 Except for those specific maintenance drugs approved by the
3333 executive director, the division shall not reimburse for any
3334 portion of a prescription that exceeds a thirty-one-day supply of
3335 the drug based on the daily dosage.

3336 The division shall develop and implement a program of payment
3337 for additional pharmacist services, with payment to be based on



3338 demonstrated savings, but in no case shall the total payment
3339 exceed twice the amount of the dispensing fee.

3340 All claims for drugs for dually eligible Medicare/Medicaid
3341 beneficiaries that are paid for by Medicare must be submitted to
3342 Medicare for payment before they may be processed by the
3343 division's online payment system.

3344 The division shall develop a pharmacy policy in which drugs
3345 in tamper-resistant packaging that are prescribed for a resident
3346 of a nursing facility but are not dispensed to the resident shall
3347 be returned to the pharmacy and not billed to Medicaid, in
3348 accordance with guidelines of the State Board of Pharmacy.

3349 The division shall develop and implement a method or methods
3350 by which the division will provide on a regular basis to Medicaid
3351 providers who are authorized to prescribe drugs, information about
3352 the costs to the Medicaid program of single source drugs and
3353 innovator multiple source drugs, and information about other drugs
3354 that may be prescribed as alternatives to those single source
3355 drugs and innovator multiple source drugs and the costs to the
3356 Medicaid program of those alternative drugs.

3357 Notwithstanding any law or regulation, information obtained
3358 or maintained by the division regarding the prescription drug
3359 program, including trade secrets and manufacturer or labeler
3360 pricing, is confidential and not subject to disclosure except to
3361 other state agencies.

3362 (b) Payment by the division for covered
3363 multisource drugs shall be limited to the lower of the upper
3364 limits established and published by the Centers for Medicare and
3365 Medicaid Services (CMS) plus a dispensing fee, or the estimated
3366 acquisition cost (EAC) as determined by the division, plus a
3367 dispensing fee, or the providers' usual and customary charge to
3368 the general public.



3369 Payment for other covered drugs, other than multisource drugs
3370 with CMS upper limits, shall not exceed the lower of the estimated
3371 acquisition cost as determined by the division, plus a dispensing
3372 fee or the providers' usual and customary charge to the general
3373 public.

3374 Payment for nonlegend or over-the-counter drugs covered by
3375 the division shall be reimbursed at the lower of the division's
3376 estimated shelf price or the providers' usual and customary charge
3377 to the general public.

3378 The dispensing fee for each new or refill prescription,
3379 including nonlegend or over-the-counter drugs covered by the
3380 division, shall be not less than Three Dollars and Ninety-one
3381 Cents (\$3.91), as determined by the division.

3382 The division shall not reimburse for single source or
3383 innovator multiple source drugs if there are equally effective
3384 generic equivalents available and if the generic equivalents are
3385 the least expensive.

3386 It is the intent of the Legislature that the pharmacists
3387 providers be reimbursed for the reasonable costs of filling and
3388 dispensing prescriptions for Medicaid beneficiaries.

3389 (10) (a) Dental care that is an adjunct to treatment
3390 of an acute medical or surgical condition; services of oral
3391 surgeons and dentists in connection with surgery related to the
3392 jaw or any structure contiguous to the jaw or the reduction of any
3393 fracture of the jaw or any facial bone; and emergency dental
3394 extractions and treatment related thereto. On July 1, 2007, fees
3395 for dental care and surgery under authority of this paragraph (10)
3396 shall be reimbursed as provided in subparagraph (b). It is the
3397 intent of the Legislature that this rate revision for dental
3398 services will be an incentive designed to increase the number of
3399 dentists who actively provide Medicaid services. This dental



3400 services rate revision shall be known as the "James Russell Dumas
3401 Medicaid Dental Incentive Program."

3402 The division shall annually determine the effect of this
3403 incentive by evaluating the number of dentists who are Medicaid
3404 providers, the number who and the degree to which they are
3405 actively billing Medicaid, the geographic trends of where dentists
3406 are offering what types of Medicaid services and other statistics
3407 pertinent to the goals of this legislative intent. This data
3408 shall be presented to the Chair of the Senate Public Health and
3409 Welfare Committee and the Chair of the House Medicaid Committee.

3410 (b) The Division of Medicaid shall establish a fee
3411 schedule, to be effective from and after July 1, 2007, for dental
3412 services. The schedule shall provide for a fee for each dental
3413 service that is equal to a percentile of normal and customary
3414 private provider fees, as defined by the Ingenix Customized Fee
3415 Analyzer Report, which percentile shall be determined by the
3416 division. The schedule shall be reviewed annually by the division
3417 and dental fees shall be adjusted to reflect the percentile
3418 determined by the division.

3419 (c) For fiscal year 2008, the amount of state
3420 funds appropriated for reimbursement for dental care and surgery
3421 shall be increased by ten percent (10%) of the amount of state
3422 fund expenditures for that purpose for fiscal year 2007. For each
3423 of fiscal years 2009 and 2010, the amount of state funds
3424 appropriated for reimbursement for dental care and surgery shall
3425 be increased by ten percent (10%) of the amount of state fund
3426 expenditures for that purpose for the preceding fiscal year.

3427 (d) The division shall establish an annual benefit
3428 limit of Two Thousand Five Hundred Dollars (\$2,500.00) in dental
3429 expenditures per Medicaid-eligible recipient; however, a recipient
3430 may exceed the annual limit on dental expenditures provided in
3431 this paragraph with prior approval of the division.



3432 (e) The division shall include dental services as
3433 a necessary component of overall health services provided to
3434 children who are eligible for services.

3435 (f) This paragraph (10) shall stand repealed on
3436 July 1, 2012.

3437 (11) Eyeglasses for all Medicaid beneficiaries who have
3438 (a) had surgery on the eyeball or ocular muscle that results in a
3439 vision change for which eyeglasses or a change in eyeglasses is
3440 medically indicated within six (6) months of the surgery and is in
3441 accordance with policies established by the division, or (b) one
3442 (1) pair every five (5) years and in accordance with policies
3443 established by the division. In either instance, the eyeglasses
3444 must be prescribed by a physician skilled in diseases of the eye
3445 or an optometrist, whichever the beneficiary may select.

3446 (12) Intermediate care facility services.

3447 (a) The division shall make full payment to all
3448 intermediate care facilities for the mentally retarded for each
3449 day, not exceeding eighty-four (84) days per year, that a patient
3450 is absent from the facility on home leave. Payment may be made
3451 for the following home leave days in addition to the
3452 eighty-four-day limitation: Christmas, the day before Christmas,
3453 the day after Christmas, Thanksgiving, the day before Thanksgiving
3454 and the day after Thanksgiving.

3455 (b) All state-owned intermediate care facilities
3456 for the mentally retarded shall be reimbursed on a full reasonable
3457 cost basis.

3458 (13) Family planning services, including drugs,
3459 supplies and devices, when those services are under the
3460 supervision of a physician or nurse practitioner.

3461 (14) Clinic services. Such diagnostic, preventive,
3462 therapeutic, rehabilitative or palliative services furnished to an
3463 outpatient by or under the supervision of a physician or dentist



3464 in a facility that is not a part of a hospital but that is
3465 organized and operated to provide medical care to outpatients.
3466 Clinic services shall include any services reimbursed as
3467 outpatient hospital services that may be rendered in such a
3468 facility, including those that become so after July 1, 1991. On
3469 July 1, 1999, all fees for physicians' services reimbursed under
3470 authority of this paragraph (14) shall be reimbursed at ninety
3471 percent (90%) of the rate established on January 1, 1999, and as
3472 may be adjusted each July thereafter, under Medicare (Title XVIII
3473 of the federal Social Security Act, as amended). The division may
3474 develop and implement a different reimbursement model or schedule
3475 for physician's services provided by physicians based at an
3476 academic health care center and by physicians at rural health
3477 centers that are associated with an academic health care center.

3478 (15) Home- and community-based services for the elderly
3479 and disabled, as provided under Title XIX of the federal Social
3480 Security Act, as amended, under waivers, subject to the
3481 availability of funds specifically appropriated for that purpose
3482 by the Legislature.

3483 (16) Mental health services. Approved therapeutic and
3484 case management services (a) provided by an approved regional
3485 mental health/intellectual disability center established under
3486 Sections 41-19-31 through 41-19-39, or by another community mental
3487 health service provider meeting the requirements of the Department
3488 of Mental Health to be an approved mental health/intellectual
3489 disability center if determined necessary by the Department of
3490 Mental Health, using state funds that are provided from the
3491 appropriation to the State Department of Mental Health and/or
3492 funds transferred to the department by a political subdivision or
3493 instrumentality of the state and used to match federal funds under
3494 a cooperative agreement between the division and the department,
3495 or (b) provided by a facility that is certified by the State



3496 Department of Mental Health to provide therapeutic and case
3497 management services, to be reimbursed on a fee for service basis,
3498 or (c) provided in the community by a facility or program operated
3499 by the Department of Mental Health. Any such services provided by
3500 a facility described in subparagraph (b) must have the prior
3501 approval of the division to be reimbursable under this section.
3502 After June 30, 1997, mental health services provided by regional
3503 mental health/intellectual disability centers established under
3504 Sections 41-19-31 through 41-19-39, or by hospitals as defined in
3505 Section 41-9-3(a) and/or their subsidiaries and divisions, or by
3506 psychiatric residential treatment facilities as defined in Section
3507 43-11-1, or by another community mental health service provider
3508 meeting the requirements of the Department of Mental Health to be
3509 an approved mental health/intellectual disability center if
3510 determined necessary by the Department of Mental Health, shall not
3511 be included in or provided under any capitated managed care pilot
3512 program provided for under paragraph (24) of this section.

3513 (17) Durable medical equipment services and medical
3514 supplies. Precertification of durable medical equipment and
3515 medical supplies must be obtained as required by the division.
3516 The Division of Medicaid may require durable medical equipment
3517 providers to obtain a surety bond in the amount and to the
3518 specifications as established by the Balanced Budget Act of 1997.

3519 (18) (a) Notwithstanding any other provision of this
3520 section to the contrary, as provided in the Medicaid state plan
3521 amendment or amendments as defined in Section 43-13-145(10), the
3522 division shall make additional reimbursement to hospitals that
3523 serve a disproportionate share of low-income patients and that
3524 meet the federal requirements for those payments as provided in
3525 Section 1923 of the federal Social Security Act and any applicable
3526 regulations. It is the intent of the Legislature that the
3527 division shall draw down all available federal funds allotted to



3528 the state for disproportionate share hospitals. However, from and
3529 after January 1, 1999, public hospitals participating in the
3530 Medicaid disproportionate share program may be required to
3531 participate in an intergovernmental transfer program as provided
3532 in Section 1903 of the federal Social Security Act and any
3533 applicable regulations.

3534 (b) The division shall establish a Medicare Upper
3535 Payment Limits Program, as defined in Section 1902(a)(30) of the
3536 federal Social Security Act and any applicable federal
3537 regulations, for hospitals, and may establish a Medicare Upper
3538 Payment Limits Program for nursing facilities. The division shall
3539 assess each hospital and, if the program is established for
3540 nursing facilities, shall assess each nursing facility, for the
3541 sole purpose of financing the state portion of the Medicare Upper
3542 Payment Limits Program. The hospital assessment shall be as
3543 provided in Section 43-13-145(4)(a) and the nursing facility
3544 assessment, if established, shall be based on Medicaid utilization
3545 or other appropriate method consistent with federal regulations.
3546 The assessment will remain in effect as long as the state
3547 participates in the Medicare Upper Payment Limits Program. As
3548 provided in the Medicaid state plan amendment or amendments as
3549 defined in Section 43-13-145(10), the division shall make
3550 additional reimbursement to hospitals and, if the program is
3551 established for nursing facilities, shall make additional
3552 reimbursement to nursing facilities, for the Medicare Upper
3553 Payment Limits, as defined in Section 1902(a)(30) of the federal
3554 Social Security Act and any applicable federal regulations.

3555 (19) (a) Perinatal risk management services. The
3556 division shall promulgate regulations to be effective from and
3557 after October 1, 1988, to establish a comprehensive perinatal
3558 system for risk assessment of all pregnant and infant Medicaid
3559 recipients and for management, education and follow-up for those



3560 who are determined to be at risk. Services to be performed
3561 include case management, nutrition assessment/counseling,
3562 psychosocial assessment/counseling and health education.

3563 (b) Early intervention system services. The
3564 division shall cooperate with the State Department of Health,
3565 acting as lead agency, in the development and implementation of a
3566 statewide system of delivery of early intervention services, under
3567 Part C of the Individuals with Disabilities Education Act (IDEA).
3568 The State Department of Health shall certify annually in writing
3569 to the executive director of the division the dollar amount of
3570 state early intervention funds available that will be utilized as
3571 a certified match for Medicaid matching funds. Those funds then
3572 shall be used to provide expanded targeted case management
3573 services for Medicaid eligible children with special needs who are
3574 eligible for the state's early intervention system.
3575 Qualifications for persons providing service coordination shall be
3576 determined by the State Department of Health and the Division of
3577 Medicaid.

3578 (20) Home- and community-based services for physically
3579 disabled approved services as allowed by a waiver from the United
3580 States Department of Health and Human Services for home- and
3581 community-based services for physically disabled people using
3582 state funds that are provided from the appropriation to the State
3583 Department of Rehabilitation Services and used to match federal
3584 funds under a cooperative agreement between the division and the
3585 department, provided that funds for these services are
3586 specifically appropriated to the Department of Rehabilitation
3587 Services.

3588 (21) Nurse practitioner services. Services furnished
3589 by a registered nurse who is licensed and certified by the
3590 Mississippi Board of Nursing as a nurse practitioner, including,
3591 but not limited to, nurse anesthetists, nurse midwives, family



3592 nurse practitioners, family planning nurse practitioners,
3593 pediatric nurse practitioners, obstetrics-gynecology nurse
3594 practitioners and neonatal nurse practitioners, under regulations
3595 adopted by the division. Reimbursement for those services shall
3596 not exceed ninety percent (90%) of the reimbursement rate for
3597 comparable services rendered by a physician.

3598 (22) Ambulatory services delivered in federally
3599 qualified health centers, rural health centers and clinics of the
3600 local health departments of the State Department of Health for
3601 individuals eligible for Medicaid under this article based on
3602 reasonable costs as determined by the division.

3603 (23) Inpatient psychiatric services. Inpatient
3604 psychiatric services to be determined by the division for
3605 recipients under age twenty-one (21) that are provided under the
3606 direction of a physician in an inpatient program in a licensed
3607 acute care psychiatric facility or in a licensed psychiatric
3608 residential treatment facility, before the recipient reaches age
3609 twenty-one (21) or, if the recipient was receiving the services
3610 immediately before he or she reached age twenty-one (21), before
3611 the earlier of the date he or she no longer requires the services
3612 or the date he or she reaches age twenty-two (22), as provided by
3613 federal regulations. Precertification of inpatient days and
3614 residential treatment days must be obtained as required by the
3615 division. From and after July 1, 2009, all state-owned and
3616 state-operated facilities that provide inpatient psychiatric
3617 services to persons under age twenty-one (21) who are eligible for
3618 Medicaid reimbursement shall be reimbursed for those services on a
3619 full reasonable cost basis.

3620 (24) [Deleted]

3621 (25) [Deleted]

3622 (26) Hospice care. As used in this paragraph, the term
3623 "hospice care" means a coordinated program of active professional



3624 medical attention within the home and outpatient and inpatient
3625 care that treats the terminally ill patient and family as a unit,
3626 employing a medically directed interdisciplinary team. The
3627 program provides relief of severe pain or other physical symptoms
3628 and supportive care to meet the special needs arising out of
3629 physical, psychological, spiritual, social and economic stresses
3630 that are experienced during the final stages of illness and during
3631 dying and bereavement and meets the Medicare requirements for
3632 participation as a hospice as provided in federal regulations.

3633 (27) Group health plan premiums and cost sharing if it
3634 is cost-effective as defined by the United States Secretary of
3635 Health and Human Services.

3636 (28) Other health insurance premiums that are
3637 cost-effective as defined by the United States Secretary of Health
3638 and Human Services. Medicare eligible must have Medicare Part B
3639 before other insurance premiums can be paid.

3640 (29) The Division of Medicaid may apply for a waiver
3641 from the United States Department of Health and Human Services for
3642 home- and community-based services for developmentally disabled
3643 people using state funds that are provided from the appropriation
3644 to the State Department of Mental Health and/or funds transferred
3645 to the department by a political subdivision or instrumentality of
3646 the state and used to match federal funds under a cooperative
3647 agreement between the division and the department, provided that
3648 funds for these services are specifically appropriated to the
3649 Department of Mental Health and/or transferred to the department
3650 by a political subdivision or instrumentality of the state.

3651 (30) Pediatric skilled nursing services for eligible
3652 persons under twenty-one (21) years of age.

3653 (31) Targeted case management services for children
3654 with special needs, under waivers from the United States
3655 Department of Health and Human Services, using state funds that



3656 are provided from the appropriation to the Mississippi Department
3657 of Human Services and used to match federal funds under a
3658 cooperative agreement between the division and the department.

