

By: Senator(s) McCaughn, Boyd, Suber, Tate

To: Judiciary, Division A

SENATE BILL NO. 2468

1 AN ACT TO AMEND SECTION 9-27-1, MISSISSIPPI CODE OF 1972, TO  
2 REVISE THE RIVERS MCGRAW MENTAL HEALTH DIVERSION PROGRAM TO ENACT  
3 THE RIVERS MCGRAW MENTAL HEALTH TREATMENT COURT ACT; TO AMEND  
4 SECTION 9-27-3, MISSISSIPPI CODE OF 1972, TO REVISE THE  
5 LEGISLATIVE STATEMENT OF INTENT; TO AMEND SECTION 9-27-5,  
6 MISSISSIPPI CODE OF 1972, TO DEFINE TERMS; TO AMEND SECTION  
7 9-27-7, MISSISSIPPI CODE OF 1972, TO REQUIRE THE ADMINISTRATIVE  
8 OFFICE OF COURTS TO ESTABLISH AND IMPLEMENT A UNIFORM  
9 CERTIFICATION PROCESS FOR ALL NEW OR EXISTING MENTAL HEALTH  
10 TREATMENT COURTS TO ENSURE THAT THESE COURTS MEET MINIMUM  
11 STANDARDS FOR MENTAL HEALTH TREATMENT COURT OPERATIONS; TO  
12 PROSCRIBE THE CONTENTS OF THE CERTIFICATIONS; TO ESTABLISH A  
13 TIERED CERTIFICATION PROCESS; TO REQUIRE THE ADMINISTRATIVE OFFICE  
14 OF COURTS TO PROMULGATE RULES; TO AMEND SECTION 9-27-11,  
15 MISSISSIPPI CODE OF 1972, TO SET ELIGIBILITY REQUIREMENTS FOR  
16 PARTICIPATION IN A MENTAL HEALTH TREATMENT COURT; TO AMEND SECTION  
17 9-27-15, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE REQUIREMENT OF  
18 A CHEMICAL OR DRUG TEST; TO CREATE NEW SECTION 9-27-16,  
19 MISSISSIPPI CODE OF 1972, TO PROSCRIBE THE DUTIES OF THE  
20 ADMINISTRATIVE OFFICE OF COURTS UNDER THIS ACT; TO AMEND SECTION  
21 9-27-19, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT EXPUNGEMENTS  
22 UNDER THIS ACT ARE NOT SUBJECT TO OTHER REQUIREMENTS PROVIDED BY  
23 LAW; TO PROVIDE THAT IF THE PARTICIPANT IS A RESPONDENT TO A CIVIL  
24 CASE AND SUCCESSFULLY COMPLETES ALL REQUIREMENTS UNDER THE ACT  
25 THAT THE PARTICIPANT'S PETITION FOR COMMITMENT SHALL BE DISMISSED;  
26 TO AMEND SECTIONS 9-27-9 AND 9-27-17 MISSISSIPPI CODE OF 1972, TO  
27 CONFORM; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** Section 9-27-1, Mississippi Code of 1972, is  
30 amended as follows:



31 9-27-1. This chapter shall be known and may be cited as the  
32 Rivers McGraw Mental Health \* \* \* Treatment Court Act.

33 **SECTION 2.** Section 9-27-3, Mississippi Code of 1972, is  
34 amended as follows:

35 9-27-3. (1) The Legislature recognizes the critical need  
36 for judicial intervention to establish court processes and  
37 procedures that are more responsive to the needs of \* \* \* those  
38 mentally ill individuals whose conduct places them under the  
39 jurisdiction of the courts, while maintaining public safety and  
40 the integrity of the court process. It is the intent of the  
41 Legislature to facilitate local mental health treatment court  
42 alternatives adaptable to chancery, circuit, county and youth  
43 courts.

44 (2) The goals of the mental health treatment courts under  
45 this chapter include the following:

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

48 (b) Reduce the \* \* \* institutionalization of people  
49 with mental illnesses;

50 (c) Improve the mental health and well-being of  
51 defendants who come in contact with the \* \* \* court system;

52 (d) Improve linkages between the \* \* \* court system and  
53 the mental health system;

54 (e) Expedite case processing;

55 (f) Protect public safety;



56 (g) Establish linkages \* \* \* between the court system  
57 and state and local agencies and programs that target people with  
58 mental illnesses in order to maximize the delivery of services;  
59 and

60 (h) To \* \* \* redirect prison-bound offenders and other  
61 individuals whose \* \* \* conduct is driven in part by mental  
62 illnesses to intensive supervision and clinical treatment  
63 available in the mental health treatment court.

