

By: Representative Bell (65th)

To: Public Health and Human Services

HOUSE BILL NO. 94

1 AN ACT TO AMEND SECTION 41-21-73, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE A REPRESENTATIVE FROM A MENTAL HEALTH TREATMENT
3 FACILITY TO BE PRESENT AT A HEARING TO ASSESS WHETHER A PERSON
4 SHOULD RECEIVE INPATIENT OR OUTPATIENT TREATMENT; TO AMEND SECTION
5 41-21-74, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT A RESPONDENT
6 CAN BE RETURNED TO ANY FACILITY WITHIN THE COUNTY OR OUTSIDE THE
7 COUNTY OF RESIDENCE OF THE RESPONDENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 41-21-73, Mississippi Code of 1972, is
10 amended as follows:

11 41-21-73. (1) The hearing shall be conducted before the
12 chancellor. However, the hearing may be held at the location
13 where the respondent is being held. Within a reasonable period of
14 time before the hearing, notice of same shall be provided the
15 respondent and his attorney, which shall include: (a) notice of
16 the date, time and place of the hearing; (b) a clear statement of
17 the purpose of the hearing; (c) the possible consequences or
18 outcome of the hearing; (d) the facts that have been alleged in
19 support of the need for commitment; (e) the names, addresses and



20 telephone numbers of the examiner(s); and (f) other witnesses
21 expected to testify.

22 (2) The respondent must be present at the hearing unless the
23 chancellor determines that the respondent is unable to attend and
24 makes that determination and the reasons therefor part of the
25 record. At the time of the hearing, the respondent shall not be
26 so under the influence or suffering from the effects of drugs,
27 medication or other treatment so as to be hampered in
28 participating in the proceedings. The court, at the time of the
29 hearing, shall be presented a record of all drugs, medication or
30 other treatment that the respondent has received pending the
31 hearing, unless the court determines that such a record would be
32 impractical and documents the reasons for that determination.

33 (3) The respondent shall have the right to offer evidence,
34 to be confronted with the witnesses against him and to
35 cross-examine them and shall have the privilege against
36 self-incrimination. The rules of evidence applicable in other
37 judicial proceedings in this state shall be followed. A
38 representative from a treatment facility shall be present at the
39 hearing to explain possible treatment options to the respondent.

40 (4) If the court finds by clear and convincing evidence that
41 the proposed patient is a person with mental illness or a person
42 with an intellectual disability and, if after careful
43 consideration of reasonable alternative dispositions, including,
44 but not limited to, dismissal of the proceedings, the court finds



45 that there is no suitable alternative to judicial commitment, the
46 court shall commit the patient for treatment in the least
47 restrictive treatment facility that can meet the patient's
48 treatment needs. Treatment before admission to a state-operated
49 facility shall be located as closely as possible to the patient's
50 county of residence and the county of residence shall be
51 responsible for that cost. Admissions to state-operated
52 facilities shall be in compliance with the catchment areas
53 established by the State Department of Mental Health. A
54 nonresident of the state may be committed for treatment or
55 confinement in the county where the person was found.

56 Alternatives to commitment to inpatient care may include, but
57 shall not be limited to: voluntary or court-ordered outpatient
58 commitment for treatment with specific reference to a treatment
59 regimen, day treatment in a hospital, night treatment in a
60 hospital, placement in the custody of a friend or relative, or the
61 provision of home health services.

62 For persons committed as having mental illness or having an
63 intellectual disability, the initial commitment shall not
64 exceed * * * six (6) months.

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

68 (6) The court shall state the findings of fact and
69 conclusions of law that constitute the basis for the order of



70 commitment. The findings shall include a listing of less
71 restrictive alternatives considered by the court and the reasons
72 that each was found not suitable.

73 (7) A stenographic transcription shall be recorded by a
74 stenographer or electronic recording device and retained by the
75 court.

76 (8) Notwithstanding any other provision of law to the
77 contrary, neither the State Board of Mental Health or its members,
78 nor the State Department of Mental Health or its related
79 facilities, nor any employee of the State Department of Mental
80 Health or its related facilities, unless related to the respondent
81 by blood or marriage, shall be assigned or adjudicated custody,
82 guardianship, or conservatorship of the respondent.

83 (9) The county where a person in need of treatment is found
84 is authorized to charge the county of the person's residence for
85 the costs incurred while the person is confined in the county
86 where such person was found.

87 **SECTION 2.** Section 41-21-74, Mississippi Code of 1972, is
88 amended as follows:

89 41-21-74. (1) If the commitment order directs outpatient
90 treatment, the outpatient treatment physician may prescribe or
91 administer to the respondent treatment consistent with accepted
92 medical standards.

93 (2) If the respondent fails or clearly refuses to comply
94 with outpatient treatment, the director of the treatment facility,



95 his designee or an interested person shall make all reasonable
96 efforts to solicit the respondent's compliance. These efforts
97 shall be documented and, if the respondent fails or clearly
98 refuses to comply with outpatient treatment after such efforts are
99 made, such efforts shall be documented with the court by
100 affidavit. Upon the filing of the affidavit, the sheriff of the
101 proper county is authorized to take the respondent into his
102 custody.

103 (3) The respondent may be returned to * * * any treatment
104 facility within the county or outside the county of residence of
105 the respondent as soon thereafter as facilities are available.
106 The respondent may request a hearing within ten (10) days of his
107 return to the treatment facility. Such hearing shall be held
108 pursuant to the requirements set forth in Section 41-21-81.

109 (4) The chancery court of the county where the public
110 facility is located or the committing court shall have
111 jurisdiction over matters concerning outpatient commitments when
112 such an order is sought subsequent to an inpatient course of
113 treatment pursuant to Sections 41-21-61 through 41-21-107,
114 43-21-611, 99-13-7 and 99-13-9. An outpatient shall not have or
115 be charged for a recommitment process within a period of twelve
116 (12) months of the initial outpatient order.

117 **SECTION 3.** This act shall take effect and be in force from
118 and after July 1, 2021.

