

By: Senator(s) Thompson, DeLano

To: Judiciary, Division A;
County Affairs

SENATE BILL NO. 2623
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972,
2 TO LIMIT THE FINANCIAL RESPONSIBILITY OF THE BOARD OF SUPERVISORS
3 FOR PAYMENT OF TREATMENT COSTS NEEDED BY CERTAIN MENTALLY ILL
4 COUNTY RESIDENTS UNDER ORDER OF COMMITMENT WHO ARE INDIGENT TO A
5 NEGOTIATED DISCOUNTED FEE OR, IN THE ABSENCE OF A NEGOTIATED FEE
6 SCHEDULE, TO THE MEDICAID REIMBURSEMENT RATE; TO AMEND SECTION
7 41-21-73, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED
8 PURPOSES.

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

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

12 41-21-67. (1) Whenever the affidavit provided for in
13 Section 41-21-65 is filed with the chancery clerk, the clerk, upon
14 direction of the chancellor of the court, shall issue a writ
15 directed to the sheriff of the proper county to take into custody
16 the person alleged to be in need of treatment and to take the
17 person for pre-evaluation screening and treatment by the
18 appropriate community mental health center established under
19 Section 41-19-31. The community mental health center will be
20 designated as the first point of entry for pre-evaluation
21 screening and treatment. If the community mental health center is



22 unavailable, any reputable licensed physician, psychologist, nurse
23 practitioner or physician assistant, as allowed in the discretion
24 of the court, may conduct the pre-evaluation screening and
25 examination as set forth in Section 41-21-69. The order may
26 provide where the person shall be held before being taken for
27 pre-evaluation screening and treatment. However, when the
28 affidavit fails to set forth factual allegations and witnesses
29 sufficient to support the need for treatment, the chancellor shall
30 refuse to direct issuance of the writ. Reapplication may be made
31 to the chancellor. If a pauper's affidavit is filed by an affiant
32 who is a guardian or conservator of a person in need of treatment,
33 the court shall determine if either the affiant or the person in
34 need of treatment is a pauper and if * * * the affiant or the
35 person in need of treatment is determined to be a pauper, the
36 county of the residence of the respondent shall bear the costs of
37 the commitment proceedings in court, unless funds for those
38 purposes are made available by the state.

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

45 (2) Upon issuance of the writ, the chancellor shall
46 immediately appoint and summon two (2) reputable, licensed



47 physicians or one (1) reputable, licensed physician and either one
48 (1) psychologist, nurse practitioner or physician assistant to
49 conduct a physical and mental examination of the person at a place
50 to be designated by the clerk or chancellor and to report their
51 findings to the clerk or chancellor. However, any nurse
52 practitioner or physician assistant conducting the examination
53 shall be independent from, and not under the supervision of, the
54 other physician conducting the examination. A nurse practitioner
55 or psychiatric nurse practitioner conducting an examination under
56 this chapter must be functioning within a collaborative or
57 consultative relationship with a physician as required under
58 Section 73-15-20(3). In all counties in which there is a county
59 health officer, the county health officer, if available, may be
60 one (1) of the physicians so appointed. If a licensed physician
61 is not available to conduct the physical and mental examination
62 within forty-eight (48) hours of the issuance of the writ, the
63 court, in its discretion and upon good cause shown, may permit the
64 examination to be conducted by the following: (a) two (2) nurse
65 practitioners, one (1) of whom must be a psychiatric nurse
66 practitioner; or (b) one (1) psychiatric nurse practitioner and
67 one (1) psychologist or physician assistant. Neither of the
68 physicians nor the psychologist, nurse practitioner or physician
69 assistant selected shall be related to that person in any way, nor
70 have any direct or indirect interest in the estate of that person
71 nor shall any full-time staff of residential treatment facilities



72 operated directly by the State Department of Mental Health serve
73 as examiner.

