

By: Representatives Cockerham, Felsher,
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To: Judiciary A

HOUSE BILL NO. 1218

1 AN ACT TO AMEND SECTION 9-27-1, MISSISSIPPI CODE OF 1972, TO
 2 CHANGE THE CITING OF MENTAL HEALTH COURTS TO "RIVERS MCGRAW MENTAL
 3 HEALTH TREATMENT COURT ACT"; TO AMEND SECTION 9-27-3, MISSISSIPPI
 4 CODE OF 1972, TO ADD THE WORD "TREATMENT"; TO AMEND SECTION
 5 9-27-5, MISSISSIPPI CODE OF 1972, TO PROVIDE NEW DEFINITIONS
 6 RELATED TO BEHAVIORAL HEALTH; TO AMEND SECTION 9-27-7, MISSISSIPPI
 7 CODE OF 1972, TO REVISE THE STANDARDS FOR MENTAL HEALTH TREATMENT
 8 COURTS; TO AMEND SECTION 9-27-9, MISSISSIPPI CODE OF 1972, TO
 9 REQUIRE ANY MENTAL AND BEHAVIORAL HEALTH TREATMENT PROVIDER TO BE
 10 LICENSED BY THE APPROPRIATE STATE LICENSING BOARD; TO AMEND
 11 SECTION 9-27-11, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
 12 ALTERNATIVE SENTENCING; TO AMEND SECTIONS 9-27-15, 9-27-17 AND
 13 9-27-19, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
 14 SECTIONS; TO CREATE NEW SECTION 9-27-13, MISSISSIPPI CODE OF 1972,
 15 TO PROVIDE THE DUTIES OF THE ADMINISTRATIVE OFFICE OF COURTS FOR
 16 THE MENTAL HEALTH TREATMENT COURTS; TO CREATE NEW SECTION 9-27-21,
 17 MISSISSIPPI CODE OF 1972, TO PROVIDE THE CERTIFICATION AND
 18 RECERTIFICATION PROCESS FOR MENTAL HEALTH TREATMENT COURTS; AND
 19 FOR RELATED PURPOSES.

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

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

23 9-27-1. This chapter shall be known and may be cited as the
 24 "Rivers McGraw Mental Health * * * Treatment Court Act."

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



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

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

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

36 (b) Reduce the inappropriate institutionalization of
37 people with mental illnesses;

38 (c) Improve the mental and behavioral health and
39 well-being of defendants who come in contact with the criminal
40 justice system;

41 (d) Improve linkages between the criminal justice
42 system and the mental health system;

43 (e) Expedite case processing;

44 (f) Protect public safety;

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

48 (h) To use corrections resources more effectively by
49 redirecting prison-bound offenders whose criminal conduct is
50 driven in part by mental illnesses to intensive supervision and
51 clinical treatment available in the mental health treatment court.



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

54 9-27-5. For the purposes of this chapter, the following
55 words and phrases shall have the meanings ascribed unless the
56 context clearly requires otherwise:

57 (a) "Behavioral health" means the promotion of mental
58 health, resilience and wellbeing; the treatment of mental and
59 substance use disorders; and the support of those who experience
60 and/or are in recovery from these conditions, along with their
61 families and communities.

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

66 (c) "Clinical assessment" means the use of an actuarial
67 assessment tool which evaluates an individual's physical, medical,
68 cognitive, psychological (personality, emotions, beliefs and
69 attitudes), and behavioral history and current conditions in order
70 to determine the presence and severity of any mental health
71 disorder.

72 (d) "Co-Occurring disorder" means coexistence of both a
73 mental health and a substance use disorder as defined in the
74 Diagnostic and Statistical Manual (DSM).

75 (e) "Diagnostic and Statistical Manual (DSM)" is the
76 publication by the American Psychiatric Association used by



77 behavioral health professionals for the classification and
78 diagnosing of mental health disorders.

