

By: Representatives Bain, Miles

To: Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 534

1 AN ACT TO AMEND SECTIONS 9-23-1 AND 9-23-3, MISSISSIPPI CODE
2 OF 1972, TO STANDARDIZE REFERENCES TO DRUG INTERVENTION COURTS; TO
3 AMEND SECTION 9-23-5, MISSISSIPPI CODE OF 1972, TO REVISE
4 DEFINITIONS RELATING TO VARIOUS TYPES OF INTERVENTION COURTS; TO
5 AMEND SECTION 9-23-9, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
6 STATE INTERVENTION COURTS ADVISORY COMMITTEE TO PROMULGATE RULES
7 AND REGULATIONS THAT ALLOW THE ADMINISTRATIVE OFFICE OF COURTS TO
8 PROVIDE ADDITIONAL FUNDING TO INTERVENTION COURTS BASED ON THE
9 FINANCIAL NEEDS OF THE COURT; TO AMEND SECTION 9-23-11,
10 MISSISSIPPI CODE OF 1972, TO REQUIRE THE COLLECTION OF DATA BY THE
11 ADMINISTRATIVE OFFICE OF COURTS ON PARTICIPANTS IN INTERVENTION
12 PROGRAMS; TO REVISE THE MINIMUM CERTIFICATION STANDARDS FOR
13 OPERATION OF AN INTERVENTION COURT OR PROBLEM SOLVING COURT BY
14 REQUIRING THE PROVISION OF MENTAL HEALTH SERVICES; TO AMEND
15 SECTIONS 9-23-13 AND 9-23-15, MISSISSIPPI CODE OF 1972, TO
16 STANDARDIZE REFERENCES TO DRUG INTERVENTION COURTS; TO AMEND
17 SECTION 9-23-17, MISSISSIPPI CODE OF 1972, TO PROVIDE EVALUATION
18 STANDARDS; TO AMEND SECTIONS 9-23-19, 9-23-21, 9-23-23, 9-23-51,
19 9-25-1, 9-27-1, 9-27-3, 9-27-5, 9-27-7, 9-27-9 AND 9-27-11,
20 MISSISSIPPI CODE OF 1972, TO STANDARDIZE REFERENCES TO VARIOUS
21 TYPES OF INTERVENTION COURTS; TO AMEND SECTIONS 9-27-15, 9-27-17
22 AND 9-27-19, MISSISSIPPI CODE OF 1972, TO STANDARDIZE REFERENCES
23 TO MENTAL HEALTH INTERVENTION COURTS; TO AMEND SECTION 41-113-1,
24 MISSISSIPPI CODE OF 1972, TO INCLUDE DRUG ABUSE IN THE LEGISLATIVE
25 INTENT FOR THE TOBACCO EDUCATION, PREVENTION AND CESSATION
26 PROGRAM; TO AMEND SECTION 41-113-3, MISSISSIPPI CODE OF 1972, TO
27 REVISE THE DUTIES OF THE OFFICE OF TOBACCO CONTROL BY ADDING
28 FENTANYL AND DRUG ABUSE PREVENTION EDUCATION; TO AMEND SECTION
29 41-113-5, MISSISSIPPI CODE OF 1972, TO REVISE THE DUTIES OF THE
30 DIRECTOR OF THE OFFICE OF TOBACCO CONTROL TO INCLUDE
31 IMPLEMENTATION OF A FENTANYL DRUG ABUSE EDUCATION, PREVENTION AND
32 CESSATION PROGRAM; TO AMEND SECTION 41-113-7, MISSISSIPPI CODE OF
33 1972, TO REVISE THE DUTIES OF THE OFFICE OF TOBACCO CONTROL BY
34 ADDING FENTANYL AND DRUG ABUSE PREVENTION EDUCATION; TO AMEND



35 SECTION 41-114-1, MISSISSIPPI CODE OF 1972, TO INCLUDE VAPORIZING
36 DEVICES IN THE DEFINITION OF "SMOKE" OR "SMOKING" FOR THE
37 PROVISIONS OF LAW THAT RESTRICT TOBACCO USE IN PUBLIC FACILITIES;
38 TO BRING FORWARD SECTIONS 41-113-9 AND 41-113-11, MISSISSIPPI CODE
39 OF 1972, WHICH PROVIDE FOR THE MISSISSIPPI TOBACCO CONTROL
40 ADVISORY COUNCIL AND THE TOBACCO CONTROL PROGRAM FUND, FOR
41 PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

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

45 9-23-1. This chapter shall be known and may be cited as the
46 "Alyce Griffin Clarke Drug Intervention Court Act."

47 **SECTION 2.** Section 9-23-3, Mississippi Code of 1972, is
48 amended as follows:

49 9-23-3. (1) The Legislature of Mississippi recognizes the
50 critical need for judicial intervention to reduce the incidence of
51 alcohol and drug use, alcohol and drug addiction, and crimes
52 committed as a result of alcohol and drug use and alcohol and drug
53 addiction. It is the intent of the Legislature to facilitate
54 local drug intervention court alternative orders adaptable to
55 chancery, circuit, county, youth, municipal and justice courts.

56 (2) The goals of the drug intervention courts under this
57 chapter include the following:

58 (a) To reduce alcoholism and other drug dependencies
59 among adult and juvenile offenders and defendants and among
60 respondents in juvenile petitions for abuse, neglect or both;

61 (b) To reduce criminal and delinquent recidivism and
62 the incidence of child abuse and neglect;



63 (c) To reduce the alcohol-related and other
64 drug-related court workload;

65 (d) To increase personal, familial and societal
66 accountability of adult and juvenile offenders and defendants and
67 respondents in juvenile petitions for abuse, neglect or both;

68 (e) To promote effective interaction and use of
69 resources among criminal and juvenile justice personnel, child
70 protective services personnel and community agencies; and

71 (f) To use corrections resources more effectively by
72 redirecting prison-bound offenders whose criminal conduct is
73 driven in part by drug and alcohol dependence to intensive
74 supervision and clinical treatment available in the drug
75 intervention court.

76 **SECTION 3.** Section 9-23-5, Mississippi Code of 1972, is
77 amended as follows:

78 9-23-5. For the purposes of this chapter, the following
79 words and phrases shall have the meanings ascribed unless the
80 context clearly requires otherwise:

81 (a) "Chemical * * * tests" means the analysis of an
82 individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v)
83 saliva, (vi) urine, or (vii) other bodily substance to determine
84 the presence of alcohol or a controlled substance.

85 (b) "Crime of violence" means an offense listed in
86 Section 97-3-2.



87 (c) "Drug intervention court" means a drug court * * *
88 that utilizes an immediate and highly structured intervention
89 process for eligible defendants or juveniles that brings together
90 mental health professionals, substance abuse professionals, local
91 social programs and intensive judicial monitoring.

92 (d) "Evidence-based program" * * * and
93 "researched-based program" have the meanings as those terms are
94 defined in Section 27-103-159.

95 (e) "Risk and needs assessment" means the use of an
96 actuarial assessment tool validated on a Mississippi corrections
97 population to determine a person's risk to reoffend and the
98 characteristics that, if addressed, reduce the risk to reoffend.

