

By: Representative Williams-Barnes

To: Public Health and Human Services; Judiciary A

HOUSE BILL NO. 1042

1 AN ACT TO CREATE NEW SECTION 9-27-10, MISSISSIPPI CODE OF  
 2 1972, TO PROVIDE THAT A PERSON BEFORE A CHANCERY COURT ALLEGED TO  
 3 BE IN NEED OF MENTAL HEALTH TREATMENT IS ELIGIBLE FOR  
 4 PARTICIPATION IN A MENTAL HEALTH COURT; TO AMEND SECTION 9-23-11,  
 5 MISSISSIPPI CODE OF 1972, TO CLARIFY THE ROLE OF CHANCERY COURTS  
 6 AS INTERVENTION COURTS; TO AMEND SECTIONS 9-27-3 AND 9-27-5,  
 7 MISSISSIPPI CODE OF 1972, WHICH REGULATE MENTAL HEALTH COURTS, TO  
 8 CONFORM TO THE PRECEDING SECTIONS; TO BRING FORWARD SECTION  
 9 9-27-11, MISSISSIPPI CODE OF 1972, WHICH REGULATES ALTERNATIVE  
 10 SENTENCING FOR MENTAL HEALTH COURTS, FOR PURPOSES OF AMENDMENT; TO  
 11 AMEND SECTIONS 41-21-63 AND 41-21-73, MISSISSIPPI CODE OF 1972, TO  
 12 AUTHORIZE PARTICIPATION IN MENTAL HEALTH COURTS; AND FOR RELATED  
 13 PURPOSES.

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

15 **SECTION 1.** The following shall be codified as Section  
 16 9-27-10, Mississippi Code of 1972:

17 9-27-10. Except as otherwise provided in Section 9-27-11 for  
 18 alternative sentencing, in order to be eligible for alternative  
 19 civil commitment through a local mental health court any person  
 20 before the chancery court who is alleged to be in need of  
 21 treatment under Section 41-21-67 or for any other reason within  
 22 the chancery court's jurisdiction and a mental health issue is  
 23 alleged, is eligible for participation in a local mental health



24 intervention court within the chancellor's discretion. All  
25 intervention services authorized by this act shall be available to  
26 such person.

27 **SECTION 2.** Section 9-23-11, Mississippi Code of 1972, is  
28 amended as follows:

29 9-23-11. (1) The Administrative Office of Courts shall  
30 establish, implement and operate a uniform certification process  
31 for all intervention courts and other problem-solving courts  
32 including juvenile courts, veterans courts, mental health  
33 courts, \* \* \* any \* \* \* court designed to adjudicate criminal  
34 actions involving an identified classification of criminal  
35 defendant, or any chancery court designed to assist a person who  
36 is alleged to be in need of treatment for mental health and to  
37 ensure funding for intervention courts \* \* \* and support effective  
38 and proven practices that reduce recidivism and substance  
39 dependency and improve management of treatment for mental health  
40 among their participants.

41 (2) The Administrative Office of Courts shall establish a  
42 certification process that ensures any new or existing  
43 intervention court meets minimum standards for intervention court  
44 operation.

45 (a) These standards shall include, but are not limited  
46 to:

47 (i) The use of evidence-based practices including,  
48 but not limited to, the use of a valid and reliable risk and needs



49 assessment tool to identify participants and deliver appropriate  
50 interventions;

51 (ii) Targeting medium to high-risk offenders for  
52 participation, except a chancery court shall target those in need  
53 of treatment for mental health issues;

54 (iii) The use of current, evidence-based  
55 interventions proven to reduce dependency on drugs or alcohol, or  
56 both;

57 (iv) Frequent testing for alcohol or drugs;

58 (v) Coordinated strategy between all intervention  
59 court program personnel involving the use of graduated clinical  
60 interventions;

61 (vi) Ongoing judicial interaction with each  
62 participant; \* \* \*

63 (vii) Monitoring and evaluation of intervention  
64 court program implementation and outcomes through data collection  
65 and reporting \* \* \*; and

66 (viii) Targeting those in need of treatment for  
67 mental health issues.

