

By: Senator(s) Wiggins

To: Judiciary, Division A

SENATE BILL NO. 2855

1 AN ACT TO AMEND SECTION 9-23-9, MISSISSIPPI CODE OF 1972, TO
 2 REQUIRE THE STATE INTERVENTION COURTS ADVISORY COMMITTEE TO
 3 PROMULGATE RULES AND REGULATIONS THAT ALLOW THE ADMINISTRATIVE
 4 OFFICE OF COURTS TO PROVIDE ADDITIONAL FUNDING TO INTERVENTION
 5 COURTS BASED ON THE FINANCIAL NEEDS OF THE COURT; TO AMEND SECTION
 6 9-23-11, MISSISSIPPI CODE OF 1972, TO REVISE THE MINIMUM
 7 CERTIFICATION STANDARDS FOR OPERATION OF AN INTERVENTION COURT OR
 8 PROBLEM SOLVING COURT BY REQUIRING THE PROVISION OF MENTAL HEALTH
 9 SERVICES; TO AMEND SECTION 41-113-1, MISSISSIPPI CODE OF 1972, TO
 10 INCLUDE DRUG ABUSE IN THE LEGISLATIVE INTENT FOR THE TOBACCO
 11 EDUCATION, PREVENTION AND CESSATION PROGRAM; TO AMEND SECTION
 12 41-113-3, MISSISSIPPI CODE OF 1972, TO REVISE THE DUTIES OF THE
 13 OFFICE OF TOBACCO CONTROL BY ADDING FENTANYL AND DRUG ABUSE
 14 PREVENTION EDUCATION; TO AMEND SECTION 41-113-5, MISSISSIPPI CODE
 15 OF 1972, TO REVISE THE DUTIES OF THE DIRECTOR OF THE OFFICE OF
 16 TOBACCO CONTROL TO INCLUDE IMPLEMENTATION OF A FENTANYL DRUG ABUSE
 17 EDUCATION, PREVENTION AND CESSATION PROGRAM; TO AMEND SECTION
 18 41-113-7, MISSISSIPPI CODE OF 1972, TO REVISE THE DUTIES OF THE
 19 OFFICE OF TOBACCO CONTROL BY ADDING FENTANYL AND DRUG ABUSE
 20 PREVENTION EDUCATION; TO AMEND SECTION 41-114-1, MISSISSIPPI CODE
 21 OF 1972, TO INCLUDE VAPORIZING DEVICES IN THE DEFINITION OF
 22 "SMOKE" OR "SMOKING" FOR THE PROVISIONS OF LAW THAT RESTRICT
 23 TOBACCO USE IN PUBLIC FACILITIES; AND FOR RELATED PURPOSES.

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

25 **SECTION 1.** Section 9-23-9, Mississippi Code of 1972, is
 26 amended as follows:

27 9-23-9. (1) The State Intervention Courts Advisory
 28 Committee is established to develop and periodically update



29 proposed statewide evaluation plans and models for monitoring all
30 critical aspects of intervention courts. The committee must
31 provide the proposed evaluation plans to the Chief Justice and the
32 Administrative Office of Courts. The committee shall be chaired
33 by the Director of the Administrative Office of Courts or a
34 designee of the director and shall consist of eleven (11) members
35 all of whom shall be appointed by the Supreme Court. The members
36 shall be broadly representative of the courts, mental health,
37 veterans affairs, law enforcement, corrections, criminal defense
38 bar, prosecutors association, juvenile justice, child protective
39 services, fentanyl and drug abuse prevention and treatment and
40 substance abuse treatment communities.

41 (2) The State Intervention Courts Advisory Committee may
42 also make recommendations to the Chief Justice, the Director of
43 the Administrative Office of Courts and state officials concerning
44 improvements to intervention court policies and procedures
45 including the intervention court certification process. The
46 committee may make suggestions as to the criteria for eligibility,
47 and other procedural and substantive guidelines for intervention
48 court operation.

49 (3) The State Intervention Courts Advisory Committee shall
50 act as arbiter of disputes arising out of the operation of
51 intervention courts established under this chapter and make
52 recommendations to improve the intervention courts; it shall also
53 make recommendations to the Supreme Court necessary and incident



54 to compliance with established rules. The State Intervention
55 Courts Advisory Committee shall promulgate rules and regulations
56 that authorize the Administrative Office of Courts to review
57 funding for and provide additional funding to intervention courts
58 based on the financial needs of the court or the number of
59 participants the court serves.