99 **SECTION 4.** Section 9-23-9, Mississippi Code of 1972, is
100 amended as follows:

101 9-23-9. (1) The State Intervention Courts Advisory
102 Committee is established to develop and periodically update
103 proposed statewide evaluation plans and models for monitoring all
104 critical aspects of intervention courts. The committee must
105 provide the proposed evaluation plans to the Chief Justice and the
106 Administrative Office of Courts. The committee shall be chaired
107 by the Director of the Administrative Office of Courts or a
108 designee of the director and shall consist of eleven (11) members
109 all of whom shall be appointed by the Supreme Court. The members
110 shall be broadly representative of the courts, mental health,
111 veterans affairs, law enforcement, corrections, criminal defense



112 bar, prosecutors association, juvenile justice, child protective
113 services, fentanyl and drug abuse prevention and treatment and
114 substance abuse treatment communities.

115 (2) The State Intervention Courts Advisory Committee may
116 also make recommendations to the Chief Justice, the Director of
117 the Administrative Office of Courts and state officials concerning
118 improvements to intervention court policies and procedures
119 including the intervention court certification process. The
120 committee may make suggestions as to the criteria for eligibility,
121 and other procedural and substantive guidelines for intervention
122 court operation.

123 (3) The State Intervention Courts Advisory Committee shall
124 act as arbiter of disputes arising out of the operation of
125 intervention courts established under this chapter and make
126 recommendations to improve the intervention courts; it shall also
127 make recommendations to the Supreme Court necessary and incident
128 to compliance with established rules. The State Intervention
129 Courts Advisory Committee shall promulgate rules and regulations
130 that authorize the Administrative Office of Courts to review
131 funding for and provide additional funding to intervention courts
132 based on the financial needs of the court or the number of
133 participants the court serves.

134 (4) The State Intervention Courts Advisory Committee shall
135 establish through rules and regulations a viable and fiscally
136 responsible plan to expand the number of adult and juvenile



137 intervention court programs operating in Mississippi. These rules
138 and regulations shall include plans to increase participation in
139 existing and future programs while maintaining their voluntary
140 nature.

141 (5) The State Intervention Courts Advisory Committee shall
142 receive and review the monthly reports submitted to the
143 Administrative Office of Courts by each certified intervention
144 court and provide comments and make recommendations, as necessary,
145 to the Chief Justice and the Director of the Administrative Office
146 of Courts.

147 (6) The State Intervention Courts Advisory Committee shall
148 create a funding formula that allows the Administrative Office of
149 Courts to reallocate funding, provide additional funding based on
150 the financial needs of the intervention court and/or the number of
151 participants the court serves.

152 **SECTION 5.** Section 9-23-11, Mississippi Code of 1972, is
153 amended as follows:

154 9-23-11. (1) The Administrative Office of Courts shall
155 establish, implement and operate a uniform certification process
156 for all intervention courts and other problem-solving courts
157 including juvenile courts, veterans courts or any other court
158 designed to adjudicate criminal actions involving an identified
159 classification of criminal defendant to ensure funding for
160 intervention courts supports effective and proven practices that



161 reduce recidivism and substance dependency among * * *
162 participants.

163 (2) The Administrative Office of Courts shall establish a
164 certification process that ensures any new or existing
165 intervention court meets minimum standards for intervention court
166 operation.

167 (a) These standards shall include, but are not limited
168 to:

169 (i) The use of evidence-based * * * or
170 research-based programs, including, but not limited to, the use of
171 a valid and reliable risk and needs assessment tool to identify
172 participants and deliver appropriate interventions;

173 (ii) Targeting medium to high-risk offenders for
174 participation;

175 (iii) The use of current, evidence-based * * * or
176 research-based programs, proven to reduce dependency on drugs or
177 alcohol, or both;

178 (iv) Frequent testing for alcohol or drugs;

179 (v) Coordinated strategy between all intervention
180 court program personnel involving the use of graduated clinical
181 interventions;

182 (vi) Ongoing judicial interaction with each
183 participant; * * *



184 (vii) Monitoring and evaluation of intervention
185 court program implementation and outcomes through data collection
186 and reporting * * *; and

187 (viii) Providing mental health services.

188 (b) Intervention court certification applications shall
189 include:

190 (i) A description of the need for the intervention
191 court;

192 (ii) The targeted population for the intervention
193 court;

194 (iii) The eligibility criteria for intervention
195 court participants;

196 (iv) A description of the process for identifying
197 appropriate participants including the use of a risk and needs
198 assessment and a clinical assessment;

199 (v) A description of the intervention court
200 intervention components * * * which shall include mental health
201 services, anticipated budget * * *, implementation plan; and

202 (vi) The data collection plan, which shall include
203 collecting the following data:

204 1. Total number of participants;

205 2. Total number of successful participants;

206 3. Total number of unsuccessful participants

207 and the reason why each participant did not complete the program;



208 4. Total number of participants who were
209 arrested for a new criminal offense while in the intervention
210 court program;

211 5. Total number of participants who were
212 convicted of a new felony or misdemeanor offense while in the
213 intervention court program;

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

217 7. Results of the initial risk and needs
218 assessment or other clinical assessment conducted on each
219 participant; * * *

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

223 9. Identification of any program participant
224 who, after completion of an intervention program, was arrested for
225 a new criminal offense;

226 * * *10. Any other data or information as
227 required by the Administrative Office of Courts * * *; and

228 11. Total number of participants who were
229 provided mental health services and a description of the services
230 provided.

231 (c) Every intervention court shall be certified under
232 the following schedule:



233 (i) An intervention court application submitted
234 after July 1, 2014, shall require certification of the
235 intervention court based on the proposed * * * intervention court
236 plan.

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

241 (iii) A certified adult felony intervention court
242 in existence on December 31, 2018, must submit a recertification
243 petition by July 1, 2019, and be recertified under the
244 requirements of this section on or before December 31, 2019; after
245 the recertification, all certified adult felony intervention
246 courts must submit a recertification petition every two (2) years
247 to the Administrative Office of Courts. The recertification
248 process must be completed by December 31 * * * of every odd
249 calendar year.

250 (iv) A certified youth, family, misdemeanor or
251 chancery intervention court in existence on December 31, 2018,
252 must submit a recertification petition by July * * * 1, 2020, and
253 be recertified under the requirements of this section by December
254 31, 2020. After the recertification, all certified youth, family,
255 misdemeanor and chancery intervention courts must submit a
256 recertification petition every two (2) years to the Administrative



257 Office of Courts. The recertification process must be completed
258 by December 31 * * * of every even calendar year.

259 (3) All certified intervention courts shall measure
260 successful completion of the * * * intervention court based on
261 those participants who complete the program without a new criminal
262 conviction.

263 (4) (a) All certified * * * intervention courts must
264 collect and submit to the Administrative Office of Courts each
265 month, the following data:

266 (i) Total number of participants at the beginning
267 of the month;

268 (ii) Total number of participants at the end of
269 the month;

270 (iii) Total number of participants who began the
271 program in the month;

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

274 (v) Total number of participants who left the
275 program in the month;

276 (vi) Total number of participants who were
277 arrested for a new criminal offense while in the intervention
278 court program in the month;

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



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

285 (ix) Total amount of state, federal, county or
286 municipal monies received and spent; and

287 (x) Total number of participants who received
288 mental health services from the court program.

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

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

297 (6) A certified intervention court may appoint the full- or
298 part-time employees it deems necessary for the work of the
299 intervention court and shall fix the compensation of those
300 employees. Such employees shall serve at the will and pleasure of
301 the judge or the judge's designee.

302 (7) The Administrative Office of Courts shall promulgate
303 rules and regulations to carry out the certification and
304 re-certification process, including, but not limited to, requiring
305 third-party providers under contract to provide services that
306 comport with evidence-based or research-based programs, and to



307 make any other policies not inconsistent with this section to
308 carry out this process. Notwithstanding any other provision of
309 law to the contrary, any contract with a third-party provider
310 shall comply with all state purchasing and bid laws.

