

By: Representatives Creekmore IV, Lancaster,
Miles, Felsher, McCarty

To: Judiciary B; Ways and
Means

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



35 AFFIDAVITS FILED FOR PURPOSES OF ADMITTING A PERSON TO A TREATMENT
36 FACILITY; TO AMEND SECTION 41-4-7, MISSISSIPPI CODE OF 1972, TO
37 REVISE THE POWERS AND DUTIES OF THE STATE BOARD OF MENTAL HEALTH;
38 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 REIMBURSING PRIVATE HOSPITALS, IN WHOLE OR IN
46 PART, FOR UNCOMPENSATED BEHAVIORAL TREATMENT SERVICES PROVIDED TO
47 PERSONS ADMITTED TO SUCH HOSPITALS PURSUANT TO A CHANCERY COURT
48 ORDER; TO PROVIDE THAT THE DEPARTMENT OF MENTAL HEALTH SHALL
49 ESTABLISH A PROGRAM FOR PROVIDING SUCH REIMBURSEMENT TO PRIVATE
50 HOSPITALS; TO AMEND SECTION 27-69-3, MISSISSIPPI CODE OF 1972, TO
51 REVISE THE DEFINITION OF THE TERM "TOBACCO" UNDER THE TOBACCO TAX
52 LAW; TO DEFINE THE TERM "VAPOR PRODUCT" UNDER THE TOBACCO TAX LAW;
53 TO AMEND SECTION 27-69-13, MISSISSIPPI CODE OF 1972, TO LEVY AN
54 EXCISE TAX ON VAPOR PRODUCTS; TO AMEND SECTIONS 27-69-15,
55 27-69-27, 27-69-33 AND 27-69-35, MISSISSIPPI CODE OF 1972, IN
56 CONFORMITY THERETO; TO AMEND SECTION 27-69-75, MISSISSIPPI CODE OF
57 1972, TO PROVIDE THAT THE REVENUE DERIVED FROM THE EXCISE TAX ON
58 VAPOR PRODUCTS SHALL BE DEPOSITED INTO THE "MISSISSIPPI
59 COLLABORATIVE RESPONSE TO MENTAL HEALTH FUND" CREATED IN THIS ACT;
60 TO BRING FORWARD SECTION 27-69-69, MISSISSIPPI CODE OF 1972, WHICH
61 IS A SECTION OF THE TOBACCO TAX LAW, FOR THE PURPOSES OF POSSIBLE
62 AMENDMENT; AND FOR RELATED PURPOSES.

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

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

66 **SECTION 2.** (1) Each county and municipal law enforcement
67 agency shall provide first aid mental health training that is
68 evidence-based and approved by the Department of Mental Health to
69 all law enforcement officers who are employed or contracted by the
70 agency.

71 (2) Each county and municipal law enforcement agency shall
72 have on duty at least one (1) law enforcement officer that is a



73 trained Crisis Intervention Team Officer as defined by Section
74 41-21-131 at all times.

75 **SECTION 3.** The following shall be codified as Section
76 41-21-77.1, Mississippi Code of 1972:

77 41-21-77.1. Subject to appropriation by the Legislature, the
78 Department of Mental Health shall provide a court liaison for each
79 county in which the chancery court admits more than twenty (20)
80 persons per year to a behavioral treatment facility under the
81 authority of Section 41-21-77.

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

84 41-4-3. (1) There is created a State Board of Mental
85 Health, referred to in this chapter as "board," consisting of nine
86 (9) members, to be appointed by the Governor, with the advice and
87 consent of the Senate, each of whom shall be a qualified elector.
88 One (1) member shall be appointed from each of the four (4)
89 congressional districts as presently constituted of which: one
90 (1) of whom shall be a nurse practitioner in the mental health
91 field, one (1) of whom shall be a licensed mental health
92 therapist, one (1) of whom shall be a licensed drug and/or alcohol
93 therapist and one (1) of whom shall be a family member of a person
94 with mental health issues; and * * * five (5) members shall be
95 appointed from the state at large, one (1) of whom shall be a
96 licensed medical doctor who is a psychiatrist, one (1) of whom
97 shall hold a Ph.D. degree and be a licensed clinical psychologist,



98 one (1) of whom shall be a licensed medical doctor, * * * one (1)
99 of whom shall be a social worker with experience in the mental
100 health field and one (1) of whom shall be a county sheriff.

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

103 Except as otherwise provided in this section, each member of
104 the * * * board shall serve at the will and pleasure of the
105 Governor for a term of two (2) years represented by the number of
106 his or her congressional district, but may be removed by the
107 Governor at any time; * * * and the Governor shall fill any
108 vacancy for the unexpired term. Upon removal of any board member,
109 his or her successor shall only serve the remainder of the term of
110 the person so removed. No person shall serve more than two (2)
111 consecutive terms. The term for any person who is a member of the
112 board upon the effective date of this act shall end on December
113 31, 2023. The two (2) year terms authorized by this section shall
114 begin January 1, 2024.

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

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

121 (3) The board shall hold regular meetings quarterly and such
122 special meetings deemed necessary, except that no action shall be



123 taken unless there is present a quorum of at least five (5)
124 members.

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

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

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

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



148 regional commission shall have the following authority and shall
149 pursue and promote the following general purposes:

150 (a) To establish, own, lease, acquire, construct,
151 build, operate and maintain mental illness, mental health,
152 intellectual disability, alcoholism and general rehabilitative
153 facilities and services designed to serve the needs of the people
154 of the region so designated, provided that the services supplied
155 by the regional commissions shall include those services
156 determined by the Department of Mental Health to be necessary and
157 may include, in addition to the above, services for persons with
158 developmental and learning disabilities; for persons suffering
159 from narcotic addiction and problems of drug abuse and drug
160 dependence; and for the aging as designated and certified by the
161 Department of Mental Health. Such regional mental health and
162 intellectual disability commissions and other community service
163 providers shall, on or before July 1 of each year, submit an
164 annual operational plan to the Department of Mental Health for
165 approval or disapproval based on the minimum standards and minimum
166 required services established by the department for certification
167 and itemize the services as specified in Section 41-4-1(2),
168 including financial statements. As part of the annual operation
169 plan required by Section 41-4-7(h) submitted by any regional
170 community mental health center or by any other reasonable
171 certification deemed acceptable by the department, the community
172 mental health center shall state those services specified in



