

By: Representatives Bain, Miles

To: Judiciary B

## 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.