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

314 (9) The Administrative Office of Courts shall promulgate
315 rules and regulations to allow any participant of intervention
316 court who is participating in such court due to an implied consent
317 violation to have a restricted license or ignition interlock for
318 the purpose of driving to intervention court.

319 **SECTION 6.** Section 9-23-13, Mississippi Code of 1972, is
320 amended as follows:

321 9-23-13. (1) * * * A drug intervention court's alcohol and
322 drug intervention component shall provide * * * to eligible
323 individuals, either directly or through referrals, a range of
324 necessary court intervention services, including, but not limited
325 to, the following:

326 (a) Screening using a valid and reliable assessment
327 tool effective for identifying alcohol and drug dependent persons
328 for eligibility and appropriate services;

329 (b) Clinical assessment; for a DUI offense, if the
330 person has two (2) or more DUI convictions, the court shall order
331 the person to undergo an assessment that uses a standardized



332 evidence-based instrument performed by a physician to determine
333 whether the person has a diagnosis for alcohol and/or drug
334 dependence and would likely benefit from a court-approved
335 medication-assisted treatment indicated and approved for the
336 treatment of alcohol and/or drug dependence by the United States
337 Food and Drug Administration, as specified in the most recent
338 Diagnostic and Statistical Manual of Mental Disorders published by
339 the American Psychiatric Association. Upon considering the
340 results of the assessment, the court may refer the person to a
341 rehabilitative program that offers one or more forms of
342 court-approved medications that are approved for the treatment of
343 alcohol and/or drug dependence by the United States Food and Drug
344 Administration;

345 (c) Education;

346 (d) Referral;

347 (e) Service coordination and case management; and

348 (f) Counseling and rehabilitative care.

349 (2) Any inpatient treatment or inpatient detoxification
350 program ordered by the court shall be certified by the Department
351 of Mental Health, other appropriate state agency or the equivalent
352 agency of another state.

353 (3) All drug intervention courts shall make available the
354 option for participants to use court-approved medication-assisted
355 treatment while participating in the programs of the court in



356 accordance with the recommendations of the National Drug Court
357 Institute.

358 **SECTION 7.** Section 9-23-15, Mississippi Code of 1972, is
359 amended as follows:

360 9-23-15. (1) In order to be eligible for alternative
361 sentencing through a local drug intervention court, the
362 participant must satisfy each of the following criteria:

363 (a) The participant cannot have any felony convictions
364 for any offenses that are crimes of violence as defined in Section
365 97-3-2 within the previous ten (10) years.

366 (b) The crime before the court cannot be a crime of
367 violence as defined in Section 97-3-2.

368 (c) Other criminal proceedings alleging commission of a
369 crime of violence cannot be pending against the participant.

370 (d) The participant cannot be charged with burglary of
371 a dwelling under Section 97-17-23(2) or 97-17-37.

372 (e) The crime before the court cannot be a charge of
373 driving under the influence of alcohol or any other drug or drugs
374 that resulted in the death of a person.

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

378 (2) Participation in the services of an alcohol and drug
379 intervention component shall be open only to the individuals over
380 whom the court has jurisdiction, except that the court may agree



381 to provide the services for (i) individuals referred from another
382 intervention court or (ii) individuals who are residents of states
383 that allow reciprocity for Mississippians to participate in
384 intervention courts in that state. In cases transferred from
385 another jurisdiction, the receiving judge shall act as a special
386 master and make recommendations to the sentencing judge.

387 (3) (a) As a condition of participation in * * * a drug
388 intervention court, a participant may be required to undergo a
389 chemical test or a series of chemical tests as specified by the
390 drug intervention court. A participant is liable for the costs of
391 all chemical tests required under this section, regardless of
392 whether the costs are paid to the drug intervention court or the
393 laboratory; however, if testing is available from other sources or
394 the program itself, the judge may waive any fees for testing. The
395 judge may waive all fees if the applicant is determined to be
396 indigent.

397 (b) A laboratory that performs a chemical test under
398 this section shall report the results of the test to the drug
399 intervention court.

400 (4) A person does not have a right to participate in a drug
401 intervention court under this chapter. The court having
402 jurisdiction over a person for a matter before the court shall
403 have the final determination about whether the person may
404 participate in drug intervention court under this chapter.
405 However, any person meeting the eligibility criteria in subsection



406 (1) of this section shall, upon request, be screened for admission
407 to drug intervention court.

408 **SECTION 8.** Section 9-23-17, Mississippi Code of 1972, is
409 amended as follows:

410 9-23-17. With regard to any drug intervention court, the
411 Administrative Office of Courts shall do the following:

412 (a) Certify and re-certify drug intervention court
413 applications that meet standards established by the Administrative
414 Office of Courts in accordance with this chapter.

415 (b) Ensure that the structure of the intervention
416 component complies with rules adopted under this section and
417 applicable federal regulations.

418 (c) Revoke the authorization of a program upon a
419 determination that the program does not comply with rules adopted
420 under this section and applicable federal regulations.

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

423 (i) Another department, authority or agency of the
424 state;

425 (ii) Another state;

426 (iii) The federal government;

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

428 (v) A public or private agency, foundation,
429 corporation or individual.



430 (e) Directly, or by contract, approve and certify any
431 intervention component established under this chapter.

432 (f) Require, as a condition of operation, that each
433 drug intervention court created or funded under this chapter be
434 certified by the Administrative Office of Courts.

435 (g) Collect monthly data reports submitted by all
436 certified drug intervention courts, provide those reports to the
437 State Intervention Courts Advisory Committee, compile an annual
438 report summarizing the data collected and the outcomes achieved by
439 all certified intervention courts and submit the annual report to
440 the Oversight Task Force.

441 (h) As funding is available or every * * * five (5)
442 years, the Administrative Office of Courts will contract with an
443 external evaluator to conduct an evaluation of the effectiveness
444 of the statewide drug intervention court program * * * and
445 individual drug intervention courts * * *. Notwithstanding any
446 other provision of law to the contrary, contract shall comply with
447 all state purchasing and bid laws.

448 (i) Adopt rules to implement this chapter.

449 **SECTION 9.** Section 9-23-19, Mississippi Code of 1972, is
450 amended as follows:

451 9-23-19. (1) All monies received from any source by * * * a
452 drug intervention court shall be accumulated in a fund to be used
453 only for drug intervention court purposes. Any funds remaining in
454 this fund at the end of a fiscal year shall not lapse into any



455 general fund, but shall be retained in the Drug Intervention Court
456 Fund for the funding of further activities by the drug
457 intervention court.

458 (2) * * * A drug intervention court may apply for and
459 receive the following:

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

461 (b) Grant and contract money from governmental sources.

462 (c) Other forms of financial assistance approved by the
463 court to supplement the budget of the drug intervention court.

464 (3) The costs of participation in an alcohol and drug
465 intervention program required by the certified drug intervention
466 court may be paid by the participant or out of user fees or such
467 other state, federal or private funds that may, from time to time,
468 be made available.

469 (4) The court may assess such reasonable and appropriate
470 fees to be paid to the local Drug Intervention Court Fund for
471 participation in an alcohol or drug intervention program; however,
472 all fees may be waived if the applicant is determined to be
473 indigent.