3659 (32) Care and services provided in Christian Science
3660 Sanatoria listed and certified by the Commission for Accreditation
3661 of Christian Science Nursing Organizations/Facilities, Inc.,
3662 rendered in connection with treatment by prayer or spiritual means
3663 to the extent that those services are subject to reimbursement
3664 under Section 1903 of the federal Social Security Act.

3665 (33) Podiatrist services.

3666 (34) Assisted living services as provided through home-
3667 and community-based services under Title XIX of the federal Social
3668 Security Act, as amended, subject to the availability of funds
3669 specifically appropriated for that purpose by the Legislature.

3670 (35) Services and activities authorized in Sections
3671 43-27-101 and 43-27-103, using state funds that are provided from
3672 the appropriation to the Mississippi Department of Human Services
3673 and used to match federal funds under a cooperative agreement
3674 between the division and the department.

3675 (36) Nonemergency transportation services for
3676 Medicaid-eligible persons, to be provided by the Division of
3677 Medicaid. The division may contract with additional entities to
3678 administer nonemergency transportation services as it deems
3679 necessary. All providers shall have a valid driver's license,
3680 vehicle inspection sticker, valid vehicle license tags and a
3681 standard liability insurance policy covering the vehicle. The
3682 division may pay providers a flat fee based on mileage tiers, or
3683 in the alternative, may reimburse on actual miles traveled. The
3684 division may apply to the Center for Medicare and Medicaid
3685 Services (CMS) for a waiver to draw federal matching funds for
3686 nonemergency transportation services as a covered service instead
3687 of an administrative cost. The PEER Committee shall conduct a



3688 performance evaluation of the nonemergency transportation program
3689 to evaluate the administration of the program and the providers of
3690 transportation services to determine the most cost-effective ways
3691 of providing nonemergency transportation services to the patients
3692 served under the program. The performance evaluation shall be
3693 completed and provided to the members of the Senate Public Health
3694 and Welfare Committee and the House Medicaid Committee not later
3695 than January 15, 2008.

3696 (37) [Deleted]

3697 (38) Chiropractic services. A chiropractor's manual
3698 manipulation of the spine to correct a subluxation, if x-ray
3699 demonstrates that a subluxation exists and if the subluxation has
3700 resulted in a neuromusculoskeletal condition for which
3701 manipulation is appropriate treatment, and related spinal x-rays
3702 performed to document these conditions. Reimbursement for
3703 chiropractic services shall not exceed Seven Hundred Dollars
3704 (\$700.00) per year per beneficiary.

3705 (39) Dually eligible Medicare/Medicaid beneficiaries.
3706 The division shall pay the Medicare deductible and coinsurance
3707 amounts for services available under Medicare, as determined by
3708 the division. From and after July 1, 2009, the division shall
3709 reimburse crossover claims for inpatient hospital services and
3710 crossover claims covered under Medicare Part B in the same manner
3711 that was in effect on January 1, 2008, unless specifically
3712 authorized by the Legislature to change this method.

3713 (40) [Deleted]

3714 (41) Services provided by the State Department of
3715 Rehabilitation Services for the care and rehabilitation of persons
3716 with spinal cord injuries or traumatic brain injuries, as allowed
3717 under waivers from the United States Department of Health and
3718 Human Services, using up to seventy-five percent (75%) of the
3719 funds that are appropriated to the Department of Rehabilitation



3720 Services from the Spinal Cord and Head Injury Trust Fund
3721 established under Section 37-33-261 and used to match federal
3722 funds under a cooperative agreement between the division and the
3723 department.

3724 (42) Notwithstanding any other provision in this
3725 article to the contrary, the division may develop a population
3726 health management program for women and children health services
3727 through the age of one (1) year. This program is primarily for
3728 obstetrical care associated with low birth weight and preterm
3729 babies. The division may apply to the federal Centers for
3730 Medicare and Medicaid Services (CMS) for a Section 1115 waiver or
3731 any other waivers that may enhance the program. In order to
3732 effect cost savings, the division may develop a revised payment
3733 methodology that may include at-risk capitated payments, and may
3734 require member participation in accordance with the terms and
3735 conditions of an approved federal waiver.

3736 (43) The division shall provide reimbursement,
3737 according to a payment schedule developed by the division, for
3738 smoking cessation medications for pregnant women during their
3739 pregnancy and other Medicaid-eligible women who are of
3740 child-bearing age.

3741 (44) Nursing facility services for the severely
3742 disabled.

3743 (a) Severe disabilities include, but are not
3744 limited to, spinal cord injuries, closed head injuries and
3745 ventilator dependent patients.

3746 (b) Those services must be provided in a long-term
3747 care nursing facility dedicated to the care and treatment of
3748 persons with severe disabilities, and shall be reimbursed as a
3749 separate category of nursing facilities.

3750 (45) Physician assistant services. Services furnished
3751 by a physician assistant who is licensed by the State Board of



3752 Medical Licensure and is practicing with physician supervision
3753 under regulations adopted by the board, under regulations adopted
3754 by the division. Reimbursement for those services shall not
3755 exceed ninety percent (90%) of the reimbursement rate for
3756 comparable services rendered by a physician.

3757 (46) The division shall make application to the federal
3758 Centers for Medicare and Medicaid Services (CMS) for a waiver to
3759 develop and provide services for children with serious emotional
3760 disturbances as defined in Section 43-14-1(1), which may include
3761 home- and community-based services, case management services or
3762 managed care services through mental health providers certified by
3763 the Department of Mental Health. The division may implement and
3764 provide services under this waived program only if funds for
3765 these services are specifically appropriated for this purpose by
3766 the Legislature, or if funds are voluntarily provided by affected
3767 agencies.

3768 (47) (a) Notwithstanding any other provision in this
3769 article to the contrary, the division may develop and implement
3770 disease management programs for individuals with high-cost chronic
3771 diseases and conditions, including the use of grants, waivers,
3772 demonstrations or other projects as necessary.

3773 (b) Participation in any disease management
3774 program implemented under this paragraph (47) is optional with the
3775 individual. An individual must affirmatively elect to participate
3776 in the disease management program in order to participate, and may
3777 elect to discontinue participation in the program at any time.

3778 (48) Pediatric long-term acute care hospital services.

3779 (a) Pediatric long-term acute care hospital
3780 services means services provided to eligible persons under
3781 twenty-one (21) years of age by a freestanding Medicare-certified
3782 hospital that has an average length of inpatient stay greater than
3783 twenty-five (25) days and that is primarily engaged in providing



3784 chronic or long-term medical care to persons under twenty-one (21)
3785 years of age.

3786 (b) The services under this paragraph (48) shall
3787 be reimbursed as a separate category of hospital services.

3788 (49) The division shall establish copayments and/or
3789 coinsurance for all Medicaid services for which copayments and/or
3790 coinsurance are allowable under federal law or regulation, and
3791 shall set the amount of the copayment and/or coinsurance for each
3792 of those services at the maximum amount allowable under federal
3793 law or regulation.

3794 (50) Services provided by the State Department of
3795 Rehabilitation Services for the care and rehabilitation of persons
3796 who are deaf and blind, as allowed under waivers from the United
3797 States Department of Health and Human Services to provide home-
3798 and community-based services using state funds that are provided
3799 from the appropriation to the State Department of Rehabilitation
3800 Services or if funds are voluntarily provided by another agency.

3801 (51) Upon determination of Medicaid eligibility and in
3802 association with annual redetermination of Medicaid eligibility,
3803 beneficiaries shall be encouraged to undertake a physical
3804 examination that will establish a base-line level of health and
3805 identification of a usual and customary source of care (a medical
3806 home) to aid utilization of disease management tools. This
3807 physical examination and utilization of these disease management
3808 tools shall be consistent with current United States Preventive
3809 Services Task Force or other recognized authority recommendations.

3810 For persons who are determined ineligible for Medicaid, the
3811 division will provide information and direction for accessing
3812 medical care and services in the area of their residence.

3813 (52) Notwithstanding any provisions of this article,
3814 the division may pay enhanced reimbursement fees related to trauma
3815 care, as determined by the division in conjunction with the State



3816 Department of Health, using funds appropriated to the State
3817 Department of Health for trauma care and services and used to
3818 match federal funds under a cooperative agreement between the
3819 division and the State Department of Health. The division, in
3820 conjunction with the State Department of Health, may use grants,
3821 waivers, demonstrations, or other projects as necessary in the
3822 development and implementation of this reimbursement program.

3823 (53) Targeted case management services for high-cost
3824 beneficiaries shall be developed by the division for all services
3825 under this section.

3826 (54) Adult foster care services pilot program. Social
3827 and protective services on a pilot program basis in an approved
3828 foster care facility for vulnerable adults who would otherwise
3829 need care in a long-term care facility, to be implemented in an
3830 area of the state with the greatest need for such program, under
3831 the Medicaid Waivers for the Elderly and Disabled program or an
3832 assisted living waiver. The division may use grants, waivers,
3833 demonstrations or other projects as necessary in the development
3834 and implementation of this adult foster care services pilot
3835 program.

3836 (55) Therapy services. The plan of care for therapy
3837 services may be developed to cover a period of treatment for up to
3838 six (6) months, but in no event shall the plan of care exceed a
3839 six-month period of treatment. The projected period of treatment
3840 must be indicated on the initial plan of care and must be updated
3841 with each subsequent revised plan of care. Based on medical
3842 necessity, the division shall approve certification periods for
3843 less than or up to six (6) months, but in no event shall the
3844 certification period exceed the period of treatment indicated on
3845 the plan of care. The appeal process for any reduction in therapy
3846 services shall be consistent with the appeal process in federal
3847 regulations.



3848 (B) Notwithstanding any other provision of this article to
3849 the contrary, the division shall reduce the rate of reimbursement
3850 to providers for any service provided under this section by five
3851 percent (5%) of the allowed amount for that service. However, the
3852 reduction in the reimbursement rates required by this subsection
3853 (B) shall not apply to inpatient hospital services, nursing
3854 facility services, intermediate care facility services,
3855 psychiatric residential treatment facility services, pharmacy
3856 services provided under subsection (A)(9) of this section, or any
3857 service provided by the University of Mississippi Medical Center
3858 or a state agency, a state facility or a public agency that either
3859 provides its own state match through intergovernmental transfer or
3860 certification of funds to the division, or a service for which the
3861 federal government sets the reimbursement methodology and rate.
3862 From and after January 1, 2010, the reduction in the reimbursement
3863 rates required by this subsection (B) shall not apply to
3864 physicians' services. In addition, the reduction in the
3865 reimbursement rates required by this subsection (B) shall not
3866 apply to case management services and home-delivered meals
3867 provided under the home- and community-based services program for
3868 the elderly and disabled by a planning and development district
3869 (PDD). Planning and development districts participating in the
3870 home- and community-based services program for the elderly and
3871 disabled as case management providers shall be reimbursed for case
3872 management services at the maximum rate approved by the Centers
3873 for Medicare and Medicaid Services (CMS).

3874 (C) The division may pay to those providers who participate
3875 in and accept patient referrals from the division's emergency room
3876 redirection program a percentage, as determined by the division,
3877 of savings achieved according to the performance measures and
3878 reduction of costs required of that program. Federally qualified
3879 health centers may participate in the emergency room redirection



3880 program, and the division may pay those centers a percentage of
3881 any savings to the Medicaid program achieved by the centers'
3882 accepting patient referrals through the program, as provided in
3883 this subsection (C).

3884 (D) Notwithstanding any provision of this article, except as
3885 authorized in the following subsection and in Section 43-13-139,
3886 neither (a) the limitations on quantity or frequency of use of or
3887 the fees or charges for any of the care or services available to
3888 recipients under this section, nor (b) the payments, payment
3889 methodology as provided below in this subsection (D), or rates of
3890 reimbursement to providers rendering care or services authorized
3891 under this section to recipients, may be increased, decreased or
3892 otherwise changed from the levels in effect on July 1, 1999,
3893 unless they are authorized by an amendment to this section by the
3894 Legislature. However, the restriction in this subsection shall
3895 not prevent the division from changing the payments, payment
3896 methodology as provided below in this subsection (D), or rates of
3897 reimbursement to providers without an amendment to this section
3898 whenever those changes are required by federal law or regulation,
3899 or whenever those changes are necessary to correct administrative
3900 errors or omissions in calculating those payments or rates of
3901 reimbursement. The prohibition on any changes in payment
3902 methodology provided in this subsection (D) shall apply only to
3903 payment methodologies used for determining the rates of
3904 reimbursement for inpatient hospital services, outpatient hospital
3905 services and/or nursing facility services, except as required by
3906 federal law, and the federally mandated rebasing of rates as
3907 required by the Centers for Medicare and Medicaid Services (CMS)
3908 shall not be considered payment methodology for purposes of this
3909 subsection (D).

3910 (E) Notwithstanding any provision of this article, no new
3911 groups or categories of recipients and new types of care and



3912 services may be added without enabling legislation from the
3913 Mississippi Legislature, except that the division may authorize
3914 those changes without enabling legislation when the addition of
3915 recipients or services is ordered by a court of proper authority.

3916 (F) The executive director shall keep the Governor advised
3917 on a timely basis of the funds available for expenditure and the
3918 projected expenditures. If current or projected expenditures of
3919 the division are reasonably anticipated to exceed the amount of
3920 funds appropriated to the division for any fiscal year, the
3921 Governor, after consultation with the executive director, shall
3922 discontinue any or all of the payment of the types of care and
3923 services as provided in this section that are deemed to be
3924 optional services under Title XIX of the federal Social Security
3925 Act, as amended, and when necessary, shall institute any other
3926 cost containment measures on any program or programs authorized
3927 under the article to the extent allowed under the federal law
3928 governing that program or programs. However, the Governor shall
3929 not be authorized to discontinue or eliminate any service under
3930 this section that is mandatory under federal law, or to
3931 discontinue or eliminate, or adjust income limits or resource
3932 limits for, any eligibility category or group under Section
3933 43-13-115. Applicable in fiscal year 2010 only, no expenditure
3934 reductions or cost containments or increases in assessments
3935 recommended by the Executive Director of the Division of Medicaid
3936 shall be implemented before February 1, unless the division
3937 projects a shortfall so great that the entire Health Care
3938 Expendable Fund balance would be reduced to zero. Beginning in
3939 fiscal year 2010 and in fiscal years thereafter, when Medicaid
3940 expenditures are projected to exceed funds available for any
3941 quarter in the fiscal year, the division shall submit the expected
3942 shortfall information to the PEER Committee, which shall review
3943 the computations of the division and report its findings to the



3944 Legislative Budget Office within thirty (30) days of such
3945 notification by the division, and not later than January 7 in any
3946 year. If expenditure reductions or cost containments are
3947 implemented, the Governor may implement a maximum amount of state
3948 share expenditure reductions to providers, of which hospitals will
3949 be responsible for twenty-five percent (25%) of provider
3950 reductions as follows: in fiscal year 2010, the maximum amount
3951 shall be Twenty-four Million Dollars (\$24,000,000.00); in fiscal
3952 year 2011, the maximum amount shall be Thirty-two Million Dollars
3953 (\$32,000,000.00); and in fiscal year 2012 and thereafter, the
3954 maximum amount shall be Forty Million Dollars (\$40,000,000.00).
3955 However, instead of implementing cuts, the hospital share shall be
3956 in the form of an additional assessment not to exceed Ten Million
3957 Dollars (\$10,000,000.00) as provided in Section
3958 43-13-145(4)(a)(ii). If Medicaid expenditures are projected to
3959 exceed the amount of funds appropriated to the division in any
3960 fiscal year in excess of the expenditure reductions to providers,
3961 then funds shall be transferred by the State Fiscal Officer from
3962 the Health Care Trust Fund into the Health Care Expendable Fund
3963 and to the Governor's Office, Division of Medicaid, from the
3964 Health Care Expendable Fund, in the amount and at such time as
3965 requested by the Governor to reconcile the deficit. If the cost
3966 containment measures described above have been implemented and
3967 there are insufficient funds in the Health Care Trust Fund to
3968 reconcile any remaining deficit in any fiscal year, the Governor
3969 shall institute any other additional cost containment measures on
3970 any program or programs authorized under this article to the
3971 extent allowed under federal law. Hospitals shall be responsible
3972 for twenty-five percent (25%) of any additional imposed provider
3973 cuts. However, instead of implementing hospital expenditure
3974 reductions, the hospital reductions shall be in the form of an
3975 additional assessment not to exceed twenty-five percent (25%) of



3976 provider expenditure reductions as provided in Section
3977 43-13-145(4)(a)(ii). It is the intent of the Legislature that the
3978 expenditures of the division during any fiscal year shall not
3979 exceed the amounts appropriated to the division for that fiscal
3980 year.

3981 (G) Notwithstanding any other provision of this article, it
3982 shall be the duty of each nursing facility, intermediate care
3983 facility for the mentally retarded, psychiatric residential
3984 treatment facility, and nursing facility for the severely disabled
3985 that is participating in the Medicaid program to keep and maintain
3986 books, documents and other records as prescribed by the Division
3987 of Medicaid in substantiation of its cost reports for a period of
3988 three (3) years after the date of submission to the Division of
3989 Medicaid of an original cost report, or three (3) years after the
3990 date of submission to the Division of Medicaid of an amended cost
3991 report.

