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To: Judiciary B; Ways and
Means

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1222

1 AN ACT TO CREATE "THE MISSISSIPPI COLLABORATIVE RESPONSE TO
2 MENTAL HEALTH ACT"; TO REQUIRE EACH MUNICIPAL AND COUNTY LAW
3 ENFORCEMENT AGENCY TO PROVIDE MENTAL HEALTH FIRST AID TRAINING
4 THAT IS EVIDENCE-BASED AND APPROVED BY THE DEPARTMENT OF MENTAL
5 HEALTH; TO REQUIRE EACH MUNICIPAL AND COUNTY LAW ENFORCEMENT
6 AGENCY TO HAVE AT LEAST ONE CRISIS INTERVENTION TRAINED OFFICER BY
7 A CERTAIN DATE; TO CREATE NEW SECTION 41-21-77.1, TO REQUIRE COURT
8 LIAISONS FOR CERTAIN COUNTIES; TO AMEND SECTION 41-4-3,
9 MISSISSIPPI CODE OF 1972, TO REVISE THE TERMS OF THE MEMBERS OF
10 THE STATE BOARD OF MENTAL HEALTH; TO AMEND SECTION 41-19-31,
11 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISION WHICH
12 REGULATED REGIONAL COMMISSIONS TO THIS ACT; TO AMEND SECTION
13 41-19-33, MISSISSIPPI CODE OF 1972, TO REQUIRE EACH REGIONAL
14 COMMISSION TO EMPLOY OR CONTRACT WITH AN ACCOUNTANT TO MANAGE ITS
15 FINANCES; TO REQUIRE THE ACCOUNTANT TO PROVIDE AN ANNUAL AUDIT IN
16 ADDITION TO OTHER DUTIES; TO PROVIDE QUALIFICATIONS FOR MEMBERS OF
17 THE BOARD; TO AMEND SECTION 41-19-35, MISSISSIPPI CODE OF 1972, TO
18 PROVIDE THAT MEMBERS OF THE REGIONAL COMMISSION SHALL SERVE AT THE
19 WILL AND PLEASURE OF THE APPOINTING BOARD OF SUPERVISORS; TO
20 REQUIRE THE COMMISSIONERS TO ATTEND CERTAIN TRAININGS AS A
21 CONDITION TO REMAINING A COMMISSIONER; TO REQUIRE REMOVAL OF ANY
22 COMMISSIONER WHO FAILS TO ATTEND CERTAIN TRAININGS PROVIDED BY THE
23 DEPARTMENT OF MENTAL HEALTH; TO AMEND SECTION 41-21-63,
24 MISSISSIPPI CODE OF 1972, TO REMOVE THE RESTRICTION FOR UNRESOLVED
25 FELONIES FOR PURPOSES OF MENTAL HEALTH COMMITMENT FOR NONVIOLENT
26 CRIMES; TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972, TO
27 PROVIDE THAT PERSONS WHO PERFORM PRE-SCREENING EVALUATIONS SHALL
28 BE CERTIFIED BY THE COMMUNITY MENTAL HEALTH CENTERS; TO REVISE WHO
29 MAY PERFORM A PHYSICAL AND MENTAL EXAMINATION WHEN A LICENSED
30 PHYSICIAN IS NOT AVAILABLE WITHIN 48 HOURS OF ISSUANCE OF A WRIT;
31 TO AMEND SECTION 41-21-77, MISSISSIPPI CODE OF 1972, TO REQUIRE
32 THE CHANCERY CLERK TO MAINTAIN A RECORD FOR THE NUMBER OF PERSONS
33 ORDERED FOR ADMISSION TO A TREATMENT FACILITY, THE NUMBER OF
34 HEARINGS TO DETERMINE WHETHER A PERSON SHOULD BE ADMITTED AND THE



35 NUMBER OF AFFIDAVITS FILED FOR PURPOSES OF ADMITTING A PERSON TO A
36 TREATMENT FACILITY; TO AMEND SECTION 41-4-7, MISSISSIPPI CODE OF
37 1972, TO REVISE THE POWERS AND DUTIES OF THE STATE BOARD OF MENTAL
38 HEALTH; TO BRING FORWARD SECTIONS 41-21-69, 41-21-71 AND 41-21-77,
39 MISSISSIPPI CODE OF 1972, WHICH REGULATE PROCEDURES AFTER AN ORDER
40 FOR ADMISSION TO A TREATMENT FACILITY HAS BEEN RENDERED; TO CREATE
41 THE "MISSISSIPPI COLLABORATIVE RESPONSE TO MENTAL HEALTH FUND" AS
42 A SPECIAL FUND IN THE STATE TREASURY; TO PROVIDE THAT MONIES IN
43 THE FUND SHALL BE USED BY THE DEPARTMENT OF MENTAL HEALTH, UPON
44 APPROPRIATION BY THE LEGISLATURE, FOR CERTAIN PURPOSES PROVIDED IN
45 THIS ACT INCLUDING MENTAL HEALTH FIRST AID TRAINING AND CRISIS
46 INTERVENTION TRAINING; TO AMEND SECTION 27-69-3, MISSISSIPPI CODE
47 OF 1972, TO REVISE THE DEFINITION OF THE TERM "TOBACCO" UNDER THE
48 TOBACCO TAX LAW; TO DEFINE THE TERM "VAPOR PRODUCT" UNDER THE
49 TOBACCO TAX LAW; TO AMEND SECTION 27-69-13, MISSISSIPPI CODE OF
50 1972, TO LEVY AN EXCISE TAX ON VAPOR PRODUCTS; TO AMEND SECTIONS
51 27-69-15, 27-69-27, 27-69-33 AND 27-69-35, MISSISSIPPI CODE OF
52 1972, IN CONFORMITY THERETO; TO AMEND SECTION 27-69-75,
53 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE REVENUE DERIVED FROM
54 THE EXCISE TAX ON VAPOR PRODUCTS SHALL BE DEPOSITED INTO THE
55 "MISSISSIPPI COLLABORATIVE RESPONSE TO MENTAL HEALTH FUND" CREATED
56 IN THIS ACT; TO BRING FORWARD SECTION 27-69-69, MISSISSIPPI CODE
57 OF 1972, WHICH IS A SECTION OF THE TOBACCO TAX LAW, FOR THE
58 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

60 **SECTION 1.** This act shall be known and may be cited as "The
61 Mississippi Collaborative Response to Mental Health Act".

62 **SECTION 2.** (1) Each county and municipal law enforcement
63 agency shall provide Mental Health First Aid training that is
64 evidence-based and approved by the Department of Mental Health to
65 all law enforcement officers who are employed or contracted by the
66 agency by July 1, 2031.

67 (2) Each county and municipal law enforcement agency shall
68 have at least one (1) law enforcement officer that is a trained
69 Crisis Intervention Team Officer as defined by Section 41-21-131
70 at all times by July 1, 2027.



71 **SECTION 3.** The following shall be codified as Section
72 41-21-77.1, Mississippi Code of 1972:

73 41-21-77.1. Subject to appropriation by the Legislature, the
74 Department of Mental Health shall provide funding to community
75 mental health centers to allow the centers to designate a court
76 liaison for each county in which the chancery court admits more
77 than twenty (20) persons per year to a behavioral treatment
78 facility under the authority of Section 41-21-77.

79 **SECTION 4.** Section 41-4-3, Mississippi Code of 1972, is
80 amended as follows:

81 41-4-3. (1) There is created a State Board of Mental
82 Health, referred to in this chapter as "board," consisting of nine
83 (9) members, to be appointed by the Governor, with the advice and
84 consent of the Senate, each of whom shall be a qualified elector.
85 One (1) member shall be appointed from each congressional district
86 as presently constituted; and four (4) members shall be appointed
87 from the state at large, one (1) of whom shall be a licensed
88 medical doctor who is a psychiatrist, one (1) of whom shall hold a
89 Ph.D. degree and be a licensed clinical psychologist, one (1) of
90 whom shall be a licensed medical doctor, and one (1) of whom shall
91 be a social worker with experience in the mental health field.

92 No more than two (2) members of the board shall be appointed
93 from any one (1) congressional district as presently constituted.

94 Each member of the initial board shall serve for a term of
95 years represented by the number of his congressional district; two



96 (2) state at large members shall serve for a term of six (6)
97 years; two (2) state at large members shall serve for a term of
98 seven (7) years; subsequent appointments shall be for seven-year
99 terms and the Governor shall fill any vacancy for the unexpired
100 term.

101 The board shall elect a chairman whose term of office shall
102 be one (1) year and until his successor shall be elected.

103 (2) Each board member shall be entitled to a per diem as is
104 authorized by law and all actual and necessary expenses, including
105 mileage as provided by law, incurred in the discharge of official
106 duties.

107 (3) The board shall hold regular meetings quarterly and such
108 special meetings deemed necessary, except that no action shall be
109 taken unless there is present a quorum of at least five (5)
110 members.

111 (4) No board member may be appointed for more than two (2)
112 terms. For purposes of counting terms of any board member, when
113 the term ends for any board member who is a member of the board as
114 of the effective date of this act, the end of such term shall be
115 considered the person's first term. If any person who is a member
116 of the board as of the effective date of this act is re-appointed
117 after the expiration of his or her term, such succeeding term
118 shall be considered the second term and such person shall not be
119 re-appointed to the board.



120 **SECTION 5.** Section 41-19-31, Mississippi Code of 1972, is
121 amended as follows:

122 41-19-31. For the purpose of authorizing the establishment
123 of mental illness and intellectual disability facilities and
124 services in the State of Mississippi, the boards of supervisors of
125 one or more counties are authorized to act singularly or as a
126 group in the selection of a regional district by spreading upon
127 their minutes by resolution such designation in conformity with
128 this act.

129 **SECTION 6.** Section 41-19-33, Mississippi Code of 1972, is
130 amended as follows:

131 41-19-33. (1) Each region so designated or established
132 under Section 41-19-31 shall establish a regional commission to be
133 composed of members appointed by the boards of supervisors of the
134 various counties in the region. Each regional commission shall
135 employ or contract with a certified public accountant for the
136 purpose of managing the finances of the commission. The
137 accountant shall provide an annual audit to the commission in
138 addition to his or her other duties. It shall be the duty of such
139 regional commission to administer mental health/intellectual
140 disability programs certified and required by the State Board of
141 Mental Health and as specified in Section 41-4-1(2). In addition,
142 once designated and established as provided hereinabove, a
143 regional commission shall have the following authority and shall
144 pursue and promote the following general purposes:



145 (a) To establish, own, lease, acquire, construct,
146 build, operate and maintain mental illness, mental health,
147 intellectual disability, alcoholism and general rehabilitative
148 facilities and services designed to serve the needs of the people
149 of the region so designated, provided that the services supplied
150 by the regional commissions shall include those services
151 determined by the Department of Mental Health to be necessary and
152 may include, in addition to the above, services for persons with
153 developmental and learning disabilities; for persons suffering
154 from narcotic addiction and problems of drug abuse and drug
155 dependence; and for the aging as designated and certified by the
156 Department of Mental Health. Such regional mental health and
157 intellectual disability commissions and other community service
158 providers shall, on or before July 1 of each year, submit an
159 annual operational plan to the Department of Mental Health for
160 approval or disapproval based on the minimum standards and minimum
161 required services established by the department for certification
162 and itemize the services as specified in Section 41-4-1(2),
163 including financial statements. As part of the annual operation
164 plan required by Section 41-4-7(h) submitted by any regional
165 community mental health center or by any other reasonable
166 certification deemed acceptable by the department, the community
167 mental health center shall state those services specified in
168 Section 41-4-1(2) that it will provide and also those services
169 that it will not provide. If the department finds deficiencies in



170 the plan of any regional commission or community service provider
171 based on the minimum standards and minimum required services
172 established for certification, the department shall give the
173 regional commission or community service provider a six-month
174 probationary period to bring its standards and services up to the
175 established minimum standards and minimum required services. The
176 regional commission or community service provider shall develop a
177 sustainability business plan within thirty (30) days of being
178 placed on probation, which shall be signed by all commissioners
179 and shall include policies to address one or more of the
180 following: the deficiencies in programmatic services, clinical
181 service staff expectations, timely and appropriate billing,
182 processes to obtain credentialing for staff, monthly reporting
183 processes, third-party financial reporting and any other required
184 documentation as determined by the department. After the
185 six-month probationary period, if the department determines that
186 the regional commission or community service provider still does
187 not meet the minimum standards and minimum required services
188 established for certification, the department may remove the
189 certification of the commission or provider, and from and after
190 July 1, 2011, the commission or provider shall be ineligible for
191 state funds from Medicaid reimbursement or other funding sources
192 for those services. After the six-month probationary period, the
193 Department of Mental Health may identify an appropriate community
194 service provider to provide any core services in that county that



195 are not provided by a community mental health center. However,
196 the department shall not offer reimbursement or other
197 accommodations to a community service provider of core services
198 that were not offered to the decertified community mental health
199 center for the same or similar services.