474 **SECTION 10.** Section 9-23-21, Mississippi Code of 1972, is
475 amended as follows:

476 9-23-21. The director and members of the professional and
477 administrative staff of the drug intervention court who perform
478 duties in good faith under this chapter are immune from civil
479 liability for:



480 (a) Acts or omissions in providing services under this
481 chapter; and

482 (b) The reasonable exercise of discretion in
483 determining eligibility to participate in the drug intervention
484 court.

485 **SECTION 11.** Section 9-23-23, Mississippi Code of 1972, is
486 amended as follows:

487 9-23-23. If the participant completes all requirements
488 imposed upon him by the drug intervention court, including the
489 payment of fines and fees assessed and not waived by the court,
490 the charge and prosecution shall be dismissed. If the defendant
491 or participant was sentenced at the time of entry of plea of
492 guilty, the successful completion of the drug intervention court
493 order and other requirements of probation or suspension of
494 sentence will result in the record of the criminal conviction or
495 adjudication being expunged. * * *

496 **SECTION 12.** Section 9-23-51, Mississippi Code of 1972, is
497 amended as follows:

498 9-23-51. There is created in the State Treasury a special
499 interest-bearing fund to be known as the Drug Intervention Court
500 Fund. The purpose of the fund shall be to provide supplemental
501 funding to all drug intervention courts in the state. Monies from
502 the funds derived from assessments under Section 99-19-73 shall be
503 distributed by the State Treasurer upon warrants issued by the
504 Administrative Office of Courts, pursuant to procedures set by the



505 State * * * Intervention Courts Advisory Committee to assist both
506 juvenile drug intervention courts and adult drug intervention
507 courts. Funds from other sources shall be distributed to the drug
508 intervention courts in the state based on a formula set by the
509 State * * * Intervention Courts Advisory Committee. The fund
510 shall be a continuing fund, not subject to fiscal-year
511 limitations, and shall consist of: (a) monies appropriated by the
512 Legislature for the purposes of funding drug intervention courts;
513 (b) the interest accruing to the fund; (c) monies received under
514 the provisions of Section 99-19-73; (d) monies received from the
515 federal government; and (e) monies received from such other
516 sources as may be provided by law.

517 **SECTION 13.** Section 9-25-1, Mississippi Code of 1972, is
518 amended as follows:

519 9-25-1. (1) The Legislature recognizes that our military
520 veterans have provided an invaluable service to our country. In
521 doing so, many may have suffered the effects of, including, but
522 not limited to, post-traumatic stress disorder, traumatic brain
523 injury and depression, and may also suffer drug and alcohol
524 dependency or addiction and co-occurring mental illness and
525 substance abuse problems. As a result of this, some veterans come
526 into contact with the criminal justice system and are charged with
527 felony offenses. There is a critical need for the justice system
528 to recognize these veterans, provide accountability for their
529 wrongdoing, provide for the safety of the public, and provide for



530 the treatment of our veterans. It is the intent of the
531 Legislature to create a framework for which specialized
532 veterans * * * intervention courts may be established at the
533 circuit court level and at the discretion of the circuit court
534 judge.

535 (2) **Authorization.** A circuit court judge may establish a
536 Veterans * * * Intervention Court program. The Veterans * * *
537 Intervention Court may, at the discretion of the circuit court
538 judge, be a separate court program or as a component of an
539 existing intervention court program. At the discretion of the
540 circuit court judge, the Veterans * * * Intervention Court may be
541 operated in one (1) county within the circuit court district, and
542 allow veteran participants from all counties within the circuit
543 court district to participate.

544 (3) **Eligibility.** (a) In order to be eligible to
545 participate in a Veterans * * * Intervention Court program
546 established under this section, the attorney representing the
547 state must consent to the defendant's participation in the
548 program. Further, the court in which the criminal case is pending
549 must have found that the defendant is a veteran of the United
550 States Armed Forces as defined in Title 38 USCS.

551 (b) Participation in the services of an alcohol and
552 drug intervention component shall only be open to the individuals
553 over whom the court has jurisdiction, except that the court may
554 agree to provide the services for individuals referred from



555 another Veterans * * * Intervention Court. In cases transferred
556 from another jurisdiction, the receiving judge shall act as a
557 special master and make recommendations to the sentencing judge.

558 (c) (i) As a condition of participation in a
559 Veterans * * * Intervention Court, a participant may be required
560 to undergo a chemical test or a series of chemical tests as
561 specified by the Veterans * * * Intervention Court program. A
562 participant may be held liable for costs associated with all
563 chemical tests required under this section. However, a judge may
564 waive any fees for testing.

565 (ii) A laboratory that performs chemical tests
566 under this section shall report the results of the tests to the
567 Veterans * * * Intervention Courts.

568 (d) A person does not have the right to participate in
569 a Veterans * * * Intervention Court program under this chapter.
570 The court having jurisdiction over a person for a matter before
571 the court shall have the final determination about whether the
572 person may participate in the Veterans * * * Intervention Court
573 program.

574 (e) A defendant shall be excluded from participating in
575 a Veterans * * * Intervention Court program if any one (1) of the
576 following applies:

577 (i) The crime before the court is a crime of
578 violence as set forth in subparagraph * * * (iii) of this * * *
579 paragraph (e).



580 (ii) The defendant does not demonstrate a
581 willingness to participate in * * * an intervention program.

582 (iii) The defendant has been previously convicted
583 of a felony crime of violence including, but not limited to:
584 murder, rape, sexual battery, statutory rape of a child under the
585 age of sixteen (16), armed robbery, arson, aggravated kidnapping,
586 aggravated assault, stalking, or any offense involving the
587 discharge of a firearm or where serious bodily injury or death
588 resulted to any person; excluding burglary of an unoccupied
589 dwelling under Section 97-17-23(1).

590 (f) The court in which the criminal case is pending
591 shall allow an eligible defendant to choose whether to proceed
592 through the Veterans * * * Intervention Court program or otherwise
593 through the justice system.

594 (g) Proof of matters under this section may be
595 submitted to the court in which the criminal case is pending in
596 any form the court determines to be appropriate, including
597 military service and medical records, previous determinations of a
598 disability by a veteran's organization or by the United States
599 Department of Veterans Affairs, testimony or affidavits of other
600 veterans or service members, and prior determinations of
601 eligibility for benefits by any state or county veterans office.

602 (4) **Administrative Office of Courts.** With regard to any
603 Veterans * * * Intervention Court established under this chapter,
604 the Administrative Office of Courts may do the following:



605 (a) Ensure that the structure of the intervention
606 component complies with rules adopted under this chapter and
607 applicable federal regulations.

608 (b) Revoke the authorization of a program upon a
609 determination that the program does not comply with rules adopted
610 under this chapter and applicable federal regulations.

611 (c) Enter into agreements and contracts to effectuate
612 the purposes of this chapter with:

613 (i) Another department, authority, or agency of
614 the state;

615 (ii) Another state;

616 (iii) The federal government;

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

618 (v) A public or private agency, foundation,
619 corporation, or individual.

620 (d) Directly, or by contract, approve and certify any
621 veterans intervention component established under this chapter.

622 (e) Require, as a condition of operation, that each
623 veterans intervention court created or funded under this chapter
624 be certified by the Administrative Office of Courts.

625 (f) Adopt rules to implement this chapter.

626 (5) **State Intervention Courts Advisory Committee.** (a) The
627 State Intervention Court Advisory Committee shall be responsible
628 for developing statewide rules and policies as they relate to
629 Veterans * * * Intervention Court programs.



630 (b) The State Intervention Courts Advisory Committee
631 may also make recommendations to the Chief Justice, the Director
632 of the Administrative Office of Courts and state officials
633 concerning improvements to Veterans * * * Intervention Court
634 policies and procedures.