64 **SECTION 3.** Section 9-27-5, Mississippi Code of 1972, is  
65 amended as follows:

66 9-27-5. For the purposes of this chapter, the following  
67 words and phrases shall have the meanings ascribed unless the  
68 context clearly requires otherwise:

69 \* \* \*

70 (a) "Certified mental health treatment provider" means  
71 an organization who will conduct screening and assessments on each  
72 participant. All treatment providers will make recommendations as  
73 to appropriate treatment services and support for individual  
74 participants of the mental health treatment courts. Treatment  
75 providers will work actively with the mental health treatment  
76 court to identify and implement alternatives to incarceration or  
77 commitment for participants and will work actively to identify,  
78 access, and assist funding sources for treatment services to  
79 individual participants. Certified mental health treatment  
80 providers must be certified by the Mississippi Department of



81 Mental Health or otherwise licensed to provide services in the  
82 State of Mississippi.

83 (b) "Clinical assessment" means the use of an actuarial  
84 assessment tool approved by the Administrative Office of Courts  
85 which evaluates a person's physical, medical, cognitive,  
86 psychological (personality, emotions, beliefs and attitudes), and  
87 behavioral history and current condition in order to determine the  
88 presence of any mental health disorder.

89 (c) "Crime of violence" means an offense listed in  
90 Section 9-27-15(1)(b).

91 (d) "Crisis intervention team" or "CIT" means the  
92 product of a partnership between local law enforcement officers  
93 and a variety of agencies, including Community Mental Health  
94 Centers, primary health providers and behavioral health  
95 professionals. Officers who have received crisis intervention  
96 training respond to individuals experiencing a mental health  
97 crisis and divert them to an appropriate setting to provide  
98 treatment, ensuring individuals are not arrested and taken to jail  
99 due to the symptoms of their illness.

100 (e) "Mental health disorder" means a syndrome  
101 characterized by a clinically significant disturbance in an  
102 individual's cognition, emotion regulation, or behavior that  
103 reflects a dysfunction in the psychological, biological, or  
104 developmental processes underlying mental functioning as defined



105 by the Diagnostic and Statistical Manual of Mental Disorders  
106 (DSM-5).

107 ( \* \* \* f) "Mental health \* \* \* treatment court"  
108 means \* \* \* a court program with a specialized docket for certain  
109 individuals with mental illnesses with an emphasis on linking  
110 individuals to effective treatment and support.

111 ( \* \* \* g) "Evidence-based \* \* \* program" and  
112 "research-based program" means a program that utilizes supervision  
113 policies, procedures and practices that scientific research  
114 demonstrates reduce recidivism.

115 ( \* \* \* h) "Risk and needs assessment" means the use of  
116 an actuarial assessment tool \* \* \* which determine a  
117 person's \* \* \* eligibility for admission into a mental health  
118 treatment court.

119 **SECTION 4.** Section 9-27-7, Mississippi Code of 1972, is  
120 amended as follows:

121 9-27-7. (1) The Administrative Office of Courts \* \* \* shall  
122 establish, implement and operate a uniform certification process  
123 for all new or existing mental health treatment courts to ensure  
124 that these courts meet minimum standards for mental health  
125 treatment court operations.

126 (a) These standards shall include, but are not limited  
127 to \* \* \* the Mississippi Mental Health Treatment Court Standards.

128 (b) \* \* \* Mental health treatment court certification  
129 applications shall include:



130                   (i) A description of the need for the mental  
131 health treatment court;

132                   (ii) The targeted population for the mental health  
133 treatment court;

134                   (iii) The eligibility criteria for mental health  
135 treatment court participants;

136                   (iv) A description of the process for identifying  
137 appropriate participants, which shall include the use of a risk  
138 and needs assessment and a clinical assessment and shall focus on  
139 accepting moderate to high-risk individuals;

140                   (v) A description of the mental health treatment  
141 court components, including anticipated budget, implementation  
142 plan, and a list of the evidence-based or research-based programs  
143 to which participants will be referred by the mental health  
144 treatment court;

145                   (vi) A data collection plan, which shall include  
146 collecting the data listed in subsection (2)(a) of this section.