173 Section 41-4-1(2) that it will provide and also those services
174 that it will not provide. If the department finds deficiencies in
175 the plan of any regional commission or community service provider
176 based on the minimum standards and minimum required services
177 established for certification, the department shall give the
178 regional commission or community service provider a six-month
179 probationary period to bring its standards and services up to the
180 established minimum standards and minimum required services. The
181 regional commission or community service provider shall develop a
182 sustainability business plan within thirty (30) days of being
183 placed on probation, which shall be signed by all commissioners
184 and shall include policies to address one or more of the
185 following: the deficiencies in programmatic services, clinical
186 service staff expectations, timely and appropriate billing,
187 processes to obtain credentialing for staff, monthly reporting
188 processes, third-party financial reporting and any other required
189 documentation as determined by the department. After the
190 six-month probationary period, if the department determines that
191 the regional commission or community service provider still does
192 not meet the minimum standards and minimum required services
193 established for certification, the department may remove the
194 certification of the commission or provider, and from and after
195 July 1, 2011, the commission or provider shall be ineligible for
196 state funds from Medicaid reimbursement or other funding sources
197 for those services. After the six-month probationary period, the



198 Department of Mental Health may identify an appropriate community
199 service provider to provide any core services in that county that
200 are not provided by a community mental health center. However,
201 the department shall not offer reimbursement or other
202 accommodations to a community service provider of core services
203 that were not offered to the decertified community mental health
204 center for the same or similar services.

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

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



222 (d) To enter into contracts and to make such other
223 arrangements as may be necessary, from time to time, with the
224 United States government, the government of the State of
225 Mississippi and such other agencies or governmental bodies as may
226 be approved by and acceptable to the regional commission for the
227 purpose of establishing, funding, constructing, operating and
228 maintaining facilities and services for the care, treatment and
229 rehabilitation of persons suffering from mental illness, an
230 intellectual disability, alcoholism, developmental and learning
231 disabilities, narcotic addiction, drug abuse, drug dependence and
232 other illnesses, disorders, handicaps and problems (including the
233 problems of the aging) as designated and certified by the
234 Department of Mental Health.

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



246 problems of the aging) relating to minimum services established by
247 the Department of Mental Health.

248 (f) To promote the general mental health of the people
249 of the region.

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

260 (h) To employ and compensate any personnel that may be
261 necessary to effectively carry out the programs and services
262 established under the provisions of the aforesaid act, provided
263 such person meets the standards established by the Department of
264 Mental Health.

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

269 (j) To acquire professional liability insurance on all
270 employees as may be deemed necessary and proper by the commission,



271 and to pay, out of the funds of the commission, all premiums due
272 and payable on account thereof.

273 (k) To provide and finance within their own facilities,
274 or through agreements or contracts with other local, state or
275 federal agencies or institutions, nonprofit corporations, or
276 political subdivisions or representatives thereof, programs and
277 services for persons with mental illness, including treatment for
278 alcoholics, and promulgating and administering of programs to
279 combat drug abuse and programs for services for persons with an
280 intellectual disability.

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



295 (m) To acquire, own and dispose of real and personal
296 property. Any real and personal property paid for with state
297 and/or county appropriated funds must have the written approval of
298 the Department of Mental Health and/or the county board of
299 supervisors, depending on the original source of funding, before
300 being disposed of under this paragraph.

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

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

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



320 (q) To provide direct or indirect funding, grants,
321 financial support and assistance for any health maintenance
322 organization, preferred provider organization or other managed
323 care entity or contractor, where such organization, entity or
324 contractor is operated on a nonprofit basis. Any action under
325 this paragraph affecting more than one (1) region must have prior
326 written approval of the Department of Mental Health before being
327 initiated and annually thereafter.

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

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

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



345 (u) To make purchases and enter into contracts for
346 purchasing in compliance with the public purchasing law, Sections
347 31-7-12 and 31-7-13, with compliance with the public purchasing
348 law subject to audit by the State Department of Audit.

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



369 (w) Notwithstanding any other provision of law, to
370 fingerprint and perform a criminal history record check on every
371 employee or volunteer. Every employee or volunteer shall provide
372 a valid current social security number and/or driver's license
373 number that will be furnished to conduct the criminal history
374 record check. If no disqualifying record is identified at the
375 state level, fingerprints shall be forwarded to the Federal Bureau
376 of Investigation for a national criminal history record check.

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

383 (i) The regional commission may employ and
384 compensate any personnel necessary and must satisfy applicable
385 state and federal laws and regulations regarding the
386 administration and operation of a primary care health clinic.

387 (ii) A Mississippi licensed physician must be
388 employed or under agreement with the regional commission to
389 provide medical direction and/or to carry out the physician
390 responsibilities as described under applicable state and/or
391 federal law and regulations.



392 (iii) The physician providing medical direction
393 for the primary care clinic shall not be certified solely in
394 psychiatry.

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

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

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

410 (vii) The regional commission must employ or
411 contract with a core clinical staff that is multidisciplinary and
412 culturally and linguistically competent.

413 (viii) The regional commission must ensure that
414 its physician as described in subparagraph (ii) of this paragraph
415 (x) has admitting privileges at one or more local hospitals or has



416 an agreement with a physician who has admitting privileges at one
417 or more local hospitals to ensure continuity of care.

418 (ix) The regional commission must provide an
419 independent financial audit report to the State Department of
420 Mental Health and, except for patient information and any other
421 information that may be exempt from disclosure under HIPAA and the
422 Mississippi Public Records Act, the audit report shall be
423 considered a public record.

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

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

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

437 (2) The types of services established by the State
438 Department of Mental Health that must be provided by the regional
439 mental health/intellectual disability centers for certification by
440 the department, and the minimum levels and standards for those



441 services established by the department, shall be provided by the
442 regional mental health/intellectual disability centers to children
443 when such services are appropriate for children, in the
444 determination of the department.