635 (c) The State Intervention Courts Advisory Committee
636 shall act as an arbiter of disputes arising out of the operation
637 of Veterans * * * Intervention Court programs established under
638 this chapter and make recommendations to improve the
639 Veterans * * * Intervention Court programs.

640 (6) **Funding for Veterans * * * Intervention Courts.** (a)
641 All monies received from any source by the Veterans * * *
642 Intervention Court program shall be accumulated in a fund to be
643 used only for Veterans * * * Intervention Court purposes. Any
644 funds remaining in this fund at the end of the fiscal year shall
645 not lapse into the General Fund, but shall be retained in the
646 Veterans * * * Intervention Court fund for the funding of further
647 activities by the Veterans * * * Intervention Court program.

648 (b) A Veterans * * * Intervention Court program may
649 apply for and receive the following:

650 (i) Gifts, bequests and donations from private
651 sources.

652 (ii) Grant and contract money from governmental
653 sources.



654 (iii) Other forms of financial assistance approved
655 by the court to supplement the budget of the Veterans * * *
656 Intervention Court program.

657 (7) **Immunity.** The coordinator and members of the
658 professional and administrative staff of the Veterans * * *
659 Intervention Court program who perform duties in good faith under
660 this chapter are immune from civil liability for:

661 (a) Acts or omissions in providing services under this
662 chapter; and

663 (b) The reasonable exercise of discretion in
664 determining eligibility to participate in the Veterans * * *
665 Intervention Court program.

666 (8) This section shall be codified as a separate article in
667 Title 9, Mississippi Code of 1972.

668 **SECTION 14.** Section 9-27-1, Mississippi Code of 1972, is
669 amended as follows:

670 9-27-1. This chapter shall be known and may be cited as the
671 "Rivers McGraw Mental Health * * * Intervention Court Act."

672 **SECTION 15.** Section 9-27-3, Mississippi Code of 1972, is
673 amended as follows:

674 9-27-3. (1) The Legislature recognizes the critical need
675 for judicial intervention to establish court processes and
676 procedures that are more responsive to the needs of defendants
677 with mental illnesses, while maintaining public safety and the
678 integrity of the court process.



679 (2) The goals of the mental health intervention courts under
680 this chapter include the following:

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

683 (b) Reduce the inappropriate institutionalization of
684 people with mental illnesses;

685 (c) Improve the mental health and well-being of
686 defendants who come in contact with the criminal justice system;

687 (d) Improve linkages between the criminal justice
688 system and the mental health system;

689 (e) Expedite case processing;

690 (f) Protect public safety;

691 (g) Establish linkages with other state and local
692 agencies and programs that target people with mental illnesses in
693 order to maximize the delivery of services; and

694 (h) To use corrections resources more effectively by
695 redirecting prison-bound offenders whose criminal conduct is
696 driven in part by mental illnesses to intensive supervision and
697 clinical treatment available in the mental health intervention
698 court.

699 **SECTION 16.** Section 9-27-5, Mississippi Code of 1972, is
700 amended as follows:

701 9-27-5. For the purposes of this chapter, the following
702 words and phrases shall have the meanings ascribed unless the
703 context clearly requires otherwise:



704 (a) "Chemical tests" means the analysis of an
705 individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v)
706 saliva, (vi) urine, or (vii) other bodily substance to determine
707 the presence of alcohol or a controlled substance.

708 (b) "Mental health * * * intervention court" means an
709 immediate and highly structured intervention process for mental
710 health treatment of eligible defendants or juveniles that:

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

713 (ii) Follows the * * * essential elements of the
714 mental health intervention court curriculum published by the
715 Bureau of Justice Assistance of the United States Department of
716 Justice.

717 (c) "Evidence-based * * * program" * * * and
718 "research-based program" have the meanings as those terms are
719 defined in Section 27-103-159.

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

724 **SECTION 17.** Section 9-27-7, Mississippi Code of 1972, is
725 amended as follows:

726 9-27-7. (1) The Administrative Office of Courts is the
727 repository for reports filed by courts established under this
728 chapter. The goal of the mental health intervention courts is to



729 support effective and proven practices that reduce recidivism and
730 provide treatment for participants.

731 (2) Mental health intervention courts must adhere to the
732 standards established in this chapter.

733 (a) These standards shall include, but are not limited
734 to:

735 (i) The use of evidence-based practices including,
736 but not limited to, the use of a valid and reliable risk and needs
737 assessment tool to identify participants and deliver appropriate
738 treatments;

739 (ii) Targeting medium- to high-risk offenders for
740 participation;

741 (iii) The use of current, evidence-based
742 interventions proven to provide mental health treatment;

743 (iv) Coordinated strategy between all mental
744 health intervention court personnel;

745 (v) Ongoing judicial interaction with each
746 participant; and

747 (vi) Monitoring and evaluation of mental health
748 intervention court implementation and outcomes through data
749 collection and reporting.

750 (b) Mental health intervention courts must implement a
751 data collection plan, which shall include collecting the following
752 data:

753 (i) Total number of participants;



754 (ii) Total number of successful participants;
755 (iii) Total number of unsuccessful participants
756 and the reason why each participant did not complete the program;

757 (iv) Total number of participants who were
758 arrested for a new criminal offense while in the mental health
759 intervention court;

760 (v) Total number of participants who were
761 convicted of a new felony or misdemeanor offense while in the
762 mental health intervention court;

763 (vi) Total number of participants who committed at
764 least one (1) violation while in the mental health intervention
765 court and the resulting sanction(s);

766 (vii) Results of the initial risk and needs
767 assessment or other clinical assessment conducted on each
768 participant; and

769 (viii) Any other data or information as required
770 by the Administrative Office of Courts.

771 (3) All mental health intervention courts must measure
772 successful completion of the program based on those participants
773 who complete the program without a new criminal conviction.

774 (4) (a) Mental health intervention courts must collect and
775 submit to the Administrative Office of Courts each month, the
776 following data:

777 (i) Total number of participants at the beginning
778 of the month;



779 (ii) Total number of participants at the end of
780 the month;

781 (iii) Total number of participants who began the
782 program in the month;

783 (iv) Total number of participants who successfully
784 completed the program in the month;

785 (v) Total number of participants who left the
786 program in the month;

787 (vi) Total number of participants who were
788 arrested for a new criminal offense while in the program in the
789 month;

790 (vii) Total number of participants who were
791 convicted for a new criminal arrest while in the program in the
792 month; * * *

793 (viii) Total number of participants who committed
794 at least one (1) violation while in the program and any resulting
795 sanction(s) * * * ; and

796 (ix) Total amount of state, federal, county or
797 municipal monies received and spent.

798 (b) By August 1, 2018, and each year thereafter, the
799 Administrative Office of Courts shall report to the PEER Committee
800 the information in subsection (4)(a) of this section in a
801 sortable, electronic format.

802 (5) Mental health intervention courts may individually
803 establish rules and may make special orders and rules as necessary



804 that do not conflict with rules promulgated by the Supreme Court
805 or the Administrative Office of Courts.

806 (6) A mental health intervention court may appoint the full-
807 or part-time employees it deems necessary for the work of the
808 mental health intervention court and shall fix the compensation of
809 those employees, who shall serve at the will and pleasure of the
810 senior circuit court judge.

811 (7) A mental health intervention court established under
812 this chapter is subject to the regulatory powers of the
813 Administrative Office of Courts as set forth in Section * * *
814 9-23-17.