60 (4) The State Intervention Courts Advisory Committee shall
61 establish through rules and regulations a viable and fiscally
62 responsible plan to expand the number of adult and juvenile
63 intervention court programs operating in Mississippi. These rules
64 and regulations shall include plans to increase participation in
65 existing and future programs while maintaining their voluntary
66 nature.

67 (5) The State Intervention Courts Advisory Committee shall
68 receive and review the monthly reports submitted to the
69 Administrative Office of Courts by each certified intervention
70 court and provide comments and make recommendations, as necessary,
71 to the Chief Justice and the Director of the Administrative Office
72 of Courts.

73 (6) The State Intervention Courts Advisory Committee shall
74 create a funding formula that allows the Administrative Office of
75 Courts to reallocate funding, provide additional funding based on
76 the financial needs of the intervention court and/or the number of
77 participants the court serves.



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

80 9-23-11. (1) The Administrative Office of Courts shall
81 establish, implement and operate a uniform certification process
82 for all intervention courts and other problem-solving courts
83 including juvenile courts, veterans courts or any other court
84 designed to adjudicate criminal actions involving an identified
85 classification of criminal defendant to ensure funding for
86 intervention courts supports effective and proven practices that
87 reduce recidivism and substance dependency among their
88 participants.

89 (2) The Administrative Office of Courts shall establish a
90 certification process that ensures any new or existing
91 intervention court meets minimum standards for intervention court
92 operation.

93 (a) These standards shall include, but are not limited
94 to:

95 (i) The use of evidence-based practices including,
96 but not limited to, the use of a valid and reliable risk and needs
97 assessment tool to identify participants and deliver appropriate
98 interventions;

99 (ii) Targeting medium to high-risk offenders for
100 participation;



101 (iii) The use of current, evidence-based
102 interventions proven to reduce dependency on drugs or alcohol, or
103 both;

104 (iv) Frequent testing for alcohol or drugs;

105 (v) Coordinated strategy between all intervention
106 court program personnel involving the use of graduated clinical
107 interventions;

108 (vi) Ongoing judicial interaction with each
109 participant; * * *

110 (vii) Monitoring and evaluation of intervention
111 court program implementation and outcomes through data collection
112 and reporting * * *; and

113 (viii) Providing mental health services.

114 (b) Intervention court certification applications shall
115 include:

116 (i) A description of the need for the intervention
117 court;

118 (ii) The targeted population for the intervention
119 court;

120 (iii) The eligibility criteria for intervention
121 court participants;

122 (iv) A description of the process for identifying
123 appropriate participants including the use of a risk and needs
124 assessment and a clinical assessment;



125 (v) A description of the intervention court
126 intervention components which shall include mental health
127 services, including anticipated budget and implementation plan;

128 (vi) The data collection plan which shall include
129 collecting the following data:

130 1. Total number of participants;

131 2. Total number of successful participants;

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

134 4. Total number of participants who were
135 arrested for a new criminal offense while in the intervention
136 court program;

137 5. Total number of participants who were
138 convicted of a new felony or misdemeanor offense while in the
139 intervention court program;

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

143 7. Results of the initial risk and needs
144 assessment or other clinical assessment conducted on each
145 participant; * * *

146 8. Total number of applications for screening
147 by race, gender, offenses charged, indigence and, if not accepted,
148 the reason for nonacceptance; * * *



149 9. Any other data or information as required
150 by the Administrative Office of Courts * * *; and

151 10. Total number of participants who were
152 provided mental health services and a description of the services
153 provided.

154 (c) Every intervention court shall be certified under
155 the following schedule:

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

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

163 (iii) A certified adult felony intervention court
164 in existence on December 31, 2018, must submit a recertification
165 petition by July 1, 2019, and be recertified under the
166 requirements of this section on or before December 31, 2019; after
167 the recertification, all certified adult felony intervention
168 courts must submit a recertification petition every two (2) years
169 to the Administrative Office of Courts. The recertification
170 process must be completed by December 31 * * * of every odd
171 calendar year.

172 (iv) A certified youth, family, misdemeanor or
173 chancery intervention court in existence on December 31, 2018,



174 must submit a recertification petition by July 31, 2020, and be
175 recertified under the requirements of this section by December 31,
176 2020. After the recertification, all certified youth, family,
177 misdemeanor and chancery intervention courts must submit a
178 recertification petition every two (2) years to the Administrative
179 Office of Courts. The recertification process must be completed
180 by December 31 * * * of every even calendar year.

181 (3) All certified intervention courts shall measure
182 successful completion of the drug court based on those
183 participants who complete the program without a new criminal
184 conviction.