445 (3) Each regional commission shall compile quarterly
446 financial statements and status reports from each individual
447 community health center. The compiled reports shall be submitted
448 to the coordinator quarterly. The reports shall contain a:

- 449 (a) Balance sheet;
- 450 (b) Statement of operations;
- 451 (c) Statement of cash flows; and
- 452 (d) Description of the status of individual community
453 health center's actions taken to increase access to and
454 availability of community mental health services.

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

457 41-19-35. (1) Except as otherwise provided in subsection
458 (2) of this section, the board of supervisors of each
459 participating county in the program shall appoint one (1) member
460 to represent its county on the regional commission in its
461 respective region for a term of four (4) years who shall serve at
462 the will and pleasure of the appointing board of supervisors. At
463 least one (1) county board of supervisors shall appoint its county
464 chancery clerk. Any compensation of such members shall be paid by
465 the regional commission, in its discretion, from any funds



466 available. Each member of the commission shall attend the
467 orientation training for new commissioners and the annual training
468 for all commissioners held by the Department of Mental Health. The
469 Department of Mental Health shall notify the board of supervisors
470 when a commissioner does not attend either the orientation training
471 or annual training. Upon notice from the Department of Mental
472 Health that a commissioner has failed to attend the required
473 meetings, the appointing board of supervisors shall remove the
474 commissioner.

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



491 discretion, from any available funds under the same conditions as
492 all others commissioners under this chapter.

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

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

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

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



516 commitment provided in Section 41-21-65. The chancery court shall
517 have jurisdiction and shall proceed with civil commitment
518 procedures under Section 41-21-61 through 41-21-107.

519 (3) The circuit court shall have jurisdiction under Sections
520 99-13-7, 99-13-9 and 99-13-11.

521 (4) Before the release of a person referred for civil
522 commitment under this section and committed under Sections
523 41-21-61 through 41-21-107, the Department of Mental Health must
524 notify the district attorney of the county where the offense was
525 committed. The district attorney must notify the crime victim or
526 a family member who has requested notification under Section
527 99-43-35 and the sheriffs of both the county where the offense was
528 committed and the county of the committed person's destination.

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

531 41-21-67. (1) Whenever the affidavit provided for in
532 Section 41-21-65 is filed with the chancery clerk, the clerk, upon
533 direction of the chancellor of the court, shall issue a writ
534 directed to the sheriff of the proper county to take into custody
535 the person alleged to be in need of treatment and to take the
536 person for pre-evaluation screening and treatment by the
537 appropriate community mental health center established under
538 Section 41-19-31. The community mental health center will be
539 designated as the first point of entry for pre-evaluation
540 screening and treatment. If the community mental health center is



541 unavailable, * * * a reputable licensed physician, psychologist,
542 nurse practitioner or physician assistant * * * that has been
543 certified by the community mental health center to perform
544 pre-evaluation screening may conduct the pre-evaluation screening
545 and examination as set forth in Section 41-21-69. The order may
546 provide where the person shall be held before being taken for
547 pre-evaluation screening and treatment. However, when the
548 affidavit fails to set forth factual allegations and witnesses
549 sufficient to support the need for treatment, the chancellor shall
550 refuse to direct issuance of the writ. Reapplication may be made
551 to the chancellor. If a pauper's affidavit is filed by an affiant
552 who is a guardian or conservator of a person in need of treatment,
553 the court shall determine if either the affiant or the person in
554 need of treatment is a pauper and if * * * the affiant or the
555 person in need of treatment is determined to be a pauper, the
556 county of the residence of the respondent shall bear the costs of
557 commitment, unless funds for those purposes are made available by
558 the state.

559 In any county in which a Crisis Intervention Team has been
560 established under the provisions of Sections 41-21-131 through
561 41-21-143, the clerk, upon the direction of the chancellor, may
562 require that the person be referred to the Crisis Intervention
563 Team for appropriate psychiatric or other medical services before
564 the issuance of the writ.



565 (2) Upon issuance of the writ, the chancellor shall
566 immediately appoint and summon two (2) reputable, licensed
567 physicians or one (1) reputable, licensed physician and either one
568 (1) psychologist, nurse practitioner or physician assistant to
569 conduct a physical and mental examination of the person at a place
570 to be designated by the clerk or chancellor and to report their
571 findings to the clerk or chancellor. However, any nurse
572 practitioner or physician assistant conducting the examination
573 shall be independent from, and not under the supervision of, the
574 other physician conducting the examination. A nurse practitioner
575 or psychiatric nurse practitioner conducting an examination under
576 this chapter must be functioning within a collaborative or
577 consultative relationship with a physician as required under
578 Section 73-15-20(3). In all counties in which there is a county
579 health officer, the county health officer, if available, may be
580 one (1) of the physicians so appointed. If a licensed physician
581 is not available to conduct the physical and mental examination
582 within forty-eight (48) hours of the issuance of the writ, the
583 court, in its discretion and upon good cause shown, may permit the
584 examination to be conducted by the following: (a) * * * one
585 (1) * * * psychiatric nurse practitioner * * *; one (1)
586 psychologist or one (1) physician assistant. Neither of the
587 physicians nor the psychologist, nurse practitioner or physician
588 assistant selected shall be related to that person in any way, nor
589 have any direct or indirect interest in the estate of that person



590 nor shall any full-time staff of residential treatment facilities
591 operated directly by the State Department of Mental Health serve
592 as examiner.

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

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



615 retained at the licensed medical facility or any other available
616 suitable location as the court may so designate pending an
617 admission hearing. If necessary, the chancellor may order a peace
618 officer or other person to transport the respondent to that
619 facility or suitable location. Any respondent so retained may be
620 given such treatment as is indicated by standard medical practice.
621 However, the respondent shall not be held in a hospital operated
622 directly by the State Department of Mental Health, and shall not
623 be held in jail unless the court finds that there is no reasonable
624 alternative.