815 **SECTION 18.** Section 9-27-9, Mississippi Code of 1972, is
816 amended as follows:

817 9-27-9. (1) A mental health intervention court's mental
818 health intervention component shall provide for eligible
819 individuals, either directly or through referrals, a range of
820 necessary court treatment services, including, but not limited to,
821 the following:

822 (a) Screening using a valid and reliable assessment
823 tool effective for identifying persons affected by mental health
824 issues for eligibility and appropriate services;

825 (b) Clinical assessment;

826 (c) Education;

827 (d) Referral;

828 (e) Service coordination and case management; and



829 (f) Counseling and rehabilitative care.

830 (2) Any inpatient treatment ordered by the court shall be
831 certified by the Department of Mental Health, other appropriate
832 state agency or the equivalent agency of another state.

833 **SECTION 19.** Section 9-27-11, Mississippi Code of 1972, is
834 amended as follows:

835 9-27-11. (1) In order to be eligible for alternative
836 sentencing through a local mental health intervention court, the
837 participant must satisfy each of the following criteria:

838 (a) The participant cannot have any felony convictions
839 for any offenses that are crimes of violence as defined in Section
840 97-3-2, * * * except burglary of an unoccupied dwelling under
841 Section 97-17-23(1), within the previous ten (10) years.

842 (b) The crime before the court cannot be a crime of
843 violence as defined in Section 97-3-2, * * * except burglary of an
844 unoccupied dwelling under Section 97-17-23(1).

845 (c) Other criminal proceedings alleging commission of a
846 crime of violence * * *, except burglary of an unoccupied dwelling
847 under Section 97-17-23(1) cannot be pending against the
848 participant.

849 (d) The crime before the court cannot be a charge of
850 driving under the influence of alcohol or any other substance that
851 resulted in the death of a person. * * *



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

855 (2) Participation in the services of a mental health * * *
856 intervention component shall be open only to the individuals over
857 whom the court has jurisdiction, except that the court may agree
858 to provide the services for individuals referred from another
859 mental health intervention court. In cases transferred from
860 another jurisdiction, the receiving judge shall act as a special
861 master and make recommendations to the sentencing judge.

862 (3) (a) As a condition of participation in a mental health
863 intervention court, a participant may be required to undergo a
864 chemical test or a series of chemical tests as specified by the
865 program. A participant is liable for the costs of all chemical
866 tests required under this section, regardless of whether the costs
867 are paid to the mental health intervention court or the
868 laboratory; however, if testing is available from other sources or
869 the program itself, the judge may waive any fees for testing.
870 Fees may be waived if the applicant is determined to be indigent.

871 (b) A laboratory that performs a chemical test under
872 this section shall report the results of the test to the mental
873 health intervention court.

874 (4) A person does not have a right to participate in a
875 mental health intervention court under this chapter. The court
876 having jurisdiction over a person for a matter before the court



877 shall have the final determination about whether the person may
878 participate in the mental health intervention court under this
879 chapter. However, any person meeting the eligibility criteria in
880 subsection (1) of this section, shall, upon request, be screened
881 for admission into the court's program.

882 **SECTION 20.** Section 9-27-15, Mississippi Code of 1972, is
883 amended as follows:

884 9-27-15. (1) All monies received from any source by a
885 mental health intervention court shall be accumulated in a local
886 fund to be used only for mental health intervention court
887 purposes. Any funds remaining in a local fund at the end of a
888 fiscal year shall not lapse into any general fund, but shall be
889 retained in the mental health intervention court fund for the
890 funding of further activities by the mental health intervention
891 court.

892 (2) A mental health intervention court may apply for and
893 receive the following:

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

895 (b) Grant and contract monies from governmental
896 sources.

897 (c) Other forms of financial assistance approved by the
898 court to supplement the budget of the mental health * * *
899 intervention court.

900 (3) The costs of participation in a mental health treatment
901 program required by the mental health intervention court may be



902 paid by the participant or out of user fees or such other state,
903 federal or private funds that may, from time to time, be made
904 available.

905 (4) The court may assess reasonable and appropriate fees to
906 be paid to the local mental health intervention court fund for
907 participation in a mental health treatment program; however, all
908 fees may be waived by the court if the applicant is determined to
909 be indigent.

910 **SECTION 21.** Section 9-27-17, Mississippi Code of 1972, is
911 amended as follows:

912 9-27-17. The director and members of the professional and
913 administrative staff of the mental health intervention court who
914 perform duties in good faith under this chapter are immune from
915 civil liability for:

916 (a) Acts or omissions in providing services under this
917 chapter; and

918 (b) The reasonable exercise of discretion in
919 determining eligibility to participate in the mental health
920 intervention court.

921 **SECTION 22.** Section 9-27-19, Mississippi Code of 1972, is
922 amended as follows:

923 9-27-19. If the participant completes all requirements
924 imposed upon him by the mental health intervention court, the
925 charge and prosecution shall be dismissed. If the defendant or
926 participant was sentenced at the time of entry of a plea of



927 guilty, the successful completion of the mental health
928 intervention court order and other requirements of probation or
929 suspension of sentence will result in the record of the criminal
930 conviction or adjudication being expunged.

931 **SECTION 23.** Section 41-113-1, Mississippi Code of 1972, is
932 amended as follows:

933 41-113-1. (1) The Mississippi Legislature recognizes the
934 devastating impact that tobacco use * * *, fentanyl use and drug
935 abuse have on the citizens of our state. Tobacco use * * *,
936 fentanyl use and drug abuse are the * * * most preventable causes
937 of death and disease in this country and this state. Each year,
938 thousands of Mississippians lose their lives to diseases caused by
939 tobacco use, fentanyl use and drug abuse, and the cost to the
940 state is hundreds of millions of dollars. Tobacco use * * *,
941 fentanyl use and drug abuse are a large burden on the families and
942 businesses of Mississippi. It is therefore the intent of the
943 Legislature that there be developed, implemented and fully funded
944 a comprehensive and statewide tobacco use, fentanyl use and drug
945 abuse education, prevention and cessation program that is
946 consistent with the Best Practices for Tobacco Control
947 Programs * * * and youth high risk drug use prevention guidelines
948 from the federal Centers for Disease Control and Prevention, as
949 periodically amended. It is also the intent of the Legislature
950 that all reasonable efforts be made to maximize the amount of
951 federal funds available for this program.



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

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

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

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

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

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

965 and

966 (f) Educating the public and changing the cultural
967 perception of use of tobacco products, fentanyl and youth drug
968 abuse in Mississippi.

969 **SECTION 24.** Section 41-113-3, Mississippi Code of 1972, is
970 amended as follows:

971 41-113-3. (1) There is hereby created the Office of Tobacco
972 Control (office) which shall be an administrative division of the
973 State Department of Health.

974 (2) The Office of Tobacco Control, with the advice of the
975 Mississippi Tobacco Control Advisory Board, shall develop and
976 implement a comprehensive and statewide tobacco, fentanyl and drug



977 abuse education, prevention and cessation program that is
978 consistent with the recommendations for effective program
979 components and funding recommendations in the 1999 Best Practices
980 for Comprehensive Tobacco Control Programs of the federal Centers
981 for Disease Control and Prevention, as those Best Practices may be
982 periodically amended by the Centers for Disease Control and
983 Prevention and the youth high risk drug use resources created by
984 the federal Centers for Disease Control and Prevention.