74 (3) The clerk shall ascertain whether the respondent is
75 represented by an attorney, and if it is determined that the
76 respondent does not have an attorney, the clerk shall immediately
77 notify the chancellor of that fact. If the chancellor determines
78 that the respondent for any reason does not have the services of
79 an attorney, the chancellor shall immediately appoint an attorney
80 for the respondent at the time the examiners are appointed.

81 (4) (a) If the chancellor determines that there is probable
82 cause to believe that the respondent is mentally ill and that
83 there is no reasonable alternative to detention, the chancellor
84 may order that the respondent be retained as an emergency patient
85 at any licensed medical facility for evaluation by a physician,
86 nurse practitioner or physician assistant and that a peace officer
87 transport the respondent to the specified facility. If the
88 community mental health center serving the county has partnered
89 with Crisis Intervention Teams under the provisions of Sections
90 41-21-131 through 41-21-143, the order may specify that the
91 licensed medical facility be a designated single point of entry
92 within the county or within an adjacent county served by the
93 community mental health center. If the person evaluating the
94 respondent finds that the respondent is mentally ill and in need
95 of treatment, the chancellor may order that the respondent be
96 retained at the licensed medical facility or any other available



97 suitable location as the court may so designate pending an
98 admission hearing. If necessary, the chancellor may order a peace
99 officer or other person to transport the respondent to that
100 facility or suitable location. Any respondent so retained may be
101 given such treatment as is indicated by standard medical practice.
102 However, the respondent shall not be held in a hospital operated
103 directly by the State Department of Mental Health, and shall not
104 be held in jail unless the court finds that there is no reasonable
105 alternative.

106 (b) For indigent patients with no payor source, the
107 county of residence of the respondent may bear the costs of
108 treatment or placement by paying a negotiated fee as agreed to by
109 the medical care service providers. In the absence of a
110 negotiated discounted fee schedule, medical care service providers
111 will be paid by the county of residence an amount no greater than
112 the reimbursement rate applicable based on the Mississippi
113 Medicaid reimbursement rate, and the county will not be liable for
114 any cost associated with medical attention or placement for a
115 respondent that exceeds the Mississippi Medicaid reimbursement
116 rate for all medical care services, durable and nondurable goods,
117 prescription drugs and medications required for the respondent.

118 (5) (a) Whenever a licensed psychologist, nurse
119 practitioner or physician assistant who is certified to complete
120 examinations for the purpose of commitment or a licensed physician
121 has reason to believe that a person poses an immediate substantial



122 likelihood of physical harm to himself or others or is gravely
123 disabled and unable to care for himself by virtue of mental
124 illness, as defined in Section 41-21-61(e), then the physician,
125 psychologist, nurse practitioner or physician assistant may hold
126 the person or may admit the person to and treat the person in a
127 licensed medical facility, without a civil order or warrant for a
128 period not to exceed seventy-two (72) hours. However, if the
129 seventy-two-hour period begins or ends when the chancery clerk's
130 office is closed, or within three (3) hours of closing, and the
131 chancery clerk's office will be continuously closed for a time
132 that exceeds seventy-two (72) hours, then the seventy-two-hour
133 period is extended until the end of the next business day that the
134 chancery clerk's office is open. The person may be held and
135 treated as an emergency patient at any licensed medical facility,
136 available regional mental health facility, or crisis intervention
137 center. The physician or psychologist, nurse practitioner or
138 physician assistant who holds the person shall certify in writing
139 the reasons for the need for holding.

140 If a person is being held and treated in a licensed medical
141 facility, and that person decides to continue treatment by
142 voluntarily signing consent for admission and treatment, the
143 seventy-two-hour hold may be discontinued without filing an
144 affidavit for commitment. Any respondent so held may be given
145 such treatment as indicated by standard medical practice. Persons
146 acting in good faith in connection with the detention and



147 reporting of a person believed to be mentally ill shall incur no
148 liability, civil or criminal, for those acts.