3992 (H) (1) Notwithstanding any other provision of this
3993 article, the division shall not be authorized to implement any
3994 managed care program, coordinated care program, coordinated care
3995 organization, health maintenance organization or similar program
3996 in which services are paid for on a capitated basis, beyond the
3997 level, scope or location of the program as it existed on October
3998 1, 2008, until on or after January 1, 2010. Any managed care
3999 program or coordinated care program implemented by the division
4000 under this section shall be limited to a maximum of fifteen
4001 percent (15%) of all Medicaid beneficiaries, and any Medicaid
4002 beneficiary who is enrolled in the program shall have an annual
4003 window of at least thirty (30) days in length during which the
4004 beneficiary may disenroll from the program. In addition, any
4005 payments made to providers by a managed care organization,
4006 coordinated care organization, health maintenance organization or
4007 other similar organization under a managed care program or



4008 coordinated care program implemented by the division under this
4009 section shall be considered to be regular Medicaid payments for
4010 the purposes of calculating Medicare Upper Payment Limits (UPL)
4011 payments and Disproportionate Share Hospital (DSH) payments to
4012 hospitals. The division shall apply for any federal waiver or
4013 waivers necessary to implement a managed care program or
4014 coordinated care program that meets all of the requirements in
4015 this paragraph. If the division does not receive a federal waiver
4016 or waivers that authorizes it to implement a managed care program
4017 or coordinated care program that meets all of the requirements in
4018 this paragraph, then the division shall not be authorized to
4019 implement a managed care program or coordinated care program.

4020 (2) All health maintenance organizations, coordinated
4021 care organizations or other organizations paid for services on a
4022 capitated basis by the division under any managed care program or
4023 coordinated care program implemented by the division under this
4024 section shall reimburse all providers in those organizations at
4025 rates no lower than those provided under this section for
4026 beneficiaries who are not participating in those programs.

4027 (3) No health maintenance organization, coordinated
4028 care organization or other organization paid for services on a
4029 capitated basis by the division under any managed care program or
4030 coordinated care program implemented by the division under this
4031 section shall require its providers or beneficiaries to use any
4032 pharmacy that ships, mails or delivers prescription drugs or
4033 legend drugs or devices.

4034 (4) After a managed care program or coordinated care
4035 program is implemented by the division under this section, the
4036 PEER Committee shall conduct a comprehensive performance
4037 evaluation of the managed care program or coordinated care
4038 program, which shall include, but not be limited to, a
4039 determination of any cost savings to the division, quality of care



4040 to the beneficiaries, and access to care by the beneficiaries.
4041 The PEER Committee shall provide regular reports on the status of
4042 the managed care program or coordinated care program to the
4043 members of the Senate Public Health and Welfare Committee and the
4044 House Medicaid Committee, and shall complete the performance
4045 evaluation and provide it to the members of those committees not
4046 later than December 15, 2011. As a condition of participation in
4047 a managed care program or coordinated care program implemented by
4048 the division under this section, a provider must agree to provide
4049 any information that the PEER Committee requests to conduct the
4050 performance evaluation of the program, and all those providers
4051 shall fully cooperate with the PEER Committee in any request to
4052 provide information to the committee.

4053 (I) The division shall develop and publish reimbursement
4054 rates for each APR-DRG proposed by the division at least equal to
4055 the prevailing corresponding Medicare DRG rate or a closely
4056 related Medicare DRG rate, applying to each hospital, the
4057 applicable federal wage index being used by CMS for the hospital's
4058 geographic location, but the division shall not implement that
4059 rate schedule or APR-DRG methodology until after July 1, 2010.
4060 The PEER Committee shall study the benefits and liabilities of
4061 implementing an APR-DRG reimbursement rate schedule, and report
4062 its findings to the members of the Senate Public Health and
4063 Welfare Committee and the House Medicaid Committee on or before
4064 December 15, 2009.

4065 (J) There shall be no cuts in inpatient and outpatient
4066 hospital payments, or allowable days or volumes, as long as the
4067 hospital assessment provided in Section 43-13-145 is in effect.

4068 (K) This section shall stand repealed on July 1, 2012.

4069 **[If the hospital assessment in the 2009 amendments to Section**
4070 **43-13-145 does not take effect and/or shall cease to be imposed,**



4071 **the provisions of Section 43-13-117 shall remain in effect as**
4072 **existed on June 30, 2009, and this section shall read as follows:]**

4073 43-13-117. Medicaid as authorized by this article shall
4074 include payment of part or all of the costs, at the discretion of
4075 the division, with approval of the Governor, of the following
4076 types of care and services rendered to eligible applicants who
4077 have been determined to be eligible for that care and services,
4078 within the limits of state appropriations and federal matching
4079 funds:

4080 (1) Inpatient hospital services.

4081 (a) The division shall allow thirty (30) days of
4082 inpatient hospital care annually for all Medicaid recipients.
4083 Medicaid recipients requiring transplants shall not have those
4084 days included in the transplant case rate count against the
4085 thirty-day limit for inpatient hospital care. Precertification of
4086 inpatient days must be obtained as required by the division. The
4087 division may allow unlimited days in disproportionate hospitals as
4088 defined by the division for eligible infants and children under
4089 the age of six (6) years if certified as medically necessary as
4090 required by the division.

4091 (b) From and after July 1, 1994, the Executive
4092 Director of the Division of Medicaid shall amend the Mississippi
4093 Title XIX Inpatient Hospital Reimbursement Plan to remove the
4094 occupancy rate penalty from the calculation of the Medicaid
4095 Capital Cost Component utilized to determine total hospital costs
4096 allocated to the Medicaid program.

4097 (c) Hospitals will receive an additional payment
4098 for the implantable programmable baclofen drug pump used to treat
4099 spasticity that is implanted on an inpatient basis. The payment
4100 pursuant to written invoice will be in addition to the facility's
4101 per diem reimbursement and will represent a reduction of costs on



4102 the facility's annual cost report, and shall not exceed Ten
4103 Thousand Dollars (\$10,000.00) per year per recipient.

4104 (2) Outpatient hospital services.

4105 (a) Emergency services. The division shall allow
4106 six (6) medically necessary emergency room visits per beneficiary
4107 per fiscal year.

4108 (b) Other outpatient hospital services. The
4109 division shall allow benefits for other medically necessary
4110 outpatient hospital services (such as chemotherapy, radiation,
4111 surgery and therapy). Where the same services are reimbursed as
4112 clinic services, the division may revise the rate or methodology
4113 of outpatient reimbursement to maintain consistency, efficiency,
4114 economy and quality of care.

4115 (3) Laboratory and x-ray services.

4116 (4) Nursing facility services.

4117 (a) The division shall make full payment to
4118 nursing facilities for each day, not exceeding fifty-two (52) days
4119 per year, that a patient is absent from the facility on home
4120 leave. Payment may be made for the following home leave days in
4121 addition to the fifty-two-day limitation: Christmas, the day
4122 before Christmas, the day after Christmas, Thanksgiving, the day
4123 before Thanksgiving and the day after Thanksgiving.

4124 (b) From and after July 1, 1997, the division
4125 shall implement the integrated case-mix payment and quality
4126 monitoring system, which includes the fair rental system for
4127 property costs and in which recapture of depreciation is
4128 eliminated. The division may reduce the payment for hospital
4129 leave and therapeutic home leave days to the lower of the case-mix
4130 category as computed for the resident on leave using the
4131 assessment being utilized for payment at that point in time, or a
4132 case-mix score of 1.000 for nursing facilities, and shall compute
4133 case-mix scores of residents so that only services provided at the



4134 nursing facility are considered in calculating a facility's per
4135 diem.

4136 (c) From and after July 1, 1997, all state-owned
4137 nursing facilities shall be reimbursed on a full reasonable cost
4138 basis.

4139 (d) When a facility of a category that does not
4140 require a certificate of need for construction and that could not
4141 be eligible for Medicaid reimbursement is constructed to nursing
4142 facility specifications for licensure and certification, and the
4143 facility is subsequently converted to a nursing facility under a
4144 certificate of need that authorizes conversion only and the
4145 applicant for the certificate of need was assessed an application
4146 review fee based on capital expenditures incurred in constructing
4147 the facility, the division shall allow reimbursement for capital
4148 expenditures necessary for construction of the facility that were
4149 incurred within the twenty-four (24) consecutive calendar months
4150 immediately preceding the date that the certificate of need
4151 authorizing the conversion was issued, to the same extent that
4152 reimbursement would be allowed for construction of a new nursing
4153 facility under a certificate of need that authorizes that
4154 construction. The reimbursement authorized in this subparagraph
4155 (d) may be made only to facilities the construction of which was
4156 completed after June 30, 1989. Before the division shall be
4157 authorized to make the reimbursement authorized in this
4158 subparagraph (d), the division first must have received approval
4159 from the Centers for Medicare and Medicaid Services (CMS) of the
4160 change in the state Medicaid plan providing for the reimbursement.

4161 (e) The division shall develop and implement, not
4162 later than January 1, 2001, a case-mix payment add-on determined
4163 by time studies and other valid statistical data that will
4164 reimburse a nursing facility for the additional cost of caring for
4165 a resident who has a diagnosis of Alzheimer's or other related



4166 dementia and exhibits symptoms that require special care. Any
4167 such case-mix add-on payment shall be supported by a determination
4168 of additional cost. The division shall also develop and implement
4169 as part of the fair rental reimbursement system for nursing
4170 facility beds, an Alzheimer's resident bed depreciation enhanced
4171 reimbursement system that will provide an incentive to encourage
4172 nursing facilities to convert or construct beds for residents with
4173 Alzheimer's or other related dementia.

4174 (f) The division shall develop and implement an
4175 assessment process for long-term care services. The division may
4176 provide the assessment and related functions directly or through
4177 contract with the area agencies on aging.

4178 The division shall apply for necessary federal waivers to
4179 assure that additional services providing alternatives to nursing
4180 facility care are made available to applicants for nursing
4181 facility care.

4182 (5) Periodic screening and diagnostic services for
4183 individuals under age twenty-one (21) years as are needed to
4184 identify physical and mental defects and to provide health care
4185 treatment and other measures designed to correct or ameliorate
4186 defects and physical and mental illness and conditions discovered
4187 by the screening services, regardless of whether these services
4188 are included in the state plan. The division may include in its
4189 periodic screening and diagnostic program those discretionary
4190 services authorized under the federal regulations adopted to
4191 implement Title XIX of the federal Social Security Act, as
4192 amended. The division, in obtaining physical therapy services,
4193 occupational therapy services, and services for individuals with
4194 speech, hearing and language disorders, may enter into a
4195 cooperative agreement with the State Department of Education for
4196 the provision of those services to handicapped students by public
4197 school districts using state funds that are provided from the



4198 appropriation to the Department of Education to obtain federal
4199 matching funds through the division. The division, in obtaining
4200 medical and psychological evaluations for children in the custody
4201 of the Mississippi Department of Human Services may enter into a
4202 cooperative agreement with the Mississippi Department of Human
4203 Services for the provision of those services using state funds
4204 that are provided from the appropriation to the Department of
4205 Human Services to obtain federal matching funds through the
4206 division.

4207 (6) Physician's services. The division shall allow
4208 twelve (12) physician visits annually. All fees for physicians'
4209 services that are covered only by Medicaid shall be reimbursed at
4210 ninety percent (90%) of the rate established on January 1, 1999,
4211 and as may be adjusted each July thereafter, under Medicare (Title
4212 XVIII of the federal Social Security Act, as amended). The
4213 division may develop and implement a different reimbursement model
4214 or schedule for physician's services provided by physicians based
4215 at an academic health care center and by physicians at rural
4216 health centers that are associated with an academic health care
4217 center.

4218 (7) (a) Home health services for eligible persons, not
4219 to exceed in cost the prevailing cost of nursing facility
4220 services, not to exceed twenty-five (25) visits per year. All
4221 home health visits must be precertified as required by the
4222 division.

4223 (b) [Repealed]

4224 (8) Emergency medical transportation services. On
4225 January 1, 1994, emergency medical transportation services shall
4226 be reimbursed at seventy percent (70%) of the rate established
4227 under Medicare (Title XVIII of the federal Social Security Act, as
4228 amended). "Emergency medical transportation services" shall mean,
4229 but shall not be limited to, the following services by a properly



4230 permitted ambulance operated by a properly licensed provider in
4231 accordance with the Emergency Medical Services Act of 1974
4232 (Section 41-59-1 et seq.): (i) basic life support, (ii) advanced
4233 life support, (iii) mileage, (iv) oxygen, (v) intravenous fluids,
4234 (vi) disposable supplies, (vii) similar services.

4235 (9) (a) Legend and other drugs as may be determined by
4236 the division.

4237 The division shall establish a mandatory preferred drug list.
4238 Drugs not on the mandatory preferred drug list shall be made
4239 available by utilizing prior authorization procedures established
4240 by the division.

4241 The division may seek to establish relationships with other
4242 states in order to lower acquisition costs of prescription drugs
4243 to include single source and innovator multiple source drugs or
4244 generic drugs. In addition, if allowed by federal law or
4245 regulation, the division may seek to establish relationships with
4246 and negotiate with other countries to facilitate the acquisition
4247 of prescription drugs to include single source and innovator
4248 multiple source drugs or generic drugs, if that will lower the
4249 acquisition costs of those prescription drugs.

4250 The division shall allow for a combination of prescriptions
4251 for single source and innovator multiple source drugs and generic
4252 drugs to meet the needs of the beneficiaries, not to exceed five
4253 (5) prescriptions per month for each noninstitutionalized Medicaid
4254 beneficiary, with not more than two (2) of those prescriptions
4255 being for single source or innovator multiple source drugs.

4256 The executive director may approve specific maintenance drugs
4257 for beneficiaries with certain medical conditions, which may be
4258 prescribed and dispensed in three-month supply increments.

4259 Drugs prescribed for a resident of a psychiatric residential
4260 treatment facility must be provided in true unit doses when
4261 available. The division may require that drugs not covered by



4262 Medicare Part D for a resident of a long-term care facility be
4263 provided in true unit doses when available. Those drugs that were
4264 originally billed to the division but are not used by a resident
4265 in any of those facilities shall be returned to the billing
4266 pharmacy for credit to the division, in accordance with the
4267 guidelines of the State Board of Pharmacy and any requirements of
4268 federal law and regulation. Drugs shall be dispensed to a
4269 recipient and only one (1) dispensing fee per month may be
4270 charged. The division shall develop a methodology for reimbursing
4271 for restocked drugs, which shall include a restock fee as
4272 determined by the division not exceeding Seven Dollars and
4273 Eighty-two Cents (\$7.82).

4274 The voluntary preferred drug list shall be expanded to
4275 function in the interim in order to have a manageable prior
4276 authorization system, thereby minimizing disruption of service to
4277 beneficiaries.

4278 Except for those specific maintenance drugs approved by the
4279 executive director, the division shall not reimburse for any
4280 portion of a prescription that exceeds a thirty-one-day supply of
4281 the drug based on the daily dosage.

4282 The division shall develop and implement a program of payment
4283 for additional pharmacist services, with payment to be based on
4284 demonstrated savings, but in no case shall the total payment
4285 exceed twice the amount of the dispensing fee.

4286 All claims for drugs for dually eligible Medicare/Medicaid
4287 beneficiaries that are paid for by Medicare must be submitted to
4288 Medicare for payment before they may be processed by the
4289 division's online payment system.

4290 The division shall develop a pharmacy policy in which drugs
4291 in tamper-resistant packaging that are prescribed for a resident
4292 of a nursing facility but are not dispensed to the resident shall



4293 be returned to the pharmacy and not billed to Medicaid, in
4294 accordance with guidelines of the State Board of Pharmacy.

4295 The division shall develop and implement a method or methods
4296 by which the division will provide on a regular basis to Medicaid
4297 providers who are authorized to prescribe drugs, information about
4298 the costs to the Medicaid program of single source drugs and
4299 innovator multiple source drugs, and information about other drugs
4300 that may be prescribed as alternatives to those single source
4301 drugs and innovator multiple source drugs and the costs to the
4302 Medicaid program of those alternative drugs.

4303 Notwithstanding any law or regulation, information obtained
4304 or maintained by the division regarding the prescription drug
4305 program, including trade secrets and manufacturer or labeler
4306 pricing, is confidential and not subject to disclosure except to
4307 other state agencies.

4308 (b) Payment by the division for covered
4309 multisource drugs shall be limited to the lower of the upper
4310 limits established and published by the Centers for Medicare and
4311 Medicaid Services (CMS) plus a dispensing fee, or the estimated
4312 acquisition cost (EAC) as determined by the division, plus a
4313 dispensing fee, or the providers' usual and customary charge to
4314 the general public.

4315 Payment for other covered drugs, other than multisource drugs
4316 with CMS upper limits, shall not exceed the lower of the estimated
4317 acquisition cost as determined by the division, plus a dispensing
4318 fee or the providers' usual and customary charge to the general
4319 public.