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

188 (i) Total number of participants at the beginning
189 of the month;

190 (ii) Total number of participants at the end of
191 the month;

192 (iii) Total number of participants who began the
193 program in the month;

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

196 (v) Total number of participants who left the
197 program in the month;



198 (vi) Total number of participants who were
199 arrested for a new criminal offense while in the intervention
200 court program in the month;

201 (vii) Total number of participants who were
202 convicted for a new criminal arrest while in the intervention
203 court program in the month; * * *

204 (viii) Total number of participants who committed
205 at least one (1) violation while in the intervention court program
206 and any resulting sanction(s) * * *; and

207 (ix) Total number of participants who received
208 mental health services from the court program.

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

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

217 (6) A certified intervention court may appoint the full- or
218 part-time employees it deems necessary for the work of the
219 intervention court and shall fix the compensation of those
220 employees. Such employees shall serve at the will and pleasure of
221 the judge or the judge's designee.



222 (7) The Administrative Office of Courts shall promulgate
223 rules and regulations to carry out the certification and
224 re-certification process and make any other policies not
225 inconsistent with this section to carry out this process.

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

229 **SECTION 3.** Section 41-113-1, Mississippi Code of 1972, is
230 amended as follows:

231 41-113-1. (1) The Mississippi Legislature recognizes the
232 devastating impact that tobacco use * * *, fentanyl use and drug
233 abuse have on the citizens of our state. Tobacco use * * *,
234 fentanyl use and drug abuse are the * * * most preventable causes
235 of death and disease in this country and this state. Each year,
236 thousands of Mississippians lose their lives to diseases caused by
237 tobacco use, fentanyl use and drug abuse, and the cost to the
238 state is hundreds of millions of dollars. Tobacco use * * *,
239 fentanyl use and drug abuse are a large burden on the families and
240 businesses of Mississippi. It is therefore the intent of the
241 Legislature that there be developed, implemented and fully funded
242 a comprehensive and statewide tobacco use, fentanyl use and drug
243 abuse education, prevention and cessation program that is
244 consistent with the Best Practices for Tobacco Control
245 Programs * * * and youth high risk drug use prevention guidelines
246 from the federal Centers for Disease Control and Prevention, as



247 periodically amended. It is also the intent of the Legislature
248 that all reasonable efforts be made to maximize the amount of
249 federal funds available for this program.

250 (2) The goals of the tobacco use, fentanyl use and drug
251 abuse education, prevention and cessation program include, but are
252 not limited to, the following:

253 (a) Preventing the initiation of use of tobacco
254 products, fentanyl and abuse of drugs by youth;

255 (b) Encouraging and helping smokers to quit and
256 reducing the numbers of youth and adults who use tobacco products,
257 fentanyl or abuse drugs;

258 (c) Assisting in the protection from secondhand smoke;

259 (d) Supporting the enforcement of laws prohibiting
260 youth access to tobacco products, fentanyl and youth drug abuse;

261 (e) Eliminating the racial and cultural disparities
262 related to use of tobacco products, fentanyl and youth drug abuse;

263 and

264 (f) Educating the public and changing the cultural
265 perception of use of tobacco products, fentanyl and youth drug
266 abuse in Mississippi.

267 **SECTION 4.** Section 41-113-3, Mississippi Code of 1972, is
268 amended as follows:

269 41-113-3. (1) There is hereby created the Office of Tobacco
270 Control (office) which shall be an administrative division of the
271 State Department of Health.



272 (2) The Office of Tobacco Control, with the advice of the
273 Mississippi Tobacco Control Advisory Board, shall develop and
274 implement a comprehensive and statewide tobacco, fentanyl and drug
275 abuse education, prevention and cessation program that is
276 consistent with the recommendations for effective program
277 components and funding recommendations in the 1999 Best Practices
278 for Comprehensive Tobacco Control Programs of the federal Centers
279 for Disease Control and Prevention, as those Best Practices may be
280 periodically amended by the Centers for Disease Control and
281 Prevention and the youth high risk drug use resources created by
282 the federal Centers for Disease Control and Prevention.