147                   (c) Beginning July 1, 2022, all qualified courts (i)  
148 seeking to establish a mental health treatment court, or (ii)  
149 continue operating an existing mental health treatment court, must  
150 submit a mental health treatment court certification application  
151 to the Administrative Office of Courts prior to April 30 preceding  
152 the fiscal year in which the court intends to begin operations or  
153 continue operating. The Administrative Office of Courts must  
154 complete the certification process by December 31 of the calendar



155 year in which the application was received. The mental health  
156 treatment court's certification will expire on December 31 as  
157 detailed in paragraphs (d) and (e) of this subsection.

158 (d) All certified mental health treatment courts in  
159 existence on December 31, 2022, must submit a recertification  
160 petition to the Administrative Office of Courts by July 1 of every  
161 calendar year. The recertification process must be completed by  
162 December 31 of every calendar year.

163 (e) A certified mental health treatment court in  
164 existence on December 31, 2024, must submit a recertification  
165 petition to the Administrative Office of Courts by July 1, 2025,  
166 and July 1 of every third calendar year thereafter. The  
167 recertification process must be completed by December 31 of every  
168 third calendar year.

169 ( \* \* \*2) \* \* \* Each month, the mental health courts must  
170 collect and \* \* \* record the \* \* \* required data \* \* \* into the  
171 official intervention court case management system adopted by the  
172 Administrative Office of Courts as well as any other data or  
173 information as required by the Administrative Office of Courts.

174 ( \* \* \*3) A mental health \* \* \* treatment court judge may  
175 individually establish rules and may make special orders and rules  
176 as necessary that do not conflict with rules promulgated by the  
177 Supreme Court or the Administrative Office of Courts.

178 ( \* \* \*4) A mental health treatment court judge may appoint  
179 the full- or part-time employees it deems necessary for the work



180 of the mental health treatment court and shall fix the  
181 compensation of those employees, pursuant to the salary ranges  
182 promulgated by the Administrative Office of Courts, who shall  
183 serve at the will and pleasure of the \* \* \* mental health  
184 treatment court judge.

185 (5) The Administrative Office of Courts shall promulgate  
186 rules and regulations to carry out the certification and  
187 re-certification process and make any other policies not  
188 inconsistent with this section to carry out this process.

189 ( \* \* \* 6) \* \* \* All mental health \* \* \* treatment courts in  
190 the State of Mississippi shall operate subject to the approval and  
191 regulatory powers of the Administrative Office of Courts as set  
192 forth in Section \* \* \* 9-27-16.

193 **SECTION 5.** Section 9-27-9, Mississippi Code of 1972, is  
194 amended as follows:

195 9-27-9. (1) A mental health treatment court's \* \* \*  
196 treatment component shall provide for eligible individuals, either  
197 directly or through referrals, a range of necessary \* \* \*  
198 services, including, but not limited to, the following:

199 (a) Screening using a valid and reliable risk and needs  
200 assessment tool effective for identifying persons affected by  
201 mental health \* \* \* disorders for eligibility and appropriate  
202 services;

203 (b) Clinical assessment;

204 (c) Education;





205 (d) Referral;  
206 (e) Community service coordination and \* \* \* support;  
207 and  
208 (f) Counseling and rehabilitative care.

209 (2) Any inpatient treatment \* \* \* provider utilized by the  
210 mental health treatment court shall be certified by the Department  
211 of Mental Health, other appropriate state agency or the equivalent  
212 agency of another state.

213 **SECTION 6.** Section 9-27-11, Mississippi Code of 1972, is  
214 amended as follows:

215 9-27-11. (1) In order for a defendant accused of a crime to  
216 be eligible for \* \* \* participation in a \* \* \* mental health  
217 treatment court, the \* \* \* defendant must satisfy each of the  
218 following criteria:

219 (a) The \* \* \* defendant cannot have any felony  
220 convictions for any offenses that are crimes of violence as  
221 defined in \* \* \* paragraph (b) of this subsection within the  
222 previous ten (10) years.

