

By: Representative Calvert

To: Public Health and Human Services

HOUSE BILL NO. 558

1 AN ACT TO AMEND SECTIONS 41-30-19, 41-30-27 AND 41-32-5,  
2 MISSISSIPPI CODE OF 1972, TO REQUIRE A THIRTY-DAY MINIMUM FOR DRUG  
3 AND ALCOHOL TREATMENT; TO BRING FORWARD SECTION 41-31-5,  
4 MISSISSIPPI CODE OF 1972, WHICH REGULATES INVOLUNTARY COMMITMENT  
5 OF ALCOHOLICS, FOR PURPOSES OF AMENDMENT; AND FOR RELATED  
6 PURPOSES.

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

8 **SECTION 1.** Section 41-30-19, Mississippi Code of 1972, is  
9 amended as follows:

10 41-30-19. The judge of any court, before whom appears an  
11 individual charged with a second or subsequent offense of public  
12 intoxication, may, upon a plea of guilty or conviction suspend  
13 execution of sentence and require the offender to participate in  
14 and complete a prescribed course of alcohol abuse treatment and  
15 rehabilitation. The judge shall consult with the division to  
16 determine the course of treatment best suited to the needs of the  
17 convicted person. The convicted person while participating in the  
18 course of treatment shall not be considered committed, civilly or  
19 criminally, as otherwise provided by law for commitment to any  
20 institution; provided that no judge may require in-patient care



21 for a period of not less than thirty (30) days and not in excess  
22 of ninety (90) days. Upon completion of the course of treatment  
23 prescribed by the judge, the sentence shall not be executed. The  
24 convicted person, if financially able, shall be responsible for  
25 defraying any cost of the prescribed course of treatment.

26 **SECTION 2.** Section 41-30-27, Mississippi Code of 1972, is  
27 amended as follows:

28 41-30-27. (1) (a) A person may be admitted to an approved  
29 public or private treatment facility for emergency care and  
30 treatment upon a decree of the chancery court accepting an  
31 application for admission thereto accompanied by the certificate  
32 of two (2) licensed physicians. The application shall be to the  
33 chancery court of the county of such person's residence and may be  
34 made by any one (1) of the following: Either certifying  
35 physician, the patient's spouse or guardian, any relative of the  
36 patient, or any other person responsible for health, safety or  
37 welfare of all or part of the citizens within said chancery  
38 court's territorial jurisdiction. The application shall state  
39 facts to support the need for immediate commitment, including  
40 factual allegations showing that the person to be committed has  
41 threatened, attempted or actually inflicted physical harm upon  
42 himself or another. The physicians' certificates shall state that  
43 they examined the person within two (2) days of the certificate  
44 date and shall set out the facts to support the physicians'  
45 conclusion that the person is an alcoholic or drug addict who has



46 lost the power of self-control with respect to the use of  
47 alcoholic beverages or habit-forming drugs and that unless  
48 immediately committed he is likely to inflict physical harm upon  
49 himself or others. A hearing on such applications shall be heard  
50 by the chancery court in term time or in vacation, and the hearing  
51 shall be held in the presence of the person sought to be admitted  
52 unless he fail or refuse to attend. Notice of the hearing shall  
53 be given to the person sought to be admitted, as soon as  
54 practicable after the examination by the certifying physicians,  
55 and the person sought to be admitted shall have an opportunity to  
56 be represented by counsel, and shall be entitled to have  
57 compulsory process for the attendance of witnesses.

58 (b) For the purpose of this section, the term "drug  
59 addict" shall have the meaning ascribed to it by Section  
60 41-31-1(d).

61 (2) The chancery judge may refuse an application if in his  
62 opinion the application and certificate fail to sustain the  
63 grounds for commitment. Upon acceptance of the application after  
64 hearing thereon and decree sustaining the application by the  
65 judge, the person shall be transported to the facility by a peace  
66 officer, health officer, the applicant for commitment, the  
67 patient's spouse or the patient's guardian. The person shall be  
68 retained at the facility that admitted him, or be transferred to  
69 any other appropriate treatment resource, until discharged  
70 pursuant to subsection (3).