79 (f) "Evidence-based practices" means practices which
80 have been empirically researched and proven to have measurable
81 positive outcomes; have been rigorously tested; have yielded
82 consistent, replicable results; and have proven safe, beneficial
83 and effective for a specific population.

84 (g) "Mental health" means a state of mental or
85 emotional well-being that enables people to cope with the stresses
86 of life, realize their abilities, learn, work well, and contribute
87 to their community.

88 (h) "Mental health disorder" means a syndrome
89 characterized by a clinically significant disturbance in an
90 individual's cognition, emotion regulation or behavior that
91 reflects a dysfunction in the psychological, biological or
92 developmental process underlying mental functioning as defined by
93 the current Diagnostic and Statistical Manual of Mental Disorders
94 as published by the American Psychiatric Association.

95 (* * * i) "Mental * * * Health Treatment program"
96 means * * * a highly structured * * * evidence-based program for
97 mental and behavioral health treatment of * * * defendants * * *
98 that:

99 (i) Brings together mental health professionals,
100 local social programs and intensive judicial monitoring; * * *



101 (ii) Follows the key components of the mental
102 health treatment court curriculum published by the Bureau of
103 Justice * * * Assistance; and

104 (iii) Utilizes supervision, policies, procedures
105 and practices that scientific research demonstrates reduces
106 recidivism.

107 * * *

108 (j) "Risk and needs assessment" means an actuarial
109 evaluation tool to guide decision making at various points across
110 the criminal justice continuum by approximating an individual's
111 likelihood of reoffending and determining what individual
112 criminogenic needs must be addressed to reduce that likelihood.
113 Criminogenic risk and needs assessment tools consist of questions
114 that are designed to ascertain someone's history of criminal
115 behavior, attitudes and personality, and life circumstances.

116 (k) "Risk and needs screening" means the use of a brief
117 actuarial tool that is used to determine a defendant's eligibility
118 of a mental health treatment court by measuring the criminogenic
119 risk and needs, identifying risk and protective factors, supports
120 development of case management plan goals and determines the need
121 of a full risk and needs assessment.

122 (l) "Substance use disorder" means a cluster of
123 cognitive, behavioral, and physiological symptoms indicating that
124 the individual continues using the substance despite significant
125 substance-related problems such as impaired control, social



126 impairment, risky behaviors, and pharmacological tolerance and
127 withdrawal.

128 **SECTION 4.** Section 9-27-7, Mississippi Code of 1972, is
129 amended as follows:

130 9-27-7. (1) The Administrative Office of Courts is the
131 repository for reports filed by mental health treatment courts
132 established under this chapter. The goal of the mental health
133 treatment courts is to support effective and proven practices that
134 reduce recidivism and provide behavioral health treatment for
135 participants.

136 (2) Mental health treatment courts must adhere to the
137 standards established in this chapter.

138 (a) These standards shall include, but are not limited
139 to:

140 (i) The use of evidence-based practices including,
141 but not limited to, the use of a valid and reliable risk and
142 needs * * * screening tool to identify participants, * * *
143 deliver appropriate treatments and services;

144 (ii) Targeting * * * moderate to high-risk
145 offenders for participation;

146 (iii) * * * Utilizing current,
147 evidence-based * * * practices proven * * * effective for
148 behavioral health treatment;

149 (iv) Frequent testing for alcohol or drugs;



150 (* * *y) Coordinated strategy between all mental
151 health treatment court personnel;

152 (* * *vi) Ongoing judicial interaction with each
153 participant; and

154 (* * *vii) Monitoring and evaluation of mental
155 health treatment court implementation and outcomes through data
156 collection and reporting.

