

Senate Amendments to House Bill No. 698

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

34 9-27-1. This chapter shall be known and may be cited as the
35 "Rivers McGraw Mental Health * * * Treatment Court Act."

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

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

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

- 49 (a) Reduce the number of future criminal justice
50 contacts among offenders with mental illnesses;
- 51 (b) Reduce the * * * institutionalization of people
52 with mental illnesses;
- 53 (c) Improve the mental health and well-being of
54 defendants who come in contact with the * * * court system;
- 55 (d) Improve linkages between the * * * court system and
56 the mental health system;
- 57 (e) Expedite case processing;
- 58 (f) Protect public safety;
- 59 (g) Establish linkages * * * between the court system
60 and state and local agencies and programs that target people with
61 mental illnesses in order to maximize the delivery of services;
62 and
- 63 (h) To * * * redirect prison-bound offenders and other
64 individuals whose * * * conduct is driven in part by mental
65 illnesses to intensive supervision and clinical treatment
66 available in the mental health treatment court.

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

69 9-27-5. For the purposes of this chapter, the following
70 words and phrases * * * have the meanings ascribed in this section
71 unless the context clearly requires otherwise:

72 (a) * * * "Certified mental health treatment provider"
73 means an organization which conducts screening and assessments on
74 each participant. A treatment provider shall make recommendations

75 as to appropriate treatment services and support for individual
76 participants of the mental health treatment court. A treatment
77 provider shall work actively with the mental health treatment
78 court to identify and implement alternatives to incarceration or
79 commitment for participants and to identify, access and assist
80 funding sources for treatment services to individual participants.
81 A certified mental health treatment provider must be certified by
82 the State Department of Mental Health or otherwise licensed to
83 provide services in the State of Mississippi.

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

90 (c) "Crime of violence" means an offense defined in
91 Section 97-3-2, other than burglary under Section 97-17-23(1).

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

101 (e) "Mental health disorder" means a syndrome
102 characterized by a clinically significant disturbance in an
103 individual's cognition, emotion regulation or behavior that
104 reflects a dysfunction in the psychological, biological or
105 developmental processes underlying mental functioning as defined
106 by the Diagnostic and Statistical Manual of Mental Disorders
107 (DSM-5).

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

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

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

120 **SECTION 4.** The following shall be codified as Section
121 9-27-6, Mississippi Code of 1972:

122 9-27-6. (1) (a) The Administrative Office of Courts shall
123 establish, implement and operate a uniform certification process
124 for all new or existing mental health treatment courts to ensure
125 that these courts meet minimum standards for mental health
126 treatment court operations.

127 (b) These standards include, but are not limited to,
128 the Mississippi Mental Health Treatment Court Standards.

129 (c) Mental health treatment court certification
130 applications must include:

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

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

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

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

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

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

148 (d) Beginning July 1, 2022, all qualified courts
149 seeking to establish a mental health treatment court or to
150 continue operating an existing mental health treatment court must
151 submit a mental health treatment court certification application
152 to the Administrative Office of Courts before April 30 preceding

153 the fiscal year in which the court intends to begin operations or
154 continue operating. The Administrative Office of Courts must
155 complete the certification process no later than December 31 of
156 the calendar year in which the application was received. A mental
157 health treatment court's certification expires on December 31.

158 (e) 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 before July 1 of
161 every calendar year. The recertification process must be
162 completed no later than December 31 of every calendar year.

163 (f) 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 before July 1,
166 2025, and July 1 of every third calendar year thereafter. The
167 recertification process must be completed no later than December
168 31 of every third calendar year.

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

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

178 (4) A mental health treatment court judge may appoint the
179 full- or part-time employees deemed necessary for the work of the
180 mental health treatment court and must fix the compensation of
181 those employees, pursuant to the salary ranges promulgated by the
182 Administrative Office of Courts. The employees must serve at the
183 will and pleasure of the senior mental health treatment court
184 judge.