625 (5) (a) Whenever a licensed psychologist, nurse
626 practitioner or physician assistant who is certified to complete
627 examinations for the purpose of commitment or a licensed physician
628 has reason to believe that a person poses an immediate substantial
629 likelihood of physical harm to himself or others or is gravely
630 disabled and unable to care for himself by virtue of mental
631 illness, as defined in Section 41-21-61(e), then the physician,
632 psychologist, nurse practitioner or physician assistant may hold
633 the person or may admit the person to and treat the person in a
634 licensed medical facility, without a civil order or warrant for a
635 period not to exceed seventy-two (72) hours. However, if the
636 seventy-two-hour period begins or ends when the chancery clerk's
637 office is closed, or within three (3) hours of closing, and the
638 chancery clerk's office will be continuously closed for a time
639 that exceeds seventy-two (72) hours, then the seventy-two-hour



640 period is extended until the end of the next business day that the
641 chancery clerk's office is open. The person may be held and
642 treated as an emergency patient at any licensed medical facility,
643 available regional mental health facility, or crisis intervention
644 center. The physician or psychologist, nurse practitioner or
645 physician assistant who holds the person shall certify in writing
646 the reasons for the need for holding.

647 If a person is being held and treated in a licensed medical
648 facility, and that person decides to continue treatment by
649 voluntarily signing consent for admission and treatment, the
650 seventy-two-hour hold may be discontinued without filing an
651 affidavit for commitment. Any respondent so held may be given
652 such treatment as indicated by standard medical practice. Persons
653 acting in good faith in connection with the detention and
654 reporting of a person believed to be mentally ill shall incur no
655 liability, civil or criminal, for those acts.

656 (b) Whenever an individual is held for purposes of
657 receiving treatment as prescribed under paragraph (a) of this
658 subsection, and it is communicated to the mental health
659 professional holding the individual that the individual resides or
660 has visitation rights with a minor child, and if the individual is
661 considered to be a danger to the minor child, the mental health
662 professional shall notify the Department of Child Protection
663 Services prior to discharge if the threat of harm continues to
664 exist, as is required under Section 43-21-353.



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

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

669 41-21-77. (1) If admission is ordered at a treatment
670 facility, the sheriff, his or her deputy or any other person
671 appointed or authorized by the court shall immediately deliver the
672 respondent to the director of the appropriate facility. Neither
673 the Board of Mental Health or its members, nor the Department of
674 Mental Health or its related facilities, nor any employee of the
675 Department of Mental Health or its related facilities, shall be
676 appointed, authorized or ordered to deliver the respondent for
677 treatment, and no person shall be so delivered or admitted until
678 the director of the admitting institution determines that
679 facilities and services are available. Persons who have been
680 ordered committed and are awaiting admission may be given any such
681 treatment in the facility by a licensed physician as is indicated
682 by standard medical practice. Any county facility used for
683 providing housing, maintenance and medical treatment for
684 involuntarily committed persons pending their transportation and
685 admission to a state treatment facility shall be certified by the
686 State Department of Mental Health under the provisions of Section
687 41-4-7(kk). No person shall be delivered or admitted to any
688 non-Department of Mental Health treatment facility unless the
689 treatment facility is licensed and/or certified to provide the



690 appropriate level of psychiatric care for persons with mental
691 illness. It is the intent of this Legislature that county-owned
692 hospitals work with regional community mental health/intellectual
693 disability centers in providing care to local patients. The clerk
694 shall provide the director of the admitting institution with a
695 certified copy of the court order, a certified copy of the
696 appointed examiners' certificates, a certified copy of the
697 affidavit, and any other information available concerning the
698 physical and mental condition of the respondent. Upon
699 notification from the United States Veterans Administration or
700 other agency of the United States government, that facilities are
701 available and the respondent is eligible for care and treatment in
702 those facilities, the court may enter an order for delivery of the
703 respondent to or retention by the Veterans Administration or other
704 agency of the United States government, and, in those cases the
705 chief officer to whom the respondent is so delivered or by whom he
706 is retained shall, with respect to the respondent, be vested with
707 the same powers as the director of the Mississippi State Hospital
708 at Whitfield, or the East Mississippi State Hospital at Meridian,
709 with respect to retention and discharge of the respondent.

710 (2) When admission to a treatment facility is ordered by the
711 court, the chancery clerk shall make record of the admission.
712 Each chancery clerk shall maintain a record of the number of
713 persons ordered by the court to be admitted to a treatment
714 facility, the number of hearings held by the court to determine



715 whether a person should be admitted to a treatment facility and
716 the number of affidavits filed to admit a person to a treatment
717 facility under Section 41-21-61 etc.

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

720 41-4-7. The State Board of Mental Health shall have the
721 following powers and duties:

722 (a) To appoint a full-time Executive Director of the
723 Department of Mental Health, who shall be employed by the board
724 and shall serve as executive secretary to the board. The first
725 director shall be a duly licensed physician with special interest
726 and competence in psychiatry, and shall possess a minimum of three
727 (3) years' experience in clinical and administrative psychiatry.
728 Subsequent directors shall possess at least a master's degree or
729 its equivalent, and shall possess at least ten (10) years'
730 administrative experience in the field of mental health. The
731 salary of the executive director shall be determined by the board;

732 (b) To appoint a Medical Director for the Department of
733 Mental Health. The medical director shall provide clinical
734 oversight in the implementation of evidence-based and best
735 practices; provide clinical leadership in the integration of
736 mental health, intellectual disability and addiction services with
737 community partners in the public and private sectors; and provide
738 oversight regarding standards of care. The medical director shall
739 serve at the will and pleasure of the board, and will undergo an



740 annual review of job performance and future service to the
741 department;

742 (c) To * * * establish and implement its state
743 strategic plan;

744 (d) To develop a strategic plan for the development of
745 services for persons with mental illness, persons with
746 developmental disabilities and other clients of the public mental
747 health system. Such strategic planning program shall require that
748 the board, acting through the Strategic Planning and Best
749 Practices Committee, perform the following functions respecting
750 the delivery of services:

751 (i) Establish measures for determining the
752 efficiency and effectiveness of the services specified in Section
753 41-4-1(2);

754 (ii) Conducting studies of community-based care in
755 other jurisdictions to determine which services offered in these
756 jurisdictions have the potential to provide the citizens of
757 Mississippi with more effective and efficient community-based
758 care;