985 (3) At a minimum, the program shall include the following
986 components, and may include additional components that are
987 contained within the Best Practices for Comprehensive Tobacco
988 Control Programs of the federal Centers for Disease Control and
989 Prevention, as periodically amended, and that based on scientific
990 data and research have been shown to be effective at accomplishing
991 the purposes of this section:

992 (a) The use of mass media, including paid advertising
993 and other communication tools to discourage the use of tobacco
994 products, fentanyl and drug abuse and to educate people,
995 especially youth, about the health hazards from the use of tobacco
996 products and/or drug abuse, which shall be designed to be
997 effective at achieving these goals and shall include, but need not
998 be limited to, television, radio, and print advertising, as well
999 as sponsorship, exhibits and other opportunities to raise
1000 awareness statewide;



1001 (b) Evidence-based curricula and programs implemented
1002 in schools to educate youth about tobacco, fentanyl and drug abuse
1003 and to discourage their use of tobacco products, fentanyl and
1004 abuse of drugs, including, but not limited to, programs that
1005 involve youth, educate youth about the health hazards from the use
1006 of tobacco products, fentanyl and/or the abuse of drugs, help
1007 youth develop skills to refuse tobacco products, and demonstrate
1008 to youth how to stop using tobacco products;

1009 (c) Local community programs, including, but not
1010 limited to, youth-based partnerships that discourage the use of
1011 tobacco products, fentanyl and abuse of drugs and involve
1012 community-based organizations in tobacco, fentanyl and drug abuse
1013 education, prevention and cessation programs in their communities;

1014 (d) Enforcement of laws, regulations and policies
1015 against the sale or other provision of tobacco products, fentanyl
1016 and/or drugs to minors, and the possession of tobacco products,
1017 fentanyl and/or drugs by minors;

1018 (e) Programs to assist and help people to stop using
1019 tobacco products, fentanyl and/or abusing drugs; and

1020 (f) A surveillance and evaluation system that monitors
1021 program accountability and results, produces publicly available
1022 reports that review how monies expended for the program are spent,
1023 and includes an evaluation of the program's effectiveness in
1024 reducing and preventing the use of tobacco products, fentanyl and



1025 the abuse of drugs, and annual recommendations for improvements to
1026 enhance the program's effectiveness.

1027 (4) All programs or activities funded by the State
1028 Department of Health through the tobacco, fentanyl and drug abuse
1029 education, prevention and cessation program, whether part of a
1030 component described in subsection (2) or an additional component,
1031 must be consistent with the Best Practices for Comprehensive
1032 Tobacco Control Programs of the federal Centers for Disease
1033 Control and Prevention, as periodically amended, and all resources
1034 and guidelines established by the federal Centers for Disease
1035 Control and Prevention to reduce and prevent fentanyl use and drug
1036 abuse by youth, as periodically amended, all funds received by any
1037 person or entity under any such program or activity must be
1038 expended for purposes that are consistent with those Best
1039 Practices and guidelines. The State Department of Health shall
1040 exercise sole discretion in determining whether components are
1041 consistent with the Best Practices for Comprehensive Tobacco
1042 Control Programs of the federal Centers for Disease Control and
1043 Prevention.

1044 (5) Funding for the different components of the program
1045 shall be apportioned between the components based on the
1046 recommendations in the Best Practices for Comprehensive Tobacco
1047 Control Programs of the federal Centers for Disease Control and
1048 Prevention, as periodically amended, or any additional programs as
1049 determined by the State Board of Health to provide adequate



1050 program development, implementation and evaluation for effective
1051 control of the use of tobacco products and preventive measures for
1052 fentanyl use and drug abuse. While the office shall develop
1053 annual budgets based on strategic planning, components of the
1054 program shall be funded using the following areas as guidelines
1055 for priority:

- 1056 (a) School nurses and school programs;
- 1057 (b) Mass media (counter-marketing);
- 1058 (c) Cessation programs (including media promotions);
- 1059 (d) Community programs;
- 1060 (e) Surveillance and evaluation;
- 1061 (f) Law enforcement; and
- 1062 (g) Administration and management; however, not more
1063 than five percent (5%) of the total budget may be expended for
1064 administration and management purposes.

1065 (6) In funding the components of the program, the State
1066 Department of Health may provide funding for health care programs
1067 at the University of Mississippi Medical Center and Mississippi
1068 Quality Health Center Grants that are related to the prevention
1069 and cessation of the use of tobacco products and the treatment of
1070 illnesses that are related to the use of tobacco products.

1071 (7) No statewide, district, local, county or municipal
1072 elected official shall take part as a public official in mass
1073 media advertising under the provisions of this chapter.



1074 **SECTION 25.** Section 41-113-5, Mississippi Code of 1972, is
1075 amended as follows:

1076 41-113-5. (1) The Office of Tobacco Control shall be under
1077 the management of a director, who shall be appointed by the State
1078 Health Officer. The responsibility for implementation of the
1079 comprehensive and statewide tobacco, fentanyl and drug abuse
1080 education, prevention and cessation program shall be vested in the
1081 director. The director shall be an individual who has knowledge
1082 and experience in public health, medical care, health care
1083 services, mental health care services, preventive health
1084 measures * * *, tobacco use control or drug abuse prevention
1085 and/or treatment measures. The director shall be the
1086 administrative officer of the Office of Tobacco Control, and shall
1087 perform the duties that are required of him or her by law and such
1088 other duties as may be assigned to him or her by the State Board
1089 of Health. The director shall receive such compensation as may be
1090 fixed by the State Board of Health, subject to the approval of the
1091 State Personnel Board.

1092 (2) The State Health Officer may employ such other persons
1093 as may be necessary to carry out the provisions of this chapter.
1094 The compensation and the terms and conditions of their employment
1095 shall be determined by the State Board of Health in accordance
1096 with applicable state law and rules and regulations of the State
1097 Personnel Board.



1098 **SECTION 26.** Section 41-113-7, Mississippi Code of 1972, is
1099 amended as follows:

1100 41-113-7. The Office of Tobacco Control shall perform the
1101 following duties, with the advice of the Mississippi Tobacco
1102 Control Advisory Council:

1103 (a) Develop and implement appropriate policies and
1104 procedures for the operation of the tobacco, fentanyl and drug
1105 abuse education, prevention and cessation program;

1106 (b) Develop and implement a * * * strategic plan
1107 for * * * a tobacco, fentanyl and drug abuse education, prevention
1108 and cessation program;

1109 (c) Develop and maintain an annual operating budget and
1110 oversee fiscal management of the tobacco, fentanyl and drug abuse
1111 education, prevention and cessation program;

1112 (d) Execute any contracts, agreements or other
1113 documents with any governmental agency or any person, corporation,
1114 association, partnership or other organization or entity that are
1115 necessary to accomplish the purposes of this chapter;

1116 (e) Receive grants, bequeaths, gifts, donations or any
1117 other contributions made to the office to be used for specific
1118 purposes related to the goals of this chapter;

1119 (f) Submit an annual report to the Legislature
1120 regarding the operation of the office;



1121 (g) Submit to the State Auditor any financial records
1122 that are necessary for the Auditor to perform an annual audit of
1123 the office as required by law; and

1124 (h) Take any other actions that are necessary to carry
1125 out the purposes of this chapter.

1126 **SECTION 27.** Section 41-114-1, Mississippi Code of 1972, is
1127 amended as follows:

1128 41-114-1. (1) As used in this section:

1129 (a) The term "public facility" means any building,
1130 gymnasium, athletic field, recreational area or park to which the
1131 public is invited, whether there is charge for admission or not.