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

189 (6) All mental health treatment courts operating in the
190 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 9-27-12.

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 * * *
- 207 support; 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 State

211 Department of Mental Health, other appropriate state agency or the

212 equivalent 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 Section 97-3-2, other than burglary under Section

222 97-17-23(1), within the previous ten (10) years.

223 (b) The crime before the court and other criminal

224 proceedings cannot be a crime of violence as defined in Section

225 97-3-2, other than burglary under Section 97-17-23(1).

226 * * *

227 (* * * c) The crime charged cannot be one of

228 trafficking in controlled substances under Section 41-29-139(f),

229 nor can the participant have a prior conviction for same.

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

233 (a) The individual cannot have any felony convictions
234 for any offenses that are crimes of violence as defined in
235 subsection (1)(b) of this section within the previous ten (10)
236 years;

237 (b) The individual cannot have any pending criminal
238 proceedings for a crime of violence as defined in Section 97-3-2,
239 other than burglary under Section 97-17-23(1); and

240 (c) The individual cannot have any pending criminal
241 proceedings for trafficking in controlled substances under Section
242 41-29-139(f), nor can the individual have a prior conviction for
243 the same.

244 (3) Upon referral, any person meeting the eligibility
245 criteria in subsections (1) and (2) of this section must be
246 screened for admission into the mental health treatment court.

247 (* * * 4) Participation in the services of a mental health
248 treatment * * * court shall be open * * * to * * * individuals
249 over whom the court has jurisdiction * * *. The court may agree
250 to provide the services for individuals referred from another
251 mental health treatment court, drug intervention court or veterans
252 treatment court. In cases transferred from another jurisdiction,
253 the receiving judge shall act as a special master and make
254 recommendations to the * * * original intervention or treatment
255 court judge.

256 * * *

257 (* * *5) A person does not have a right to participate in a
258 mental health treatment court under this chapter. The court
259 having jurisdiction over a person for a matter before the court
260 shall: (a) allow the person to choose whether to participate in
261 the mental health treatment court or proceed otherwise through the
262 court system; and (b) have the final determination about whether
263 the person may participate in the mental health treatment court
264 under this chapter. * * *

265 **SECTION 7.** The following shall be codified as Section
266 9-27-12, Mississippi Code of 1972:

267 9-27-12. With regard to any mental health treatment court,
268 the Administrative Office of Courts shall do the following:

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

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

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

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

281 (i) Another department, authority or agency of the
282 state;

283 (ii) Another state;

284 (iii) The federal government;

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

286 (v) A public or private agency, foundation,
287 corporation or individual.

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

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

293 (g) Collect monthly data from all certified mental
294 health treatment courts, compile an annual report summarizing the
295 data collected and the outcomes achieved by all certified mental
296 health treatment courts.

297 (h) Every five (5) years, and if funding is available,
298 contract with an external evaluator to conduct an evaluation of
299 the effectiveness of the statewide mental health treatment court
300 program and individual mental health treatment courts.

301 (i) Adopt rules to implement this chapter.

302 **SECTION 8.** 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 also shall be waived if the applicant is determined
332 to be indigent.

333 (b) A laboratory that performs a chemical test under
334 this section must 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 * * * must be waived by the court if
340 the * * * participant is determined to be indigent.

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

343 9-27-17. The * * * mental health treatment court coordinator
344 and members of the professional and administrative staff of the
345 mental health treatment court who perform duties in good faith
346 under this chapter are immune from civil liability for:

347 (a) Acts or omissions in providing services under this
348 chapter; and

349 (b) The reasonable exercise of discretion in
350 determining eligibility to participate in the mental health
351 treatment court.

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

354 9-27-19. (1) If the participant completes all requirements
355 imposed * * * by the mental health treatment court, the charge and
356 prosecution shall be dismissed. If the * * * participant was
357 sentenced at the time of entry of a plea of guilty, the successful
358 completion of the mental health treatment court order and other

359 requirements of probation or suspension of sentence will result in
360 the record of the criminal conviction or adjudication being
361 expunged by the court.