200 (b) To provide facilities and services for the
201 prevention of mental illness, mental disorders, developmental and
202 learning disabilities, alcoholism, narcotic addiction, drug abuse,
203 drug dependence and other related handicaps or problems (including
204 the problems of the aging) among the people of the region so
205 designated, and for the rehabilitation of persons suffering from
206 such illnesses, disorders, handicaps or problems as designated and
207 certified by the Department of Mental Health.

208 (c) To promote increased understanding of the problems
209 of mental illness, intellectual disabilities, alcoholism,
210 developmental and learning disabilities, narcotic addiction, drug
211 abuse and drug dependence and other related problems (including
212 the problems of the aging) by the people of the region, and also
213 to promote increased understanding of the purposes and methods of
214 the rehabilitation of persons suffering from such illnesses,
215 disorders, handicaps or problems as designated and certified by
216 the Department of Mental Health.

217 (d) To enter into contracts and to make such other
218 arrangements as may be necessary, from time to time, with the
219 United States government, the government of the State of



220 Mississippi and such other agencies or governmental bodies as may
221 be approved by and acceptable to the regional commission for the
222 purpose of establishing, funding, constructing, operating and
223 maintaining facilities and services for the care, treatment and
224 rehabilitation of persons suffering from mental illness, an
225 intellectual disability, alcoholism, developmental and learning
226 disabilities, narcotic addiction, drug abuse, drug dependence and
227 other illnesses, disorders, handicaps and problems (including the
228 problems of the aging) as designated and certified by the
229 Department of Mental Health.

230 (e) To enter into contracts and make such other
231 arrangements as may be necessary with any and all private
232 businesses, corporations, partnerships, proprietorships or other
233 private agencies, whether organized for profit or otherwise, as
234 may be approved by and acceptable to the regional commission for
235 the purpose of establishing, funding, constructing, operating and
236 maintaining facilities and services for the care, treatment and
237 rehabilitation of persons suffering from mental illness, an
238 intellectual disability, alcoholism, developmental and learning
239 disabilities, narcotic addiction, drug abuse, drug dependence and
240 other illnesses, disorders, handicaps and problems (including the
241 problems of the aging) relating to minimum services established by
242 the Department of Mental Health.

243 (f) To promote the general mental health of the people
244 of the region.



245 (g) To pay the administrative costs of the operation of
246 the regional commissions, including per diem for the members of
247 the commission and its employees, attorney's fees, if and when
248 such are required in the opinion of the commission, and such other
249 expenses of the commission as may be necessary. The Department of
250 Mental Health standards and audit rules shall determine what
251 administrative cost figures shall consist of for the purposes of
252 this paragraph. Each regional commission shall submit a cost
253 report annually to the Department of Mental Health in accordance
254 with guidelines promulgated by the department.

255 (h) To employ and compensate any personnel that may be
256 necessary to effectively carry out the programs and services
257 established under the provisions of the aforesaid act, provided
258 such person meets the standards established by the Department of
259 Mental Health.

260 (i) To acquire whatever hazard, casualty or workers'
261 compensation insurance that may be necessary for any property,
262 real or personal, owned, leased or rented by the commissions, or
263 any employees or personnel hired by the commissions.

264 (j) To acquire professional liability insurance on all
265 employees as may be deemed necessary and proper by the commission,
266 and to pay, out of the funds of the commission, all premiums due
267 and payable on account thereof.

268 (k) To provide and finance within their own facilities,
269 or through agreements or contracts with other local, state or



270 federal agencies or institutions, nonprofit corporations, or
271 political subdivisions or representatives thereof, programs and
272 services for persons with mental illness, including treatment for
273 alcoholics, and promulgating and administering of programs to
274 combat drug abuse and programs for services for persons with an
275 intellectual disability.

276 (l) To borrow money from private lending institutions
277 in order to promote any of the foregoing purposes. A commission
278 may pledge collateral, including real estate, to secure the
279 repayment of money borrowed under the authority of this paragraph.
280 Any such borrowing undertaken by a commission shall be on terms
281 and conditions that are prudent in the sound judgment of the
282 members of the commission, and the interest on any such loan shall
283 not exceed the amount specified in Section 75-17-105. Any money
284 borrowed, debts incurred or other obligations undertaken by a
285 commission, regardless of whether borrowed, incurred or undertaken
286 before or after March 15, 1995, shall be valid, binding and
287 enforceable if it or they are borrowed, incurred or undertaken for
288 any purpose specified in this section and otherwise conform to the
289 requirements of this paragraph.

290 (m) To acquire, own and dispose of real and personal
291 property. Any real and personal property paid for with state
292 and/or county appropriated funds must have the written approval of
293 the Department of Mental Health and/or the county board of



294 supervisors, depending on the original source of funding, before
295 being disposed of under this paragraph.

296 (n) To enter into managed care contracts and make such
297 other arrangements as may be deemed necessary or appropriate by
298 the regional commission in order to participate in any managed
299 care program. Any such contract or arrangement affecting more
300 than one (1) region must have prior written approval of the
301 Department of Mental Health before being initiated and annually
302 thereafter.

303 (o) To provide facilities and services on a discounted
304 or capitated basis. Any such action when affecting more than one
305 (1) region must have prior written approval of the Department of
306 Mental Health before being initiated and annually thereafter.

307 (p) To enter into contracts, agreements or other
308 arrangements with any person, payor, provider or other entity,
309 under which the regional commission assumes financial risk for the
310 provision or delivery of any services, when deemed to be necessary
311 or appropriate by the regional commission. Any action under this
312 paragraph affecting more than one (1) region must have prior
313 written approval of the Department of Mental Health before being
314 initiated and annually thereafter.

315 (q) To provide direct or indirect funding, grants,
316 financial support and assistance for any health maintenance
317 organization, preferred provider organization or other managed
318 care entity or contractor, where such organization, entity or



319 contractor is operated on a nonprofit basis. Any action under
320 this paragraph affecting more than one (1) region must have prior
321 written approval of the Department of Mental Health before being
322 initiated and annually thereafter.

323 (r) To form, establish, operate, and/or be a member of
324 or participant in, either individually or with one or more other
325 regional commissions, any managed care entity as defined in
326 Section 83-41-403(c). Any action under this paragraph affecting
327 more than one (1) region must have prior written approval of the
328 Department of Mental Health before being initiated and annually
329 thereafter.

330 (s) To meet at least annually with the board of
331 supervisors of each county in its region for the purpose of
332 presenting its total annual budget and total mental
333 health/intellectual disability services system. The commission
334 shall submit an annual report on the adult mental health services,
335 children mental health services and intellectual disability
336 services required by the State Board of Mental Health.

337 (t) To provide alternative living arrangements for
338 persons with serious mental illness, including, but not limited
339 to, group homes for persons with chronic mental illness.

340 (u) To make purchases and enter into contracts for
341 purchasing in compliance with the public purchasing law, Sections
342 31-7-12 and 31-7-13, with compliance with the public purchasing
343 law subject to audit by the State Department of Audit.



344 (v) To ensure that all available funds are used for the
345 benefit of persons with mental illness, persons with an
346 intellectual disability, substance abusers and persons with
347 developmental disabilities with maximum efficiency and minimum
348 administrative cost. At any time a regional commission, and/or
349 other related organization whatever it may be, accumulates surplus
350 funds in excess of one-half (1/2) of its annual operating budget,
351 the entity must submit a plan to the Department of Mental Health
352 stating the capital improvements or other projects that require
353 such surplus accumulation. If the required plan is not submitted
354 within forty-five (45) days of the end of the applicable fiscal
355 year, the Department of Mental Health shall withhold all state
356 appropriated funds from such regional commission until such time
357 as the capital improvement plan is submitted. If the submitted
358 capital improvement plan is not accepted by the department, the
359 surplus funds shall be expended by the regional commission in the
360 local mental health region on group homes for persons with mental
361 illness, persons with an intellectual disability, substance
362 abusers, children or other mental health/intellectual disability
363 services approved by the Department of Mental Health.

364 (w) Notwithstanding any other provision of law, to
365 fingerprint and perform a criminal history record check on every
366 employee or volunteer. Every employee or volunteer shall provide
367 a valid current social security number and/or driver's license
368 number that will be furnished to conduct the criminal history



369 record check. If no disqualifying record is identified at the
370 state level, fingerprints shall be forwarded to the Federal Bureau
371 of Investigation for a national criminal history record check.

372 (x) Notwithstanding any other provisions of law, each
373 regional commission shall have the authority to create and operate
374 a primary care health clinic to treat (i) its patients; and (ii)
375 its patients' family members related within the third degree; and
376 (iii) its patients' household members or caregivers, subject to
377 the following requirements:

378 (i) The regional commission may employ and
379 compensate any personnel necessary and must satisfy applicable
380 state and federal laws and regulations regarding the
381 administration and operation of a primary care health clinic.

382 (ii) A Mississippi licensed physician must be
383 employed or under agreement with the regional commission to
384 provide medical direction and/or to carry out the physician
385 responsibilities as described under applicable state and/or
386 federal law and regulations.

387 (iii) The physician providing medical direction
388 for the primary care clinic shall not be certified solely in
389 psychiatry.

390 (iv) A sliding fee scale may be used by the
391 regional commission when no other payer source is identified.



392 (v) The regional commission must ensure services
393 will be available and accessible promptly and in a manner that
394 preserves human dignity and assures continuity of care.

395 (vi) The regional commission must provide a
396 semiannual report to the Chairmen of the Public Health Committees
397 in both the House of Representatives and Senate. At a minimum,
398 for each reporting period, these reports shall describe the number
399 of patients provided primary care services, the types of services
400 provided, and the payer source for the patients. Except for
401 patient information and any other information that may be exempt
402 from disclosure under the Health Information Portability and
403 Accountability Act (HIPAA) and the Mississippi Public Records Act,
404 the reports shall be considered public records.

405 (vii) The regional commission must employ or
406 contract with a core clinical staff that is multidisciplinary and
407 culturally and linguistically competent.

408 (viii) The regional commission must ensure that
409 its physician as described in subparagraph (ii) of this paragraph
410 (x) has admitting privileges at one or more local hospitals or has
411 an agreement with a physician who has admitting privileges at one
412 or more local hospitals to ensure continuity of care.

413 (ix) The regional commission must provide an
414 independent financial audit report to the State Department of
415 Mental Health and, except for patient information and any other
416 information that may be exempt from disclosure under HIPAA and the



417 Mississippi Public Records Act, the audit report shall be
418 considered a public record.

419 For the purposes of this paragraph (x), the term "caregiver"
420 means an individual who has the principal and primary
421 responsibility for caring for a child or dependent adult,
422 especially in the home setting.

423 (y) In general to take any action which will promote,
424 either directly or indirectly, any and all of the foregoing
425 purposes.

426 (z) All regional commissioners shall receive new
427 orientation training and annual training with continuing education
428 regarding the Mississippi mental health system and services as
429 developed by the State Department of Mental Health. Training
430 shall be provided at the expense of the department except for
431 travel expenses which shall be paid by the regional commission.

432 (2) The types of services established by the State
433 Department of Mental Health that must be provided by the regional
434 mental health/intellectual disability centers for certification by
435 the department, and the minimum levels and standards for those
436 services established by the department, shall be provided by the
437 regional mental health/intellectual disability centers to children
438 when such services are appropriate for children, in the
439 determination of the department.

440 (3) Each regional commission shall compile quarterly
441 financial statements and status reports from each individual



442 community health center. The compiled reports shall be submitted
443 to the coordinator quarterly. The reports shall contain a:

- 444 (a) Balance sheet;
- 445 (b) Statement of operations;
- 446 (c) Statement of cash flows; and
- 447 (d) Description of the status of individual community
448 health center's actions taken to increase access to and
449 availability of community mental health services.

