

By: Senator(s) Bryan

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2483

1 AN ACT TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE PRESCREENING PROCESS IN MENTAL COMMITMENT CASES; AND
3 FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 41-21-67, Mississippi Code of 1972, is
6 amended as follows:

7 41-21-67. (1) Whenever the affidavit provided for in
8 Section 41-21-65 is filed with the chancery clerk, the clerk, upon
9 direction of the chancellor of the court, shall issue a writ
10 directed to the sheriff of the proper county to take into * * *
11 custody the person alleged to be in need of treatment and to bring
12 the person before the clerk or chancellor, who shall order
13 pre-evaluation screening and treatment by the appropriate
14 community mental health center established under Section 41-19-31.
15 The community mental health center will be designated as the first
16 point of entry for screening and treatment. If the community
17 mental health center is unavailable, any reputable licensed
18 physician, psychologist, nurse practitioner or physician



19 assistant, as allowed in the discretion of the court, may conduct
20 the pre-evaluation screening and * * * examination as set forth in
21 Section 41-21-69. The order may provide where the person shall be
22 held * * * before the appearance before the clerk or chancellor.
23 However, when the affidavit fails to set forth factual allegations
24 and witnesses sufficient to support the need for treatment, the
25 chancellor shall refuse to direct issuance of the writ.
26 Reapplication may be made to the chancellor. If a pauper's
27 affidavit is filed by a guardian for commitment of the ward of the
28 guardian, the court shall determine if the ward is a pauper and if
29 the ward is determined to be a pauper, the county of the residence
30 of the respondent shall bear the costs of commitment, unless funds
31 for those purposes are made available by the state.

32 In any county in which a Crisis Intervention Team has been
33 established under the provisions of Sections 41-21-131 through
34 41-21-143, the clerk, upon the direction of the chancellor, may
35 require that the person be referred to the Crisis Intervention
36 Team for appropriate psychiatric or other medical services before
37 the issuance of the writ.

38 (2) Upon issuance of the writ, the chancellor shall
39 immediately appoint and summon two (2) reputable, licensed
40 physicians or one (1) reputable, licensed physician and either one
41 (1) psychologist, nurse practitioner or physician assistant to
42 conduct a physical and mental examination of the person at a place
43 to be designated by the clerk or chancellor and to report their



44 findings to the clerk or chancellor. However, any nurse
45 practitioner or physician assistant conducting the examination
46 shall be independent from, and not under the supervision of, the
47 other physician conducting the examination. In all counties in
48 which there is a county health officer, the county health officer,
49 if available, may be one (1) of the physicians so appointed.
50 Neither of the physicians nor the psychologist, nurse practitioner
51 or physician assistant selected shall be related to that person in
52 any way, nor have any direct or indirect interest in the estate of
53 that person nor shall any full-time staff of residential treatment
54 facilities operated directly by the State Department of Mental
55 Health serve as examiner.

56 (3) The clerk shall ascertain whether the respondent is
57 represented by an attorney, and if it is determined that the
58 respondent does not have an attorney, the clerk shall immediately
59 notify the chancellor of that fact. If the chancellor determines
60 that the respondent for any reason does not have the services of
61 an attorney, the chancellor shall immediately appoint an attorney
62 for the respondent at the time the examiners are appointed.

63 (4) If the chancellor determines that there is probable
64 cause to believe that the respondent is mentally ill and that
65 there is no reasonable alternative to detention, the chancellor
66 may order that the respondent be retained as an emergency patient
67 at any licensed medical facility for evaluation by a physician,
68 nurse practitioner or physician assistant and that a peace officer



69 transport the respondent to the specified facility. If the
70 community mental health center serving the county has partnered
71 with Crisis Intervention Teams under the provisions of Sections
72 41-21-131 through 41-21-143, the order may specify that the
73 licensed medical facility be a designated single point of entry
74 within the county or within an adjacent county served by the
75 community mental health center. If the person evaluating the
76 respondent finds that the respondent is mentally ill and in need
77 of treatment, the chancellor may order that the respondent be
78 retained at the licensed medical facility or any other available
79 suitable location as the court may so designate pending an
80 admission hearing. If necessary, the chancellor may order a peace
81 officer or other person to transport the respondent to that
82 facility or suitable location. Any respondent so retained may be
83 given such treatment as is indicated by standard medical practice.
84 However, the respondent shall not be held in a hospital operated
85 directly by the State Department of Mental Health, and shall not
86 be held in jail unless the court finds that there is no reasonable
87 alternative.

88 (5) Whenever a licensed psychologist, nurse practitioner or
89 physician assistant who is certified to complete examinations for
90 the purpose of commitment or a licensed physician has reason to
91 believe that a person poses an immediate substantial likelihood of
92 physical harm to himself or others or is gravely disabled and
93 unable to care for himself by virtue of mental illness, as defined



94 in Section 41-21-61(e), then the physician, psychologist, nurse
95 practitioner or physician assistant may hold the person or may
96 admit the person to and treat the person in a licensed medical
97 facility, without a civil order or warrant for a period not to
98 exceed seventy-two (72) hours. However, if the seventy-two-hour
99 period begins or ends when the chancery clerk's office is closed,
100 or within three (3) hours of closing, and the chancery clerk's
101 office will be continuously closed for a time that exceeds
102 seventy-two (72) hours, then the seventy-two-hour period is
103 extended until the end of the next business day that the chancery
104 clerk's office is open. The person may be held and treated as an
105 emergency patient at any licensed medical facility, available
106 regional mental health facility, or crisis intervention center.
107 The physician or psychologist, nurse practitioner or physician
108 assistant who holds the person shall certify in writing the
109 reasons for the need for holding.

110 If a person is being held and treated in a licensed medical
111 facility, and that person decides to continue treatment by
112 voluntarily signing consent for admission and treatment, the
113 seventy-two-hour hold may be discontinued without filing an
114 affidavit for commitment. Any respondent so held may be given
115 such treatment as indicated by standard medical practice. Persons
116 acting in good faith in connection with the detention of a person
117 believed to be mentally ill shall incur no liability, civil or
118 criminal, for those acts.



119 **SECTION 2.** This act shall take effect and be in force from
120 and after its passage.