4320 Payment for nonlegend or over-the-counter drugs covered by
4321 the division shall be reimbursed at the lower of the division's
4322 estimated shelf price or the providers' usual and customary charge
4323 to the general public.



4324 The dispensing fee for each new or refill prescription,
4325 including nonlegend or over-the-counter drugs covered by the
4326 division, shall be not less than Three Dollars and Ninety-one
4327 Cents (\$3.91), as determined by the division.

4328 The division shall not reimburse for single source or
4329 innovator multiple source drugs if there are equally effective
4330 generic equivalents available and if the generic equivalents are
4331 the least expensive.

4332 It is the intent of the Legislature that the pharmacists
4333 providers be reimbursed for the reasonable costs of filling and
4334 dispensing prescriptions for Medicaid beneficiaries.

4335 (10) (a) Dental care that is an adjunct to treatment
4336 of an acute medical or surgical condition; services of oral
4337 surgeons and dentists in connection with surgery related to the
4338 jaw or any structure contiguous to the jaw or the reduction of any
4339 fracture of the jaw or any facial bone; and emergency dental
4340 extractions and treatment related thereto. On July 1, 2007, fees
4341 for dental care and surgery under authority of this paragraph (10)
4342 shall be reimbursed as provided in subparagraph (b). It is the
4343 intent of the Legislature that this rate revision for dental
4344 services will be an incentive designed to increase the number of
4345 dentists who actively provide Medicaid services. This dental
4346 services rate revision shall be known as the "James Russell Dumas
4347 Medicaid Dental Incentive Program."

4348 The division shall annually determine the effect of this
4349 incentive by evaluating the number of dentists who are Medicaid
4350 providers, the number who and the degree to which they are
4351 actively billing Medicaid, the geographic trends of where dentists
4352 are offering what types of Medicaid services and other statistics
4353 pertinent to the goals of this legislative intent. This data
4354 shall be presented to the Chair of the Senate Public Health and
4355 Welfare Committee and the Chair of the House Medicaid Committee.



4356 (b) The Division of Medicaid shall establish a fee
4357 schedule, to be effective from and after July 1, 2007, for dental
4358 services. The schedule shall provide for a fee for each dental
4359 service that is equal to a percentile of normal and customary
4360 private provider fees, as defined by the Ingenix Customized Fee
4361 Analyzer Report, which percentile shall be determined by the
4362 division. The schedule shall be reviewed annually by the division
4363 and dental fees shall be adjusted to reflect the percentile
4364 determined by the division.

4365 (c) For fiscal year 2008, the amount of state
4366 funds appropriated for reimbursement for dental care and surgery
4367 shall be increased by ten percent (10%) of the amount of state
4368 fund expenditures for that purpose for fiscal year 2007. For each
4369 of fiscal years 2009 and 2010, the amount of state funds
4370 appropriated for reimbursement for dental care and surgery shall
4371 be increased by ten percent (10%) of the amount of state fund
4372 expenditures for that purpose for the preceding fiscal year.

4373 (d) The division shall establish an annual benefit
4374 limit of Two Thousand Five Hundred Dollars (\$2,500.00) in dental
4375 expenditures per Medicaid-eligible recipient; however, a recipient
4376 may exceed the annual limit on dental expenditures provided in
4377 this paragraph with prior approval of the division.

4378 (e) The division shall include dental services as
4379 a necessary component of overall health services provided to
4380 children who are eligible for services.

4381 (f) This paragraph (10) shall stand repealed on
4382 July 1, 2010.

4383 (11) Eyeglasses for all Medicaid beneficiaries who have
4384 (a) had surgery on the eyeball or ocular muscle that results in a
4385 vision change for which eyeglasses or a change in eyeglasses is
4386 medically indicated within six (6) months of the surgery and is in
4387 accordance with policies established by the division, or (b) one



4388 (1) pair every five (5) years and in accordance with policies
4389 established by the division. In either instance, the eyeglasses
4390 must be prescribed by a physician skilled in diseases of the eye
4391 or an optometrist, whichever the beneficiary may select.

4392 (12) Intermediate care facility services.

4393 (a) The division shall make full payment to all
4394 intermediate care facilities for the mentally retarded for each
4395 day, not exceeding eighty-four (84) days per year, that a patient
4396 is absent from the facility on home leave. Payment may be made
4397 for the following home leave days in addition to the
4398 eighty-four-day limitation: Christmas, the day before Christmas,
4399 the day after Christmas, Thanksgiving, the day before Thanksgiving
4400 and the day after Thanksgiving.

4401 (b) All state-owned intermediate care facilities
4402 for the mentally retarded shall be reimbursed on a full reasonable
4403 cost basis.

4404 (13) Family planning services, including drugs,
4405 supplies and devices, when those services are under the
4406 supervision of a physician or nurse practitioner.

4407 (14) Clinic services. Such diagnostic, preventive,
4408 therapeutic, rehabilitative or palliative services furnished to an
4409 outpatient by or under the supervision of a physician or dentist
4410 in a facility that is not a part of a hospital but that is
4411 organized and operated to provide medical care to outpatients.
4412 Clinic services shall include any services reimbursed as
4413 outpatient hospital services that may be rendered in such a
4414 facility, including those that become so after July 1, 1991. On
4415 July 1, 1999, all fees for physicians' services reimbursed under
4416 authority of this paragraph (14) shall be reimbursed at ninety
4417 percent (90%) of the rate established on January 1, 1999, and as
4418 may be adjusted each July thereafter, under Medicare (Title XVIII
4419 of the federal Social Security Act, as amended). The division may



4420 develop and implement a different reimbursement model or schedule
4421 for physician's services provided by physicians based at an
4422 academic health care center and by physicians at rural health
4423 centers that are associated with an academic health care center.

4424 (15) Home- and community-based services for the elderly
4425 and disabled, as provided under Title XIX of the federal Social
4426 Security Act, as amended, under waivers, subject to the
4427 availability of funds specifically appropriated for that purpose
4428 by the Legislature.

4429 (16) Mental health services. Approved therapeutic and
4430 case management services (a) provided by an approved regional
4431 mental health/intellectual disability center established under
4432 Sections 41-19-31 through 41-19-39, or by another community mental
4433 health service provider meeting the requirements of the Department
4434 of Mental Health to be an approved mental health/intellectual
4435 disability center if determined necessary by the Department of
4436 Mental Health, using state funds that are provided from the
4437 appropriation to the State Department of Mental Health and/or
4438 funds transferred to the department by a political subdivision or
4439 instrumentality of the state and used to match federal funds under
4440 a cooperative agreement between the division and the department,
4441 or (b) provided by a facility that is certified by the State
4442 Department of Mental Health to provide therapeutic and case
4443 management services, to be reimbursed on a fee for service basis,
4444 or (c) provided in the community by a facility or program operated
4445 by the Department of Mental Health. Any such services provided by
4446 a facility described in subparagraph (b) must have the prior
4447 approval of the division to be reimbursable under this section.
4448 After June 30, 1997, mental health services provided by regional
4449 mental health/intellectual disability centers established under
4450 Sections 41-19-31 through 41-19-39, or by hospitals as defined in
4451 Section 41-9-3(a) and/or their subsidiaries and divisions, or by



4452 psychiatric residential treatment facilities as defined in Section
4453 43-11-1, or by another community mental health service provider
4454 meeting the requirements of the Department of Mental Health to be
4455 an approved mental health/intellectual disability center if
4456 determined necessary by the Department of Mental Health, shall not
4457 be included in or provided under any capitated managed care pilot
4458 program provided for under paragraph (24) of this section.

4459 (17) Durable medical equipment services and medical
4460 supplies. Precertification of durable medical equipment and
4461 medical supplies must be obtained as required by the division.
4462 The Division of Medicaid may require durable medical equipment
4463 providers to obtain a surety bond in the amount and to the
4464 specifications as established by the Balanced Budget Act of 1997.

4465 (18) (a) Notwithstanding any other provision of this
4466 section to the contrary, the division shall make additional
4467 reimbursement to hospitals that serve a disproportionate share of
4468 low-income patients and that meet the federal requirements for
4469 those payments as provided in Section 1923 of the federal Social
4470 Security Act and any applicable regulations. It is the intent of
4471 the Legislature that the division shall draw down all available
4472 federal funds allotted to the state for disproportionate share
4473 hospitals. However, from and after January 1, 1999, no public
4474 hospital shall participate in the Medicaid disproportionate share
4475 program unless the public hospital participates in an
4476 intergovernmental transfer program as provided in Section 1903 of
4477 the federal Social Security Act and any applicable regulations.

4478 (b) The division shall establish a Medicare Upper
4479 Payment Limits Program, as defined in Section 1902(a)(30) of the
4480 federal Social Security Act and any applicable federal
4481 regulations, for hospitals, and may establish a Medicare Upper
4482 Payment Limits Program for nursing facilities. The division shall
4483 assess each hospital and, if the program is established for



4484 nursing facilities, shall assess each nursing facility, based on
4485 Medicaid utilization or other appropriate method consistent with
4486 federal regulations. The assessment will remain in effect as long
4487 as the state participates in the Medicare Upper Payment Limits
4488 Program. The division shall make additional reimbursement to
4489 hospitals and, if the program is established for nursing
4490 facilities, shall make additional reimbursement to nursing
4491 facilities, for the Medicare Upper Payment Limits, as defined in
4492 Section 1902(a)(30) of the federal Social Security Act and any
4493 applicable federal regulations.

4494 (19) (a) Perinatal risk management services. The
4495 division shall promulgate regulations to be effective from and
4496 after October 1, 1988, to establish a comprehensive perinatal
4497 system for risk assessment of all pregnant and infant Medicaid
4498 recipients and for management, education and follow-up for those
4499 who are determined to be at risk. Services to be performed
4500 include case management, nutrition assessment/counseling,
4501 psychosocial assessment/counseling and health education.

4502 (b) Early intervention system services. The
4503 division shall cooperate with the State Department of Health,
4504 acting as lead agency, in the development and implementation of a
4505 statewide system of delivery of early intervention services, under
4506 Part C of the Individuals with Disabilities Education Act (IDEA).
4507 The State Department of Health shall certify annually in writing
4508 to the executive director of the division the dollar amount of
4509 state early intervention funds available that will be utilized as
4510 a certified match for Medicaid matching funds. Those funds then
4511 shall be used to provide expanded targeted case management
4512 services for Medicaid eligible children with special needs who are
4513 eligible for the state's early intervention system.
4514 Qualifications for persons providing service coordination shall be



4515 determined by the State Department of Health and the Division of
4516 Medicaid.

4517 (20) Home- and community-based services for physically
4518 disabled approved services as allowed by a waiver from the United
4519 States Department of Health and Human Services for home- and
4520 community-based services for physically disabled people using
4521 state funds that are provided from the appropriation to the State
4522 Department of Rehabilitation Services and used to match federal
4523 funds under a cooperative agreement between the division and the
4524 department, provided that funds for these services are
4525 specifically appropriated to the Department of Rehabilitation
4526 Services.

4527 (21) Nurse practitioner services. Services furnished
4528 by a registered nurse who is licensed and certified by the
4529 Mississippi Board of Nursing as a nurse practitioner, including,
4530 but not limited to, nurse anesthetists, nurse midwives, family
4531 nurse practitioners, family planning nurse practitioners,
4532 pediatric nurse practitioners, obstetrics-gynecology nurse
4533 practitioners and neonatal nurse practitioners, under regulations
4534 adopted by the division. Reimbursement for those services shall
4535 not exceed ninety percent (90%) of the reimbursement rate for
4536 comparable services rendered by a physician.

4537 (22) Ambulatory services delivered in federally
4538 qualified health centers, rural health centers and clinics of the
4539 local health departments of the State Department of Health for
4540 individuals eligible for Medicaid under this article based on
4541 reasonable costs as determined by the division.

4542 (23) Inpatient psychiatric services. Inpatient
4543 psychiatric services to be determined by the division for
4544 recipients under age twenty-one (21) that are provided under the
4545 direction of a physician in an inpatient program in a licensed
4546 acute care psychiatric facility or in a licensed psychiatric



4547 residential treatment facility, before the recipient reaches age
4548 twenty-one (21) or, if the recipient was receiving the services
4549 immediately before he or she reached age twenty-one (21), before
4550 the earlier of the date he or she no longer requires the services
4551 or the date he or she reaches age twenty-two (22), as provided by
4552 federal regulations. Precertification of inpatient days and
4553 residential treatment days must be obtained as required by the
4554 division.

4555 (24) [Deleted]

4556 (25) [Deleted]

4557 (26) Hospice care. As used in this paragraph, the term
4558 "hospice care" means a coordinated program of active professional
4559 medical attention within the home and outpatient and inpatient
4560 care that treats the terminally ill patient and family as a unit,
4561 employing a medically directed interdisciplinary team. The
4562 program provides relief of severe pain or other physical symptoms
4563 and supportive care to meet the special needs arising out of
4564 physical, psychological, spiritual, social and economic stresses
4565 that are experienced during the final stages of illness and during
4566 dying and bereavement and meets the Medicare requirements for
4567 participation as a hospice as provided in federal regulations.

4568 (27) Group health plan premiums and cost sharing if it
4569 is cost-effective as defined by the United States Secretary of
4570 Health and Human Services.

4571 (28) Other health insurance premiums that are
4572 cost-effective as defined by the United States Secretary of Health
4573 and Human Services. Medicare eligible must have Medicare Part B
4574 before other insurance premiums can be paid.

4575 (29) The Division of Medicaid may apply for a waiver
4576 from the United States Department of Health and Human Services for
4577 home- and community-based services for developmentally disabled
4578 people using state funds that are provided from the appropriation



4579 to the State Department of Mental Health and/or funds transferred
4580 to the department by a political subdivision or instrumentality of
4581 the state and used to match federal funds under a cooperative
4582 agreement between the division and the department, provided that
4583 funds for these services are specifically appropriated to the
4584 Department of Mental Health and/or transferred to the department
4585 by a political subdivision or instrumentality of the state.

4586 (30) Pediatric skilled nursing services for eligible
4587 persons under twenty-one (21) years of age.

4588 (31) Targeted case management services for children
4589 with special needs, under waivers from the United States
4590 Department of Health and Human Services, using state funds that
4591 are provided from the appropriation to the Mississippi Department
4592 of Human Services and used to match federal funds under a
4593 cooperative agreement between the division and the department.

4594 (32) Care and services provided in Christian Science
4595 Sanatoria listed and certified by the Commission for Accreditation
4596 of Christian Science Nursing Organizations/Facilities, Inc.,
4597 rendered in connection with treatment by prayer or spiritual means
4598 to the extent that those services are subject to reimbursement
4599 under Section 1903 of the federal Social Security Act.

4600 (33) Podiatrist services.

4601 (34) Assisted living services as provided through home-
4602 and community-based services under Title XIX of the federal Social
4603 Security Act, as amended, subject to the availability of funds
4604 specifically appropriated for that purpose by the Legislature.

4605 (35) Services and activities authorized in Sections
4606 43-27-101 and 43-27-103, using state funds that are provided from
4607 the appropriation to the Mississippi Department of Human Services
4608 and used to match federal funds under a cooperative agreement
4609 between the division and the department.



4610 (36) Nonemergency transportation services for
4611 Medicaid-eligible persons, to be provided by the Division of
4612 Medicaid. The division may contract with additional entities to
4613 administer nonemergency transportation services as it deems
4614 necessary. All providers shall have a valid driver's license,
4615 vehicle inspection sticker, valid vehicle license tags and a
4616 standard liability insurance policy covering the vehicle. The
4617 division may pay providers a flat fee based on mileage tiers, or
4618 in the alternative, may reimburse on actual miles traveled. The
4619 division may apply to the Center for Medicare and Medicaid
4620 Services (CMS) for a waiver to draw federal matching funds for
4621 nonemergency transportation services as a covered service instead
4622 of an administrative cost. The PEER Committee shall conduct a
4623 performance evaluation of the nonemergency transportation program
4624 to evaluate the administration of the program and the providers of
4625 transportation services to determine the most cost-effective ways
4626 of providing nonemergency transportation services to the patients
4627 served under the program. The performance evaluation shall be
4628 completed and provided to the members of the Senate Public Health
4629 and Welfare Committee and the House Medicaid Committee not later
4630 than January 15, 2008.

4631 (37) [Deleted]

4632 (38) Chiropractic services. A chiropractor's manual
4633 manipulation of the spine to correct a subluxation, if x-ray
4634 demonstrates that a subluxation exists and if the subluxation has
4635 resulted in a neuromusculoskeletal condition for which
4636 manipulation is appropriate treatment, and related spinal x-rays
4637 performed to document these conditions. Reimbursement for
4638 chiropractic services shall not exceed Seven Hundred Dollars
4639 (\$700.00) per year per beneficiary.

4640 (39) Dually eligible Medicare/Medicaid beneficiaries.
4641 The division shall pay the Medicare deductible and coinsurance



4642 amounts for services available under Medicare, as determined by
4643 the division.