450 **SECTION 7.** Section 41-19-35, Mississippi Code of 1972, is
451 amended as follows:

452 41-19-35. (1) Except as otherwise provided in subsection
453 (2) of this section, the board of supervisors of each
454 participating county in the program shall appoint one (1) member
455 to represent its county on the regional commission in its
456 respective region for a term of four (4) years who shall serve at
457 the will and pleasure of the appointing board of supervisors. At
458 least one (1) county board of supervisors shall appoint its county
459 chancery clerk; and at least one (1) county board of supervisors
460 shall appoint its sheriff. Any compensation of such members shall
461 be paid by the regional commission, in its discretion, from any
462 funds available. Each member of the commission shall attend the
463 orientation training for new commissioners and the annual training
464 for all commissioners held by the Department of Mental Health. The
465 Department of Mental Health shall notify the board of supervisors
466 when a commissioner does not attend either the orientation training



467 or annual training. Upon notice from the Department of Mental
468 Health that a commissioner has failed to attend the required
469 meetings, the appointing board of supervisors shall remove the
470 commissioner.

471 (2) Beginning on July 1, 2023, each regional commission
472 consisting of only two (2) counties that border the State of
473 Alabama shall be comprised of five (5) members. The board of
474 supervisors of each participating county described under this
475 subsection (2) shall appoint two (2) members to represent its
476 respective county on the commission, and one (1) additional member
477 shall be appointed by the board of supervisors of the county
478 having the largest population according to the latest federal
479 decennial census. Appointees to the regional commission under
480 this subsection shall serve for a term of four (4) years at the
481 will and pleasure of the appointing board of supervisors. All
482 provisions of subsection (1) regarding training, notification by
483 the Department of Mental Health and the removal of appointees
484 shall apply to the regional commissioners appointed under the
485 provisions of this subsection (2). Any compensation of such
486 members shall be paid by the regional commission, in its
487 discretion, from any available funds under the same conditions as
488 all others commissioners under this chapter.

489 **SECTION 8.** Section 41-21-63, Mississippi Code of 1972, is
490 amended as follows:



491 41-21-63. (1) No person, other than persons charged with a
492 crime of violence as defined by Section 97-3-2, shall be committed
493 to a public treatment facility except under the provisions of
494 Sections 41-21-61 through 41-21-107 or 43-21-611 or 43-21-315.
495 However, nothing herein shall be construed to repeal, alter or
496 otherwise affect the provisions of Section 35-5-31 or to affect or
497 prevent the commitment of persons to the Veterans Administration
498 or other agency of the United States under the provisions of and
499 in the manner specified in those sections.

500 (2) (a) The chancery court, or the chancellor in vacation,
501 shall have jurisdiction under Sections 41-21-61 through 41-21-107
502 except over persons with unresolved felony charges that are listed
503 as crimes of violence under Section 97-3-2, unless paragraph (b)
504 of this subsection applies.

505 (b) If a circuit court with jurisdiction over
506 unresolved felony charges enters an order concluding that the
507 person is incompetent to stand trial and is not restorable to
508 competency in the foreseeable future, the matter should be
509 referred to the chancery court to be subject to civil commitment
510 procedures under Sections 41-21-61 through 41-21-107. The order
511 of the circuit court shall be in lieu of the affidavit for
512 commitment provided in Section 41-21-65. The chancery court shall
513 have jurisdiction and shall proceed with civil commitment
514 procedures under Section 41-21-61 through 41-21-107.



515 (3) The circuit court shall have jurisdiction under Sections
516 99-13-7, 99-13-9 and 99-13-11.

517 (4) Before the release of a person referred for civil
518 commitment under this section and committed under Sections
519 41-21-61 through 41-21-107, the Department of Mental Health must
520 notify the district attorney of the county where the offense was
521 committed. The district attorney must notify the crime victim or
522 a family member who has requested notification under Section
523 99-43-35 and the sheriffs of both the county where the offense was
524 committed and the county of the committed person's destination.

525 **SECTION 9.** Section 41-21-67, Mississippi Code of 1972, is
526 amended as follows:

527 41-21-67. (1) Whenever the affidavit provided for in
528 Section 41-21-65 is filed with the chancery clerk, the clerk, upon
529 direction of the chancellor of the court, shall issue a writ
530 directed to the sheriff of the proper county to take into custody
531 the person alleged to be in need of treatment and to take the
532 person for pre-evaluation screening and treatment by the
533 appropriate community mental health center established under
534 Section 41-19-31. The community mental health center will be
535 designated as the first point of entry for pre-evaluation
536 screening and treatment. If the community mental health center is
537 unavailable, * * * a reputable licensed physician, psychologist,
538 nurse practitioner or physician assistant * * * that has been
539 certified by the Department of Mental Health to perform



540 pre-evaluation screening may conduct the pre-evaluation screening
541 and examination as set forth in Section 41-21-69. The * * * writ
542 may provide where the person shall be held * * * for
543 pre-evaluation * * * and examination. However, when the affidavit
544 fails to set forth factual allegations and witnesses sufficient to
545 support the need for treatment, the chancellor shall refuse to
546 direct issuance of the writ. Reapplication may be made to the
547 chancellor. If a pauper's affidavit is filed by an affiant who is
548 a guardian or conservator of a person in need of treatment, the
549 court shall determine if either the affiant or the person in need
550 of treatment is a pauper and if * * * the affiant or the person in
551 need of treatment is determined to be a pauper, the county of the
552 residence of the respondent shall bear the costs of the commitment
553 proceedings in court, unless funds for those purposes are made
554 available by the state.

555 In any county in which a Crisis Intervention Team has been
556 established under the provisions of Sections 41-21-131 through
557 41-21-143, the clerk, upon the direction of the chancellor, may
558 require that the person be referred to the Crisis Intervention
559 Team for appropriate psychiatric or other medical services before
560 the issuance of the writ.

561 (2) Upon issuance of the writ, the chancellor shall
562 immediately appoint and summon two (2) reputable, licensed
563 physicians or one (1) reputable, licensed physician and either one
564 (1) psychologist, nurse practitioner or physician assistant to



565 conduct a physical and mental examination of the person at a place
566 to be designated by the clerk or chancellor and to report their
567 findings to the clerk or chancellor. However, any nurse
568 practitioner or physician assistant conducting the examination
569 shall be independent from, and not under the supervision of, the
570 other physician conducting the examination. A nurse practitioner
571 or psychiatric nurse practitioner conducting an examination under
572 this chapter must be functioning within a collaborative or
573 consultative relationship with a physician as required under
574 Section 73-15-20(3). In all counties in which there is a county
575 health officer, the county health officer, if available, may be
576 one (1) of the physicians so appointed. If a licensed physician
577 is not available to conduct the physical and mental examination
578 within forty-eight (48) hours of the issuance of the writ, the
579 court, in its discretion and upon good cause shown, may permit the
580 examination to be conducted by the following: (a) * * * one
581 (1) * * * psychiatric nurse practitioner * * *; one (1)
582 psychologist or one (1) physician assistant. Neither of the
583 physicians nor the psychologist, nurse practitioner or physician
584 assistant selected shall be related to that person in any way, nor
585 have any direct or indirect interest in the estate of that person
586 nor shall any full-time staff of residential treatment facilities
587 operated directly by the State Department of Mental Health serve
588 as examiner.



589 (3) The clerk shall ascertain whether the respondent is
590 represented by an attorney, and if it is determined that the
591 respondent does not have an attorney, the clerk shall immediately
592 notify the chancellor of that fact. If the chancellor determines
593 that the respondent for any reason does not have the services of
594 an attorney, the chancellor shall immediately appoint an attorney
595 for the respondent at the time the examiners are appointed.

596 (4) (a) If the chancellor determines that there is probable
597 cause to believe that the respondent is mentally ill and that
598 there is no reasonable alternative to detention, the chancellor
599 may order that the respondent be retained as an emergency patient
600 at any licensed medical facility for evaluation by a physician,
601 nurse practitioner or physician assistant and that a peace officer
602 transport the respondent to the specified facility. If the
603 community mental health center serving the county has partnered
604 with Crisis Intervention Teams under the provisions of Sections
605 41-21-131 through 41-21-143, the order may specify that the
606 licensed medical facility be a designated single point of entry
607 within the county or within an adjacent county served by the
608 community mental health center. If the person evaluating the
609 respondent finds that the respondent is mentally ill and in need
610 of treatment, the chancellor may order that the respondent be
611 retained at the licensed medical facility or any other available
612 suitable location as the court may so designate pending an
613 admission hearing. If necessary, the chancellor may order a peace



614 officer or other person to transport the respondent to that
615 facility or suitable location. Any respondent so retained may be
616 given such treatment as is indicated by standard medical practice.
617 However, the respondent shall not be held in a hospital operated
618 directly by the State Department of Mental Health, and shall not
619 be held in jail unless the court finds that there is no reasonable
620 alternative.

621 The respondent's status as an indigent or pauper shall not
622 constitute sufficient grounds for the court to find that there is
623 no reasonable alternative for the respondent to be held in jail.

624 (b) (i) For indigent patients with no payor source or
625 without payor coverage before a chancellor's determination
626 concerning psychiatric treatment, the respondent's county of
627 residence may bear the costs of prehearing placement or detention
628 provided by a licensed medical facility pursuant to an agreed upon
629 fee schedule with the licensed medical facility. In the absence
630 of an agreed upon fee schedule, the respondent's county of
631 residence may pay for the cost of placement or detention in an
632 amount no greater than the applicable reimbursement rate based on
633 the Mississippi Medicaid reimbursement rate or schedule, and the
634 county shall not be liable for any costs that exceed the
635 Mississippi Medicaid reimbursement rate or schedule.

636 (ii) For indigent respondents with no payor source
637 or without payor coverage where the chancellor has determined that
638 the respondent is in need of psychiatric treatment and no State



639 Department of Mental Health beds or community mental health center
640 crisis stabilization beds are available, the respondent's county
641 of residence shall bear the costs of treatment at an amount
642 negotiated with the treatment facilities, but the county shall not
643 be liable for any costs that exceed the Mississippi Medicaid
644 reimbursement rate or schedule.

645 (5) (a) Whenever a licensed psychologist, nurse
646 practitioner or physician assistant who is certified to complete
647 examinations for the purpose of commitment or a licensed physician
648 has reason to believe that a person poses an immediate substantial
649 likelihood of physical harm to himself or others or is gravely
650 disabled and unable to care for himself by virtue of mental
651 illness, as defined in Section 41-21-61(e), then the physician,
652 psychologist, nurse practitioner or physician assistant may hold
653 the person or may admit the person to and treat the person in a
654 licensed medical facility, without a civil order or warrant for a
655 period not to exceed seventy-two (72) hours. However, if the
656 seventy-two-hour period begins or ends when the chancery clerk's
657 office is closed, or within three (3) hours of closing, and the
658 chancery clerk's office will be continuously closed for a time
659 that exceeds seventy-two (72) hours, then the seventy-two-hour
660 period is extended until the end of the next business day that the
661 chancery clerk's office is open. The person may be held and
662 treated as an emergency patient at any licensed medical facility,
663 available regional mental health facility, or crisis intervention



664 center. The physician or psychologist, nurse practitioner or
665 physician assistant who holds the person shall certify in writing
666 the reasons for the need for holding.

667 If a person is being held and treated in a licensed medical
668 facility, and that person decides to continue treatment by
669 voluntarily signing consent for admission and treatment, the
670 seventy-two-hour hold may be discontinued without filing an
671 affidavit for commitment. Any respondent so held may be given
672 such treatment as indicated by standard medical practice. Persons
673 acting in good faith in connection with the detention and
674 reporting of a person believed to be mentally ill shall incur no
675 liability, civil or criminal, for those acts.

676 (b) Whenever an individual is held for purposes of
677 receiving treatment as prescribed under paragraph (a) of this
678 subsection, and it is communicated to the mental health
679 professional holding the individual that the individual resides or
680 has visitation rights with a minor child, and if the individual is
681 considered to be a danger to the minor child, the mental health
682 professional shall notify the Department of Child Protection
683 Services prior to discharge if the threat of harm continues to
684 exist, as is required under Section 43-21-353.