283 (3) At a minimum, the program shall include the following
284 components, and may include additional components that are
285 contained within the Best Practices for Comprehensive Tobacco
286 Control Programs of the federal Centers for Disease Control and
287 Prevention, as periodically amended, and that based on scientific
288 data and research have been shown to be effective at accomplishing
289 the purposes of this section:

290 (a) The use of mass media, including paid advertising
291 and other communication tools to discourage the use of tobacco
292 products, fentanyl and drug abuse and to educate people,
293 especially youth, about the health hazards from the use of tobacco
294 products and/or drug abuse, which shall be designed to be
295 effective at achieving these goals and shall include, but need not
296 be limited to, television, radio, and print advertising, as well



297 as sponsorship, exhibits and other opportunities to raise
298 awareness statewide;

299 (b) Evidence-based curricula and programs implemented
300 in schools to educate youth about tobacco, fentanyl and drug abuse
301 and to discourage their use of tobacco products, fentanyl and
302 abuse of drugs, including, but not limited to, programs that
303 involve youth, educate youth about the health hazards from the use
304 of tobacco products, fentanyl and/or the abuse of drugs, help
305 youth develop skills to refuse tobacco products, and demonstrate
306 to youth how to stop using tobacco products;

307 (c) Local community programs, including, but not
308 limited to, youth-based partnerships that discourage the use of
309 tobacco products, fentanyl and abuse of drugs and involve
310 community-based organizations in tobacco, fentanyl and drug abuse
311 education, prevention and cessation programs in their communities;

312 (d) Enforcement of laws, regulations and policies
313 against the sale or other provision of tobacco products, fentanyl
314 and/or drugs to minors, and the possession of tobacco products,
315 fentanyl and/or drugs by minors;

316 (e) Programs to assist and help people to stop using
317 tobacco products, fentanyl and/or abusing drugs; and

318 (f) A surveillance and evaluation system that monitors
319 program accountability and results, produces publicly available
320 reports that review how monies expended for the program are spent,
321 and includes an evaluation of the program's effectiveness in



322 reducing and preventing the use of tobacco products, fentanyl and
323 the abuse of drugs, and annual recommendations for improvements to
324 enhance the program's effectiveness.

325 (4) All programs or activities funded by the State
326 Department of Health through the tobacco, fentanyl and drug abuse
327 education, prevention and cessation program, whether part of a
328 component described in subsection (2) or an additional component,
329 must be consistent with the Best Practices for Comprehensive
330 Tobacco Control Programs of the federal Centers for Disease
331 Control and Prevention, as periodically amended, and all resources
332 and guidelines established by the federal Centers for Disease
333 Control and Prevention to reduce and prevent fentanyl use and drug
334 abuse by youth, as periodically amended, all funds received by any
335 person or entity under any such program or activity must be
336 expended for purposes that are consistent with those Best
337 Practices and guidelines. The State Department of Health shall
338 exercise sole discretion in determining whether components are
339 consistent with the Best Practices for Comprehensive Tobacco
340 Control Programs of the federal Centers for Disease Control and
341 Prevention.

342 (5) Funding for the different components of the program
343 shall be apportioned between the components based on the
344 recommendations in the Best Practices for Comprehensive Tobacco
345 Control Programs of the federal Centers for Disease Control and
346 Prevention, as periodically amended, or any additional programs as



347 determined by the State Board of Health to provide adequate
348 program development, implementation and evaluation for effective
349 control of the use of tobacco products and preventive measures for
350 fentanyl use and drug abuse. While the office shall develop
351 annual budgets based on strategic planning, components of the
352 program shall be funded using the following areas as guidelines
353 for priority:

- 354 (a) School nurses and school programs;
- 355 (b) Mass media (counter-marketing);
- 356 (c) Cessation programs (including media promotions);
- 357 (d) Community programs;
- 358 (e) Surveillance and evaluation;
- 359 (f) Law enforcement; and
- 360 (g) Administration and management; however, not more
361 than five percent (5%) of the total budget may be expended for
362 administration and management purposes.

363 (6) In funding the components of the program, the State
364 Department of Health may provide funding for health care programs
365 at the University of Mississippi Medical Center and Mississippi
366 Quality Health Center Grants that are related to the prevention
367 and cessation of the use of tobacco products and the treatment of
368 illnesses that are related to the use of tobacco products.

369 (7) No statewide, district, local, county or municipal
370 elected official shall take part as a public official in mass
371 media advertising under the provisions of this chapter.