157 (b) Mental health treatment courts must implement a
158 data collection plan, utilizing the treatment court case
159 management system, which shall include collecting the following
160 data:

161 (i) Total number of participants;

162 (ii) Total number of successful participants;

163 (iii) Total number of unsuccessful participants

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

165 (iv) Total number of participants who were

166 arrested for a new criminal offense while in the mental treatment
167 health court;

168 (v) Total number of participants who were

169 convicted of a new felony * * * offense while in the mental health
170 treatment court;

171 (vi) Total number of participants who committed at
172 least one (1) violation while in the mental health treatment court
173 and the resulting sanction(s);



174 (vii) Results of the initial risk and needs * * *
175 screening or other clinical assessments conducted on each
176 participant; * * *

177 (viii) Total number of applications for screening
178 by race, gender, offenses charged, indigence and if not accepted,
179 the reason for nonacceptance; and

180 (* * *ix) Any other data or information as
181 required by the Administrative Office of Courts.

182 (3) All mental health treatment courts must measure
183 successful completion of the program based on those participants
184 who complete the program without a new criminal conviction.

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

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

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

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

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

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



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

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

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

207 (ix) Total number of active participants who did
208 not receive treatment in the month;

209 (x) Total number of participants on prescribed
210 psychotropic medications in the month;

211 (xi) Total number of new participants admitted to
212 an acute psychiatric facility or a crisis stabilization unit in
213 the first thirty (30) days of acceptance into the mental health
214 treatment court; and

215 (xii) Total number of participants admitted to an
216 acute psychiatric facility or a crisis stabilization unit in the
217 month.

218 (b) By August 1, * * * 2023, and each year thereafter,
219 the Administrative Office of Courts shall report to the PEER
220 Committee the information in subsection (4)(a) of this section in
221 a sortable, electronic format.



222 (5) A certified mental health treatment * * * court may
223 individually establish rules and may make special orders and rules
224 as necessary that do not conflict with rules promulgated by the
225 Supreme Court or the Administrative Office of Courts.

226 (6) A certified mental health treatment court may
227 appoint * * * full- or part-time employees it deems necessary for
228 the work of the mental health treatment court and shall fix the
229 compensation of those employees, who shall serve at the will and
230 pleasure of the * * * circuit court judge who presides over the
231 mental health treatment court.

232 (7) A certified mental health treatment court established
233 under this chapter is subject to the regulatory powers of the
234 Administrative Office of Courts as set forth in Section 9-27-13.

235 **SECTION 5.** Section 9-27-9, Mississippi Code of 1972, is
236 amended as follows:

237 9-27-9. (1) Any mental and behavioral health treatment
238 provider directly administering services to a participant shall be
239 licensed by the appropriate state licensing board or hold a
240 current and valid certification by the State Department of Mental
241 Health or other appropriate state agency.

242 (* * *2) A mental health * * * treatment court shall
243 provide either directly or through referrals, a range of * * *
244 services, including, but not limited to, the following:

245 (a) Screenings using a valid and reliable * * *
246 screening tool effective for identifying * * * individuals * * *



- 247 with mental and behavioral health issues for eligibility and
248 appropriate services;
- 249 (b) Clinical assessment;
- 250 (c) * * * Referral to appropriate level of treatment
251 services;
- 252 (d) * * * Counseling and treatment for co-occurring
253 substance use disorders;
- 254 (e) * * * Employment Services; * * *
- 255 (f) * * * Education and/or vocational services;
256 and * * *
- 257 (g) Community service coordination, care and support.
- 258 * * *

259 **SECTION 6.** Section 9-27-11, Mississippi Code of 1972, is
260 amended as follows:

261 9-27-11. (1) In order to be eligible for alternative
262 sentencing through a local mental health treatment court,
263 the * * * defendant must satisfy each of the following criteria:

264 (a) The * * * defendant cannot have any felony
265 convictions for any offenses that are crimes of violence as
266 defined in Section 97-3-2, other than burglary under Section
267 97-17-23(1), within the previous ten (10) years.

268 (b) The crime before the court cannot be a crime of
269 violence as defined in Section 97-3-2, other than burglary under
270 Section 97-17-23(1).



271 (c) Other criminal proceedings alleging commission of a
272 crime of violence other than burglary under Section 97-17-23(1)
273 cannot be pending against the * * * defendant.