149 (b) Whenever an individual is held for purposes of
150 receiving treatment as prescribed under paragraph (a) of this
151 subsection, and it is communicated to the mental health
152 professional holding the individual that the individual resides or
153 has visitation rights with a minor child, and if the individual is
154 considered to be a danger to the minor child, the mental health
155 professional shall notify the Department of Child Protection
156 Services prior to discharge if the threat of harm continues to
157 exist, as is required under Section 43-21-353.

158 This paragraph (b) shall be known and may be cited as the
159 "Andrew Lloyd Law."

160 **SECTION 2.** Section 41-21-73, Mississippi Code of 1972, is
161 amended as follows:

162 41-21-73. (1) The hearing shall be conducted before the
163 chancellor. However, the hearing may be held at the location
164 where the respondent is being held. Within a reasonable period of
165 time before the hearing, notice of same shall be provided the
166 respondent and his attorney, which shall include: (a) notice of
167 the date, time and place of the hearing; (b) a clear statement of
168 the purpose of the hearing; (c) the possible consequences or
169 outcome of the hearing; (d) the facts that have been alleged in
170 support of the need for commitment; (e) the names, addresses and



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

173 (2) The respondent must be present at the hearing unless the
174 chancellor determines that the respondent is unable to attend and
175 makes that determination and the reasons therefor part of the
176 record. At the time of the hearing, the respondent shall not be
177 so under the influence or suffering from the effects of drugs,
178 medication or other treatment so as to be hampered in
179 participating in the proceedings. The court, at the time of the
180 hearing, shall be presented a record of all drugs, medication or
181 other treatment that the respondent has received pending the
182 hearing, unless the court determines that such a record would be
183 impractical and documents the reasons for that determination.

184 (3) The respondent shall have the right to offer evidence,
185 to be confronted with the witnesses against him and to
186 cross-examine them and shall have the privilege against
187 self-incrimination. The rules of evidence applicable in other
188 judicial proceedings in this state shall be followed.

189 (4) If the court finds by clear and convincing evidence that
190 the proposed patient is a person with mental illness or a person
191 with an intellectual disability and, if after careful
192 consideration of reasonable alternative dispositions, including,
193 but not limited to, dismissal of the proceedings, the court finds
194 that there is no suitable alternative to judicial commitment, the
195 court shall commit the patient for treatment in the least



196 restrictive treatment facility that can meet the patient's
197 treatment needs. Treatment before admission to a state-operated
198 facility shall be located as closely as possible to the patient's
199 county of residence and the county of residence shall be
200 responsible for that cost. Admissions to state-operated
201 facilities shall be in compliance with the catchment areas
202 established by the State Department of Mental Health. A
203 nonresident of the state may be committed for treatment or
204 confinement in the county where the person was found.

205 Alternatives to commitment to inpatient care may include, but
206 shall not be limited to: voluntary or court-ordered outpatient
207 commitment for treatment with specific reference to a treatment
208 regimen, day treatment in a hospital, night treatment in a
209 hospital, placement in the custody of a friend or relative, or the
210 provision of home health services.

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

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

217 (6) The court shall state the findings of fact and
218 conclusions of law that constitute the basis for the order of
219 commitment. The findings shall include a listing of less



220 restrictive alternatives considered by the court and the reasons
221 that each was found not suitable.

222 (7) A stenographic transcription shall be recorded by a
223 stenographer or electronic recording device and retained by the
224 court.

225 (8) Notwithstanding any other provision of law to the
226 contrary, neither the State Board of Mental Health or its members,
227 nor the State Department of Mental Health or its related
228 facilities, nor any employee of the State Department of Mental
229 Health or its related facilities, unless related to the respondent
230 by blood or marriage, shall be assigned or adjudicated custody,
231 guardianship, or conservatorship of the respondent.

232 (9) The county where a person in need of treatment is found
233 is authorized to charge the county of the person's residence for
234 the costs incurred while the person is confined in the county
235 where such person was found subject to the provisions of Section
236 41-21-67 for medical treatment.

237 **SECTION 3.** This act shall take effect and be in force from
238 and after July 1, 2022.