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

761 (iv) Recommending to the Legislature by January 1,
762 2014, any necessary additions, deletions or other changes
763 necessary to the services specified in Section 41-4-1(2);



764 (v) Implementing by July 1, 2012, a system of
765 performance measures for the services specified in Section
766 41-4-1(2);

767 (vi) Recommending to the Legislature any changes
768 that the department believes are necessary to the current laws
769 addressing civil commitment;

770 (vii) Conducting any other activities necessary to
771 the evaluation and study of the services specified in Section
772 41-4-1(2);

773 (viii) Assisting in conducting all necessary
774 strategic planning for the delivery of all other services of the
775 department. Such planning shall be conducted so as to produce a
776 single strategic plan for the services delivered by the public
777 mental health system and shall establish appropriate mission
778 statements, goals, objectives and performance indicators for all
779 programs and services of the public mental health system. For
780 services other than those specified in Section 41-4-1(2), the
781 committee shall recommend to the State Board of Mental Health a
782 strategic plan that the board may adopt or modify;

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

786 (f) [Repealed]

787 (g) To enter into contracts with any other state or
788 federal agency, or with any private person, organization or group



789 capable of contracting, if it finds such action to be in the
790 public interest;

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

795 (i) To certify, coordinate and establish minimum
796 standards and establish minimum required services, as specified in
797 Section 41-4-1(2), for regional mental health and intellectual
798 disability commissions and other community service providers for
799 community or regional programs and services in adult mental
800 health, children and youth mental health, intellectual
801 disabilities, alcoholism, drug misuse, developmental disabilities,
802 compulsive gambling, addictive disorders and related programs
803 throughout the state. Such regional mental health and
804 intellectual disability commissions and other community service
805 providers shall, on or before July 1 of each year, submit an
806 annual operational plan to the State Department of Mental Health
807 for approval or disapproval based on the minimum standards and
808 minimum required services established by the department for
809 certification and itemize the services specified in Section
810 41-4-1(2), including financial statements. As part of the annual
811 operation plan required by this paragraph (i) submitted by any
812 regional community mental health center or by any other reasonable
813 certification deemed acceptable by the department, the community



814 mental health center shall state those services specified in
815 Section 41-4-1(2) that it will provide and also those services
816 that it will not provide. If the department finds deficiencies in
817 the plan of any regional commission or community service provider
818 based on the minimum standards and minimum required services
819 established for certification, the department shall give the
820 regional commission or community service provider a six-month
821 probationary period to bring its standards and services up to the
822 established minimum standards and minimum required services. The
823 regional commission or community service provider shall develop a
824 sustainability business plan within thirty (30) days of being
825 placed on probation, which shall be signed by all commissioners
826 and shall include policies to address one or more of the
827 following: the deficiencies in programmatic services, clinical
828 service staff expectations, timely and appropriate billing,
829 processes to obtain credentialing for staff, monthly reporting
830 processes, third-party financial reporting and any other required
831 documentation as determined by the department. After the
832 six-month probationary period, if the department determines that
833 the regional commission or community service provider still does
834 not meet the minimum standards and minimum required services
835 established for certification, the department may remove the
836 certification of the commission or provider and from and after
837 July 1, 2011, the commission or provider shall be ineligible for
838 state funds from Medicaid reimbursement or other funding sources



839 for those services. However, the department shall not mandate a
840 standard or service, or decertify a regional commission or
841 community service provider for not meeting a standard or service,
842 if the standard or service does not have funding appropriated by
843 the Legislature or have a state, federal or local funding source
844 identified by the department. No county shall be required to levy
845 millage to provide a mandated standard or service above the
846 minimum rate required by Section 41-19-39. After the six-month
847 probationary period, the department may identify an appropriate
848 community service provider to provide any core services in that
849 county that are not provided by a community mental health center.
850 However, the department shall not offer reimbursement or other
851 accommodations to a community service provider of core services
852 that were not offered to the decertified community mental health
853 center for the same or similar services. The State Board of
854 Mental Health shall promulgate rules and regulations necessary to
855 implement the provisions of this paragraph (i), in accordance with
856 the Administrative Procedures Law (Section 25-43-1.101 et seq.);
857 (j) To establish and promulgate reasonable minimum
858 standards for the construction and operation of state and all
859 Department of Mental Health certified facilities, including
860 reasonable minimum standards for the admission, diagnosis, care,
861 treatment, transfer of patients and their records, and also
862 including reasonable minimum standards for providing day care,
863 outpatient care, emergency care, inpatient care and follow-up



864 care, when such care is provided for persons with mental or
865 emotional illness, an intellectual disability, alcoholism, drug
866 misuse and developmental disabilities;

867 (k) To implement best practices for all services
868 specified in Section 41-4-1(2), and to establish and implement all
869 other services delivered by the Department of Mental Health. To
870 carry out this responsibility, the board shall require the
871 department to establish a division responsible for developing best
872 practices based on a comprehensive analysis of the mental health
873 environment to determine what the best practices for each service
874 are. In developing best practices, the board shall consider the
875 cost and benefits associated with each practice with a goal of
876 implementing only those practices that are cost-effective
877 practices for service delivery. Such best practices shall be
878 utilized by the board in establishing performance standards and
879 evaluations of the community mental health centers' services
880 required by paragraph (d) of this section;

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

884 (m) To establish and collect reasonable fees for
885 necessary inspection services incidental to certification or
886 compliance;

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



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

891 (p) To serve as the single state agency in receiving
892 and administering any and all funds available from any source for
893 the purpose of service delivery, training, research and education
894 in regard to all forms of mental illness, intellectual
895 disabilities, alcoholism, drug misuse and developmental
896 disabilities, unless such funds are specifically designated to a
897 particular agency or institution by the federal government, the
898 Mississippi Legislature or any other grantor;