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

365 (3) If the participant is a respondent to a civil case and
366 completes all requirements imposed by the order placing the
367 participant in the mental health treatment court, the petitioner's
368 petition for commitment must be dismissed.

369 **SECTION 11.** Section 9-27-7, Mississippi Code of 1972, which
370 requires the Administrative Office of Courts to collect certain
371 data and reports from the mental health courts and establishes
372 standards for mental health courts, is repealed.

373 **SECTION 12.** This act shall take effect and be in force from
374 and after July 1, 2022, and shall stand repealed on June 30, 2022.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 9-27-1, MISSISSIPPI CODE OF 1972, TO
2 CHANGE THE NAME OF THE RIVERS MCGRAW MENTAL HEALTH DIVERSION
3 PROGRAM ACT TO THE "RIVERS MCGRAW MENTAL HEALTH TREATMENT COURT
4 ACT"; TO AMEND SECTION 9-27-3, MISSISSIPPI CODE OF 1972, TO
5 TRANSITION THE MENTAL HEALTH DIVERSION PROGRAM INTO A MENTAL
6 HEALTH TREATMENT COURT AND TO CLARIFY THE GOALS OF THE MENTAL
7 HEALTH TREATMENT COURTS; TO AMEND SECTION 9-27-5, MISSISSIPPI CODE
8 OF 1972, TO REVISE CERTAIN DEFINITIONS AND TO DEFINE ADDITIONAL
9 TERMS; TO CREATE NEW SECTION 9-27-6, MISSISSIPPI CODE OF 1972, TO
10 REQUIRE THE ADMINISTRATIVE OFFICE OF COURTS TO MAINTAIN A UNIFORM
11 CERTIFICATION PROCESS FOR MENTAL HEALTH TREATMENT COURTS AND TO
12 ESTABLISH MINIMUM STANDARDS AND DEADLINES FOR CERTIFICATION AND
13 RECERTIFICATION; TO AMEND SECTION 9-27-9, MISSISSIPPI CODE OF
14 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; TO AMEND

15 SECTION 9-27-11, MISSISSIPPI CODE OF 1972, TO REVISE ELIGIBILITY
16 REQUIREMENTS FOR PARTICIPATION IN A MENTAL HEALTH TREATMENT COURT;
17 TO CREATE NEW SECTION 9-27-12, MISSISSIPPI CODE OF 1972, TO
18 PRESCRIBE THE DUTIES OF THE ADMINISTRATIVE OFFICE OF COURTS IN
19 RELATION TO THE MENTAL HEALTH TREATMENT COURTS; TO AMEND SECTION
20 9-27-15, MISSISSIPPI CODE OF 1972, TO REQUIRE PARTICIPANTS TO
21 UNDERGO CHEMICAL OR DRUG TESTS; TO AMEND SECTION 9-27-17,
22 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS
23 ACT; TO AMEND SECTION 9-27-19, MISSISSIPPI CODE OF 1972, TO
24 REQUIRE A PETITION FOR COMMITMENT TO BE DISMISSED UPON A
25 PARTICIPANT'S SUCCESSFUL COMPLETION OF THE REQUIREMENTS IMPOSED BY
26 A MENTAL HEALTH TREATMENT COURT; TO REPEAL SECTION 9-27-7,
27 MISSISSIPPI CODE OF 1972, WHICH REQUIRES THE ADMINISTRATIVE OFFICE
28 OF COURTS TO COLLECT CERTAIN DATA AND REPORTS FROM THE MENTAL
29 HEALTH COURTS AND ESTABLISHES STANDARDS FOR MENTAL HEALTH COURTS;
30 AND FOR RELATED PURPOSES.

SS36\HB698PS.J

Eugene S. Clarke
Secretary of the Senate