372 **SECTION 5.** Section 41-113-5, Mississippi Code of 1972, is
373 amended as follows:

374 41-113-5. (1) The Office of Tobacco Control shall be under
375 the management of a director, who shall be appointed by the State
376 Health Officer. The responsibility for implementation of the
377 comprehensive and statewide tobacco, fentanyl and drug abuse
378 education, prevention and cessation program shall be vested in the
379 director. The director shall be an individual who has knowledge
380 and experience in public health, medical care, health care
381 services, mental health care services, preventive health
382 measures * * *, tobacco use control or drug abuse prevention
383 and/or treatment measures. The director shall be the
384 administrative officer of the Office of Tobacco Control, and shall
385 perform the duties that are required of him or her by law and such
386 other duties as may be assigned to him or her by the State Board
387 of Health. The director shall receive such compensation as may be
388 fixed by the State Board of Health, subject to the approval of the
389 State Personnel Board.

390 (2) The State Health Officer may employ such other persons
391 as may be necessary to carry out the provisions of this chapter.
392 The compensation and the terms and conditions of their employment
393 shall be determined by the State Board of Health in accordance
394 with applicable state law and rules and regulations of the State
395 Personnel Board.



396 **SECTION 6.** Section 41-113-7, Mississippi Code of 1972, is
397 amended as follows:

398 41-113-7. The Office of Tobacco Control shall perform the
399 following duties, with the advice of the Mississippi Tobacco
400 Control Advisory Council:

401 (a) Develop and implement appropriate policies and
402 procedures for the operation of the tobacco, fentanyl and drug
403 abuse education, prevention and cessation program;

404 (b) Develop and implement a * * * strategic plan
405 for * * * a tobacco, fentanyl and drug abuse education, prevention
406 and cessation program;

407 (c) Develop and maintain an annual operating budget and
408 oversee fiscal management of the tobacco, fentanyl and drug abuse
409 education, prevention and cessation program;

410 (d) Execute any contracts, agreements or other
411 documents with any governmental agency or any person, corporation,
412 association, partnership or other organization or entity that are
413 necessary to accomplish the purposes of this chapter;

414 (e) Receive grants, bequeaths, gifts, donations or any
415 other contributions made to the office to be used for specific
416 purposes related to the goals of this chapter;

417 (f) Submit an annual report to the Legislature
418 regarding the operation of the office;



419 (g) Submit to the State Auditor any financial records
420 that are necessary for the Auditor to perform an annual audit of
421 the office as required by law; and

422 (h) Take any other actions that are necessary to carry
423 out the purposes of this chapter.

424 **SECTION 7.** Section 41-114-1, Mississippi Code of 1972, is
425 amended as follows:

426 41-114-1. (1) As used in this section:

427 (a) The term "public facility" means any building,
428 gymnasium, athletic field, recreational area or park to which the
429 public is invited, whether there is charge for admission or not.

430 (b) The term "smoke" or "smoking" means inhaling,
431 exhaling, burning, vaporizing, carrying or otherwise possessing
432 any lighted cigarette, cigar, pipe, "alternative nicotine product"
433 or any other object or device of any form that contains lighted
434 tobacco or any other smoking or vaporizing product.

435 (2) During any time that persons under eighteen (18) years
436 of age are engaged in an organized athletic event at a public
437 facility in Mississippi, no participant in or spectator of the
438 athletic event shall smoke in the facility, if the facility is
439 enclosed, or within one hundred (100) feet of the facility, if the
440 facility is not enclosed, except as permitted under subsection
441 (3)(c) of this section.

442 (3) The person, agency or entity having jurisdiction or
443 supervision over a public facility shall not allow smoking at the



444 facility in violation of this section, and shall use reasonable
445 efforts to prevent smoking at the facility. The person, agency or
446 entity may take the following steps:

447 (a) Posting appropriate signs informing persons that
448 smoking is prohibited at the public facility.

449 (b) Securing the removal of persons who smoke at the
450 public facility in violation of this section.

451 (c) Providing a designated area separate from the
452 fields of activity, to which smoking shall be restricted.

453 (4) Any person who violates this section shall, upon
454 conviction, be subject to a civil fine and shall be liable as
455 follows:

456 (a) For a first conviction, a warning;

457 (b) For a second conviction, a fine of Seventy-five
458 Dollars (\$75.00); and

459 (c) For all later convictions, a fine not to exceed One
460 Hundred Fifty Dollars (\$150.00).

461 Anyone convicted under this section shall be recorded as
462 being guilty of a civil penalty and not for violating a criminal
463 statute. Any such violation shall be triable in any justice court
464 or municipal court with proper jurisdiction.

465 (5) It is the responsibility of all law enforcement officers
466 and law enforcement agencies of this state to ensure that the
467 provisions of this section are enforced.



468 (6) If the actions of a person violate both this section and
469 Section 97-32-29, the person shall be liable only under this
470 section or Section 97-32-29, but not under both sections.

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