223 (b) The crime before the court and other criminal  
224 proceedings cannot be a crime of violence as \* \* \* follows:

225 (i) Driving under the influence as provided in  
226 Section 63-11-30(5) (a) and (12) (d);

227 (ii) Murder and attempted murder as provided in  
228 Sections 97-1-7(2), 97-3-19, 97-3-23 and 97-3-25;



229                    (iii) Aggravated assault as provided in Section  
230 97-3-7(2)(a) and (b) and (4)(a);

231                    (iv) Manslaughter as provided in Sections 97-3-27,  
232 97-3-29, 97-3-31, 97-3-33, 97-3-35, 97-3-39, 97-3-41, 97-3-43,  
233 97-3-45 and 97-3-47;

234                    (v) Killing of an unborn child as provided in  
235 Section 97-3-37(2)(a)(b);

236                    (vi) Kidnapping as provided in Section 97-3-53;

237                    (vii) Human trafficking as provided in Section  
238 97-3-54.1;

239                    (viii) Poisoning as provided in Section 97-3-61;

240                    (ix) Rape as provided in Sections 97-3-65 and  
241 97-3-71;

242                    (x) Robbery as provided in Sections 97-3-73 and  
243 97-3-79;

244                    (xi) Sexual battery as provided in Section  
245 97-3-95;

246                    (xii) Drive-by shooting or bombing as provided in  
247 Section 97-3-109;

248                    (xiii) Carjacking as provided in Section 97-3-117;

249                    (xiv) Felonious neglect, abuse or battery of a  
250 child as provided in Section 97-5-39;

251                    (xv) Burglary of a dwelling as provided in  
252 Sections 97-17-23(2) and 97-17-37;



253                   (xvi) Use of explosives or weapons of mass  
254 destruction as provided in Section 97-37-25;

255                   (xvii) Statutory rape as provided in Section  
256 97-3-65(1), but this classification is rebuttable on hearing by a  
257 judge;

258                   (xviii) Gratification of lust as provided in  
259 Section 97-5-23; and

260                   (xix) Shooting into a dwelling as provided in  
261 Section 97-37-29.

262                   ( \* \* \*c) The crime charged cannot be one of  
263 trafficking in controlled substances under Section 41-29-139(f),  
264 nor can the participant have a prior conviction for same.

265                   (2) In order for a respondent to a civil case to be eligible  
266 for participation in a mental health treatment court, the  
267 individual must satisfy each of the following criteria:

268                   (a) The individual cannot have any felony convictions  
269 for any offenses that are crimes of violence as defined in  
270 subsection (1)(b) of this section within the previous ten (10)  
271 years.

272                   (b) The individual cannot have any pending criminal  
273 proceedings for a crime of violence as defined in subsection  
274 (1)(b) of this section.

275                   (c) The individual cannot have any pending criminal  
276 proceedings for trafficking in controlled substances under Section



277 41-29-139(f), nor can the individual have a prior conviction for  
278 same.

279 (3) Any person meeting the eligibility criteria in  
280 subsections (1) and (2) of this section, shall, upon referral, be  
281 screened for admission into the mental health treatment court.

282 ( \* \* \*4) Participation in the services of a mental health  
283 treatment \* \* \* court shall be open \* \* \* to \* \* \* individuals  
284 over whom the court has jurisdiction \* \* \*. The court may agree  
285 to provide the services for individuals referred from another  
286 mental health treatment court, drug intervention court or veterans  
287 treatment court. In cases transferred from another jurisdiction,  
288 the receiving judge shall act as a special master and make  
289 recommendations to the \* \* \* original intervention or treatment  
290 court judge.

291 \* \* \*

292 ( \* \* \*5) A person does not have a right to participate in a  
293 mental health treatment court under this chapter. The court  
294 having jurisdiction over a person for a matter before the court  
295 shall:

296 (a) Allow the person to choose whether to participate  
297 in the mental health treatment court or proceed otherwise through  
298 the court system; and

299 (b) Have the final determination about whether the  
300 person may participate in the mental health treatment court under  
301 this chapter. \* \* \*



302           **SECTION 7.** Section 9-27-15, Mississippi Code of 1972, is  
303 amended as follows:

304           9-27-15. (1) All monies received from any source by a  
305 mental health treatment court shall be accumulated in a local fund  
306 to be used only for mental health treatment court purposes. Any  
307 funds remaining in a local fund at the end of a fiscal year shall  
308 not lapse into any general fund, but shall be retained in the  
309 mental health treatment court fund for the funding of further  
310 activities by the mental health treatment court.

311           (2) A mental health treatment court may apply for and  
312 receive the following:

313                   (a) Gifts, bequests and donations from private sources.

314                   (b) Grant and contract monies from governmental  
315 sources.

316                   (c) Other forms of financial assistance approved by the  
317 court to supplement the budget of the mental health \* \* \*  
318 treatment court.