71           (3) The attending physician shall discharge any person  
72 committed not less than thirty (30) days after the date the person  
73 was committed pursuant to this section when he determines that the  
74 grounds for commitment no longer exist, but no person committed  
75 pursuant to this section shall be retained in any facility for  
76 more than five (5) days.

77           (4) The application filed pursuant to subsection (1) of this  
78 section shall also contain an affidavit for involuntary commitment  
79 pursuant to Title 41, Chapter 31, Mississippi Code of 1972. If  
80 the application for emergency involuntary commitment is accepted  
81 under subsection (2) of this section, the chancery judge shall  
82 order a hearing on the affidavit for commitment pursuant to Title  
83 41, Chapter 31, Mississippi Code of 1972, to be held on the fifth  
84 day of such involuntary emergency commitment, the provisions of  
85 Section 41-31-5 regarding the time of hearing to the contrary  
86 notwithstanding; provided, however, that at the time of such  
87 involuntary commitment the alleged alcoholic or drug addict shall  
88 be served with a citation to appear at said hearing and shall have  
89 an opportunity to be represented by counsel.

90           **SECTION 3.** Section 41-32-5, Mississippi Code of 1972, is  
91 amended as follows:

92           41-32-5. (1) The chancellor shall schedule with the affiant  
93 a time on a day certain for the hearing thereof, not less than  
94 five (5) days nor more than twenty (20) days from the filing of  
95 the affidavit. The case shall be triable upon three (3) days'



96 service of process and service of notice of the time for the  
97 hearing. At the time fixed, the chancellor shall hear the  
98 evidence in the presence of the defendant if he will appear, and  
99 without the presence of the defendant if he will not appear, and  
100 all persons interested shall have the right to appear and present  
101 evidence touching upon the truth and correctness of the  
102 allegations of the affidavit.

103 (2) The clerk must ascertain whether the respondent is  
104 represented by an attorney, and if it is determined that the  
105 respondent does not have an attorney, the clerk immediately must  
106 notify the chancellor of that fact. If the chancellor determines  
107 that the respondent for any reason does not have the services of  
108 an attorney, the chancellor must appoint an attorney for the  
109 respondent before a hearing on the affidavit.

110 (3) If the defendant admits the truth and correctness of the  
111 allegations of the affidavit, or if the chancellor shall find from  
112 the evidence that the defendant is an alcoholic or drug addict, or  
113 both, and is in need of detention, care and treatment in a private  
114 treatment facility, and that the other material allegations of the  
115 affidavit are true, then the chancellor shall enter a judgment so  
116 finding, and shall order that such person be committed to and  
117 confined in a chemical dependency unit, alcohol and drug unit,  
118 outpatient house or any other private treatment facility, within  
119 or outside the state, for the treatment of chemically dependent  
120 persons, as the chancellor, in his discretion, deems to be in the



121 best interest of the defendant. Any such order for the commitment  
122 of the defendant shall require that the defendant be committed for  
123 such period of time as the chancellor shall determine, in his  
124 discretion but not less than thirty (30) days, as is necessary to  
125 provide for the care and treatment of the defendant or for such  
126 other period of time as may be established by authorized personnel  
127 at the designated facility or facilities; however, in no event  
128 shall such period of confinement extend beyond a period of eight  
129 (8) months. The chancellor may require treatment at a combination  
130 of facilities or may designate commitment at an inpatient facility  
131 for not more than two (2) months and an outpatient facility for  
132 not more than six (6) months, subject to institutional earlier  
133 release.

134       **SECTION 4.** Section 41-31-5, Mississippi Code of 1972, is  
135 brought forward as follows:

136       41-31-5. (1) Whenever an affidavit is filed, the chancellor  
137 of said court shall, by order, fix a time upon a day certain for  
138 the hearing thereof, either in termtime or in vacation, which  
139 hearing shall be fixed not less than five (5) days nor more than  
140 twenty (20) days from the filing of the affidavit. The person  
141 alleged to be an alcoholic or drug addict shall be served with a  
142 citation to appear at said hearing not less than three (3) days  
143 prior to the day fixed for said hearing, and there shall be served  
144 with such citation a true and correct copy of the affidavit.