4644 (40) [Deleted]

4645 (41) Services provided by the State Department of
4646 Rehabilitation Services for the care and rehabilitation of persons
4647 with spinal cord injuries or traumatic brain injuries, as allowed
4648 under waivers from the United States Department of Health and
4649 Human Services, using up to seventy-five percent (75%) of the
4650 funds that are appropriated to the Department of Rehabilitation
4651 Services from the Spinal Cord and Head Injury Trust Fund
4652 established under Section 37-33-261 and used to match federal
4653 funds under a cooperative agreement between the division and the
4654 department.

4655 (42) Notwithstanding any other provision in this
4656 article to the contrary, the division may develop a population
4657 health management program for women and children health services
4658 through the age of one (1) year. This program is primarily for
4659 obstetrical care associated with low birth weight and pre-term
4660 babies. The division may apply to the federal Centers for
4661 Medicare and Medicaid Services (CMS) for a Section 1115 waiver or
4662 any other waivers that may enhance the program. In order to
4663 effect cost savings, the division may develop a revised payment
4664 methodology that may include at-risk capitated payments, and may
4665 require member participation in accordance with the terms and
4666 conditions of an approved federal waiver.

4667 (43) The division shall provide reimbursement,
4668 according to a payment schedule developed by the division, for
4669 smoking cessation medications for pregnant women during their
4670 pregnancy and other Medicaid-eligible women who are of
4671 child-bearing age.

4672 (44) Nursing facility services for the severely
4673 disabled.



4674 (a) Severe disabilities include, but are not
4675 limited to, spinal cord injuries, closed head injuries and
4676 ventilator dependent patients.

4677 (b) Those services must be provided in a long-term
4678 care nursing facility dedicated to the care and treatment of
4679 persons with severe disabilities, and shall be reimbursed as a
4680 separate category of nursing facilities.

4681 (45) Physician assistant services. Services furnished
4682 by a physician assistant who is licensed by the State Board of
4683 Medical Licensure and is practicing with physician supervision
4684 under regulations adopted by the board, under regulations adopted
4685 by the division. Reimbursement for those services shall not
4686 exceed ninety percent (90%) of the reimbursement rate for
4687 comparable services rendered by a physician.

4688 (46) The division shall make application to the federal
4689 Centers for Medicare and Medicaid Services (CMS) for a waiver to
4690 develop and provide services for children with serious emotional
4691 disturbances as defined in Section 43-14-1(1), which may include
4692 home- and community-based services, case management services or
4693 managed care services through mental health providers certified by
4694 the Department of Mental Health. The division may implement and
4695 provide services under this waived program only if funds for
4696 these services are specifically appropriated for this purpose by
4697 the Legislature, or if funds are voluntarily provided by affected
4698 agencies.

4699 (47) (a) Notwithstanding any other provision in this
4700 article to the contrary, the division may develop and implement
4701 disease management programs for individuals with high-cost chronic
4702 diseases and conditions, including the use of grants, waivers,
4703 demonstrations or other projects as necessary.

4704 (b) Participation in any disease management
4705 program implemented under this paragraph (47) is optional with the



4706 individual. An individual must affirmatively elect to participate
4707 in the disease management program in order to participate, and may
4708 elect to discontinue participation in the program at any time.

4709 (48) Pediatric long-term acute care hospital services.

4710 (a) Pediatric long-term acute care hospital
4711 services means services provided to eligible persons under
4712 twenty-one (21) years of age by a freestanding Medicare-certified
4713 hospital that has an average length of inpatient stay greater than
4714 twenty-five (25) days and that is primarily engaged in providing
4715 chronic or long-term medical care to persons under twenty-one (21)
4716 years of age.

4717 (b) The services under this paragraph (48) shall
4718 be reimbursed as a separate category of hospital services.

4719 (49) The division shall establish copayments and/or
4720 coinsurance for all Medicaid services for which copayments and/or
4721 coinsurance are allowable under federal law or regulation, and
4722 shall set the amount of the copayment and/or coinsurance for each
4723 of those services at the maximum amount allowable under federal
4724 law or regulation.

4725 (50) Services provided by the State Department of
4726 Rehabilitation Services for the care and rehabilitation of persons
4727 who are deaf and blind, as allowed under waivers from the United
4728 States Department of Health and Human Services to provide home-
4729 and community-based services using state funds that are provided
4730 from the appropriation to the State Department of Rehabilitation
4731 Services or if funds are voluntarily provided by another agency.

4732 (51) Upon determination of Medicaid eligibility and in
4733 association with annual redetermination of Medicaid eligibility,
4734 beneficiaries shall be encouraged to undertake a physical
4735 examination that will establish a base-line level of health and
4736 identification of a usual and customary source of care (a medical
4737 home) to aid utilization of disease management tools. This



4738 physical examination and utilization of these disease management
4739 tools shall be consistent with current United States Preventive
4740 Services Task Force or other recognized authority recommendations.

4741 For persons who are determined ineligible for Medicaid, the
4742 division will provide information and direction for accessing
4743 medical care and services in the area of their residence.

4744 (52) Notwithstanding any provisions of this article,
4745 the division may pay enhanced reimbursement fees related to trauma
4746 care, as determined by the division in conjunction with the State
4747 Department of Health, using funds appropriated to the State
4748 Department of Health for trauma care and services and used to
4749 match federal funds under a cooperative agreement between the
4750 division and the State Department of Health. The division, in
4751 conjunction with the State Department of Health, may use grants,
4752 waivers, demonstrations, or other projects as necessary in the
4753 development and implementation of this reimbursement program.

4754 (53) Targeted case management services for high-cost
4755 beneficiaries shall be developed by the division for all services
4756 under this section.

4757 (54) Adult foster care services pilot program. Social
4758 and protective services on a pilot program basis in an approved
4759 foster care facility for vulnerable adults who would otherwise
4760 need care in a long-term care facility, to be implemented in an
4761 area of the state with the greatest need for such program, under
4762 the Medicaid Waivers for the Elderly and Disabled program or an
4763 assisted living waiver. The division may use grants, waivers,
4764 demonstrations or other projects as necessary in the development
4765 and implementation of this adult foster care services pilot
4766 program.

4767 (55) Therapy services. The plan of care for therapy
4768 services may be developed to cover a period of treatment for up to
4769 six (6) months, but in no event shall the plan of care exceed a



4770 six-month period of treatment. The projected period of treatment
4771 must be indicated on the initial plan of care and must be updated
4772 with each subsequent revised plan of care. Based on medical
4773 necessity, the division shall approve certification periods for
4774 less than or up to six (6) months, but in no event shall the
4775 certification period exceed the period of treatment indicated on
4776 the plan of care. The appeal process for any reduction in therapy
4777 services shall be consistent with the appeal process in federal
4778 regulations.

4779 Notwithstanding any other provision of this article to the
4780 contrary, the division shall reduce the rate of reimbursement to
4781 providers for any service provided under this section by five
4782 percent (5%) of the allowed amount for that service. However, the
4783 reduction in the reimbursement rates required by this paragraph
4784 shall not apply to inpatient hospital services, nursing facility
4785 services, intermediate care facility services, psychiatric
4786 residential treatment facility services, pharmacy services
4787 provided under paragraph (9) of this section, or any service
4788 provided by the University of Mississippi Medical Center or a
4789 state agency, a state facility or a public agency that either
4790 provides its own state match through intergovernmental transfer or
4791 certification of funds to the division, or a service for which the
4792 federal government sets the reimbursement methodology and rate.
4793 In addition, the reduction in the reimbursement rates required by
4794 this paragraph shall not apply to case management services and
4795 home-delivered meals provided under the home- and community-based
4796 services program for the elderly and disabled by a planning and
4797 development district (PDD). Planning and development districts
4798 participating in the home- and community-based services program
4799 for the elderly and disabled as case management providers shall be
4800 reimbursed for case management services at the maximum rate
4801 approved by the Centers for Medicare and Medicaid Services (CMS).



4802 The division may pay to those providers who participate in
4803 and accept patient referrals from the division's emergency room
4804 redirection program a percentage, as determined by the division,
4805 of savings achieved according to the performance measures and
4806 reduction of costs required of that program. Federally qualified
4807 health centers may participate in the emergency room redirection
4808 program, and the division may pay those centers a percentage of
4809 any savings to the Medicaid program achieved by the centers'
4810 accepting patient referrals through the program, as provided in
4811 this paragraph.

4812 Notwithstanding any provision of this article, except as
4813 authorized in the following paragraph and in Section 43-13-139,
4814 neither (a) the limitations on quantity or frequency of use of or
4815 the fees or charges for any of the care or services available to
4816 recipients under this section, nor (b) the payments or rates of
4817 reimbursement to providers rendering care or services authorized
4818 under this section to recipients, may be increased, decreased or
4819 otherwise changed from the levels in effect on July 1, 1999,
4820 unless they are authorized by an amendment to this section by the
4821 Legislature. However, the restriction in this paragraph shall not
4822 prevent the division from changing the payments or rates of
4823 reimbursement to providers without an amendment to this section
4824 whenever those changes are required by federal law or regulation,
4825 or whenever those changes are necessary to correct administrative
4826 errors or omissions in calculating those payments or rates of
4827 reimbursement.

4828 Notwithstanding any provision of this article, no new groups
4829 or categories of recipients and new types of care and services may
4830 be added without enabling legislation from the Mississippi
4831 Legislature, except that the division may authorize those changes
4832 without enabling legislation when the addition of recipients or
4833 services is ordered by a court of proper authority.



4834 The executive director shall keep the Governor advised on a
4835 timely basis of the funds available for expenditure and the
4836 projected expenditures. If current or projected expenditures of
4837 the division are reasonably anticipated to exceed the amount of
4838 funds appropriated to the division for any fiscal year, the
4839 Governor, after consultation with the executive director, shall
4840 discontinue any or all of the payment of the types of care and
4841 services as provided in this section that are deemed to be
4842 optional services under Title XIX of the federal Social Security
4843 Act, as amended, and when necessary, shall institute any other
4844 cost containment measures on any program or programs authorized
4845 under the article to the extent allowed under the federal law
4846 governing that program or programs. However, the Governor shall
4847 not be authorized to discontinue or eliminate any service under
4848 this section that is mandatory under federal law, or to
4849 discontinue or eliminate, or adjust income limits or resource
4850 limits for, any eligibility category or group under Section
4851 43-13-115. It is the intent of the Legislature that the
4852 expenditures of the division during any fiscal year shall not
4853 exceed the amounts appropriated to the division for that fiscal
4854 year.

4855 Notwithstanding any other provision of this article, it shall
4856 be the duty of each nursing facility, intermediate care facility
4857 for the mentally retarded, psychiatric residential treatment
4858 facility, and nursing facility for the severely disabled that is
4859 participating in the Medicaid program to keep and maintain books,
4860 documents and other records as prescribed by the Division of
4861 Medicaid in substantiation of its cost reports for a period of
4862 three (3) years after the date of submission to the Division of
4863 Medicaid of an original cost report, or three (3) years after the
4864 date of submission to the Division of Medicaid of an amended cost
4865 report.



4866 **SECTION 72.** Section 43-17-5, Mississippi Code of 1972, is
4867 amended as follows:

4868 43-17-5. (1) The amount of Temporary Assistance for Needy
4869 Families (TANF) benefits which may be granted for any dependent
4870 child and a needy caretaker relative shall be determined by the
4871 county department with due regard to the resources and necessary
4872 expenditures of the family and the conditions existing in each
4873 case, and in accordance with the rules and regulations made by the
4874 Department of Human Services which shall not be less than the
4875 Standard of Need in effect for 1988, and shall be sufficient when
4876 added to all other income (except that any income specified in the
4877 federal Social Security Act, as amended, may be disregarded) and
4878 support available to the child to provide such child with a
4879 reasonable subsistence compatible with decency and health. The
4880 first family member in the dependent child's budget may receive an
4881 amount not to exceed One Hundred Ten Dollars (\$110.00) per month;
4882 the second family member in the dependent child's budget may
4883 receive an amount not to exceed Thirty-six Dollars (\$36.00) per
4884 month; and each additional family member in the dependent child's
4885 budget an amount not to exceed Twenty-four Dollars (\$24.00) per
4886 month. The maximum for any individual family member in the
4887 dependent child's budget may be exceeded for foster or medical
4888 care or in cases of * * * children with an intellectual disability
4889 or a physical disability. TANF benefits granted shall be
4890 specifically limited only (a) to children existing or conceived at
4891 the time the caretaker relative initially applies and qualifies
4892 for such assistance, unless this limitation is specifically waived
4893 by the department, or (b) to a child born following a
4894 twelve-consecutive-month period of discontinued benefits by the
4895 caretaker relative.

4896 (2) TANF benefits in Mississippi shall be provided to the
4897 recipient family by an online electronic benefits transfer system.



4898 (3) The Department of Human Services shall deny TANF
4899 benefits to the following categories of individuals, except for
4900 individuals and families specifically exempt or excluded for good
4901 cause as allowed by federal statute or regulation:

4902 (a) Families without a minor child residing with the
4903 custodial parent or other adult caretaker relative of the child;

4904 (b) Families which include an adult who has received
4905 TANF assistance for sixty (60) months after the commencement of
4906 the Mississippi TANF program, whether or not such period of time
4907 is consecutive;

4908 (c) Families not assigning to the state any rights a
4909 family member may have, on behalf of the family member or of any
4910 other person for whom the family member has applied for or is
4911 receiving such assistance, to support from any other person, as
4912 required by law;

4913 (d) Families who fail to cooperate in establishing
4914 paternity or obtaining child support, as required by law;

4915 (e) Any individual who has not attained eighteen (18)
4916 years of age, is not married to the head of household, has a minor
4917 child at least twelve (12) weeks of age in his or her care, and
4918 has not successfully completed a high school education or its
4919 equivalent, if such individual does not participate in educational
4920 activities directed toward the attainment of a high school diploma
4921 or its equivalent, or an alternative educational or training
4922 program approved by the department;

4923 (f) Any individual who has not attained eighteen (18)
4924 years of age, is not married, has a minor child in his or her
4925 care, and does not reside in a place or residence maintained by a
4926 parent, legal guardian or other adult relative or the individual
4927 as such parent's, guardian's or adult relative's own home;



4928 (g) Any minor child who has been, or is expected by a
4929 parent or other caretaker relative of the child to be, absent from
4930 the home for a period of more than thirty (30) days;

4931 (h) Any individual who is a parent or other caretaker
4932 relative of a minor child who fails to notify the department of
4933 the absence of the minor child from the home for the thirty-day
4934 period specified in paragraph (g), by the end of the five-day
4935 period that begins with the date that it becomes clear to the
4936 individual that the minor child will be absent for the thirty-day
4937 period;

4938 (i) Any individual who fails to comply with the
4939 provisions of the Employability Development Plan signed by the
4940 individual which prescribe those activities designed to help the
4941 individual become and remain employed, or to participate
4942 satisfactorily in the assigned work activity, as authorized under
4943 subsection (6) (c) and (d), or who does not engage in applicant job
4944 search activities within the thirty-day period for TANF
4945 application approval after receiving the advice and consultation
4946 of eligibility workers and/or caseworkers of the department
4947 providing a detailed description of available job search venues in
4948 the individual's county of residence or the surrounding counties;

4949 (j) A parent or caretaker relative who has not engaged
4950 in an allowable work activity once the department determines the
4951 parent or caretaker relative is ready to engage in work, or once
4952 the parent or caretaker relative has received TANF assistance
4953 under the program for twenty-four (24) months, whether or not
4954 consecutive, whichever is earlier;

4955 (k) Any individual who is fleeing to avoid prosecution,
4956 or custody or confinement after conviction, under the laws of the
4957 jurisdiction from which the individual flees, for a crime, or an
4958 attempt to commit a crime, which is a felony under the laws of the
4959 place from which the individual flees, or who is violating a



4960 condition of probation or parole imposed under federal or state
4961 law;

4962 (l) Aliens who are not qualified under federal law;

4963 (m) For a period of ten (10) years following
4964 conviction, individuals convicted in federal or state court of
4965 having made a fraudulent statement or representation with respect
4966 to the individual's place of residence in order to receive TANF,
4967 food stamps or Supplemental Security Income (SSI) assistance under
4968 Title XVI or Title XIX simultaneously from two (2) or more states;
4969 and

4970 (n) Individuals who are recipients of federal
4971 Supplemental Security Income (SSI) assistance.

4972 (4) (a) Any person who is otherwise eligible for TANF
4973 benefits, including custodial and noncustodial parents, shall be
4974 required to attend school and meet the monthly attendance
4975 requirement as provided in this subsection if all of the following
4976 apply:

4977 (i) The person is under age twenty (20);

4978 (ii) The person has not graduated from a public or
4979 private high school or obtained a GED equivalent;

4980 (iii) The person is physically able to attend
4981 school and is not excused from attending school; and

4982 (iv) If the person is a parent or caretaker
4983 relative with whom a dependent child is living, child care is
4984 available for the child.

4985 The monthly attendance requirement under this subsection
4986 shall be attendance at the school in which the person is enrolled
4987 for each day during a month that the school conducts classes in
4988 which the person is enrolled, with not more than two (2) absences
4989 during the month for reasons other than the reasons listed in
4990 paragraph (e) (iv) of this subsection. Persons who fail to meet



4991 participation requirements in this subsection shall be subject to
4992 sanctions as provided in paragraph (f) of this subsection.