319           (3) The costs of \* \* \* mental health treatment \* \* \*  
320 required by the mental health treatment court may be paid by the  
321 participant or out of user fees or such other state, federal or  
322 private funds that may, from time to time, be made available.

323           (4) (a) As a condition of participation in a mental health  
324 treatment court, a participant may be required to undergo a  
325 chemical or drug test or a series of chemical or drug tests as  
326 specified by the program. A participant is liable for the costs



327 of all chemical tests required under this section, regardless of  
328 whether the costs are paid to the mental health treatment court or  
329 the laboratory; however, if testing is available from other  
330 sources or the program itself, the judge may waive any fees for  
331 testing. Fees shall also be waived if the applicant is determined  
332 to be indigent.

333 (b) A laboratory that performs a chemical test under  
334 this section shall report the results of the test to the mental  
335 health treatment court.

336 ( \* \* \*5) The court may assess reasonable and appropriate  
337 fees to be paid to the local mental health treatment court fund  
338 for participation in a mental health treatment program \* \* \*.  
339 Additionally, all fees may be waived by the court if the \* \* \*  
340 participant is determined to be indigent.

341 **SECTION 8.** The following shall be codified as Section  
342 9-27-16, Mississippi Code of 1972:

343 9-27-16. With regard to any mental health treatment court,  
344 the Administrative Office of Courts shall do the following:

345 (a) Certify and recertify mental health treatment court  
346 applications that comply with standards established by the  
347 Administrative Office of Courts in accordance with this chapter.

348 (b) Ensure that the structure of the mental health  
349 treatment court complies with the Mental Health Treatment Court  
350 Rules, state statutes or applicable federal rules or regulations.



351 (c) Revoke the certification of a mental health  
352 treatment court upon a determination that the program does not  
353 comply with the Mental Health Treatment Court Rules, state  
354 statutes or applicable federal rules or regulations.

355 (d) Make agreements and contracts to effectuate the  
356 purposes of this chapter with:

357 (i) Another department, authority or agency of the  
358 state;

359 (ii) Another state;

360 (iii) The federal government;

361 (iv) A state-supported or private university; or

362 (v) A public or private agency, foundation,  
363 corporation or individual.

364 (e) Directly, or by contract, approve and certify any  
365 mental health treatment court established under this chapter.

366 (f) Require, as a condition of operation, that all  
367 mental health treatment courts created or funded under this  
368 chapter be certified by the Administrative Office of Courts.

369 (g) Collect monthly data from all certified mental  
370 health treatment courts, compile an annual report summarizing the  
371 data collected and the outcomes achieved by all certified mental  
372 health treatment courts.

373 (h) Every five (5) years, subject to available funding,  
374 contract with an external evaluator to conduct an evaluation of



375 the effectiveness of the statewide mental health treatment court  
376 program and individual mental health treatment courts.

377 (i) Adopt rules to implement this chapter.

378 **SECTION 9.** Section 9-27-17, Mississippi Code of 1972, is  
379 amended as follows:

380 9-27-17. The \* \* \* mental health treatment court coordinator  
381 and members of the professional and administrative staff of the  
382 mental health treatment court who perform duties in good faith  
383 under this chapter are immune from civil liability for:

384 (a) Acts or omissions in providing services under this  
385 chapter; and

386 (b) The reasonable exercise of discretion in  
387 determining eligibility to participate in the mental health  
388 treatment court.

389 **SECTION 10.** Section 9-27-19, Mississippi Code of 1972, is  
390 amended as follows:

391 9-27-19. (1) If the participant completes all requirements  
392 imposed \* \* \* by the order placing the participant in the mental  
393 health treatment court, the charge and prosecution shall be  
394 dismissed. If the \* \* \* participant was sentenced at the time of  
395 entry of a plea of guilty, the successful completion of the mental  
396 health treatment court order and other requirements of probation  
397 or suspension of sentence will result in the record of the  
398 criminal conviction or adjudication being expunged by the court.





399       (2) Expungements performed under subsection (1) of this  
400 section are not subject to the requirements and limitations set  
401 forth by any other statute authorizing expungements.

402       (3) If the participant is a respondent to a civil case and  
403 completes all requirements imposed by the order placing the  
404 participant in the mental health treatment court, the  
405 participant's petition for commitment shall be dismissed.

406       **SECTION 11.** This act shall take effect and be in force from  
407 and after July 1, 2022.