685 This paragraph (b) shall be known and may be cited as the
686 "Andrew Lloyd Law."

687 **SECTION 10.** Section 41-21-77, Mississippi Code of 1972, is
688 amended as follows:



689 41-21-77. (1) If admission is ordered at a treatment
690 facility, the sheriff, his or her deputy or any other person
691 appointed or authorized by the court shall immediately deliver the
692 respondent to the director of the appropriate facility. Neither
693 the Board of Mental Health or its members, nor the Department of
694 Mental Health or its related facilities, nor any employee of the
695 Department of Mental Health or its related facilities, shall be
696 appointed, authorized or ordered to deliver the respondent for
697 treatment, and no person shall be so delivered or admitted until
698 the director of the admitting institution determines that
699 facilities and services are available. Persons who have been
700 ordered committed and are awaiting admission may be given any such
701 treatment in the facility by a licensed physician as is indicated
702 by standard medical practice. Any county facility used for
703 providing housing, maintenance and medical treatment for
704 involuntarily committed persons pending their transportation and
705 admission to a state treatment facility shall be certified by the
706 State Department of Mental Health under the provisions of Section
707 41-4-7(kk). No person shall be delivered or admitted to any
708 non-Department of Mental Health treatment facility unless the
709 treatment facility is licensed and/or certified to provide the
710 appropriate level of psychiatric care for persons with mental
711 illness. It is the intent of this Legislature that county-owned
712 hospitals work with regional community mental health/intellectual
713 disability centers in providing care to local patients. The clerk



714 shall provide the director of the admitting institution with a
715 certified copy of the court order, a certified copy of the
716 appointed examiners' certificates, a certified copy of the
717 affidavit, and any other information available concerning the
718 physical and mental condition of the respondent. Upon
719 notification from the United States Veterans Administration or
720 other agency of the United States government, that facilities are
721 available and the respondent is eligible for care and treatment in
722 those facilities, the court may enter an order for delivery of the
723 respondent to or retention by the Veterans Administration or other
724 agency of the United States government, and, in those cases the
725 chief officer to whom the respondent is so delivered or by whom he
726 is retained shall, with respect to the respondent, be vested with
727 the same powers as the director of the Mississippi State Hospital
728 at Whitfield, or the East Mississippi State Hospital at Meridian,
729 with respect to retention and discharge of the respondent.

730 (2) (a) When admission to a treatment facility is ordered
731 by the court, the chancery clerk shall make record of the
732 admission. Each chancery clerk shall maintain a record of the
733 number of persons ordered by the court to be admitted to a
734 treatment facility, the number of hearings held by the court to
735 determine whether a person should be admitted to a treatment
736 facility and the number of affidavits filed to admit a person to a
737 treatment facility under Section 41-21-61 etc.



738 (b) The chancery clerk shall maintain a record each
739 time such clerk receives a denial for admission to a community
740 mental health center crisis stabilization bed, the reason provided
741 to the clerk for such denial, and the subsequent action taken by
742 the clerk upon receiving the denial.

743 (c) Each chancery clerk shall provide the records
744 required by paragraphs (a) and (b) of this subsection (2) to the
745 Department of Mental Health by January 1 of each year. Within
746 sixty (60) days of receipt of the chancery clerk records, the
747 Department of Mental Health shall provide a summary to the
748 Chairpersons of the Appropriations, Public Health and Judiciary A
749 and B Committees for the Mississippi House of Representatives and
750 the Mississippi Senate.

751 **SECTION 11.** Section 41-4-7, Mississippi Code of 1972, is
752 amended as follows:

753 41-4-7. The State Board of Mental Health shall have the
754 following powers and duties:

755 (a) To appoint a full-time Executive Director of the
756 Department of Mental Health, who shall be employed by the board
757 and shall serve as executive secretary to the board. The first
758 director shall be a duly licensed physician with special interest
759 and competence in psychiatry, and shall possess a minimum of three
760 (3) years' experience in clinical and administrative psychiatry.
761 Subsequent directors shall possess at least a master's degree or
762 its equivalent, and shall possess at least ten (10) years'



763 administrative experience in the field of mental health. The
764 salary of the executive director shall be determined by the board;

765 (b) To appoint a Medical Director for the Department of
766 Mental Health. The medical director shall provide clinical
767 oversight in the implementation of evidence-based and best
768 practices; provide clinical leadership in the integration of
769 mental health, intellectual disability and addiction services with
770 community partners in the public and private sectors; and provide
771 oversight regarding standards of care. The medical director shall
772 serve at the will and pleasure of the board, and will undergo an
773 annual review of job performance and future service to the
774 department;

775 (c) To * * * establish and implement its state
776 strategic plan;

777 (d) To develop a strategic plan for the development of
778 services for persons with mental illness, persons with
779 developmental disabilities and other clients of the public mental
780 health system. Such strategic planning program shall require that
781 the board, acting through the Strategic Planning and Best
782 Practices Committee, perform the following functions respecting
783 the delivery of services:

784 (i) Establish measures for determining the
785 efficiency and effectiveness of the services specified in Section
786 41-4-1(2);



787 (ii) Conducting studies of community-based care in
788 other jurisdictions to determine which services offered in these
789 jurisdictions have the potential to provide the citizens of
790 Mississippi with more effective and efficient community-based
791 care;

792 (iii) Evaluating the efficiency and effectiveness
793 of the services specified in Section 41-4-1(2);

794 (iv) Recommending to the Legislature by January 1,
795 2014, any necessary additions, deletions or other changes
796 necessary to the services specified in Section 41-4-1(2);

797 (v) Implementing by July 1, 2012, a system of
798 performance measures for the services specified in Section
799 41-4-1(2);

800 (vi) Recommending to the Legislature any changes
801 that the department believes are necessary to the current laws
802 addressing civil commitment;

803 (vii) Conducting any other activities necessary to
804 the evaluation and study of the services specified in Section
805 41-4-1(2);

806 (viii) Assisting in conducting all necessary
807 strategic planning for the delivery of all other services of the
808 department. Such planning shall be conducted so as to produce a
809 single strategic plan for the services delivered by the public
810 mental health system and shall establish appropriate mission
811 statements, goals, objectives and performance indicators for all



812 programs and services of the public mental health system. For
813 services other than those specified in Section 41-4-1(2), the
814 committee shall recommend to the State Board of Mental Health a
815 strategic plan that the board may adopt or modify;

816 (e) To set up state plans for the purpose of
817 controlling and treating any and all forms of mental and emotional
818 illness, alcoholism, drug misuse and developmental disabilities;

819 (f) [Repealed]

820 (g) To enter into contracts with any other state or
821 federal agency, or with any private person, organization or group
822 capable of contracting, if it finds such action to be in the
823 public interest;

824 (h) To collect reasonable fees for its services;
825 however, if it is determined that a person receiving services is
826 unable to pay the total fee, the department shall collect any
827 amount such person is able to pay;

828 (i) To certify, coordinate and establish minimum
829 standards and establish minimum required services, as specified in
830 Section 41-4-1(2), for regional mental health and intellectual
831 disability commissions and other community service providers for
832 community or regional programs and services in adult mental
833 health, children and youth mental health, intellectual
834 disabilities, alcoholism, drug misuse, developmental disabilities,
835 compulsive gambling, addictive disorders and related programs
836 throughout the state. Such regional mental health and



837 intellectual disability commissions and other community service
838 providers shall, on or before July 1 of each year, submit an
839 annual operational plan to the State Department of Mental Health
840 for approval or disapproval based on the minimum standards and
841 minimum required services established by the department for
842 certification and itemize the services specified in Section
843 41-4-1(2), including financial statements. As part of the annual
844 operation plan required by this paragraph (i) submitted by any
845 regional community mental health center or by any other reasonable
846 certification deemed acceptable by the department, the community
847 mental health center shall state those services specified in
848 Section 41-4-1(2) that it will provide and also those services
849 that it will not provide. If the department finds deficiencies in
850 the plan of any regional commission or community service provider
851 based on the minimum standards and minimum required services
852 established for certification, the department shall give the
853 regional commission or community service provider a six-month
854 probationary period to bring its standards and services up to the
855 established minimum standards and minimum required services. The
856 regional commission or community service provider shall develop a
857 sustainability business plan within thirty (30) days of being
858 placed on probation, which shall be signed by all commissioners
859 and shall include policies to address one or more of the
860 following: the deficiencies in programmatic services, clinical
861 service staff expectations, timely and appropriate billing,



862 processes to obtain credentialing for staff, monthly reporting
863 processes, third-party financial reporting and any other required
864 documentation as determined by the department. After the
865 six-month probationary period, if the department determines that
866 the regional commission or community service provider still does
867 not meet the minimum standards and minimum required services
868 established for certification, the department may remove the
869 certification of the commission or provider and from and after
870 July 1, 2011, the commission or provider shall be ineligible for
871 state funds from Medicaid reimbursement or other funding sources
872 for those services. However, the department shall not mandate a
873 standard or service, or decertify a regional commission or
874 community service provider for not meeting a standard or service,
875 if the standard or service does not have funding appropriated by
876 the Legislature or have a state, federal or local funding source
877 identified by the department. No county shall be required to levy
878 millage to provide a mandated standard or service above the
879 minimum rate required by Section 41-19-39. After the six-month
880 probationary period, the department may identify an appropriate
881 community service provider to provide any core services in that
882 county that are not provided by a community mental health center.
883 However, the department shall not offer reimbursement or other
884 accommodations to a community service provider of core services
885 that were not offered to the decertified community mental health
886 center for the same or similar services. The State Board of



887 Mental Health shall promulgate rules and regulations necessary to
888 implement the provisions of this paragraph (i), in accordance with
889 the Administrative Procedures Law (Section 25-43-1.101 et seq.);

890 (j) To establish and promulgate reasonable minimum
891 standards for the construction and operation of state and all
892 Department of Mental Health certified facilities, including
893 reasonable minimum standards for the admission, diagnosis, care,
894 treatment, transfer of patients and their records, and also
895 including reasonable minimum standards for providing day care,
896 outpatient care, emergency care, inpatient care and follow-up
897 care, when such care is provided for persons with mental or
898 emotional illness, an intellectual disability, alcoholism, drug
899 misuse and developmental disabilities;

900 (k) To implement best practices for all services
901 specified in Section 41-4-1(2), and to establish and implement all
902 other services delivered by the Department of Mental Health. To
903 carry out this responsibility, the board shall require the
904 department to establish a division responsible for developing best
905 practices based on a comprehensive analysis of the mental health
906 environment to determine what the best practices for each service
907 are. In developing best practices, the board shall consider the
908 cost and benefits associated with each practice with a goal of
909 implementing only those practices that are cost-effective
910 practices for service delivery. Such best practices shall be
911 utilized by the board in establishing performance standards and



912 evaluations of the community mental health centers' services
913 required by paragraph (d) of this section;

914 (l) To assist community or regional programs consistent
915 with the purposes of this chapter by making grants and contracts
916 from available funds;

917 (m) To establish and collect reasonable fees for
918 necessary inspection services incidental to certification or
919 compliance;

920 (n) To accept gifts, trusts, bequests, grants,
921 endowments or transfers of property of any kind;

922 (o) To receive monies coming to it by way of fees for
923 services or by appropriations;

924 (p) To serve as the single state agency in receiving
925 and administering any and all funds available from any source for
926 the purpose of service delivery, training, research and education
927 in regard to all forms of mental illness, intellectual
928 disabilities, alcoholism, drug misuse and developmental
929 disabilities, unless such funds are specifically designated to a
930 particular agency or institution by the federal government, the
931 Mississippi Legislature or any other grantor;

932 (q) To establish mental health holding centers for the
933 purpose of providing short-term emergency mental health treatment,
934 places for holding persons awaiting commitment proceedings or
935 awaiting placement in a state mental health facility following
936 commitment, and for diverting placement in a state mental health



937 facility. These mental health holding facilities shall be readily
938 accessible, available statewide, and be in compliance with
939 emergency services' minimum standards. They shall be
940 comprehensive and available to triage and make appropriate
941 clinical disposition, including the capability to access inpatient
942 services or less restrictive alternatives, as needed, as
943 determined by medical staff. Such facility shall have medical,
944 nursing and behavioral services available on a
945 twenty-four-hour-a-day basis. The board may provide for all or
946 part of the costs of establishing and operating the holding
947 centers in each district from such funds as may be appropriated to
948 the board for such use, and may participate in any plan or
949 agreement with any public or private entity under which the entity
950 will provide all or part of the costs of establishing and
951 operating a holding center in any district;