68 (b) Intervention court certification applications shall  
69 include:

70 (i) A description of the need for the intervention  
71 court;

72 (ii) The targeted population for the intervention  
73 court;



74 (iii) The eligibility criteria for intervention  
75 court participants;

76 (iv) A description of the process for identifying  
77 appropriate participants including the use of a risk and needs  
78 assessment and a clinical assessment;

79 (v) A description of the intervention court  
80 intervention components, including anticipated budget and  
81 implementation plan;

82 (vi) The data collection plan which shall include  
83 collecting the following data:

84 1. Total number of participants;

85 2. Total number of successful participants;

86 3. Total number of unsuccessful participants  
87 and the reason why each participant did not complete the program;

88 4. Total number of participants who were  
89 arrested for a new criminal offense while in the intervention  
90 court program;

91 5. Total number of participants who were  
92 convicted of a new felony or misdemeanor offense while in the  
93 intervention court program;

94 6. Total number of participants who committed  
95 at least one (1) violation while in the intervention court program  
96 and the resulting sanction(s);



97                   7. Results of the initial risk and needs  
98 assessment or other clinical assessment conducted on each  
99 participant; \* \* \*

100                   8. Total number of applications for screening  
101 by race, gender, offenses charged, indigence and, if not accepted,  
102 the reason for nonacceptance; and

103                   9. Any other data or information as required  
104 by the Administrative Office of Courts.

105                   (c) Every intervention court shall be certified under  
106 the following schedule:

107                   (i) An intervention court application submitted  
108 after July 1, 2014, shall require certification of the  
109 intervention court based on the proposed drug court plan.

110                   (ii) An intervention court initially established  
111 and certified after July 1, 2014, shall be recertified after its  
112 second year of funded operation on a time frame consistent with  
113 the other certified courts of its type.

114                   (iii) A certified adult felony intervention court  
115 in existence on December 31, 2018, must submit a recertification  
116 petition by July 1, 2019, and be recertified under the  
117 requirements of this section on or before December 31, 2019; after  
118 the recertification, all certified adult felony intervention  
119 courts must submit a recertification petition every two (2) years  
120 to the Administrative Office of Courts. The recertification



121 process must be completed by December 31 \* \* \* of every odd  
122 calendar year.

123 (iv) A certified youth, family, misdemeanor or  
124 chancery intervention court in existence on December 31, 2018,  
125 must submit a recertification petition by July 31, 2020, and be  
126 recertified under the requirements of this section by December 31,  
127 2020. After the recertification, all certified youth, family,  
128 misdemeanor and chancery intervention courts must submit a  
129 recertification petition every two (2) years to the Administrative  
130 Office of Courts. The recertification process must be completed  
131 by December 31 \* \* \* of every even calendar year.

132 (3) All certified intervention courts shall measure  
133 successful completion of the drug court based on those  
134 participants who complete the program without a new criminal  
135 conviction.

136 (4) (a) All certified drug courts must collect and submit  
137 to the Administrative Office of Courts each month, the following  
138 data:

139 (i) Total number of participants at the beginning  
140 of the month;

141 (ii) Total number of participants at the end of  
142 the month;

143 (iii) Total number of participants who began the  
144 program in the month;



145 (iv) Total number of participants who successfully  
146 completed the intervention court in the month;

147 (v) Total number of participants who left the  
148 program in the month;

149 (vi) Total number of participants who were  
150 arrested for a new criminal offense while in the intervention  
151 court program in the month;

152 (vii) Total number of participants who were  
153 convicted for a new criminal arrest while in the intervention  
154 court program in the month; and

155 (viii) Total number of participants who committed  
156 at least one (1) violation while in the intervention court program  
157 and any resulting sanction(s).

158 (b) By August 1, 2015, and each year thereafter, the  
159 Administrative Office of Courts shall report to the PEER Committee  
160 the information in subsection (4)(a) of this section in a  
161 sortable, electronic format.