899 (q) To establish mental health holding centers for the
900 purpose of providing short-term emergency mental health treatment,
901 places for holding persons awaiting commitment proceedings or
902 awaiting placement in a state mental health facility following
903 commitment, and for diverting placement in a state mental health
904 facility. These mental health holding facilities shall be readily
905 accessible, available statewide, and be in compliance with
906 emergency services' minimum standards. They shall be
907 comprehensive and available to triage and make appropriate
908 clinical disposition, including the capability to access inpatient
909 services or less restrictive alternatives, as needed, as
910 determined by medical staff. Such facility shall have medical,
911 nursing and behavioral services available on a
912 twenty-four-hour-a-day basis. The board may provide for all or
913 part of the costs of establishing and operating the holding



914 centers in each district from such funds as may be appropriated to
915 the board for such use, and may participate in any plan or
916 agreement with any public or private entity under which the entity
917 will provide all or part of the costs of establishing and
918 operating a holding center in any district;

919 (r) To certify/license case managers, mental health
920 therapists, intellectual disability therapists, mental
921 health/intellectual disability program administrators, addiction
922 counselors and others as deemed appropriate by the board. Persons
923 already professionally licensed by another state board or agency
924 are not required to be certified/licensed under this section by
925 the Department of Mental Health. The department shall not use
926 professional titles in its certification/licensure process for
927 which there is an independent licensing procedure. Such
928 certification/licensure shall be valid only in the state mental
929 health system, in programs funded and/or certified by the
930 Department of Mental Health, and/or in programs certified/licensed
931 by the State Department of Health that are operated by the state
932 mental health system serving persons with mental illness, an
933 intellectual disability, a developmental disability or addictions,
934 and shall not be transferable;

935 (s) To develop formal mental health worker
936 qualifications for regional mental health and intellectual
937 disability commissions and other community service providers. The
938 State Personnel Board shall develop and promulgate a recommended



939 salary scale and career ladder for all regional mental
940 health/intellectual disability center therapists and case managers
941 who work directly with clients. The State Personnel Board shall
942 also develop and promulgate a career ladder for all direct care
943 workers employed by the State Department of Mental Health;

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

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

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

953 (w) To survey statutory designations, building markers
954 and the names given to mental health/intellectual disability
955 facilities and proceedings in order to recommend deletion of
956 obsolete and offensive terminology relative to the mental
957 health/intellectual disability system. Based upon a
958 recommendation of the executive director, the board shall have the
959 authority to name/rename any facility operated under the auspices
960 of the Department of Mental Health for the sole purpose of
961 deleting such terminology;

962 (x) To ensure an effective case management system
963 directed at persons who have been discharged from state and



964 private psychiatric hospitals to ensure their continued well-being
965 in the community;

966 (y) To develop formal service delivery standards
967 designed to measure the quality of services delivered to community
968 clients, as well as the timeliness of services to community
969 clients provided by regional mental health/intellectual disability
970 commissions and other community services providers;

971 (z) To establish regional state offices to provide
972 mental health crisis intervention centers and services available
973 throughout the state to be utilized on a case-by-case emergency
974 basis. The regional services director, other staff and delivery
975 systems shall meet the minimum standards of the Department of
976 Mental Health;

977 (aa) To require performance contracts with community
978 mental health/intellectual disability service providers to contain
979 performance indicators to measure successful outcomes, including
980 diversion of persons from inpatient psychiatric hospitals,
981 rapid/timely response to emergency cases, client satisfaction with
982 services and other relevant performance measures;

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



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

992 (dd) To establish a peer review/quality assurance
993 evaluation system that assures that appropriate assessment,
994 diagnosis and treatment is provided according to established
995 professional criteria and guidelines;

996 (ee) To develop and implement state plans for the
997 purpose of assisting with the care and treatment of persons with
998 Alzheimer's disease and other dementia. This plan shall include
999 education and training of service providers, caregivers in the
1000 home setting and others who deal with persons with Alzheimer's
1001 disease and other dementia, and development of adult day care,
1002 family respite care and counseling programs to assist families who
1003 maintain persons with Alzheimer's disease and other dementia in
1004 the home setting. No agency shall be required to provide any
1005 services under this section until such time as sufficient funds
1006 have been appropriated or otherwise made available by the
1007 Legislature specifically for the purposes of the treatment of
1008 persons with Alzheimer's and other dementia;

1009 (ff) Working with the advice and consent of the
1010 administration of Ellisville State School, to enter into
1011 negotiations with the Economic Development Authority of Jones
1012 County for the purpose of negotiating the possible exchange, lease



1013 or sale of lands owned by Ellisville State School to the Economic
1014 Development Authority of Jones County. It is the intent of the
1015 Mississippi Legislature that such negotiations shall ensure that
1016 the financial interest of the persons with an intellectual
1017 disability served by Ellisville State School will be held
1018 paramount in the course of these negotiations. The Legislature
1019 also recognizes the importance of economic development to the
1020 citizens of the State of Mississippi and Jones County, and
1021 encourages fairness to the Economic Development Authority of Jones
1022 County. Any negotiations proposed which would result in the
1023 recommendation for exchange, lease or sale of lands owned by
1024 Ellisville State School must have the approval of the State Board
1025 of Mental Health. The State Board of Mental Health may and has
1026 the final authority as to whether or not these negotiations result
1027 in the exchange, lease or sale of the properties it currently
1028 holds in trust for persons with an intellectual disability served
1029 at Ellisville State School.

1030 If the State Board of Mental Health authorizes the sale of
1031 lands owned by Ellisville State School, as provided for under this
1032 paragraph (ff), the monies derived from the sale shall be placed
1033 into a special fund that is created in the State Treasury to be
1034 known as the "Ellisville State School Client's Trust Fund." The
1035 principal of the trust fund shall remain inviolate and shall never
1036 be expended. Any interest earned on the principal may be expended
1037 solely for the benefits of clients served at Ellisville State



1038 School. The State Treasurer shall invest the monies of the trust
1039 fund in any of the investments authorized for the Mississippi
1040 Prepaid Affordable College Tuition Program under Section 37-155-9,
1041 and those investments shall be subject to the limitations
1042 prescribed by Section 37-155-9. Unexpended amounts remaining in
1043 the trust fund at the end of a fiscal year shall not lapse into
1044 the State General Fund, and any interest earned on amounts in the
1045 trust fund shall be deposited to the credit of the trust fund.
1046 The administration of Ellisville State School may use any interest
1047 earned on the principal of the trust fund, upon appropriation by
1048 the Legislature, as needed for services or facilities by the
1049 clients of Ellisville State School. Ellisville State School shall
1050 make known to the Legislature, through the Legislative Budget
1051 Committee and the respective Appropriations Committees of the
1052 House and Senate, its proposed use of interest earned on the
1053 principal of the trust fund for any fiscal year in which it
1054 proposes to make expenditures thereof. The State Treasurer shall
1055 provide Ellisville State School with an annual report on the
1056 Ellisville State School Client's Trust Fund to indicate the total
1057 monies in the trust fund, interest earned during the year,
1058 expenses paid from the trust fund and such other related
1059 information.