274 (d) The crime before the court cannot be a charge of
275 driving under the influence of alcohol or any other substance that
276 resulted in the death of a person. In addition, * * * defendants
277 who are ineligible for nonadjudication under Section 63-11-30
278 shall be ineligible to participate in a mental health treatment
279 court.

280 (e) The crime charged cannot be one of trafficking in
281 controlled substances under Section 41-29-139(f), nor can
282 the * * * defendant have a prior conviction for the same.

283 (2) Participation in the services of a mental health
284 treatment component court shall be open only to the * * *
285 defendant over whom the court has jurisdiction, except that the
286 court may agree to provide the services for * * * participants
287 referred from another mental health treatment court. In cases
288 transferred from another jurisdiction, the receiving judge shall
289 act as a special master and make recommendations to the sentencing
290 judge.

291 (3) (a) As a condition of participation in a mental health
292 treatment court, a * * * defendant shall be required to
293 undergo * * * chemical * * * testing as specified by the program.
294 A participant is liable for the costs of all chemical tests
295 required under this section, regardless of whether the costs are



296 paid to the mental health treatment court or the laboratory;
297 however, if testing is available from other sources or the program
298 itself, the judge may waive any fees for testing. Fees may be
299 waived if the * * * defendant is determined by the court to be
300 indigent.

301 (b) A laboratory that performs a chemical test under
302 this section shall report the results of the test to the mental
303 health treatment court.

304 (4) A * * * defendant does not have a right to participate
305 in a mental health treatment court under this chapter. The court
306 having jurisdiction over a * * * defendant for a matter before the
307 court shall have the final determination about whether the * * *
308 defendant may participate in the mental health treatment court
309 under this chapter. However, any * * * defendant meeting the
310 eligibility criteria in subsection (1) of this section, shall,
311 upon request, be screened for admission into the court's program.

312 **SECTION 7.** Section 9-27-15, Mississippi Code of 1972, is
313 amended as follows:

314 9-27-15. (1) All monies received from any source by a
315 mental health treatment court shall be accumulated in a local fund
316 to be used only for mental health treatment court purposes. Any
317 funds remaining in a local fund at the end of a fiscal year shall
318 not lapse into any general fund, but shall be retained in the
319 mental health treatment court fund for the funding of further
320 activities by the mental health treatment court.



321 (2) A mental health treatment court may apply for and
322 receive the following:

323 (a) Gifts, bequests and donations from private
324 sources * * *;

325 (b) Grant and contract monies from governmental
326 sources * * *; or

327 (c) Other forms of financial assistance approved by the
328 court to supplement the budget of the mental health * * *
329 treatment court.

330 (3) The costs of participation * * * required by the mental
331 health treatment court may be paid by the participant or out of
332 user fees or such other state, federal or private funds that may,
333 from time to time, be made available.

334 (4) The mental health treatment court may assess reasonable
335 and appropriate fees to be paid to the local mental health
336 treatment court fund for participation in a mental health
337 treatment * * * court; however, all fees may be waived by the
338 court if the * * * defendant is determined by the court to be
339 indigent.

340 **SECTION 8.** Section 9-27-17, Mississippi Code of 1972, is
341 amended as follows:

342 9-27-17. The * * * mental health treatment court coordinator
343 and members of the professional and administrative staff of the
344 mental health treatment court who perform duties in good faith
345 under this chapter are immune from civil liability for:



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

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

350 **SECTION 9.** Section 9-27-19, Mississippi Code of 1972, is
351 amended as follows:

352 9-27-19. If the participant completes all requirements
353 imposed * * * by the mental health treatment court, the charge and
354 prosecution shall be dismissed. If the defendant * * * was
355 sentenced at the time of entry of a plea of guilty, the successful
356 completion of the mental health treatment court order and other
357 requirements of probation or suspension of sentence will result in
358 the record of the criminal conviction or adjudication being
359 expunged. However, no expunction of any implied consent
360 violations shall be allowed.