4993 (b) As used in this subsection, "school" means any one
4994 (1) of the following:

4995 (i) A school as defined in Section 37-13-91(2);

4996 (ii) A vocational, technical and adult education
4997 program; or

4998 (iii) A course of study meeting the standards
4999 established by the State Department of Education for the granting
5000 of a declaration of equivalency of high school graduation.

5001 (c) If any compulsory-school-age child, as defined in
5002 Section 37-13-91(2), to which TANF eligibility requirements apply
5003 is not in compliance with the compulsory school attendance
5004 requirements of Section 37-13-91(6), the superintendent of schools
5005 of the school district in which the child is enrolled or eligible
5006 to attend shall notify the county department of human services of
5007 the child's noncompliance. The Department of Human Services shall
5008 review school attendance information as provided under this
5009 paragraph at all initial eligibility determinations and upon
5010 subsequent report of unsatisfactory attendance.

5011 (d) The signature of a person on an application for
5012 TANF benefits constitutes permission for the release of school
5013 attendance records for that person or for any child residing with
5014 that person. The department shall request information from the
5015 child's school district about the child's attendance in the school
5016 district's most recently completed semester of attendance. If
5017 information about the child's previous school attendance is not
5018 available or cannot be verified, the department shall require the
5019 child to meet the monthly attendance requirement for one (1)
5020 semester or until the information is obtained. The department
5021 shall use the attendance information provided by a school district
5022 to verify attendance for a child. The department shall review



5023 with the parent or caretaker relative a child's claim that he or
5024 she has a good cause for not attending school.

5025 A school district shall provide information to the department
5026 about the attendance of a child who is enrolled in a public school
5027 in the district within five (5) working days of the receipt of a
5028 written request for that information from the department. The
5029 school district shall define how many hours of attendance count as
5030 a full day and shall provide that information, upon request, to
5031 the department. In reporting attendance, the school district may
5032 add partial days' absence together to constitute a full day's
5033 absence.

5034 If a school district fails to provide to the department the
5035 information about the school attendance of any child within
5036 fifteen (15) working days after a written request, the department
5037 shall notify the Department of Audit within three (3) working days
5038 of the school district's failure to comply with that requirement.
5039 The Department of Audit shall begin audit proceedings within five
5040 (5) working days of notification by the Department of Human
5041 Services to determine the school district's compliance with the
5042 requirements of this subsection (4). If the Department of Audit
5043 finds that the school district is not in compliance with the
5044 requirements of this subsection, the school district shall be
5045 penalized as follows: The Department of Audit shall notify the
5046 State Department of Education of the school district's
5047 noncompliance, and the Department of Education shall reduce the
5048 calculation of the school district's average daily attendance
5049 (ADA) that is used to determine the allocation of Mississippi
5050 Adequate Education Program funds by the number of children for
5051 which the district has failed to provide to the Department of
5052 Human Services the required information about the school
5053 attendance of those children. The reduction in the calculation of



5054 the school district's ADA under this paragraph shall be effective
5055 for a period of one (1) year.

5056 (e) A child who is required to attend school to meet
5057 the requirements under this subsection shall comply except when
5058 there is good cause, which shall be demonstrated by any of the
5059 following circumstances:

5060 (i) The minor parent is the caretaker of a child
5061 less than twelve (12) weeks old; or

5062 (ii) The department determines that child care
5063 services are necessary for the minor parent to attend school and
5064 there is no child care available; or

5065 (iii) The child is prohibited by the school
5066 district from attending school and an expulsion is pending. This
5067 exemption no longer applies once the teenager has been expelled;
5068 however, a teenager who has been expelled and is making
5069 satisfactory progress towards obtaining a GED equivalent shall be
5070 eligible for TANF benefits; or

5071 (iv) The child failed to attend school for one or
5072 more of the following reasons:

5073 1. Illness, injury or incapacity of the child
5074 or the minor parent's child;

5075 2. Court-required appearances or temporary
5076 incarceration;

5077 3. Medical or dental appointments for the
5078 child or minor parent's child;

5079 4. Death of a close relative;

5080 5. Observance of a religious holiday;

5081 6. Family emergency;

5082 7. Breakdown in transportation;

5083 8. Suspension; or

5084 9. Any other circumstance beyond the control
5085 of the child, as defined in regulations of the department.



5086 (f) Upon determination that a child has failed without
5087 good cause to attend school as required, the department shall
5088 provide written notice to the parent or caretaker relative
5089 (whoever is the primary recipient of the TANF benefits) that
5090 specifies:

5091 (i) That the family will be sanctioned in the next
5092 possible payment month because the child who is required to attend
5093 school has failed to meet the attendance requirement of this
5094 subsection;

5095 (ii) The beginning date of the sanction, and the
5096 child to whom the sanction applies;

5097 (iii) The right of the child's parents or
5098 caretaker relative (whoever is the primary recipient of the TANF
5099 benefits) to request a fair hearing under this subsection.

5100 The child's parent or caretaker relative (whoever is the
5101 primary recipient of the TANF benefits) may request a fair hearing
5102 on the department's determination that the child has not been
5103 attending school. If the child's parents or caretaker relative
5104 does not request a fair hearing under this subsection, or if,
5105 after a fair hearing has been held, the hearing officer finds that
5106 the child without good cause has failed to meet the monthly
5107 attendance requirement, the department shall discontinue or deny
5108 TANF benefits to the child thirteen (13) years old, or older, in
5109 the next possible payment month. The department shall discontinue
5110 or deny twenty-five percent (25%) of the family grant when a child
5111 six (6) through twelve (12) years of age without good cause has
5112 failed to meet the monthly attendance requirement. Both the child
5113 and family sanction may apply when children in both age groups
5114 fail to meet the attendance requirement without good cause. A
5115 sanction applied under this subsection shall be effective for one
5116 (1) month for each month that the child failed to meet the monthly
5117 attendance requirement. In the case of a dropout, the sanction



5118 shall remain in force until the parent or caretaker relative
5119 provides written proof from the school district that the child has
5120 reenrolled and met the monthly attendance requirement for one (1)
5121 calendar month. Any month in which school is in session for at
5122 least ten (10) days during the month may be used to meet the
5123 attendance requirement under this subsection. This includes
5124 attendance at summer school. The sanction shall be removed the
5125 next possible payment month.

5126 (5) All parents or caretaker relatives shall have their
5127 dependent children receive vaccinations and booster vaccinations
5128 against those diseases specified by the State Health Officer under
5129 Section 41-23-37 in accordance with the vaccination and booster
5130 vaccination schedule prescribed by the State Health Officer for
5131 children of that age, in order for the parents or caretaker
5132 relatives to be eligible or remain eligible to receive TANF
5133 benefits. Proof of having received such vaccinations and booster
5134 vaccinations shall be given by presenting the certificates of
5135 vaccination issued by any health care provider licensed to
5136 administer vaccinations, and submitted on forms specified by the
5137 State Board of Health. If the parents without good cause do not
5138 have their dependent children receive the vaccinations and booster
5139 vaccinations as required by this subsection and they fail to
5140 comply after thirty (30) days' notice, the department shall
5141 sanction the family's TANF benefits by twenty-five percent (25%)
5142 for the next payment month and each subsequent payment month until
5143 the requirements of this subsection are met.

5144 (6) (a) If the parent or caretaker relative applying for
5145 TANF assistance is work eligible, as determined by the Department
5146 of Human Services, the person shall be required to engage in an
5147 allowable work activity once the department determines the parent
5148 or caretaker relative is determined work eligible, or once the
5149 parent or caretaker relative has received TANF assistance under



5150 the program for twenty-four (24) months, whether or not
5151 consecutive, whichever is earlier. No TANF benefits shall be
5152 given to any person to whom this section applies who fails without
5153 good cause to comply with the Employability Development Plan
5154 prepared by the department for the person, or who has refused to
5155 accept a referral or offer of employment, training or education in
5156 which he or she is able to engage, subject to the penalties
5157 prescribed in subsection (6)(e). A person shall be deemed to have
5158 refused to accept a referral or offer of employment, training or
5159 education if he or she:

5160 (i) Willfully fails to report for an interview
5161 with respect to employment when requested to do so by the
5162 department; or

5163 (ii) Willfully fails to report to the department
5164 the result of a referral to employment; or

5165 (iii) Willfully fails to report for allowable work
5166 activities as prescribed in subsection (6)(c) and (d).

5167 (b) The Department of Human Services shall operate a
5168 statewide work program for TANF recipients to provide work
5169 activities and supportive services to enable families to become
5170 self-sufficient and improve their competitive position in the
5171 workforce in accordance with the requirements of the federal
5172 Personal Responsibility and Work Opportunity Reconciliation Act of
5173 1996 (Public Law 104-193), as amended, and the regulations
5174 promulgated thereunder, and the Deficit Reduction Act of 2005
5175 (Public Law 109-171), as amended. Within sixty (60) days after
5176 the initial application for TANF benefits, the TANF recipient must
5177 participate in a job search skills training workshop or a job
5178 readiness program, which shall include résumé writing, job search
5179 skills, employability skills and, if available at no charge, the
5180 General Aptitude Test Battery or its equivalent. All adults who
5181 are not specifically exempt shall be referred by the department



5182 for allowable work activities. An adult may be exempt from the
5183 mandatory work activity requirement for the following reasons:

5184 (i) Incapacity;

5185 (ii) Temporary illness or injury, verified by
5186 physician's certificate;

5187 (iii) Is in the third trimester of pregnancy, and
5188 there are complications verified by the certificate of a
5189 physician, nurse practitioner, physician assistant, or any other
5190 licensed health care professional practicing under a protocol with
5191 a licensed physician;

5192 (iv) Caretaker of a child under twelve (12)
5193 months, for not more than twelve (12) months of the sixty-month
5194 maximum benefit period;

5195 (v) Caretaker of an ill or incapacitated person,
5196 as verified by physician's certificate;

5197 (vi) Age, if over sixty (60) or under eighteen
5198 (18) years of age;

5199 (vii) Receiving treatment for substance abuse, if
5200 the person is in compliance with the substance abuse treatment
5201 plan;

5202 (viii) In a two-parent family, the caretaker of a
5203 severely disabled child, as verified by a physician's certificate;
5204 or

5205 (ix) History of having been a victim of domestic
5206 violence, which has been reported as required by state law and is
5207 substantiated by police reports or court records, and being at
5208 risk of further domestic violence, shall be exempt for a period as
5209 deemed necessary by the department but not to exceed a total of
5210 twelve (12) months, which need not be consecutive, in the
5211 sixty-month maximum benefit period. For the purposes of this
5212 subparagraph (ix), "domestic violence" means that an individual
5213 has been subjected to:



- 5214 1. Physical acts that resulted in, or
5215 threatened to result in, physical injury to the individual;
5216 2. Sexual abuse;
5217 3. Sexual activity involving a dependent
5218 child;
5219 4. Being forced as the caretaker relative of
5220 a dependent child to engage in nonconsensual sexual acts or
5221 activities;
5222 5. Threats of, or attempts at, physical or
5223 sexual abuse;
5224 6. Mental abuse; or
5225 7. Neglect or deprivation of medical care.

5226 (c) For all families, all adults who are not
5227 specifically exempt shall be required to participate in work
5228 activities for at least the minimum average number of hours per
5229 week specified by federal law or regulation, not fewer than twenty
5230 (20) hours per week (thirty-five (35) hours per week for
5231 two-parent families) of which are attributable to the following
5232 allowable work activities:

- 5233 (i) Unsubsidized employment;
5234 (ii) Subsidized private employment;
5235 (iii) Subsidized public employment;
5236 (iv) Work experience (including work associated
5237 with the refurbishing of publicly assisted housing), if sufficient
5238 private employment is not available;
5239 (v) On-the-job training;
5240 (vi) Job search and job readiness assistance
5241 consistent with federal TANF regulations;
5242 (vii) Community service programs;
5243 (viii) Vocational educational training (not to
5244 exceed twelve (12) months with respect to any individual);



5245 (ix) The provision of child care services to an
5246 individual who is participating in a community service program;

5247 (x) Satisfactory attendance at high school or in a
5248 course of study leading to a high school equivalency certificate,
5249 for heads of household under age twenty (20) who have not
5250 completed high school or received such certificate;

5251 (xi) Education directly related to employment, for
5252 heads of household under age twenty (20) who have not completed
5253 high school or received such equivalency certificate.

5254 (d) The following are allowable work activities which
5255 may be attributable to hours in excess of the minimum specified in
5256 subsection (6) (c):

5257 (i) Job skills training directly related to
5258 employment;

5259 (ii) Education directly related to employment for
5260 individuals who have not completed high school or received a high
5261 school equivalency certificate;

5262 (iii) Satisfactory attendance at high school or in
5263 a course of study leading to a high school equivalency, for
5264 individuals who have not completed high school or received such
5265 equivalency certificate;

5266 (iv) Job search and job readiness assistance
5267 consistent with federal TANF regulations.

5268 (e) If any adult or caretaker relative refuses to
5269 participate in allowable work activity as required under this
5270 subsection (6), the following full family TANF benefit penalty
5271 will apply, subject to due process to include notification,
5272 conciliation and a hearing if requested by the recipient:

5273 (i) For the first violation, the department shall
5274 terminate the TANF assistance otherwise payable to the family for
5275 a two-month period or until the person has complied with the
5276 required work activity, whichever is longer;



5277 (ii) For the second violation, the department
5278 shall terminate the TANF assistance otherwise payable to the
5279 family for a six-month period or until the person has complied
5280 with the required work activity, whichever is longer;

5281 (iii) For the third violation, the department
5282 shall terminate the TANF assistance otherwise payable to the
5283 family for a twelve-month period or until the person has complied
5284 with the required work activity, whichever is longer;

5285 (iv) For the fourth violation, the person shall be
5286 permanently disqualified.

5287 For a two-parent family, unless prohibited by state or
5288 federal law, Medicaid assistance shall be terminated only for the
5289 person whose failure to participate in allowable work activity
5290 caused the family's TANF assistance to be sanctioned under this
5291 subsection (6) (e), unless an individual is pregnant, but shall not
5292 be terminated for any other person in the family who is meeting
5293 that person's applicable work requirement or who is not required
5294 to work. Minor children shall continue to be eligible for
5295 Medicaid benefits regardless of the disqualification of their
5296 parent or caretaker relative for TANF assistance under this
5297 subsection (6), unless prohibited by state or federal law.

5298 (f) Any person enrolled in a two-year or four-year
5299 college program who meets the eligibility requirements to receive
5300 TANF benefits, and who is meeting the applicable work requirements
5301 and all other applicable requirements of the TANF program, shall
5302 continue to be eligible for TANF benefits while enrolled in the
5303 college program for as long as the person meets the requirements
5304 of the TANF program, unless prohibited by federal law.

5305 (g) No adult in a work activity required under this
5306 subsection (6) shall be employed or assigned (i) when any other
5307 individual is on layoff from the same or any substantially
5308 equivalent job within six (6) months before the date of the TANF



5309 recipient's employment or assignment; or (ii) if the employer has
5310 terminated the employment of any regular employee or otherwise
5311 caused an involuntary reduction of its workforce in order to fill
5312 the vacancy so created with an adult receiving TANF assistance.
5313 The Mississippi Department of Employment Security, established
5314 under Section 71-5-101, shall appoint one or more impartial
5315 hearing officers to hear and decide claims by employees of
5316 violations of this paragraph (g). The hearing officer shall hear
5317 all the evidence with respect to any claim made hereunder and such
5318 additional evidence as he may require and shall make a
5319 determination and the reason therefor. The claimant shall be
5320 promptly notified of the decision of the hearing officer and the
5321 reason therefor. Within ten (10) days after the decision of the
5322 hearing officer has become final, any party aggrieved thereby may
5323 secure judicial review thereof by commencing an action, in the
5324 circuit court of the county in which the claimant resides, against
5325 the department for the review of such decision, in which action
5326 any other party to the proceeding before the hearing officer shall
5327 be made a defendant. Any such appeal shall be on the record which
5328 shall be certified to the court by the department in the manner
5329 provided in Section 71-5-531, and the jurisdiction of the court
5330 shall be confined to questions of law which shall render its
5331 decision as provided in that section.

5332 (7) The Department of Human Services may provide child care
5333 for eligible participants who require such care so that they may
5334 accept employment or remain employed. The department may also
5335 provide child care for those participating in the TANF program
5336 when it is determined that they are satisfactorily involved in
5337 education, training or other allowable work activities. The
5338 department may contract with Head Start agencies to provide child
5339 care services to TANF recipients. The department may also arrange
5340 for child care by use of contract or vouchers, provide vouchers in



5341 advance to a caretaker relative, reimburse a child care provider,
5342 or use any other arrangement deemed appropriate by the department,
5343 and may establish different reimbursement rates for child care
5344 services depending on the category of the facility or home. Any
5345 center-based or group home child care facility under this
5346 subsection shall be licensed by the State Department of Health
5347 pursuant to law. When child care is being provided in the child's
5348 own home, in the home of a relative of the child, or in any other
5349 unlicensed setting, the provision of such child care may be
5350 monitored on a random basis by the Department of Human Services or
5351 the State Department of Health. Transitional child care
5352 assistance may be continued if it is necessary for parents to
5353 maintain employment once support has ended, unless prohibited
5354 under state or federal law. Transitional child care assistance
5355 may be provided for up to twenty-four (24) months after the last
5356 month during which the family was eligible for TANF assistance, if
5357 federal funds are available for such child care assistance.