162 (5) All certified intervention courts may individually  
163 establish rules and may make special orders and rules as necessary  
164 that do not conflict with the rules promulgated by the Supreme  
165 Court or the Administrative Office of Courts.

166 (6) A certified intervention court may appoint the full- or  
167 part-time employees it deems necessary for the work of the  
168 intervention court and shall fix the compensation of those



169 employees. Such employees shall serve at the will and pleasure of  
170 the judge or the judge's designee.

171 (7) The Administrative Office of Courts shall promulgate  
172 rules and regulations to carry out the certification and  
173 re-certification process and make any other policies not  
174 inconsistent with this section to carry out this process.

175 (8) A certified intervention court established under this  
176 chapter is subject to the regulatory powers of the Administrative  
177 Office of Courts as set forth in Section 9-23-17.

178 **SECTION 3.** Section 9-27-3, Mississippi Code of 1972, is  
179 amended as follows:

180 9-27-3. (1) The Legislature recognizes the critical need  
181 for judicial intervention to establish court processes and  
182 procedures that are more responsive to the needs of defendants  
183 with mental illnesses and the needs of any person before a  
184 chancery court who is alleged to be in need of treatment for  
185 mental illness, while maintaining public safety and the integrity  
186 of the court process.

187 (2) The goals of the mental health courts under this chapter  
188 include, but are not limited to, the following:

189 (a) Reduce the number of future criminal justice  
190 contacts among offenders with mental illnesses;

191 (b) Reduce the inappropriate institutionalization of  
192 people with mental illnesses;





- 193 (c) Improve the mental health and well-being of  
194 defendants who come in contact with the criminal justice system;
- 195 (d) Improve linkages between the criminal justice  
196 system and the mental health system;
- 197 (e) Expedite case processing;
- 198 (f) Protect public safety;
- 199 (g) Establish linkages with other state and local  
200 agencies and programs that target people with mental illnesses in  
201 order to maximize the delivery of services; \* \* \*
- 202 (h) To use corrections resources more effectively by  
203 redirecting prison-bound offenders whose criminal conduct is  
204 driven in part by mental illnesses to intensive supervision and  
205 clinical treatment available in the mental health court \* \* \*;
- 206 (i) Reduce the number of people with untreated or  
207 mismanaged mental health issues; and
- 208 (j) To give all courts more authority to manage  
209 citizens with mental health related issues.

210 **SECTION 4.** Section 9-27-5, Mississippi Code of 1972, is  
211 amended as follows:

212 9-27-5. For the purposes of this chapter, the following  
213 words and phrases shall have the meanings ascribed unless the  
214 context clearly requires otherwise:

- 215 (a) "Chemical tests" means the analysis of an  
216 individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v)



217 saliva, (vi) urine, or (vii) other bodily substance to determine  
218 the presence of alcohol or a controlled substance.

219 (b) "Mental health diversion program" means an  
220 immediate and highly structured intervention process for persons  
221 classified with mental illness by a chancery court or for mental  
222 health treatment of eligible defendants or juveniles that:

223 (i) Brings together mental health professionals,  
224 local social programs and intensive judicial monitoring; and

225 (ii) Follows the key components of the mental  
226 health court curriculum published by the Bureau of Justice of the  
227 United States Department of Justice.

228 (c) "Evidence-based practices" means supervision  
229 policies, procedures and practices that scientific research  
230 demonstrates reduce recidivism.

231 (d) "Risk and needs assessment" means the use of an  
232 actuarial assessment tool validated on a Mississippi corrections  
233 population to determine a person's risk to reoffend and the  
234 characteristics that, if addressed, reduce the risk to reoffend.

235 **SECTION 5.** Section 9-27-11, Mississippi Code of 1972, is  
236 brought forward as follows:

237 9-27-11. (1) In order to be eligible for alternative  
238 sentencing through a local mental health court, the participant  
239 must satisfy each of the following criteria:

240 (a) The participant cannot have any felony convictions  
241 for any offenses that are crimes of violence as defined in Section



242 97-3-2, other than burglary under Section 97-17-23(1), within the  
243 previous ten (10) years.