952 (r) To certify/license case managers, mental health
953 therapists, intellectual disability therapists, mental
954 health/intellectual disability program administrators, addiction
955 counselors and others as deemed appropriate by the board. Persons
956 already professionally licensed by another state board or agency
957 are not required to be certified/licensed under this section by
958 the Department of Mental Health. The department shall not use
959 professional titles in its certification/licensure process for
960 which there is an independent licensing procedure. Such
961 certification/licensure shall be valid only in the state mental



962 health system, in programs funded and/or certified by the
963 Department of Mental Health, and/or in programs certified/licensed
964 by the State Department of Health that are operated by the state
965 mental health system serving persons with mental illness, an
966 intellectual disability, a developmental disability or addictions,
967 and shall not be transferable;

968 (s) To develop formal mental health worker
969 qualifications for regional mental health and intellectual
970 disability commissions and other community service providers. The
971 State Personnel Board shall develop and promulgate a recommended
972 salary scale and career ladder for all regional mental
973 health/intellectual disability center therapists and case managers
974 who work directly with clients. The State Personnel Board shall
975 also develop and promulgate a career ladder for all direct care
976 workers employed by the State Department of Mental Health;

977 (t) The employees of the department shall be governed
978 by personnel merit system rules and regulations, the same as other
979 employees in state services;

980 (u) To establish such rules and regulations as may be
981 necessary in carrying out the provisions of this chapter,
982 including the establishment of a formal grievance procedure to
983 investigate and attempt to resolve consumer complaints;

984 (v) To grant easements for roads, utilities and any
985 other purpose it finds to be in the public interest;



986 (w) To survey statutory designations, building markers
987 and the names given to mental health/intellectual disability
988 facilities and proceedings in order to recommend deletion of
989 obsolete and offensive terminology relative to the mental
990 health/intellectual disability system. Based upon a
991 recommendation of the executive director, the board shall have the
992 authority to name/rename any facility operated under the auspices
993 of the Department of Mental Health for the sole purpose of
994 deleting such terminology;

995 (x) To ensure an effective case management system
996 directed at persons who have been discharged from state and
997 private psychiatric hospitals to ensure their continued well-being
998 in the community;

999 (y) To develop formal service delivery standards
1000 designed to measure the quality of services delivered to community
1001 clients, as well as the timeliness of services to community
1002 clients provided by regional mental health/intellectual disability
1003 commissions and other community services providers;

1004 (z) To establish regional state offices to provide
1005 mental health crisis intervention centers and services available
1006 throughout the state to be utilized on a case-by-case emergency
1007 basis. The regional services director, other staff and delivery
1008 systems shall meet the minimum standards of the Department of
1009 Mental Health;



1010 (aa) To require performance contracts with community
1011 mental health/intellectual disability service providers to contain
1012 performance indicators to measure successful outcomes, including
1013 diversion of persons from inpatient psychiatric hospitals,
1014 rapid/timely response to emergency cases, client satisfaction with
1015 services and other relevant performance measures;

1016 (bb) To enter into interagency agreements with other
1017 state agencies, school districts and other local entities as
1018 determined necessary by the department to ensure that local mental
1019 health service entities are fulfilling their responsibilities to
1020 the overall state plan for behavioral services;

1021 (cc) To establish and maintain a toll-free grievance
1022 reporting telephone system for the receipt and referral for
1023 investigation of all complaints by clients of state and community
1024 mental health/intellectual disability facilities;

1025 (dd) To establish a peer review/quality assurance
1026 evaluation system that assures that appropriate assessment,
1027 diagnosis and treatment is provided according to established
1028 professional criteria and guidelines;

1029 (ee) To develop and implement state plans for the
1030 purpose of assisting with the care and treatment of persons with
1031 Alzheimer's disease and other dementia. This plan shall include
1032 education and training of service providers, caregivers in the
1033 home setting and others who deal with persons with Alzheimer's
1034 disease and other dementia, and development of adult day care,



1035 family respite care and counseling programs to assist families who
1036 maintain persons with Alzheimer's disease and other dementia in
1037 the home setting. No agency shall be required to provide any
1038 services under this section until such time as sufficient funds
1039 have been appropriated or otherwise made available by the
1040 Legislature specifically for the purposes of the treatment of
1041 persons with Alzheimer's and other dementia;

1042 (ff) Working with the advice and consent of the
1043 administration of Ellisville State School, to enter into
1044 negotiations with the Economic Development Authority of Jones
1045 County for the purpose of negotiating the possible exchange, lease
1046 or sale of lands owned by Ellisville State School to the Economic
1047 Development Authority of Jones County. It is the intent of the
1048 Mississippi Legislature that such negotiations shall ensure that
1049 the financial interest of the persons with an intellectual
1050 disability served by Ellisville State School will be held
1051 paramount in the course of these negotiations. The Legislature
1052 also recognizes the importance of economic development to the
1053 citizens of the State of Mississippi and Jones County, and
1054 encourages fairness to the Economic Development Authority of Jones
1055 County. Any negotiations proposed which would result in the
1056 recommendation for exchange, lease or sale of lands owned by
1057 Ellisville State School must have the approval of the State Board
1058 of Mental Health. The State Board of Mental Health may and has
1059 the final authority as to whether or not these negotiations result



1060 in the exchange, lease or sale of the properties it currently
1061 holds in trust for persons with an intellectual disability served
1062 at Ellisville State School.

1063 If the State Board of Mental Health authorizes the sale of
1064 lands owned by Ellisville State School, as provided for under this
1065 paragraph (ff), the monies derived from the sale shall be placed
1066 into a special fund that is created in the State Treasury to be
1067 known as the "Ellisville State School Client's Trust Fund." The
1068 principal of the trust fund shall remain inviolate and shall never
1069 be expended. Any interest earned on the principal may be expended
1070 solely for the benefits of clients served at Ellisville State
1071 School. The State Treasurer shall invest the monies of the trust
1072 fund in any of the investments authorized for the Mississippi
1073 Prepaid Affordable College Tuition Program under Section 37-155-9,
1074 and those investments shall be subject to the limitations
1075 prescribed by Section 37-155-9. Unexpended amounts remaining in
1076 the trust fund at the end of a fiscal year shall not lapse into
1077 the State General Fund, and any interest earned on amounts in the
1078 trust fund shall be deposited to the credit of the trust fund.
1079 The administration of Ellisville State School may use any interest
1080 earned on the principal of the trust fund, upon appropriation by
1081 the Legislature, as needed for services or facilities by the
1082 clients of Ellisville State School. Ellisville State School shall
1083 make known to the Legislature, through the Legislative Budget
1084 Committee and the respective Appropriations Committees of the



1085 House and Senate, its proposed use of interest earned on the
1086 principal of the trust fund for any fiscal year in which it
1087 proposes to make expenditures thereof. The State Treasurer shall
1088 provide Ellisville State School with an annual report on the
1089 Ellisville State School Client's Trust Fund to indicate the total
1090 monies in the trust fund, interest earned during the year,
1091 expenses paid from the trust fund and such other related
1092 information.

1093 Nothing in this section shall be construed as applying to or
1094 affecting mental health/intellectual disability services provided
1095 by hospitals as defined in Section 41-9-3(a), and/or their
1096 subsidiaries and divisions, which hospitals, subsidiaries and
1097 divisions are licensed and regulated by the Mississippi State
1098 Department of Health unless such hospitals, subsidiaries or
1099 divisions voluntarily request certification by the Mississippi
1100 State Department of Mental Health.

1101 All new programs authorized under this section shall be
1102 subject to the availability of funds appropriated therefor by the
1103 Legislature;

1104 (gg) Working with the advice and consent of the
1105 administration of Boswell Regional Center, to enter into
1106 negotiations with the Economic Development Authority of Simpson
1107 County for the purpose of negotiating the possible exchange, lease
1108 or sale of lands owned by Boswell Regional Center to the Economic
1109 Development Authority of Simpson County. It is the intent of the



1110 Mississippi Legislature that such negotiations shall ensure that
1111 the financial interest of the persons with an intellectual
1112 disability served by Boswell Regional Center will be held
1113 paramount in the course of these negotiations. The Legislature
1114 also recognizes the importance of economic development to the
1115 citizens of the State of Mississippi and Simpson County, and
1116 encourages fairness to the Economic Development Authority of
1117 Simpson County. Any negotiations proposed which would result in
1118 the recommendation for exchange, lease or sale of lands owned by
1119 Boswell Regional Center must have the approval of the State Board
1120 of Mental Health. The State Board of Mental Health may and has
1121 the final authority as to whether or not these negotiations result
1122 in the exchange, lease or sale of the properties it currently
1123 holds in trust for persons with an intellectual disability served
1124 at Boswell Regional Center. In any such exchange, lease or sale
1125 of such lands owned by Boswell Regional Center, title to all
1126 minerals, oil and gas on such lands shall be reserved, together
1127 with the right of ingress and egress to remove same, whether such
1128 provisions be included in the terms of any such exchange, lease or
1129 sale or not.

1130 If the State Board of Mental Health authorizes the sale of
1131 lands owned by Boswell Regional Center, as provided for under this
1132 paragraph (gg), the monies derived from the sale shall be placed
1133 into a special fund that is created in the State Treasury to be
1134 known as the "Boswell Regional Center Client's Trust Fund." The



1135 principal of the trust fund shall remain inviolate and shall never
1136 be expended. Any earnings on the principal may be expended solely
1137 for the benefits of clients served at Boswell Regional Center.
1138 The State Treasurer shall invest the monies of the trust fund in
1139 any of the investments authorized for the Mississippi Prepaid
1140 Affordable College Tuition Program under Section 37-155-9, and
1141 those investments shall be subject to the limitations prescribed
1142 by Section 37-155-9. Unexpended amounts remaining in the trust
1143 fund at the end of a fiscal year shall not lapse into the State
1144 General Fund, and any earnings on amounts in the trust fund shall
1145 be deposited to the credit of the trust fund. The administration
1146 of Boswell Regional Center may use any earnings on the principal
1147 of the trust fund, upon appropriation by the Legislature, as
1148 needed for services or facilities by the clients of Boswell
1149 Regional Center. Boswell Regional Center shall make known to the
1150 Legislature, through the Legislative Budget Committee and the
1151 respective Appropriations Committees of the House and Senate, its
1152 proposed use of the earnings on the principal of the trust fund
1153 for any fiscal year in which it proposes to make expenditures
1154 thereof. The State Treasurer shall provide Boswell Regional
1155 Center with an annual report on the Boswell Regional Center
1156 Client's Trust Fund to indicate the total monies in the trust
1157 fund, interest and other income earned during the year, expenses
1158 paid from the trust fund and such other related information.



1159 Nothing in this section shall be construed as applying to or
1160 affecting mental health/intellectual disability services provided
1161 by hospitals as defined in Section 41-9-3(a), and/or their
1162 subsidiaries and divisions, which hospitals, subsidiaries and
1163 divisions are licensed and regulated by the Mississippi State
1164 Department of Health unless such hospitals, subsidiaries or
1165 divisions voluntarily request certification by the Mississippi
1166 State Department of Mental Health.