1060 Nothing in this section shall be construed as applying to or
1061 affecting mental health/intellectual disability services provided
1062 by hospitals as defined in Section 41-9-3(a), and/or their



1063 subsidiaries and divisions, which hospitals, subsidiaries and
1064 divisions are licensed and regulated by the Mississippi State
1065 Department of Health unless such hospitals, subsidiaries or
1066 divisions voluntarily request certification by the Mississippi
1067 State Department of Mental Health.

1068 All new programs authorized under this section shall be
1069 subject to the availability of funds appropriated therefor by the
1070 Legislature;

1071 (gg) Working with the advice and consent of the
1072 administration of Boswell Regional Center, to enter into
1073 negotiations with the Economic Development Authority of Simpson
1074 County for the purpose of negotiating the possible exchange, lease
1075 or sale of lands owned by Boswell Regional Center to the Economic
1076 Development Authority of Simpson County. It is the intent of the
1077 Mississippi Legislature that such negotiations shall ensure that
1078 the financial interest of the persons with an intellectual
1079 disability served by Boswell Regional Center will be held
1080 paramount in the course of these negotiations. The Legislature
1081 also recognizes the importance of economic development to the
1082 citizens of the State of Mississippi and Simpson County, and
1083 encourages fairness to the Economic Development Authority of
1084 Simpson County. Any negotiations proposed which would result in
1085 the recommendation for exchange, lease or sale of lands owned by
1086 Boswell Regional Center must have the approval of the State Board
1087 of Mental Health. The State Board of Mental Health may and has



1088 the final authority as to whether or not these negotiations result
1089 in the exchange, lease or sale of the properties it currently
1090 holds in trust for persons with an intellectual disability served
1091 at Boswell Regional Center. In any such exchange, lease or sale
1092 of such lands owned by Boswell Regional Center, title to all
1093 minerals, oil and gas on such lands shall be reserved, together
1094 with the right of ingress and egress to remove same, whether such
1095 provisions be included in the terms of any such exchange, lease or
1096 sale or not.

1097 If the State Board of Mental Health authorizes the sale of
1098 lands owned by Boswell Regional Center, as provided for under this
1099 paragraph (gg), the monies derived from the sale shall be placed
1100 into a special fund that is created in the State Treasury to be
1101 known as the "Boswell Regional Center Client's Trust Fund." The
1102 principal of the trust fund shall remain inviolate and shall never
1103 be expended. Any earnings on the principal may be expended solely
1104 for the benefits of clients served at Boswell Regional Center.
1105 The State Treasurer shall invest the monies of the trust fund in
1106 any of the investments authorized for the Mississippi Prepaid
1107 Affordable College Tuition Program under Section 37-155-9, and
1108 those investments shall be subject to the limitations prescribed
1109 by Section 37-155-9. Unexpended amounts remaining in the trust
1110 fund at the end of a fiscal year shall not lapse into the State
1111 General Fund, and any earnings on amounts in the trust fund shall
1112 be deposited to the credit of the trust fund. The administration



1113 of Boswell Regional Center may use any earnings on the principal
1114 of the trust fund, upon appropriation by the Legislature, as
1115 needed for services or facilities by the clients of Boswell
1116 Regional Center. Boswell Regional Center shall make known to the
1117 Legislature, through the Legislative Budget Committee and the
1118 respective Appropriations Committees of the House and Senate, its
1119 proposed use of the earnings on the principal of the trust fund
1120 for any fiscal year in which it proposes to make expenditures
1121 thereof. The State Treasurer shall provide Boswell Regional
1122 Center with an annual report on the Boswell Regional Center
1123 Client's Trust Fund to indicate the total monies in the trust
1124 fund, interest and other income earned during the year, expenses
1125 paid from the trust fund and such other related information.

1126 Nothing in this section shall be construed as applying to or
1127 affecting mental health/intellectual disability services provided
1128 by hospitals as defined in Section 41-9-3(a), and/or their
1129 subsidiaries and divisions, which hospitals, subsidiaries and
1130 divisions are licensed and regulated by the Mississippi State
1131 Department of Health unless such hospitals, subsidiaries or
1132 divisions voluntarily request certification by the Mississippi
1133 State Department of Mental Health.

1134 All new programs authorized under this section shall be
1135 subject to the availability of funds appropriated therefor by the
1136 Legislature;



1137 (hh) Notwithstanding any other section of the code, the
1138 Board of Mental Health shall be authorized to fingerprint and
1139 perform a criminal history record check on every employee or
1140 volunteer. Every employee and volunteer shall provide a valid
1141 current social security number and/or driver's license number
1142 which shall be furnished to conduct the criminal history record
1143 check. If no disqualifying record is identified at the state
1144 level, fingerprints shall be forwarded to the Federal Bureau of
1145 Investigation for a national criminal history record check;

1146 (ii) The Department of Mental Health shall have the
1147 authority for the development of a consumer friendly single point
1148 of intake and referral system within its service areas for persons
1149 with mental illness, an intellectual disability, developmental
1150 disabilities or alcohol or substance abuse who need assistance
1151 identifying or accessing appropriate services. The department
1152 will develop and implement a comprehensive evaluation procedure
1153 ensuring that, where appropriate, the affected person or their
1154 parent or legal guardian will be involved in the assessment and
1155 planning process. The department, as the point of intake and as
1156 service provider, shall have the authority to determine the
1157 appropriate institutional, hospital or community care setting for
1158 persons who have been diagnosed with mental illness, an
1159 intellectual disability, developmental disabilities and/or alcohol
1160 or substance abuse, and may provide for the least restrictive
1161 placement if the treating professional believes such a setting is