244 (b) The crime before the court cannot be a crime of  
245 violence as defined in Section 97-3-2, other than burglary under  
246 Section 97-17-23(1).

247 (c) Other criminal proceedings alleging commission of a  
248 crime of violence other than burglary under Section 97-17-23(1)  
249 cannot be pending against the participant.

250 (d) The crime before the court cannot be a charge of  
251 driving under the influence of alcohol or any other substance that  
252 resulted in the death of a person. In addition, persons who are  
253 ineligible for nonadjudication under Section 63-11-30 shall be  
254 ineligible to participate in a mental health court.

255 (e) The crime charged cannot be one of trafficking in  
256 controlled substances under Section 41-29-139(f), nor can the  
257 participant have a prior conviction for same.

258 (2) Participation in the services of a mental health  
259 treatment component shall be open only to the individuals over  
260 whom the court has jurisdiction, except that the court may agree  
261 to provide the services for individuals referred from another  
262 mental health court. In cases transferred from another  
263 jurisdiction, the receiving judge shall act as a special master  
264 and make recommendations to the sentencing judge.

265 (3) (a) As a condition of participation in a mental health  
266 court, a participant may be required to undergo a chemical test or



267 a series of chemical tests as specified by the program. A  
268 participant is liable for the costs of all chemical tests required  
269 under this section, regardless of whether the costs are paid to  
270 the mental health court or the laboratory; however, if testing is  
271 available from other sources or the program itself, the judge may  
272 waive any fees for testing. Fees may be waived if the applicant  
273 is determined to be indigent.

274 (b) A laboratory that performs a chemical test under  
275 this section shall report the results of the test to the mental  
276 health court.

277 (4) A person does not have a right to participate in a  
278 mental health court under this chapter. The court having  
279 jurisdiction over a person for a matter before the court shall  
280 have the final determination about whether the person may  
281 participate in the mental health court under this chapter.  
282 However, any person meeting the eligibility criteria in subsection  
283 (1) of this section, shall, upon request, be screened for  
284 admission into the court's program.

285 **SECTION 6.** Section 41-21-63, Mississippi Code of 1972, is  
286 amended as follows:

287 41-21-63. (1) No person, other than persons charged with  
288 crime, shall be committed to a public treatment facility except  
289 under the provisions of Sections 41-21-61 through 41-21-107 \* \* \*,  
290 43-21-611 \* \* \*, 43-21-315 or Section 1 of this act. However,  
291 nothing herein shall be construed to repeal, alter or otherwise



292 affect the provisions of Section 35-5-31 or to affect or prevent  
293 the commitment of persons to the Veterans Administration or other  
294 agency of the United States under the provisions of and in the  
295 manner specified in those sections.

296 (2) (a) The chancery court, or the chancellor in vacation,  
297 shall have jurisdiction under Sections 41-21-61 through 41-21-107  
298 except over persons with unresolved felony charges unless  
299 paragraph (b) of this subsection applies.

300 (b) If a circuit court with jurisdiction over  
301 unresolved felony charges enters an order concluding that the  
302 person is incompetent to stand trial and is not restorable to  
303 competency in the foreseeable future, the matter should be  
304 referred to the chancery court to be subject to civil commitment  
305 procedures under Sections 41-21-61 through 41-21-107. The order  
306 of the circuit court shall be in lieu of the affidavit for  
307 commitment provided for in Section 41-21-65. The chancery court  
308 shall have jurisdiction and shall proceed with civil commitment  
309 procedures under Sections 41-21-61 through 41-21-107.

310 (3) The circuit court shall have jurisdiction under Sections  
311 99-13-7, 99-13-9 and 99-13-11.