5358 (8) The Department of Human Services may provide
5359 transportation or provide reasonable reimbursement for
5360 transportation expenses that are necessary for individuals to be
5361 able to participate in allowable work activity under the TANF
5362 program.

5363 (9) Medicaid assistance shall be provided to a family of
5364 TANF program participants for up to twenty-four (24) consecutive
5365 calendar months following the month in which the participating
5366 family would be ineligible for TANF benefits because of increased
5367 income, expiration of earned income disregards, or increased hours
5368 of employment of the caretaker relative; however, Medicaid
5369 assistance for more than twelve (12) months may be provided only
5370 if a federal waiver is obtained to provide such assistance for
5371 more than twelve (12) months and federal and state funds are
5372 available to provide such assistance.



5373 (10) The department shall require applicants for and
5374 recipients of public assistance from the department to sign a
5375 personal responsibility contract that will require the applicant
5376 or recipient to acknowledge his or her responsibilities to the
5377 state.

5378 (11) The department shall enter into an agreement with the
5379 State Personnel Board and other state agencies that will allow
5380 those TANF participants who qualify for vacant jobs within state
5381 agencies to be placed in state jobs. State agencies participating
5382 in the TANF work program shall receive any and all benefits
5383 received by employers in the private sector for hiring TANF
5384 recipients. This subsection (11) shall be effective only if the
5385 state obtains any necessary federal waiver or approval and if
5386 federal funds are available therefor.

5387 (12) Any unspent TANF funds remaining from the prior fiscal
5388 year may be expended for any TANF allowable activities.

5389 (13) The Mississippi Department of Human Services shall
5390 provide TANF applicants information and referral to programs that
5391 provide information about birth control, prenatal health care,
5392 abstinence education, marriage education, family preservation and
5393 fatherhood.

5394 (14) No new TANF program requirement or restriction
5395 affecting a person's eligibility for TANF assistance, or allowable
5396 work activity, which is not mandated by federal law or regulation
5397 may be implemented by the Department of Human Services after July
5398 1, 2004, unless such is specifically authorized by an amendment to
5399 this section by the Legislature.

5400 (15) This section shall stand repealed on July 1, 2011.

5401 **SECTION 73.** Section 43-21-105, Mississippi Code of 1972, is
5402 amended as follows:



5403 43-21-105. The following words and phrases, for purposes of
5404 this chapter, shall have the meanings ascribed herein unless the
5405 context clearly otherwise requires:

5406 (a) "Youth court" means the Youth Court Division.

5407 (b) "Judge" means the judge of the Youth Court
5408 Division.

5409 (c) "Designee" means any person that the judge appoints
5410 to perform a duty which this chapter requires to be done by the
5411 judge or his designee. The judge may not appoint a person who is
5412 involved in law enforcement to be his designee.

5413 (d) "Child" and "youth" are synonymous, and each means
5414 a person who has not reached his eighteenth birthday. A child who
5415 has not reached his eighteenth birthday and is on active duty for
5416 a branch of the armed services or is married is not considered a
5417 "child" or "youth" for the purposes of this chapter.

5418 (e) "Parent" means the father or mother to whom the
5419 child has been born, or the father or mother by whom the child has
5420 been legally adopted.

5421 (f) "Guardian" means a court-appointed guardian of the
5422 person of a child.

5423 (g) "Custodian" means any person having the present
5424 care or custody of a child whether such person be a parent or
5425 otherwise.

5426 (h) "Legal custodian" means a court-appointed custodian
5427 of the child.

5428 (i) "Delinquent child" means a child who has reached
5429 his tenth birthday and who has committed a delinquent act.

5430 (j) "Delinquent act" is any act, which if committed by
5431 an adult, is designated as a crime under state or federal law, or
5432 municipal or county ordinance other than offenses punishable by
5433 life imprisonment or death. A delinquent act includes escape from



5434 lawful detention and violations of the Uniform Controlled
5435 Substances Law and violent behavior.

5436 (k) "Child in need of supervision" means a child who
5437 has reached his seventh birthday and is in need of treatment or
5438 rehabilitation because the child:

5439 (i) Is habitually disobedient of reasonable and
5440 lawful commands of his parent, guardian or custodian and is
5441 ungovernable; or

5442 (ii) While being required to attend school,
5443 willfully and habitually violates the rules thereof or willfully
5444 and habitually absents himself therefrom; or

5445 (iii) Runs away from home without good cause; or

5446 (iv) Has committed a delinquent act or acts.

5447 (l) "Neglected child" means a child:

5448 (i) Whose parent, guardian or custodian or any
5449 person responsible for his care or support, neglects or refuses,
5450 when able so to do, to provide for him proper and necessary care
5451 or support, or education as required by law, or medical, surgical,
5452 or other care necessary for his well-being; * * * however, a
5453 parent who withholds medical treatment from any child who in good
5454 faith is under treatment by spiritual means alone through prayer
5455 in accordance with the tenets and practices of a recognized church
5456 or religious denomination by a duly accredited practitioner
5457 thereof shall not, for that reason alone, be considered to be
5458 neglectful under any provision of this chapter; or

5459 (ii) Who is otherwise without proper care,
5460 custody, supervision or support; or

5461 (iii) Who, for any reason, lacks the special care
5462 made necessary for him by reason of his mental condition, whether
5463 the mental condition is having mental illness or having an
5464 intellectual disability; or



5465 (iv) Who, for any reason, lacks the care necessary
5466 for his health, morals or well-being.

5467 (m) "Abused child" means a child whose parent, guardian
5468 or custodian or any person responsible for his care or support,
5469 whether legally obligated to do so or not, has caused or allowed
5470 to be caused upon the child sexual abuse, sexual exploitation,
5471 emotional abuse, mental injury, nonaccidental physical injury or
5472 other maltreatment. * * * However, * * * physical discipline,
5473 including spanking, performed on a child by a parent, guardian or
5474 custodian in a reasonable manner shall not be deemed abuse under
5475 this section.

5476 (n) "Sexual abuse" means obscene or pornographic
5477 photographing, filming or depiction of children for commercial
5478 purposes, or the rape, molestation, incest, prostitution or other
5479 such forms of sexual exploitation of children under circumstances
5480 which indicate that the child's health or welfare is harmed or
5481 threatened.

5482 (o) "A child in need of special care" means a child
5483 with any mental or physical illness that cannot be treated with
5484 the dispositional alternatives ordinarily available to the youth
5485 court.

5486 (p) A "dependent child" means any child who is not a
5487 child in need of supervision, a delinquent child, an abused child
5488 or a neglected child, and which child has been voluntarily placed
5489 in the custody of the Department of Human Services by his parent,
5490 guardian or custodian.

5491 (q) "Custody" means the physical possession of the
5492 child by any person.

5493 (r) "Legal custody" means the legal status created by a
5494 court order which gives the legal custodian the responsibilities
5495 of physical possession of the child and the duty to provide him
5496 with food, shelter, education and reasonable medical care, all



5497 subject to residual rights and responsibilities of the parent or
5498 guardian of the person.

5499 (s) "Detention" means the care of children in
5500 physically restrictive facilities.

5501 (t) "Shelter" means care of children in physically
5502 nonrestrictive facilities.

5503 (u) "Records involving children" means any of the
5504 following from which the child can be identified:

5505 (i) All youth court records as defined in Section
5506 43-21-251;

5507 (ii) All social records as defined in Section
5508 43-21-253;

5509 (iii) All law enforcement records as defined in
5510 Section 43-21-255;

5511 (iv) All agency records as defined in Section
5512 43-21-257; and

5513 (v) All other documents maintained by any
5514 representative of the state, county, municipality or other public
5515 agency insofar as they relate to the apprehension, custody,
5516 adjudication or disposition of a child who is the subject of a
5517 youth court cause.

5518 (v) "Any person responsible for care or support" means
5519 the person who is providing for the child at a given time. This
5520 term shall include, but is not limited to, stepparents, foster
5521 parents, relatives, nonlicensed baby-sitters or other similar
5522 persons responsible for a child and staff of residential care
5523 facilities and group homes that are licensed by the Department of
5524 Human Services.

5525 (w) The singular includes the plural, the plural the
5526 singular and the masculine the feminine when consistent with the
5527 intent of this chapter.



5528 (x) "Out-of-home" setting means the temporary
5529 supervision or care of children by the staff of licensed day care
5530 centers, the staff of public, private and state schools, the staff
5531 of juvenile detention facilities, the staff of unlicensed
5532 residential care facilities and group homes and the staff of, or
5533 individuals representing, churches, civic or social organizations.

5534 (y) "Durable legal custody" means the legal status
5535 created by a court order which gives the durable legal custodian
5536 the responsibilities of physical possession of the child and the
5537 duty to provide him with care, nurture, welfare, food, shelter,
5538 education and reasonable medical care. All these duties as
5539 enumerated are subject to the residual rights and responsibilities
5540 of the natural parent(s) or guardian(s) of the child or children.

5541 (z) "Status offense" means conduct subject to
5542 adjudication by the youth court that would not be a crime if
5543 committed by an adult.

5544 **SECTION 74.** Section 43-27-25, Mississippi Code of 1972, is
5545 amended as follows:

5546 43-27-25. No person shall be committed to an institution
5547 under the control of the Department of Youth Services who is
5548 seriously handicapped by having mental illness or an intellectual
5549 disability. If after a person is referred to the training schools
5550 it is determined that he has mental illness or an intellectual
5551 disability to an extent that he could not be properly cared for in
5552 its custody, the director may institute necessary legal action to
5553 accomplish the transfer of such person to such other state
5554 institution as, in his judgment, is best qualified to care for him
5555 in accordance with the laws of this state. The department shall
5556 establish standards with regard to the physical and mental health
5557 of persons which it can accept for commitment.

5558 **SECTION 75.** Section 73-19-23, Mississippi Code of 1972, is
5559 amended as follows:



5560 73-19-23. (1) The board shall refuse to grant a certificate
5561 of licensure to any applicant and may cancel, revoke or suspend
5562 the operation of any certificate by it granted for any or all of
5563 the following reasons: unprofessional and unethical conduct or
5564 the conviction of a crime involving moral turpitude, habitual
5565 intemperance in the use of ardent spirits, or stimulants,
5566 narcotics, or any other substance that impairs the intellect and
5567 judgment to such an extent as to incapacitate one for the
5568 performance of the duties of an optometrist. The certificate of
5569 licensure of any person can be revoked for violating any section
5570 of this chapter.

5571 (2) The board shall further be authorized to take
5572 disciplinary action against a licensee for any unlawful acts,
5573 which shall include violations of regulations promulgated by the
5574 board, as well as the following acts:

5575 (a) Fraud or misrepresentation in applying for or
5576 procuring an optometric license or in connection with applying for
5577 or procuring periodic renewal of an optometric license.

5578 (b) Cheating on or attempting to subvert the optometric
5579 licensing examination(s).

5580 (c) The conviction of a felony in this state or any
5581 other jurisdiction, or the entry of a guilty or nolo contendere
5582 plea to a felony charge.

5583 (d) The conviction of a felony as defined by federal
5584 law, or the entry of a guilty or nolo contendere plea to a felony
5585 charge.

5586 (e) Conduct likely to deceive, defraud or harm the
5587 public.

5588 (f) Making a false or misleading statement regarding
5589 his or her skill or the efficacy or value of the medicine, device,
5590 treatment or remedy prescribed by him or her or used at his or her
5591 direction in the treatment of any disease or other condition.



5592 (g) Willfully or negligently violating the
5593 confidentiality between doctor and patient, except as required by
5594 law.

5595 (h) Negligence or gross incompetence in the practice of
5596 optometry as determined by the board.

5597 (i) Being found to be a person with mental illness or
5598 with an intellectual disability by any court of competent
5599 jurisdiction.

5600 (j) The use of any false, fraudulent, deceptive or
5601 misleading statement in any document connected with the practice
5602 of optometry.

5603 (k) Aiding or abetting the practice of optometry by an
5604 unlicensed, incompetent or impaired person.

5605 (l) Commission of any act of sexual abuse, misconduct
5606 or exploitation related to the licensee's practice of optometry.

5607 (m) Being addicted or habituated to a drug or
5608 intoxicant.

5609 (n) Violating any state or federal law or regulation
5610 relating to a drug legally classified as a controlled substance.

5611 (o) Obtaining any fee by fraud, deceit or
5612 misrepresentation.

5613 (p) Disciplinary action of another state or
5614 jurisdiction against a licensee or other authorization to practice
5615 optometry based upon acts or conduct by the licensee similar to
5616 acts or conduct that would constitute grounds for action as
5617 defined in this chapter, a certified copy of the record of the
5618 action taken by the other state or jurisdiction being conclusive
5619 evidence thereof.

5620 (q) Failure to report to the board the relocation of
5621 his or her office in or out of the jurisdiction, or to furnish
5622 floor plans as required by regulation.



5623 (r) Violation of any provision(s) of the Optometry
5624 Practice Act or the rules and regulations of the board or of an
5625 action, stipulation or agreement of the board.

5626 (s) To advertise in a manner that tends to deceive,
5627 mislead or defraud the public.

5628 (t) The designation of any person licensed under this
5629 chapter, other than by the terms "optometrist," "Doctor of
5630 Optometry" or "O.D."

5631 (u) To knowingly submit or cause to be submitted any
5632 misleading, deceptive or fraudulent representation on a claim
5633 form, bill or statement.

5634 (v) To practice or attempt to practice optometry while
5635 his or her license is suspended.

5636 (3) Any person who is holder of a certificate of licensure
5637 or who is an applicant for examination for a certificate of
5638 licensure, against whom is preferred any charges, shall be
5639 furnished by the board with a copy of the complaint and shall have
5640 a hearing in Jackson, Mississippi, before the board, at which
5641 hearing he may be represented by counsel. At the hearing,
5642 witnesses may be examined for and against the accused respecting
5643 those charges, and the hearing orders or appeals will be conducted
5644 according to the procedure now provided in Section 73-25-27. The
5645 suspension of a certificate of licensure by reason of the use of
5646 stimulants or narcotics may be removed when the holder of the
5647 certificate has been adjudged by the board to be cured and capable
5648 of practicing optometry.

5649 (4) In addition to the reasons specified in subsections (1)
5650 and (2) of this section, the board shall be authorized to suspend
5651 the license of any licensee for being out of compliance with an
5652 order for support, as defined in Section 93-11-153. The procedure
5653 for suspension of a license for being out of compliance with an
5654 order for support, and the procedure for the reissuance or



5655 reinstatement of a license suspended for that purpose, and the
5656 payment of any fees for the reissuance or reinstatement of a
5657 license suspended for that purpose, shall be governed by Section
5658 93-11-157 or 93-11-163, as the case may be. If there is any
5659 conflict between any provision of Section 93-11-157 or 93-11-163
5660 and any provision of this chapter, the provisions of Section
5661 93-11-157 or 93-11-163, as the case may be, shall control.

5662 **SECTION 76.** Section 83-41-205, Mississippi Code of 1972, is
5663 amended as follows:

5664 83-41-205. Any individual hospital or medical service plan
5665 contract or any individual hospital or medical expense insurance
5666 policy delivered or issued for delivery in this state after
5667 September 12, 1972, which provides that coverage of a dependent
5668 child shall terminate upon attainment of the limiting age for
5669 dependent children specified in the contract or policy, shall also
5670 provide in substance that attainment of such limiting age shall
5671 not operate to terminate the coverage of such child while the
5672 child is and continues to be both (a) incapable of self-sustaining
5673 employment by reason of having an intellectual disability or a
5674 physical disability, and (b) chiefly dependent upon the subscriber
5675 or policyholder for support and maintenance, provided proof of
5676 such incapacity and dependency is furnished to the hospital or
5677 medical service plan corporation or insurer by the subscriber or
5678 policyholder within thirty-one (31) days of the child's attainment
5679 of the limiting age and subsequently as may be required by the
5680 corporation or insurer, but not more frequently than annually
5681 after the two-year period following the child's attainment of the
5682 limiting age.

5683 Any insurer or hospital service plan corporation continuing
5684 dependent coverage beyond the limiting age for dependent children
5685 as prescribed by this section, shall have the right to charge the
5686 standard adult premium for such coverage.