1167 All new programs authorized under this section shall be
1168 subject to the availability of funds appropriated therefor by the
1169 Legislature;

1170 (hh) Notwithstanding any other section of the code, the
1171 Board of Mental Health shall be authorized to fingerprint and
1172 perform a criminal history record check on every employee or
1173 volunteer. Every employee and volunteer shall provide a valid
1174 current social security number and/or driver's license number
1175 which shall be furnished to conduct the criminal history record
1176 check. If no disqualifying record is identified at the state
1177 level, fingerprints shall be forwarded to the Federal Bureau of
1178 Investigation for a national criminal history record check;

1179 (ii) The Department of Mental Health shall have the
1180 authority for the development of a consumer friendly single point
1181 of intake and referral system within its service areas for persons
1182 with mental illness, an intellectual disability, developmental
1183 disabilities or alcohol or substance abuse who need assistance



1184 identifying or accessing appropriate services. The department
1185 will develop and implement a comprehensive evaluation procedure
1186 ensuring that, where appropriate, the affected person or their
1187 parent or legal guardian will be involved in the assessment and
1188 planning process. The department, as the point of intake and as
1189 service provider, shall have the authority to determine the
1190 appropriate institutional, hospital or community care setting for
1191 persons who have been diagnosed with mental illness, an
1192 intellectual disability, developmental disabilities and/or alcohol
1193 or substance abuse, and may provide for the least restrictive
1194 placement if the treating professional believes such a setting is
1195 appropriate, if the person affected or their parent or legal
1196 guardian wants such services, and if the department can do so with
1197 a reasonable modification of the program without creating a
1198 fundamental alteration of the program. The least restrictive
1199 setting could be an institution, hospital or community setting,
1200 based upon the needs of the affected person or their parent or
1201 legal guardian;

1202 (jj) To have the sole power and discretion to enter
1203 into, sign, execute and deliver long-term or multiyear leases of
1204 real and personal property owned by the Department of Mental
1205 Health to and from other state and federal agencies and private
1206 entities deemed to be in the public's best interest. Any monies
1207 derived from such leases shall be deposited into the funds of the
1208 Department of Mental Health for its exclusive use. Leases to



1209 private entities shall be approved by the Department of Finance
1210 and Administration and all leases shall be filed with the
1211 Secretary of State;

1212 (kk) To certify and establish minimum standards and
1213 minimum required services for county facilities used for housing,
1214 feeding and providing medical treatment for any person who has
1215 been involuntarily ordered admitted to a treatment center by a
1216 court of competent jurisdiction. The minimum standard for the
1217 initial assessment of those persons being housed in county
1218 facilities is for the assessment to be performed by a physician,
1219 preferably a psychiatrist, or by a nurse practitioner, preferably
1220 a psychiatric nurse practitioner. If the department finds
1221 deficiencies in any such county facility or its provider based on
1222 the minimum standards and minimum required services established
1223 for certification, the department shall give the county or its
1224 provider a six-month probationary period to bring its standards
1225 and services up to the established minimum standards and minimum
1226 required services. After the six-month probationary period, if
1227 the department determines that the county or its provider still
1228 does not meet the minimum standards and minimum required services,
1229 the department may remove the certification of the county or
1230 provider and require the county to contract with another county
1231 having a certified facility to hold those persons for that period
1232 of time pending transportation and admission to a state treatment
1233 facility. Any cost incurred by a county receiving an



1234 involuntarily committed person from a county with a decertified
1235 holding facility shall be reimbursed by the home county to the
1236 receiving county; and

1237 (11) To provide orientation training to all new
1238 commissioners of regional commissions and annual training for all
1239 commissioners with continuing education regarding the Mississippi
1240 mental health system and services as developed by the State
1241 Department of Mental Health. Training shall be provided at the
1242 expense of the department except for travel expenses which shall
1243 be paid by the regional commission.

1244 **SECTION 12.** Section 41-21-69, Mississippi Code of 1972, is
1245 brought forward as follows:

1246 41-21-69. (1) (a) The appointed examiners shall
1247 immediately make a full inquiry into the condition of the person
1248 alleged to be in need of treatment and shall make a mental
1249 examination and physical evaluation of the person, and each
1250 examiner must make a report and certificate of the findings of all
1251 mental and acute physical problems to the clerk of the court.
1252 Each report and certificate must set forth the facts as found by
1253 the appointed examiner and must state whether the examiner is of
1254 the opinion that the proposed patient is suffering a disability
1255 defined in Sections 41-21-61 through 41-21-107 and should be
1256 committed to a treatment facility. The statement shall include
1257 the reasons for that opinion. The examination may be based upon a
1258 history provided by the patient and the report and certificate of



1259 findings shall include an identification of all mental and
1260 physical problems identified by the examination.

1261 (b) If the appointed examiner finds: (i) the
1262 respondent has mental illness; (ii) the respondent is capable of
1263 surviving safely in the community with available supervision from
1264 family, friends or others; (iii) based on the respondent's
1265 treatment history and other applicable medical or psychiatric
1266 indicia, the respondent is in need of treatment in order to
1267 prevent further disability or deterioration that would result in
1268 significant deterioration in the ability to carry out activities
1269 of daily living; and (iv) his or her current mental status or the
1270 nature of his or her illness limits or negates his or her ability
1271 to make an informed decision to seek voluntarily or comply with
1272 recommended treatment; the appointed examiners shall so show on
1273 the examination report and certification and shall recommend
1274 outpatient commitment. The appointed examiners shall also show
1275 the name, address and telephone number of the proposed outpatient
1276 treatment physician or facility.

1277 (2) The examinations shall be conducted and concluded within
1278 forty-eight (48) hours after the order for examination and
1279 appointment of attorney, and the certificates of the appointed
1280 examiners shall be filed with the clerk of the court within that
1281 time, unless the running of that period extends into nonbusiness
1282 hours, in which event the certificates must be filed at the
1283 beginning of the next business day. However, if the appointed



1284 examiners are of the opinion that additional time to complete the
1285 examination is necessary, and this fact is communicated to the
1286 chancery clerk or chancellor, the clerk or chancellor shall have
1287 authority to extend the time for completion of the examination and
1288 the filing of the certificate, the extension to be not more than
1289 eight (8) hours.

1290 (3) At the beginning of the examination, the respondent
1291 shall be told in plain language of the purpose of the examination,
1292 the possible consequences of the examination, of his or her right
1293 to refuse to answer any questions, and his or her right to have
1294 his or her attorney present.

1295 **SECTION 13.** Section 41-21-71, Mississippi Code of 1972, is
1296 brought forward as follows:

1297 41-21-71. If, as a result of the examination, the appointed
1298 examiners certify that the person is not in need of treatment, the
1299 chancellor or clerk shall dismiss the affidavit without the need
1300 for a further hearing. If the chancellor or chancery clerk finds,
1301 based upon the appointed examiners' certificates and any other
1302 relevant evidence, that the respondent is in need of treatment and
1303 the certificates are filed with the chancery clerk within
1304 forty-eight (48) hours after the order for examination, or
1305 extension of that time as provided in Section 41-21-69, the clerk
1306 shall immediately set the matter for a hearing. The hearing shall
1307 be set within seven (7) days of the filing of the certificates
1308 unless an extension is requested by the respondent's attorney. In



1309 no event shall the hearing be more than ten (10) days after the
1310 filing of the certificates.

1311 **SECTION 14.** Section 41-21-77, Mississippi Code of 1972, is
1312 brought forward as follows:

1313 41-21-77. If admission is ordered at a treatment facility,
1314 the sheriff, his or her deputy or any other person appointed or
1315 authorized by the court shall immediately deliver the respondent
1316 to the director of the appropriate facility. Neither the Board of
1317 Mental Health or its members, nor the Department of Mental Health
1318 or its related facilities, nor any employee of the Department of
1319 Mental Health or its related facilities, shall be appointed,
1320 authorized or ordered to deliver the respondent for treatment, and
1321 no person shall be so delivered or admitted until the director of
1322 the admitting institution determines that facilities and services
1323 are available. Persons who have been ordered committed and are
1324 awaiting admission may be given any such treatment in the facility
1325 by a licensed physician as is indicated by standard medical
1326 practice. Any county facility used for providing housing,
1327 maintenance and medical treatment for involuntarily committed
1328 persons pending their transportation and admission to a state
1329 treatment facility shall be certified by the State Department of
1330 Mental Health under the provisions of Section 41-4-7(kk). No
1331 person shall be delivered or admitted to any non-Department of
1332 Mental Health treatment facility unless the treatment facility is
1333 licensed and/or certified to provide the appropriate level of



1334 psychiatric care for persons with mental illness. It is the
1335 intent of this Legislature that county-owned hospitals work with
1336 regional community mental health/intellectual disability centers
1337 in providing care to local patients. The clerk shall provide the
1338 director of the admitting institution with a certified copy of the
1339 court order, a certified copy of the appointed examiners'
1340 certificates, a certified copy of the affidavit, and any other
1341 information available concerning the physical and mental condition
1342 of the respondent. Upon notification from the United States
1343 Veterans Administration or other agency of the United States
1344 government, that facilities are available and the respondent is
1345 eligible for care and treatment in those facilities, the court may
1346 enter an order for delivery of the respondent to or retention by
1347 the Veterans Administration or other agency of the United States
1348 government, and, in those cases the chief officer to whom the
1349 respondent is so delivered or by whom he is retained shall, with
1350 respect to the respondent, be vested with the same powers as the
1351 director of the Mississippi State Hospital at Whitfield, or the
1352 East Mississippi State Hospital at Meridian, with respect to
1353 retention and discharge of the respondent.

1354 **SECTION 15.** (1) There is created in the State Treasury a
1355 special fund to be designated as the "Mississippi Collaborative
1356 Response to Mental Health Fund," which shall consist of funds
1357 deposited therein under Section 27-69-75, Mississippi Code of
1358 1972, and funds from any other source designated for deposit into



1359 such fund. The fund shall be maintained by the State Treasurer as
1360 a separate and special fund, separate and apart from the General
1361 Fund of the state. Unexpended amounts remaining in the fund at
1362 the end of a fiscal year shall not lapse into the State General
1363 Fund, and any investment earnings or interest earned on amounts in
1364 the fund shall be deposited to the credit of the fund. Monies in
1365 the fund shall be used by the Department of Mental Health, upon
1366 appropriation by the Legislature, for the purposes provided in
1367 Sections 2 and 3 of this act and for the purposes described in
1368 subsection (2) of this section.

1369 (2) (a) The Department of Mental Health shall establish a
1370 program to provide Mental Health First Aid training and Crisis
1371 Intervention Training to county and municipal law enforcement
1372 agency officers as provided in Section 2 of this act and to
1373 provide funding to community mental health centers for court
1374 liaisons as authorized by Section 3 of this act.

1375 After making expenditures of at least Two Million Five
1376 Hundred Thousand Dollars (\$2,500,000.00) each year to provide
1377 funding for county and municipal law enforcement training and
1378 court liaisons as authorized by this section, the Department of
1379 Mental Health is authorized to expend monies to provide grants to
1380 community mental health centers for the purpose of renovating its
1381 facilities to increase housing for patients. A community mental
1382 health center may apply to the Department of Mental Health for a
1383 grant to pay for the cost of expanding its patient housing



1384 facilities. A community mental health center desiring assistance
1385 under this section must submit an application to the Department of
1386 Mental Health. The application must include a description of the
1387 projected facility expansion, the total costs of the expansion to
1388 the community mental health center, the amount requested by the
1389 community mental health center and any other information required
1390 by the Department of Mental Health.

1391 (b) The Department of Mental Health shall have all
1392 powers necessary to implement and administer the program
1393 established under this section, and the department shall
1394 promulgate rules and regulations, in accordance with the
1395 Mississippi Administrative Procedures Law, necessary for the
1396 implementation of this section.

1397 **SECTION 16.** Section 27-69-3, Mississippi Code of 1972, is
1398 amended as follows:

1399 27-69-3. When used in this chapter:

1400 (a) "State" means the State of Mississippi as
1401 geographically defined, and any and all waters under the
1402 jurisdiction of the State of Mississippi.

1403 (b) "State Auditor" means the Auditor of Public
1404 Accounts of the State of Mississippi, or his legally appointed
1405 deputy, clerk or agent.

1406 (c) "Commissioner" means the Commissioner of Revenue of
1407 the Department of Revenue, and his authorized agents and
1408 employees.



1409 (d) "Person" means any individual, company,
1410 corporation, partnership, association, joint venture, estate,
1411 trust, or any other group, or combination acting as a unit, and
1412 the plural as well as the singular, unless the intention to give a
1413 more limited meaning is disclosed by the context.

1414 (e) "Consumer" means a person who comes into possession
1415 of tobacco for the purpose of consuming it, giving it away, or
1416 disposing of it in any way by sale, barter or exchange.

1417 (f) "Tobacco" means any cigarettes, cigars, cheroots,
1418 stogies, smoking tobacco (including granulated, plug cut, crimp
1419 cut, ready rubbed, and other kinds and forms of tobacco, or
1420 substitutes therefor, prepared in such manner as to be suitable
1421 for smoking in a pipe or cigarette) and including plug and twist
1422 chewing tobacco and snuff, when such "tobacco" is manufactured and
1423 prepared for sale or personal consumption. The term "tobacco"
1424 also includes vapor products. All words used herein, except vapor
1425 products, shall be given the meaning as defined in the regulations
1426 of the Treasury Department of the United States of America.