312 (4) Before the release of a person referred for civil  
313 commitment under this section and committed under Sections  
314 41-21-61 through 41-21-107, the Department of Mental Health must  
315 notify the district attorney of the county where the offense was  
316 committed. The district attorney must notify the crime victim or



317 a family member who has requested notification under Section  
318 99-43-35 and the sheriffs of both the county where the offense was  
319 committed and the county of the committed person's destination.

320 **SECTION 7.** Section 41-21-73, Mississippi Code of 1972, is  
321 amended as follows:

322 41-21-73. (1) The hearing shall be conducted before the  
323 chancellor. However, the hearing may be held at the location  
324 where the respondent is being held. Within a reasonable period of  
325 time before the hearing, notice of same shall be provided the  
326 respondent and his attorney, which shall include: (a) notice of  
327 the date, time and place of the hearing; (b) a clear statement of  
328 the purpose of the hearing; (c) the possible consequences or  
329 outcome of the hearing; (d) the facts that have been alleged in  
330 support of the need for commitment; (e) the names, addresses and  
331 telephone numbers of the examiner(s); and (f) other witnesses  
332 expected to testify.

333 (2) The respondent must be present at the hearing unless the  
334 chancellor determines that the respondent is unable to attend and  
335 makes that determination and the reasons therefor part of the  
336 record. At the time of the hearing, the respondent shall not be  
337 so under the influence or suffering from the effects of drugs,  
338 medication or other treatment so as to be hampered in  
339 participating in the proceedings. The court, at the time of the  
340 hearing, shall be presented a record of all drugs, medication or  
341 other treatment that the respondent has received pending the



342 hearing, unless the court determines that such a record would be  
343 impractical and documents the reasons for that determination.

344 (3) The respondent shall have the right to offer evidence,  
345 to be confronted with the witnesses against him and to  
346 cross-examine them and shall have the privilege against  
347 self-incrimination. The rules of evidence applicable in other  
348 judicial proceedings in this state shall be followed.

349 (4) If the court finds by clear and convincing evidence that  
350 the proposed patient is a person with mental illness or a person  
351 with an intellectual disability and, if after careful  
352 consideration of reasonable alternative dispositions, including,  
353 but not limited to, dismissal of the proceedings, the court finds  
354 that there is no suitable alternative to judicial commitment, the  
355 court shall commit the patient for treatment in the least  
356 restrictive treatment facility that can meet the patient's  
357 treatment needs. Treatment before admission to a state-operated  
358 facility shall be located as closely as possible to the patient's  
359 county of residence and the county of residence shall be  
360 responsible for that cost. Admissions to state-operated  
361 facilities shall be in compliance with the catchment areas  
362 established by the State Department of Mental Health. A  
363 nonresident of the state may be committed for treatment or  
364 confinement in the county where the person was found.

365 Alternatives to commitment to inpatient care may include, but  
366 shall not be limited to: voluntary or court-ordered outpatient



367 commitment for treatment with specific reference to a treatment  
368 regimen, participation in a mental health court, day treatment in  
369 a hospital, night treatment in a hospital, placement in the  
370 custody of a friend or relative, or the provision of home health  
371 services.

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

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

378 (6) The court shall state the findings of fact and  
379 conclusions of law that constitute the basis for the order of  
380 commitment. The findings shall include a listing of less  
381 restrictive alternatives considered by the court and the reasons  
382 that each was found not suitable.

383 (7) A stenographic transcription shall be recorded by a  
384 stenographer or electronic recording device and retained by the  
385 court.

386 (8) Notwithstanding any other provision of law to the  
387 contrary, neither the State Board of Mental Health or its members,  
388 nor the State Department of Mental Health or its related  
389 facilities, nor any employee of the State Department of Mental  
390 Health or its related facilities, unless related to the respondent





391 by blood or marriage, shall be assigned or adjudicated custody,  
392 guardianship, or conservatorship of the respondent.

393 (9) The county where a person in need of treatment is found  
394 is authorized to charge the county of the person's residence for  
395 the costs incurred while the person is confined in the county  
396 where such person was found.

397 **SECTION 8.** This act shall take effect and be in force from  
398 and after July 1, 2022.