361 **SECTION 10.** The following section shall be codified as
362 Section 9-27-13, Mississippi Code of 1972:

363 9-27-13. (1) With regard to any mental health treatment
364 court, the Administrative Office of the Courts shall do the
365 following:

366 (a) Certify and re-certify mental health treatment
367 court applications that meet with standards established by the
368 Administrative Office of Courts in accordance with this chapter.



369 (b) Ensure that the structure of the mental health
370 treatment court complies with rules adopted under this section and
371 applicable federal regulations.

372 (c) Revoke certification of a mental health treatment
373 court upon a determination that the program does not comply with
374 rules adopted under this section and applicable federal
375 regulations.

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

378 (i) Another department, authority or agency of the
379 state;

380 (ii) Another state;

381 (iii) The federal government;

382 (iv) A state-supported or private institute of
383 higher learning; or

384 (v) A public or private agency, foundation,
385 corporation or individual.

386 (e) Directly, or by contract, approve and certify any
387 mental health treatment court component established under this
388 chapter.

389 (f) Require, as a condition of operation, that each
390 mental health treatment court created or funded under this chapter
391 be certified by the Administrative Office of Courts.



392 (g) Collect monthly data from each certified mental
393 health treatment court and compile an annual report summarizing
394 the data collected and the outcomes achieved.

395 (h) Every three (3) years, if funding is available,
396 contract with an external evaluator to conduct an evaluation of
397 the compliance with the Bureau of Justice Assistance key
398 components, as adapted for mental health treatment courts, and
399 effectiveness of:

400 (i) Statewide mental health treatment court
401 program; and

402 (ii) Individual mental health treatment courts.

403 (i) Adopt rules to implement this chapter.

404 **SECTION 11.** The following shall be codified as Section
405 9-27-21, Mississippi Code of 1972:

406 9-27-21. (1) The Administrative Office of Courts shall be
407 responsible for certification and monitoring of mental health
408 treatment courts.

409 (2) The Administrative Office of Courts shall promulgate
410 rules and regulations to carry out the certification and
411 re-certification process and make any other policies consistent
412 with this section to carry out this process.

413 (3) The Administrative Office of Courts shall establish,
414 implement and operate a uniform certification process for all
415 mental health treatment courts designed to adjudicate criminal
416 actions involving an identified classification of criminal



417 defendants to ensure funding for mental health treatment courts
418 which supports effective and proven behavioral health treatment
419 practices that reduce recidivism among their participants.

420 (4) (a) The Administrative Office of Courts shall establish
421 a certification process that ensures any new or existing mental
422 health treatment court meets standards for mental health treatment
423 court operation.

424 (b) Mental health treatment court certification
425 application must include:

426 (i) A description of the need for the mental
427 health treatment court;

428 (ii) The targeted population for the mental health
429 treatment court;

430 (iii) The eligibility criteria for mental health
431 treatment court participants;

432 (iv) A description of the process for identifying
433 eligible participants, using a risk and needs screening and a
434 clinical assessment which focuses on accepting moderate to
435 high-risk individuals; and

436 (v) A description of the mental health treatment
437 court components, including anticipated budget, implementation
438 plan, and a list of the evidence-based programs to which
439 participants will be referred by the mental health treatment
440 court.



441 (5) Every mental health treatment court shall be certified
442 under the following schedule:

443 (a) All certified mental health treatment courts in
444 existence on December 31, 2022, must submit a recertification
445 petition to the Administrative Office of Courts before July 1,
446 2023. The mental health treatment court must submit a
447 recertification petition every two (2) years.

448 (b) A mental health treatment court's certification
449 expires on December 31 of every odd calendar year.

450 (6) A certified mental health treatment court established
451 under this chapter is subject to the regulatory powers of the
452 Administrative Office of Courts as set forth in Section 9-27-13.

453 **SECTION 12.** This act shall take effect and be in force from
454 and after July 1, 2023.