1427 (g) "First sale" means and includes the first sale, or
1428 distribution of such tobacco in intrastate commerce, or the first
1429 use or consumption of such tobacco within this state.

1430 (h) "Drop shipment" means and includes any delivery of
1431 tobacco received by any person within this state, when payment for
1432 such tobacco is made to the shipper, or seller by or through a
1433 person other than a consignee.



1434 (i) "Distributor" includes every person, except
1435 retailers as defined herein, in the state who manufactures or
1436 produces tobacco or who ships, transports, or imports into this
1437 state, or in any manner acquires or possesses tobacco, and makes a
1438 first sale of the same in the state.

1439 (j) "Wholesaler" includes dealers, whose principal
1440 business is that of a wholesale dealer or jobber, who is known to
1441 the retail trade as such, and whose place of business is located
1442 in Mississippi or in a state which affords reciprocity to
1443 wholesalers domiciled in Mississippi, who shall sell any taxable
1444 tobacco to retail dealers only for the purpose of resale.

1445 (k) "Retailer" includes every person, other than a
1446 wholesale dealer, as defined above, whose principal business is
1447 that of selling merchandise at retail, who shall sell, or offer
1448 for sale tobacco to the consumer. The sale of tobacco in quantity
1449 lots by retailers to other retailers, transient vendors, or other
1450 persons, shall not be construed as wholesale and shall not qualify
1451 such retailer for a permit as a wholesaler.

1452 (l) "Dealer" includes every person, firm, corporation
1453 or association of persons, except retailers as defined herein, who
1454 manufacture tobacco for distribution, for sale, for use or for
1455 consumption in the State of Mississippi.

1456 The word "dealer" is further defined to mean any person,
1457 firm, corporation or association of persons, except retailers as
1458 defined herein, who imports tobacco from any state or foreign



1459 country for distribution, sale, use, or consumption in the State
1460 of Mississippi.

1461 (m) "Distributing agent" includes every person in the
1462 state who acts as an agent of any person outside the State of
1463 Mississippi, by receiving tobacco in interstate commerce, and
1464 storing such tobacco in this state subject to distribution, or
1465 delivery upon order from the person outside the state to
1466 distributors, wholesalers, retailers and dealers.

1467 (n) "Transient vendor" means and includes every person
1468 commonly and generally termed "peddlers" and every person acting
1469 for himself, or as an agent, employee, salesman, or in any
1470 capacity for another, whether as owner, bailee, or other custodian
1471 of tobacco, and going from person to person, dealer to dealer,
1472 house to house, or place to place, and selling or offering for
1473 sale at retail or wholesale tobacco, and every person who does not
1474 keep a regular place of business open at all times in regular
1475 hours, and every person who goes from person to person, dealer to
1476 dealer, house to house, or place to place, and sells or offers for
1477 sale tobacco which he carries with him, and who delivers the same
1478 at the time of, or immediately after the sale, or without
1479 returning to the place of business operations (a permanent place
1480 of business within the state) between the taking of the order and
1481 the delivery of the tobacco, or

1482 All persons who go from person to person, house to house,
1483 place to place, or dealer to dealer, soliciting orders by



1484 exhibiting samples, or taking orders, and thereafter making
1485 delivery of tobacco, or filling the order without carrying or
1486 sending the order to the permanent place of business, and
1487 thereafter making delivery of the tobacco pursuant to the terms of
1488 the order, or

1489 All persons who go from person to person, place to place,
1490 house to house, or dealer to dealer, carrying samples and selling
1491 tobacco from samples, and afterwards making delivery without
1492 taking and sending an order therefor to a permanent place of
1493 business for the filling of the order, and delivery of the
1494 tobacco, or the exchange of tobacco having become damaged or
1495 unsalable, or the purchase by tobacco of advertising space, or

1496 All persons who have in their possession, or under their
1497 control, any tobacco offered, or to be offered for sale or to be
1498 delivered, unless the sale or delivery thereof is to be made in
1499 pursuance of a bona fide order for the tobacco, to be sold or
1500 delivered, the order to be evidenced by an invoice or memorandum.

1501 (o) "Contraband tobacco" means all tobacco found in the
1502 possession of any person whose permit to engage in dealing in
1503 tobacco has been revoked by the commissioner; and any cigarettes
1504 found in the possession of any person to which the proper tax
1505 stamps have not been affixed; and any cigarettes improperly
1506 stamped when found in the possession of any person; and all other
1507 tobacco upon which the excise tax has not been paid.



1508 (p) "Sale" means an exchange for money or goods, giving
1509 away, or distributing any tobacco as defined in this chapter.

1510 (q) "Forty-eight (48) hours" and "seventy-two (72)
1511 hours" means two (2) calendar days and three (3) calendar days,
1512 respectively, excluding Sundays and legal holidays.

1513 (r) "Stamp" or "stamping," or the import of such word,
1514 when used in this chapter, means any manner of stamp or impression
1515 permitted by the commissioner that carries out the purposes of the
1516 chapter in clearly indicating upon the packages of cigarettes
1517 taxed the due payment of the tax and clearly identifying, by
1518 serial number or otherwise, the permittee who affixed the stamp to
1519 the particular package.

1520 (s) "Manufacturer's list price" means the full sales
1521 price at which tobacco is sold or offered for sale by a
1522 manufacturer to the wholesaler or distributor in this state
1523 without any deduction for freight, trade discount, cash discounts,
1524 special discounts or deals, cash rebates, or any other reduction
1525 from the regular selling price. In the event freight charges on
1526 shipments to wholesalers or distributors are not paid by the
1527 manufacturer, then such freight charges required to be paid by the
1528 wholesalers and distributors shall be added to the amount paid to
1529 the manufacturer in order to determine "manufacturer's list
1530 price." In the case of a wholesaler or distributor whose place of
1531 business is located outside this state, the "manufacturer's list
1532 price" for tobacco sold in this state by such wholesaler or



1533 distributor shall in all cases be considered to be the same as
1534 that of a wholesaler or distributor located within this state.

1535 (t) "Vapor product" means an electronic product or
1536 device that may be used to deliver any aerosolized or vaporized
1537 substance to the person inhaling from the product or device,
1538 including, but not limited to, an e-cigar, e-cigarillo, e-pipe,
1539 vape pen or e-hookah; and includes any cartridge, component, part
1540 or accessory of the electronic product or device, whether or not
1541 sold separately, and also includes any liquid, capsule, powder or
1542 substance intended to be aerosolized, vaporized or otherwise
1543 ingested during the use of the electronic product or device,
1544 whether or not the substance contains nicotine. The term "vapor
1545 product" does not include (i) a product that is a drug under 21
1546 USCS 321(g)(1); (ii) a product that is a device under 21 USCS
1547 321(h); or (iii) a combination product described in 21 USCS
1548 353(g).

1549 **SECTION 17.** Section 27-69-13, Mississippi Code of 1972, is
1550 amended as follows:

1551 27-69-13. There is hereby imposed, levied and assessed, to
1552 be collected and paid as hereinafter provided in this chapter, an
1553 excise tax on each person or dealer in cigarettes, cigars,
1554 stogies, snuff, chewing tobacco, * * * smoking tobacco, vapor
1555 products, or substitutes therefor, upon the sale, use,
1556 consumption, handling or distribution in the State of Mississippi,
1557 as follows:



1558 (a) On cigarettes, the rate of tax shall be Three and
1559 Four-tenths Cents (3.4¢) on each cigarette sold with a maximum
1560 length of one hundred twenty (120) millimeters; any cigarette in
1561 excess of this length shall be taxed as if it were two (2) or more
1562 cigarettes. Provided, however, if the federal tax rate on
1563 cigarettes in effect on June 1, 1985, is reduced, then the rate as
1564 provided herein shall be increased by the amount of the federal
1565 tax reduction. Such tax increase shall take effect on the first
1566 day of the month following the effective date of such reduction in
1567 the federal tax rate.

1568 (b) On cigars, cheroots, stogies, snuff, chewing and
1569 smoking tobacco and all other tobacco products except cigarettes
1570 and vapor products, the rate of tax shall be fifteen percent (15%)
1571 of the manufacturer's list price.

1572 (c) On vapor products, the rate of tax shall be
1573 twenty-five percent (25%) of the manufacturer's list price.

1574 No stamp evidencing the tax herein levied on cigarettes shall
1575 be of a denomination of less than One Cent (1¢), and whenever the
1576 tax computed at the rates herein prescribed on cigarettes shall be
1577 a specified amount, plus a fractional part of One Cent (1¢), the
1578 package shall be stamped for the next full cent; however, the
1579 additional face value of stamps purchased to comply with taxes
1580 imposed by this section after June 1, 1985, shall be subject to a
1581 four percent (4%) discount or compensation to dealers for their



1582 services rather than the eight percent (8%) discount or
1583 compensation allowed by Section 27-69-31.

1584 Every wholesaler shall purchase stamps as provided in this
1585 chapter, and affix the same to all packages of cigarettes handled
1586 by him as herein provided.

1587 The above tax is levied upon the sale, use, gift, possession
1588 or consumption of tobacco within the State of Mississippi, and the
1589 impact of the tax levied by this chapter is hereby declared to be
1590 on the vendee, user, consumer or possessor of tobacco in this
1591 state; and when said tax is paid by any other person, such payment
1592 shall be considered as an advance payment and shall thereafter be
1593 added to the price of the tobacco and recovered from the ultimate
1594 consumer or user.

1595 **SECTION 18.** Section 27-69-15, Mississippi Code of 1972, is
1596 amended as follows:

1597 27-69-15. Any retailer, transient vendor, distributing
1598 agent, salesman, or other dealer who shall receive any cigarettes
1599 other than from a wholesaler having a permit as herein provided,
1600 and not having the necessary stamps already affixed, shall, after
1601 the receipt of such cigarettes, within the time limit herein
1602 provided, present the same to some wholesaler having such permit,
1603 for the affixing of the stamps required, and it shall be the duty
1604 of such wholesaler, thereupon and upon the payment to him by such
1605 retailer of the face value of the stamps required, to affix the
1606 stamps to said cigarettes in the same manner as if the cigarettes



1607 were handled and sold by such wholesaler, provided, that such
1608 wholesaler, before affixing the stamps, shall require of the
1609 retailer, transient vendor, distributing agent, salesman, or other
1610 dealer, the original invoice for the cigarettes to be stamped, and
1611 such wholesaler shall in each instance note upon the invoice, the
1612 denominations and number of stamps affixed to the cigarettes
1613 covered by said invoice, the notation to be made in ink, or other
1614 manner not easy to erase, at the time the stamps are affixed.

1615 It is further provided that, in addition hereto, the
1616 wholesaler shall keep a separate record of all stamps affixed to
1617 taxable cigarettes presented by retailers, transient vendors,
1618 distributing agents, salesmen, or other dealers, showing the name
1619 of the retailer, transient vendor, distributing agent, salesman,
1620 or other dealer, name of the shipper, date of shipper's invoice,
1621 the date stamps were affixed, denomination of stamps affixed, and
1622 total value of stamps affixed.

1623 When the request is made to any wholesaler in this state by a
1624 retailer, transient vendor, distributing agent, salesman, or other
1625 dealer in this state, said request being duly and seasonably made
1626 for the affixing of stamps, and the request is accompanied by
1627 proper remittance and invoice, and such wholesaler refuses to
1628 affix the stamps to cigarettes as requested, said wholesaler shall
1629 forfeit to the state a penalty of Twenty-five Dollars (\$25.00) for
1630 each offense, the same to be collected by the commissioner and, in
1631 addition thereto, in the discretion of the commissioner, forfeit



1632 his permit to handle stamps. In the event of such refusal on the
1633 part of any wholesaler to affix stamps said retailer, transient
1634 vendor, distributing agent, salesman, or other dealer may make
1635 application to the commissioner for stamps to be placed on the
1636 cigarettes upon which the wholesaler refused to affix the stamps,
1637 said application to be accompanied by an affidavit from the
1638 retailer, transient vendor, distributing agent, salesman, or other
1639 dealer, or some other credible person, setting forth the facts,
1640 whereupon the commissioner may issue and sell to such retailer,
1641 transient vendor, distributing agent, salesman, or other dealer, a
1642 sufficient number of stamps to be affixed to the cigarettes.