1132 (b) The term "smoke" or "smoking" means inhaling,
1133 exhaling, burning, vaporizing, carrying or otherwise possessing
1134 any lighted cigarette, cigar, pipe, "alternative nicotine product"
1135 or any other object or device of any form that contains lighted
1136 tobacco or any other smoking or vaporizing product.

1137 (2) During any time that persons under eighteen (18) years
1138 of age are engaged in an organized athletic event at a public
1139 facility in Mississippi, no participant in or spectator of the
1140 athletic event shall smoke in the facility, if the facility is
1141 enclosed, or within one hundred (100) feet of the facility, if the
1142 facility is not enclosed, except as permitted under subsection
1143 (3)(c) of this section.

1144 (3) The person, agency or entity having jurisdiction or
1145 supervision over a public facility shall not allow smoking at the



1146 facility in violation of this section, and shall use reasonable
1147 efforts to prevent smoking at the facility. The person, agency or
1148 entity may take the following steps:

1149 (a) Posting appropriate signs informing persons that
1150 smoking is prohibited at the public facility.

1151 (b) Securing the removal of persons who smoke at the
1152 public facility in violation of this section.

1153 (c) Providing a designated area separate from the
1154 fields of activity, to which smoking shall be restricted.

1155 (4) Any person who violates this section shall, upon
1156 conviction, be subject to a civil fine and shall be liable as
1157 follows:

1158 (a) For a first conviction, a warning;

1159 (b) For a second conviction, a fine of Seventy-five
1160 Dollars (\$75.00); and

1161 (c) For all later convictions, a fine not to exceed One
1162 Hundred Fifty Dollars (\$150.00).

1163 Anyone convicted under this section shall be recorded as
1164 being guilty of a civil penalty and not for violating a criminal
1165 statute. Any such violation shall be triable in any justice court
1166 or municipal court with proper jurisdiction.

1167 (5) It is the responsibility of all law enforcement officers
1168 and law enforcement agencies of this state to ensure that the
1169 provisions of this section are enforced.



1170 (6) If the actions of a person violate both this section and
1171 Section 97-32-29, the person shall be liable only under this
1172 section or Section 97-32-29, but not under both sections.

1173 **SECTION 28.** Section 41-113-9, Mississippi Code of 1972, is
1174 brought forward as follows:

1175 41-113-9. (1) There is created the Mississippi Tobacco
1176 Control Advisory Council, which shall consist of thirteen (13)
1177 members. The thirteen (13) members of the advisory council shall
1178 consist of the following:

1179 (a) Four (4) members appointed by the Governor, with
1180 one (1) member from a list of three (3) physicians recommended by
1181 the Mississippi State Medical Association, one (1) member from a
1182 list of three (3) individuals recommended by the Mississippi
1183 Chapter of the American Heart Association, and two (2) individuals
1184 who are not affiliated with the tobacco industry who possess
1185 knowledge, skill, and prior experience in scientifically proven
1186 smoking prevention, reduction and cessation programs, health care
1187 services or preventive health measures;

1188 (b) Two (2) members appointed by the Lieutenant
1189 Governor, with one (1) member from a list of three (3) nurses
1190 recommended by the Mississippi Nurses' Association, and one (1)
1191 member from a list of three (3) individuals recommended by the
1192 Mississippi Chapter of the American Lung Association;

1193 (c) Two (2) members approved by the Speaker of the
1194 House of Representatives, with one (1) member from a list of three



1195 (3) social workers recommended by the Mississippi Chapter of the
1196 National Association of Social Workers (NASW), and one (1) member
1197 from a list of three (3) individuals recommended by the
1198 Mississippi Chapter of the American Cancer Society;

1199 (d) The Attorney General, or his or her designee;

1200 (e) The State Superintendent of Public Education, or
1201 his or her designee;

1202 (f) The Vice-Chancellor of Health Affairs of the
1203 University of Mississippi Medical Center, or his or her designee;

1204 (g) The Dean of the College of Health at the University
1205 of Southern Mississippi, or his or her designee; and

1206 (h) The Administrator of the School of Health Sciences
1207 of the College of Public Service at Jackson State University, or
1208 his or her designee.

1209 (2) The Lieutenant Governor shall appoint one (1) member of
1210 the Senate and the Speaker of the House shall appoint one (1)
1211 Representative to attend meetings of the Tobacco Control Advisory
1212 Council.

1213 (3) For those members that are required to be appointed from
1214 lists of individuals recommended by certain nominating groups, if
1215 none of the recommended names are acceptable to the appointing
1216 official, then the nominating group shall submit another list of
1217 three (3) different individuals until an acceptable individual is
1218 submitted to the appointing official.



1219 (4) The members who are state officials or university
1220 officials shall serve as members for as long as they hold the
1221 designated office or university position. The appointed members
1222 shall serve for terms that are concurrent with the terms of the
1223 appointing officials, or until their successors are appointed and
1224 qualified.

1225 (5) Any vacancy in an appointed member position shall be
1226 filled within thirty (30) days of the vacancy by the original
1227 appointing official, and the individual appointed to fill the
1228 vacancy shall meet the same qualifications as required for the
1229 former member.

1230 (6) The initial appointments to the advisory council shall
1231 be made not later than forty-five (45) days after March 30, 2007,
1232 and the first meeting of the advisory council shall be held within
1233 sixty (60) days after March 30, 2007, at a time, date and location
1234 specified by the State Board of Health.

1235 (7) The advisory council shall annually elect a chairman
1236 from among its members. The advisory council shall meet at least
1237 quarterly. A quorum for meetings of the advisory council shall be
1238 a majority of the voting members of the advisory council. The
1239 members of the advisory council shall receive the per diem
1240 compensation provided under Section 25-3-69 plus expense
1241 reimbursement as provided under Section 25-3-41 for attending
1242 meetings and necessary business of the advisory council.



1243 (8) The Mississippi Tobacco Advisory Council shall advise
1244 and make recommendations to the State Board of Health regarding
1245 rules and regulations promulgated pursuant to this program.

1246 **SECTION 29.** Section 41-113-11, Mississippi Code of 1972, is
1247 brought forward as follows:

1248 41-113-11. (1) There is established in the State Treasury a
1249 special fund to be known as the Tobacco Control Program Fund,
1250 which shall be comprised of the funds specified in subsection (2)
1251 of this section and any other funds that are authorized or
1252 required to be deposited into the special fund.

1253 (2) From the tobacco settlement installment payments that
1254 the State of Mississippi receives during each calendar year, the
1255 sum of Twenty Million Dollars (\$20,000,000.00) shall be deposited
1256 into the special fund.

1257 (3) Monies in the fund shall be expended solely for the
1258 purposes specified in this chapter. None of the funds in the
1259 special fund may be transferred to any other fund or appropriated
1260 or expended for any other purpose.

1261 (4) All income from the investment of the funds in the
1262 Tobacco Control Program Fund shall be credited to the account of
1263 the Tobacco Control Program Fund. Any funds in the Tobacco
1264 Control Program Fund at the end of a fiscal year shall not lapse
1265 into the State General Fund. Any funds appropriated from the
1266 Tobacco Control Program Fund that are unexpended at the end of a
1267 fiscal year shall lapse into the Tobacco Control Program Fund.



1268 However, beginning with fiscal year 2020, any funds appropriated
1269 from the Tobacco Control Program Fund that are unexpended at the
1270 end of the fiscal year shall lapse into the Health Care Expendable
1271 Fund.

1272 **SECTION 30.** This act shall take effect and be in force from
1273 and after July 1, 2023, and shall stand repealed on June 30, 2023.