5687 **SECTION 77.** Section 83-41-207, Mississippi Code of 1972, is
5688 amended as follows:

5689 83-41-207. Any group hospital or medical service plan
5690 contract or any group hospital or medical expense insurance policy
5691 delivered or issued for delivery in this state after September 12,
5692 1972, which provides that coverage of a dependent child of an
5693 employee, insured party, or other member of the covered group
5694 shall terminate upon attainment of the limiting age for dependent
5695 children specified in the contract or policy, shall also provide
5696 in substance that attainment of such limiting age shall not
5697 operate to terminate the coverage of such child while the child is
5698 and continues to be both (a) incapable of self-sustaining
5699 employment by reason of having an intellectual disability or a
5700 physical disability, and (b) chiefly dependent upon the employee,
5701 insured party, or member for support and maintenance, provided
5702 proof of such incapacity and dependency is furnished to the
5703 hospital or medical service plan corporation or insurer by the
5704 employee, insured party, or member within thirty-one (31) days of
5705 the child's attainment of the limiting age and subsequently as may
5706 be required by the corporation or insurer, but not more frequently
5707 than annually after the two-year period following the child's
5708 attainment of the limiting age.

5709 Any insurer or hospital service plan corporation continuing
5710 dependent coverage beyond the limiting age for dependent children
5711 as prescribed by this section, shall have the right to charge the
5712 standard adult premium for such coverage.

5713 **SECTION 78.** Section 93-1-5, Mississippi Code of 1972, is
5714 amended as follows:

5715 93-1-5. It shall be unlawful for the circuit court clerk to
5716 issue a marriage license until the following conditions precedent
5717 have been complied with:



5718 (a) Parties desiring a marriage license shall make
5719 application for the license in writing to the clerk of the circuit
5720 court of any county in the State of Mississippi; however, if the
5721 female applicant is under the age of twenty-one (21) years and is
5722 a resident of the State of Mississippi, the application shall be
5723 made to the circuit court clerk of the county of residence of the
5724 female applicant. The application shall be immediately filed with
5725 the circuit court clerk and shall include the names, ages and
5726 addresses of the parties applying; the names and addresses of the
5727 parents of the parties applying, and if no parents, then names and
5728 addresses of the guardian or next of kin; the signatures of
5729 witnesses; and any other data that may be required by law or the
5730 State Board of Health. The application shall be sworn to by both
5731 applicants.

5732 (b) The application shall remain on file, open to the
5733 public, in the office of the circuit court clerk for a period of
5734 three (3) days before the clerk is authorized to issue the
5735 marriage license. However, if satisfactory proof is furnished to
5736 the judge of any circuit, chancery or county court that sufficient
5737 reasons exist, then the judge of any such court in the judicial
5738 district where either of the parties resides if they are over the
5739 age of twenty-one (21) years, or where the female resides if she
5740 is under the age of twenty-one (21), may waive the three-day
5741 waiting period and by written instrument authorize the clerk of
5742 the court to issue the marriage license to the parties if they are
5743 otherwise qualified by law. Authorization shall be a part of the
5744 confidential files of the clerk of the court, subject to
5745 inspection only by written permission of the judge. If either of
5746 the applying parties appears from the evidence to be under
5747 twenty-one (21) years of age, the circuit court clerk, immediately
5748 upon filing the application, shall cause notice of the filing of
5749 the application to be sent by prepaid certified mail to the



5750 father, mother, guardian or next of kin of both applying parties
5751 at the address named in the application.

5752 (c) An affidavit showing the age of both applying
5753 parties shall be made by either the father, mother, guardian or
5754 next of kin of each of the contracting parties and filed with the
5755 clerk of the circuit court along with the application; or in lieu
5756 thereof, both applying parties shall appear in person before the
5757 circuit court clerk and make and subscribe an oath in person,
5758 which affidavit shall be attached to and noted on the application
5759 for the marriage license. In addition to either of the previous
5760 conditions stated, further proof of age shall be presented to the
5761 circuit court clerk in the form of either a birth certificate,
5762 baptismal record, armed service discharge, armed service
5763 identification card, life insurance policy, insurance certificate,
5764 school record, driver's license, or other official document
5765 evidencing age. The document substantiating age and date of birth
5766 shall be examined by the circuit court clerk before whom
5767 application is made, and the circuit court clerk shall retain in
5768 his file with the application the document or a certified or
5769 photostatic copy of the document.

5770 (d) The clerk shall not issue a marriage license under
5771 the provisions of this section unless the male applicant is at
5772 least seventeen (17) years of age and the female is at least
5773 fifteen (15) years of age; however, if satisfactory proof is
5774 furnished to the judge of any circuit, chancery or county court
5775 that sufficient reasons exist and that the parties desire to be
5776 married to each other and that the parents or other person in loco
5777 parentis of the person or persons so under age consent to the
5778 marriage, then the judge of any such court in the county where
5779 either of the parties resides may waive the minimum age
5780 requirement and by written instrument authorize the clerk of the
5781 court to issue the marriage license to the parties if they are



5782 otherwise qualified by law. Authorization shall be a part of the
5783 confidential files of the clerk of the court, subject to
5784 inspection only by written permission of the judge.

5785 (e) A medical certificate dated within thirty (30) days
5786 before the application shall be presented to the circuit court
5787 clerk showing that the applicant is free from syphilis, as nearly
5788 as can be determined by a blood test performed in a laboratory
5789 approved by the State Board of Health. The medical certificate
5790 may be obtained through the local health department by the
5791 applicant or applicants, or it may be obtained through any private
5792 laboratory approved by the State Board of Health. The medical
5793 certificate shall be examined by the circuit court clerk and filed
5794 in a permanent file kept by the clerk for this purpose.

5795 (f) In no event shall a license be issued by the
5796 circuit court clerk when it appears to the circuit court clerk
5797 that the applicants are, or either of them is, drunk or a person
5798 with mental illness or an intellectual disability, to the extent
5799 that the clerk believes that the person does not understand the
5800 nature and consequences of the request.

5801 Any circuit clerk shall be liable under his official bond
5802 because of noncompliance with the provisions of this section.

5803 Any circuit court clerk who issues a marriage license without
5804 complying with the provisions of this section shall be guilty of a
5805 misdemeanor and, upon conviction, shall be punished by a fine of
5806 not less than Fifty Dollars (\$50.00) and not more than Five
5807 Hundred Dollars (\$500.00).

5808 **SECTION 79.** Section 93-5-1, Mississippi Code of 1972, is
5809 amended as follows:

5810 93-5-1. Divorces from the bonds of matrimony may be decreed
5811 to the injured party for any one or more of the following twelve
5812 (12) causes:

5813 First. Natural impotency.



5814 Second. Adultery, unless it should appear that it was
5815 committed by collusion of the parties for the purpose of procuring
5816 a divorce, or unless the parties cohabited after a knowledge by
5817 complainant of the adultery.

5818 Third. Being sentenced to any penitentiary, and not pardoned
5819 before being sent there.

5820 Fourth. Willful, continued and obstinate desertion for the
5821 space of one (1) year.

5822 Fifth. Habitual drunkenness.

5823 Sixth. Habitual and excessive use of opium, morphine or
5824 other like drug.

5825 Seventh. Habitual cruel and inhuman treatment.

5826 Eighth. Having mental illness or an intellectual disability
5827 at the time of marriage, if the party complaining did not know of
5828 that infirmity.

5829 Ninth. Marriage to some other person at the time of the
5830 pretended marriage between the parties.

5831 Tenth. Pregnancy of the wife by another person at the time
5832 of the marriage, if the husband did not know of the pregnancy.

5833 Eleventh. Either party may have a divorce if they are
5834 related to each other within the degrees of kindred between whom
5835 marriage is prohibited by law.

5836 Twelfth. Incurable mental illness. However, no divorce
5837 shall be granted upon this ground unless the party with mental
5838 illness has been under regular treatment for mental illness and
5839 causes thereof, confined in an institution for persons with mental
5840 illness for a period of at least three (3) years immediately
5841 preceding the commencement of the action. However, transfer of a
5842 party with mental illness to his or her home for treatment or a
5843 trial visit on prescription or recommendation of a licensed
5844 physician, which treatment or trial visit proves unsuccessful
5845 after a bona fide effort by the complaining party to effect a



5846 cure, upon the reconfinement of the party with mental illness in
5847 an institution for persons with mental illness, shall be regular
5848 treatment for mental illness and causes thereof, and the period of
5849 time so consumed in seeking to effect a cure or while on a trial
5850 visit home shall be added to the period of actual confinement in
5851 an institution for persons with mental illness in computing the
5852 required period of three (3) years confinement immediately
5853 preceding the beginning of the action. No divorce shall be
5854 granted because of mental illness until after a thorough
5855 examination of the person with mental illness by two (2)
5856 physicians who are recognized authorities on mental diseases. One
5857 (1) of those physicians shall be either the superintendent of a
5858 state psychiatric hospital or institution or a veterans hospital
5859 for persons with mental illness in which the patient is confined,
5860 or a member of the medical staff of that hospital or institution
5861 who has had the patient in charge. Before incurable mental
5862 illness can be successfully proven as a ground for divorce, it
5863 shall be necessary that both of those physicians make affidavit
5864 that the patient is a person with mental illness at the time of
5865 the examination, and both affidavits shall be made a part of the
5866 permanent record of the divorce proceedings and shall create the
5867 prima facie presumption of incurable mental illness, such as would
5868 justify a divorce based on that ground. Service of process shall
5869 be made on the superintendent of the hospital or institution in
5870 which the defendant is a patient. If the patient is in a hospital
5871 or institution outside the state, process shall be served by
5872 publication, as in other cases of service by publication, together
5873 with the sending of a copy by registered mail to the
5874 superintendent of the hospital or institution. In addition,
5875 process shall be served upon the next blood relative and guardian,
5876 if any. If there is no legal guardian, the court shall appoint a
5877 guardian ad litem to represent the interest of the person with



5878 mental illness. The relative or guardian and superintendent of
5879 the hospital or institution shall be entitled to appear and be
5880 heard upon any and all issues. The status of the parties as to
5881 the support and maintenance of the person with mental illness
5882 shall not be altered in any way by the granting of the divorce.

5883 However, in the discretion of the chancery court, and in
5884 those cases as the court may deem it necessary and proper, before
5885 any such decree is granted on the ground of incurable mental
5886 illness, the complainant, when ordered by the court, shall enter
5887 into bond, to be approved by the court, in such an amount as the
5888 court may think just and proper, conditioned for the care and
5889 keeping of the person with mental illness during the remainder of
5890 his or her natural life, unless the person with mental illness has
5891 a sufficient estate in his or her own right for that purpose.

5892 **SECTION 80.** Section 97-9-25, Mississippi Code of 1972, is
5893 amended as follows:

5894 97-9-25. It shall be unlawful for any person, firm,
5895 copartnership, corporation or association to knowingly entice,
5896 harbor, employ, or aid, assist or abet in the escape, enticing,
5897 harboring or employment of any delinquent, person with mental
5898 illness, person with an intellectual disability or incorrigible
5899 person committed to, or confined in any institution maintained by
5900 the state for the treatment, education or welfare of delinquent
5901 persons, persons with mental illness, persons with an intellectual
5902 disability or incorrigible persons. Any person violating the
5903 provisions of this section, upon conviction, shall be punished by
5904 a fine of not less than Twenty-five Dollars (\$25.00) nor more than
5905 Five Hundred Dollars (\$500.00), or imprisonment in the county jail
5906 for not less than thirty (30) days, nor more than ninety (90)
5907 days, or both.

5908 **SECTION 81.** Section 99-13-1, Mississippi Code of 1972, is
5909 amended as follows:



5910 99-13-1. The term "person with an intellectual disability,"
5911 within the meaning of this chapter, shall have the same meaning as
5912 the term " * * * person with an intellectual disability" in
5913 Section 41-21-61.

5914 **SECTION 82.** Section 99-13-3, Mississippi Code of 1972, is
5915 amended as follows:

5916 99-13-3. When any prisoner or any person charged with a
5917 crime or delinquency is brought before any conservator of the
5918 peace, and in the course of the investigation it appears that the
5919 person was insane when the offense was committed and still is
5920 insane, or was a person with an intellectual disability to such an
5921 extent as not to be responsible for his or her act or omission at
5922 the time when the act or omission charged was made, he shall not
5923 be discharged, but the conservator of the peace shall remand the
5924 prisoner to custody and immediately report the case to the
5925 chancellor or clerk of the chancery court, whose duty it shall be
5926 to proceed with the case according to the law provided for persons
5927 with mental illness or persons with an intellectual disability.

5928 **SECTION 83.** Section 99-13-5, Mississippi Code of 1972, is
5929 amended as follows:

5930 99-13-5. When any person is held in prison or on bail,
5931 charged with an offense, and the grand jury does not find a true
5932 bill for reason of insanity of the accused or for reason that the
5933 accused has an intellectual disability, which they judge to be
5934 such that he or she was not responsible for his acts or omissions
5935 at the time when the act or omission charged was committed or
5936 made, the grand jury shall certify the fact to the circuit court
5937 and shall state whether or not the insane person or person with an
5938 intellectual disability is a danger to the security of persons and
5939 property and the peace and safety of the community, and if the
5940 grand jury reports that insanity or intellectual disability and
5941 that danger, the court shall immediately give notice of the case



5942 to the chancellor or to the clerk of the chancery court, whose
5943 duty it shall be to proceed with the insane person and his estate
5944 or the person with an intellectual disability according to the law
5945 provided in the case of persons with mental illness or persons
5946 with an intellectual disability.

5947 **SECTION 84.** Section 99-13-9, Mississippi Code of 1972, is
5948 amended as follows:

5949 99-13-9. When any person is indicted for an offense and
5950 acquitted on the ground of having an intellectual disability, the
5951 jury rendering the verdict shall state in the verdict that ground
5952 and whether the accused constitutes a danger to life or property
5953 and to the peace and safety of the community. If the jury
5954 certifies that the person with an intellectual disability is
5955 dangerous to the peace and safety of the community or to himself,
5956 the court shall immediately give notice of the case to the
5957 chancellor or the clerk of the chancery court, whose duty it shall
5958 be to proceed with the person according to the law provided in the
5959 case of persons with an intellectual disability, the person with
5960 an intellectual disability himself being remanded to custody to
5961 await the action of the chancery court.

5962 **SECTION 85.** This act shall take effect and be in force from
5963 and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO CREATE A NEW SECTION TO BE CODIFIED AS SECTION
2 1-3-24, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM "INTELLECTUAL
3 DISABILITY" WHEN USED IN ANY STATUTE; TO AMEND SECTIONS 1-3-57,
4 1-3-58, 11-5-49, 11-5-113, 25-3-25, 25-7-61, 35-5-31, 37-3-85,
5 37-16-11, 37-23-3, 37-23-61, 37-23-63, 37-23-91, 37-101-285,
6 37-143-13, 41-4-1, 41-4-5, 41-4-7, 41-4-8, 41-4-11, 41-4-23,
7 41-5-44, 41-7-173, 41-19-1, 41-19-7, 41-19-15, 41-19-17, 41-19-31,
8 41-19-33, 41-19-37, 41-19-38, 41-19-39, 41-19-41, 41-19-43,
9 41-19-91, 41-19-103, 41-19-116, 41-19-118, 41-19-141, 41-19-147,
10 41-19-155, 41-19-157, 41-19-201, 41-19-203, 41-19-205, 41-19-207,
11 41-19-211, 41-19-213, 41-19-231, 41-19-235, 41-19-237, 41-19-239,
12 41-19-243, 41-19-245, 41-19-301, 41-21-35, 41-21-61, 41-21-67,
13 41-21-69, 41-21-73, 41-21-77, 41-21-82, 41-21-83, 41-21-87,
14 41-21-103, 41-21-109, 41-39-7, 43-6-171, 43-13-105, 43-13-117,
15 43-17-5, 43-21-105, 43-27-25, 73-19-23, 83-41-205, 83-41-207,



16 93-1-5, 93-5-1, 97-9-25, 99-13-1, 99-13-3, 99-13-5 AND 99-13-9,
17 MISSISSIPPI CODE OF 1972, TO MODERNIZE THE TERMINOLOGY THAT IS
18 USED TO REFER TO PERSONS WITH MENTAL RETARDATION AND THE
19 COMMISSIONS AND FACILITIES THAT PROVIDE TREATMENT AND CARE TO
20 THOSE PERSONS, BY REFERRING TO THEM AS PERSONS WITH AN
21 INTELLECTUAL DISABILITY; TO FURTHER AMEND SECTION 43-13-117,
22 MISSISSIPPI CODE OF 1972, TO INCLUDE MEDICAL AND MENTAL HEALTH
23 TREATMENT, CARE AND SERVICES FOR CHILDREN WHO ARE IN THE CUSTODY
24 OF THE DEPARTMENT OF HUMAN SERVICES IN THOSE TYPES OF SERVICES
25 PROVIDED UNDER THE MEDICAID EPSDT PROGRAM FOR WHICH THE DEPARTMENT
26 MAY PROVIDE STATE MATCHING FUNDS TO THE DIVISION OF MEDICAID TO
27 OBTAIN FEDERAL MATCHING FUNDS THROUGH THE DIVISION; AND FOR
28 RELATED PURPOSES.

CONFEREES FOR THE SENATE

X (SIGNED)
Bryan

X (SIGNED)
King

X (SIGNED)
Yancey

CONFEREES FOR THE HOUSE

X (SIGNED)
Holland

(NOT SIGNED)
Scott

X (SIGNED)
Flaggs