145           (2) The clerk must ascertain whether the respondent is  
146 represented by an attorney, and if it is determined that the  
147 respondent does not have an attorney, the clerk immediately must  
148 notify the chancellor of that fact. If the chancellor determines  
149 that the respondent for any reason does not have the services of  
150 an attorney, the chancellor shall appoint an attorney for the  
151 respondent before a hearing on the affidavit.

152           (3) At the time fixed, the chancellor shall hear evidence on  
153 the affidavit, with or without the presence of the alleged  
154 alcoholic or drug addict, and all persons interested shall have  
155 the right to appear and present evidence touching upon the truth  
156 and correctness of the allegations of the affidavit. The said  
157 chancellor, in his discretion, may require that the alleged  
158 alcoholic or drug addict be examined by the county health officer  
159 or by such other competent physician or physicians as the  
160 chancellor may select, and may consider the results of such  
161 examination in reaching a decision in said matter.

162           (4) If the alleged alcoholic or drug addict shall admit the  
163 truth and correctness of the allegations of the affidavit, or if  
164 the chancellor should find from the evidence that such person is  
165 an alcoholic or drug addict, and is in need of detention, care and  
166 treatment in an institution, and that the other material  
167 allegations of said petition are true, then he shall enter an  
168 order so finding, and shall order that such person be remanded and  
169 committed to and confined in the proper state institution under



170 this chapter or a private treatment facility under the provisions  
171 of Title 41, Chapter 32, Mississippi Code of 1972, or, in the case  
172 of an alcoholic to an approved public or private treatment  
173 facility pursuant to the provisions of Title 41, Chapter 30,  
174 Mississippi Code of 1972, for care and treatment for a period of  
175 not less than thirty (30) days nor more than ninety (90) days as  
176 the necessity of the case may, in his discretion, require.  
177 However, when such person shall be so committed, the medical  
178 director of the said institution shall be vested with full  
179 discretion as to the treatment and discharge of such person, and  
180 may discharge and release such person at any time when the  
181 condition of such person shall so justify.

182 (5) (a) If the chancellor determines under this section  
183 that the alleged alcoholic or drug addict is in need of care and  
184 treatment but also affirmatively finds that the alleged alcoholic  
185 or drug addict would benefit from the less restrictive option of  
186 an outpatient treatment program, the chancellor, in his discretion  
187 and upon agreement of both the affiant and the person in need of  
188 treatment, may order the alleged alcoholic or drug addict into an  
189 outpatient treatment program.

190 (b) If the order directs outpatient treatment, the  
191 outpatient treatment provider may prescribe or administer to the  
192 respondent treatment consistent with accepted alcohol and drug  
193 abuse treatment standards. If the respondent fails or clearly  
194 refuses to comply with outpatient treatment, the director of the





195 treatment program, his designee or an interested person must make  
196 all reasonable efforts to solicit the respondent's compliance.  
197 These efforts must be documented and, if the respondent fails or  
198 clearly refuses to comply with outpatient treatment after the  
199 efforts are made, the efforts must be documented with the court by  
200 affidavit. Upon the filing of the affidavit, the sheriff of the  
201 proper county may take the respondent into custody. The  
202 chancellor thereafter may order the respondent to inpatient  
203 treatment as soon as a treatment facility is available.

204 (c) The respondent may request a hearing within ten  
205 (10) days of commitment to inpatient treatment by filing a written  
206 request with the chancery clerk of the committing court, or the  
207 respondent may request such a hearing in writing to any member of  
208 the professional staff of the treatment facility, which must be  
209 forwarded to the director and promptly filed with the chancery  
210 clerk of the committing court. The respondent must be advised of  
211 the right to request such a hearing and of the right to consult a  
212 lawyer.

213 **SECTION 5.** This act shall take effect and be in force from  
214 and after July 1, 2022.