1643 Stamps shall not be affixed to any cigarettes except by a
1644 wholesale dealer having a permit, except as otherwise provided in
1645 this chapter.

1646 Stamps shall not be required to be affixed to any cigarettes
1647 while the same is in interstate commerce.

1648 Any person who receives cigars, smoking tobacco, chewing
1649 tobacco, snuff, vapor products or any other tobacco products
1650 except cigarettes from anyone other than a wholesaler having a
1651 tobacco permit issued by this state and the excise tax on the
1652 tobacco received has not been paid, shall compute the excise tax
1653 due the State of Mississippi at the rate prescribed herein on
1654 forms furnished by the commissioner for that purpose. Such report
1655 shall be accompanied by the remittance for the tax due and shall



1656 be filed with the commissioner within forty-eight (48) hours after
1657 receipt of the tobacco by such person.

1658 In no case shall the provisions of this chapter be construed
1659 to require the payment of a tax upon any tobacco upon which the
1660 tax herein levied has once been paid to the state.

1661 **SECTION 19.** Section 27-69-27, Mississippi Code of 1972, is
1662 amended as follows:

1663 27-69-27. The payment of the tax imposed by this chapter
1664 shall be evidenced by affixing stamps to each individual package
1665 of cigarettes usually sold to consumers, as distinguished from
1666 cartons or larger units which are composed of a number of
1667 individual packages.

1668 Except as otherwise provided in this paragraph, the stamp
1669 shall be affixed within seventy-two (72) hours after the receipt
1670 of the cigarettes by the wholesaler, and within forty-eight (48)
1671 hours after receipt of the cigarettes by the retailer; provided,
1672 that in the case a dealer conducts a wholesale and retail business
1673 at one (1) place of business, stamps shall be affixed within
1674 forty-eight (48) hours after receipt of the cigarettes. However,
1675 the provisions of this paragraph shall not apply to tobacco at the
1676 point it is purchased at a sale under Section 27-69-56. The stamp
1677 must be so securely affixed as to require the continued
1678 application of water or of steam to remove it, or so that it
1679 cannot be otherwise removed without destruction or mutilation.



1680 The excise tax imposed on cigars, smoking tobacco, chewing
1681 tobacco, snuff, vapor products and all other tobacco products
1682 except cigarettes shall be computed by the application of the
1683 excise tax rate to the manufacturer's list price on all purchases
1684 of such tobacco. The excise tax shall be due and payable on or
1685 before the fifteenth day of the month next succeeding the month in
1686 which the tax accrues. The tax shall be filed with the
1687 commissioner on forms prescribed by the commissioner.

1688 Provided, however, manufacturers or other wholesale
1689 distributors of tobacco, which are subject to the excise taxes
1690 imposed by Section 27-69-13 of this chapter for the privilege of
1691 selling or using such tobaccos within this state, who maintain
1692 "terminals" or warehouses in which such tobaccos are stored, and
1693 who sell only to licensed wholesale dealers within the state who
1694 are qualified to purchase and affix the stamps required, may
1695 maintain such "spot stocks," intended only for such sales, without
1696 affixing the stamps or filing returns and paying the tax.

1697 Any person desiring to maintain such "terminal" or warehouse,
1698 shall make application to the commissioner and obtain a permit to
1699 maintain such stocks without affixing stamps thereto, for sale
1700 exclusively to out-of-state purchasers, or licensed wholesale
1701 dealers within this state, and the commissioner is hereby
1702 authorized to grant such permit upon the execution and filing with
1703 the commissioner, by the applicant, a bond with surety companies,
1704 authorized to do business in Mississippi, as surety thereon, and



1705 conditioned for the strict compliance by the applicant, with the
1706 following conditions under which said privilege may be granted.

1707 The person maintaining such stock of untaxed tobacco shall
1708 supply to the commissioner monthly, or at such times as the
1709 commissioner may require, complete invoices of all tobaccos
1710 received, and shall also supply correct invoices of all tobaccos
1711 removed from such "terminal" or warehouse, said invoices to
1712 contain the correct name and address of all persons to whom such
1713 tobacco shall be delivered or consigned, whether within or without
1714 the State of Mississippi.

1715 The penalty of such bond shall be determined by the
1716 commissioner, in an amount sufficient to protect the State of
1717 Mississippi from any loss of revenue which might occur by reason
1718 of the failure of principal to strictly adhere to the requirement
1719 that no tobacco would be sold from such stock within the State of
1720 Mississippi, except to licensed wholesale dealers.

1721 **SECTION 20.** Section 27-69-33, Mississippi Code of 1972, is
1722 amended as follows:

1723 27-69-33. Manufacturers, distributors and wholesalers of
1724 cigars, cigarettes * * *, smoking tobacco or vapor products
1725 subject to the tax under this chapter, doing both intrastate and
1726 interstate business in such tobacco, must qualify as interstate
1727 dealers in such tobacco by applying to the commissioner for
1728 permission to engage in such business, and, upon receipt of such
1729 permission, he shall be permitted to set aside such part of his



1730 stock as may be absolutely necessary for the conduct of such
1731 interstate business, without affixing the stamps to cigarettes
1732 required by this chapter. Said interstate stock shall be kept in
1733 an entirely separate part of the building, separate and apart from
1734 intrastate stock, and the said interstate business shall be
1735 conducted by the said wholesale dealer in accordance with rules
1736 and regulations to be promulgated by the commissioner.

1737 It is further provided that shipment of such merchandise be
1738 made only by a railroad, express company, boat line, or motor
1739 freight line certified by the Mississippi Public Service
1740 Commission as a common carrier, or by registered or insured parcel
1741 post.

1742 It is further provided that any manufacturer, distributor, or
1743 wholesaler of cigars, cigarettes * * *, smoking tobacco or vapor
1744 products, engaged in interstate commerce in such tobaccos, shall
1745 report to the commissioner on or before the fifteenth day of each
1746 month, on forms prescribed by the commissioner, all sales of
1747 cigarettes made in interstate commerce during the preceding month
1748 to which Mississippi stamps were not affixed. These reports must
1749 be made supplementary to the reports required to be filed by
1750 Section 27-69-35 of this chapter.

1751 Each shipment must be covered by a complete copy of invoice
1752 of the consignor, and supported by properly receipted bill of
1753 lading of the transportation company, or post office department as
1754 specified in the foregoing, and the receipted bills of lading and



1755 invoices shall be subject to inspection by the commissioner for a
1756 period of three (3) years.

1757 The commissioner is further authorized to verify the actual
1758 delivery to the consignee of such unstamped taxable cigarettes
1759 before allowing credit, and for the purpose of such verification,
1760 the commissioner may exchange information with the proper
1761 authorities of other states as to movement of taxable tobacco to
1762 and from other states into and from the State of Mississippi.

1763 **SECTION 21.** Section 27-69-35, Mississippi Code of 1972, is
1764 amended as follows:

1765 27-69-35. It shall be the duty of every person subject to
1766 the provisions of this chapter, to keep an accurate set of
1767 records, showing all transactions had with reference to the
1768 purchase, sale or gift of cigars, cigarettes, * * *, smoking
1769 tobacco or vapor products, and such person shall keep separately
1770 all invoices of cigars, cigarettes * * *, smoking tobacco or vapor
1771 products, and shall keep a record of all stamps purchased, and
1772 such records, and all stocks of cigars, cigarettes * * *, smoking
1773 tobacco or vapor products on hand, shall be open to inspection at
1774 all reasonable times to the commissioner; provided, however, that
1775 all retail dealers, transient vendors, distributing agents, or
1776 other dealers purchasing, or receiving cigars, cigarettes, * * *, smoking
1777 tobacco or vapor products from without the state, whether
1778 the same shall have been ordered through a wholesaler, or jobber
1779 in this state, or by drop shipment, or otherwise, shall within



1780 five (5) days after receipt of the same, mail a duplicate invoice
1781 of all such purchases, or receipts, to the commissioner, and
1782 failure to furnish such duplicate invoices shall be deemed a
1783 misdemeanor.

1784 It is further provided that all manufacturers, distributors
1785 and wholesalers of cigars, cigarettes * * *, smoking tobacco or
1786 vapor products, who have a permit required by this chapter shall
1787 furnish the commissioner with a statement monthly, showing the
1788 amount of taxable tobacco received, and must also furnish the
1789 commissioner with duplicate invoices covering stamps affixed to
1790 drop shipments purchased by retailers.

1791 In the examination of such books, records, etc., the
1792 commissioner shall have the power to administer oaths to any
1793 person, and any person answering falsely, under oath, any of such
1794 questions, shall be guilty of perjury.

1795 If any person being so examined, fails to answer questions
1796 propounded to him by the commissioner, or if any person, being
1797 summoned to appear and answer such questions, shall fail or refuse
1798 to do so, or if any person shall fail or refuse to permit the
1799 inspection of his stock of merchandise, or invoices, or books, or
1800 papers pertaining to any dealers in cigars, cigarettes * * *,
1801 smoking tobacco or vapor products, the commissioner may make such
1802 fact known to the circuit court of the county in which such
1803 failure or refusal occurs, or judge thereof in termtime or in
1804 vacation, by petition, and such circuit court, or judge thereof,



1805 shall issue a summons for such person so refusing, returnable on a
1806 date to be fixed by said court, or said judge, and on said date,
1807 the said circuit court, or the circuit judge, shall proceed to
1808 examine into the truth of the matter set out in said petition, and
1809 if the same be found to be true, the said circuit court, or
1810 circuit judge, shall issue a writ of subpoena duces tecum ordering
1811 and directing the person so summoned to bring into court, and
1812 exhibit for the inspection of the commissioner, all such books,
1813 records, invoices, etc., as the court may deem proper from all the
1814 facts and circumstances in the case. Any person failing or
1815 refusing to present such books, records, invoices, etc., or
1816 failing or refusing to testify, shall be punished for contempt as
1817 provided by Section 9-1-17 of the Mississippi Code of 1972.

1818 **SECTION 22.** Section 27-69-75, Mississippi Code of 1972, is
1819 amended as follows:

1820 27-69-75. All taxes levied by this chapter shall be payable
1821 to the commissioner in cash, or by personal check, cashier's
1822 check, bank exchange, post office money order or express money
1823 order, and shall be deposited by the commissioner in the State
1824 Treasury on the same day collected. No remittance other than cash
1825 shall be a final discharge of liability for the tax herein
1826 assessed and levied, unless and until it has been paid in cash to
1827 the commissioner.

1828 Except as otherwise provided in this section, all tobacco
1829 taxes collected, including tobacco license taxes, shall be



1830 deposited into the State Treasury to the credit of the General
1831 Fund. All tobacco taxes collected on vapor products under Section
1832 27-69-13 shall be deposited into the Mississippi Collaborative
1833 Response to Mental Health Fund created in Section 15 of this act.

1834 Wholesalers who are entitled to purchase stamps at a
1835 discount, as provided by Section 27-69-31, may have consigned to
1836 them, without advance payment, such stamps, if and when such
1837 wholesaler shall give to the commissioner a good and sufficient
1838 bond executed by some surety company authorized to do business in
1839 this state, conditioned to secure the payment for the stamps so
1840 consigned. The commissioner shall require payment for such stamps
1841 not later than thirty (30) days from the date the stamps were
1842 consigned.

1843 **SECTION 23.** Section 27-69-69, Mississippi Code of 1972, is
1844 brought forward as follows:

1845 27-69-69. Any municipality within this state, in which any
1846 business licensed under the provisions of this chapter, may be
1847 carried on, shall have the right to impose upon persons engaged in
1848 such business, an annual privilege tax of not more than fifty
1849 percent (50%) of the permit fee imposed by Section 27-69-7 of this
1850 chapter; provided, however, that no person engaged in the
1851 wholesale sale, or distribution of cigars, cigarettes or smoking
1852 tobacco taxed by this chapter shall be taxed by any municipality
1853 other than that in which the warehouse or wholesale business is
1854 located.



1855 **SECTION 24.** This act shall take effect and be in force from
1856 and after July 1, 2023.