1162 appropriate, if the person affected or their parent or legal
1163 guardian wants such services, and if the department can do so with
1164 a reasonable modification of the program without creating a
1165 fundamental alteration of the program. The least restrictive
1166 setting could be an institution, hospital or community setting,
1167 based upon the needs of the affected person or their parent or
1168 legal guardian;

1169 (jj) To have the sole power and discretion to enter
1170 into, sign, execute and deliver long-term or multiyear leases of
1171 real and personal property owned by the Department of Mental
1172 Health to and from other state and federal agencies and private
1173 entities deemed to be in the public's best interest. Any monies
1174 derived from such leases shall be deposited into the funds of the
1175 Department of Mental Health for its exclusive use. Leases to
1176 private entities shall be approved by the Department of Finance
1177 and Administration and all leases shall be filed with the
1178 Secretary of State;

1179 (kk) To certify and establish minimum standards and
1180 minimum required services for county facilities used for housing,
1181 feeding and providing medical treatment for any person who has
1182 been involuntarily ordered admitted to a treatment center by a
1183 court of competent jurisdiction. The minimum standard for the
1184 initial assessment of those persons being housed in county
1185 facilities is for the assessment to be performed by a physician,
1186 preferably a psychiatrist, or by a nurse practitioner, preferably



1187 a psychiatric nurse practitioner. If the department finds
1188 deficiencies in any such county facility or its provider based on
1189 the minimum standards and minimum required services established
1190 for certification, the department shall give the county or its
1191 provider a six-month probationary period to bring its standards
1192 and services up to the established minimum standards and minimum
1193 required services. After the six-month probationary period, if
1194 the department determines that the county or its provider still
1195 does not meet the minimum standards and minimum required services,
1196 the department may remove the certification of the county or
1197 provider and require the county to contract with another county
1198 having a certified facility to hold those persons for that period
1199 of time pending transportation and admission to a state treatment
1200 facility. Any cost incurred by a county receiving an
1201 involuntarily committed person from a county with a decertified
1202 holding facility shall be reimbursed by the home county to the
1203 receiving county; and

1204 (11) To provide orientation training to all new
1205 commissioners of regional commissions and annual training for all
1206 commissioners with continuing education regarding the Mississippi
1207 mental health system and services as developed by the State
1208 Department of Mental Health. Training shall be provided at the
1209 expense of the department except for travel expenses which shall
1210 be paid by the regional commission.



1211 **SECTION 12.** Section 41-21-69, Mississippi Code of 1972, is
1212 brought forward as follows:

1213 41-21-69. (1) (a) The appointed examiners shall
1214 immediately make a full inquiry into the condition of the person
1215 alleged to be in need of treatment and shall make a mental
1216 examination and physical evaluation of the person, and each
1217 examiner must make a report and certificate of the findings of all
1218 mental and acute physical problems to the clerk of the court.
1219 Each report and certificate must set forth the facts as found by
1220 the appointed examiner and must state whether the examiner is of
1221 the opinion that the proposed patient is suffering a disability
1222 defined in Sections 41-21-61 through 41-21-107 and should be
1223 committed to a treatment facility. The statement shall include
1224 the reasons for that opinion. The examination may be based upon a
1225 history provided by the patient and the report and certificate of
1226 findings shall include an identification of all mental and
1227 physical problems identified by the examination.

1228 (b) If the appointed examiner finds: (i) the
1229 respondent has mental illness; (ii) the respondent is capable of
1230 surviving safely in the community with available supervision from
1231 family, friends or others; (iii) based on the respondent's
1232 treatment history and other applicable medical or psychiatric
1233 indicia, the respondent is in need of treatment in order to
1234 prevent further disability or deterioration that would result in
1235 significant deterioration in the ability to carry out activities



1236 of daily living; and (iv) his or her current mental status or the
1237 nature of his or her illness limits or negates his or her ability
1238 to make an informed decision to seek voluntarily or comply with
1239 recommended treatment; the appointed examiners shall so show on
1240 the examination report and certification and shall recommend
1241 outpatient commitment. The appointed examiners shall also show
1242 the name, address and telephone number of the proposed outpatient
1243 treatment physician or facility.

1244 (2) The examinations shall be conducted and concluded within
1245 forty-eight (48) hours after the order for examination and
1246 appointment of attorney, and the certificates of the appointed
1247 examiners shall be filed with the clerk of the court within that
1248 time, unless the running of that period extends into nonbusiness
1249 hours, in which event the certificates must be filed at the
1250 beginning of the next business day. However, if the appointed
1251 examiners are of the opinion that additional time to complete the
1252 examination is necessary, and this fact is communicated to the
1253 chancery clerk or chancellor, the clerk or chancellor shall have
1254 authority to extend the time for completion of the examination and
1255 the filing of the certificate, the extension to be not more than
1256 eight (8) hours.

1257 (3) At the beginning of the examination, the respondent
1258 shall be told in plain language of the purpose of the examination,
1259 the possible consequences of the examination, of his or her right



1260 to refuse to answer any questions, and his or her right to have
1261 his or her attorney present.

1262 **SECTION 13.** Section 41-21-71, Mississippi Code of 1972, is
1263 brought forward as follows:

1264 41-21-71. If, as a result of the examination, the appointed
1265 examiners certify that the person is not in need of treatment, the
1266 chancellor or clerk shall dismiss the affidavit without the need
1267 for a further hearing. If the chancellor or chancery clerk finds,
1268 based upon the appointed examiners' certificates and any other
1269 relevant evidence, that the respondent is in need of treatment and
1270 the certificates are filed with the chancery clerk within
1271 forty-eight (48) hours after the order for examination, or
1272 extension of that time as provided in Section 41-21-69, the clerk
1273 shall immediately set the matter for a hearing. The hearing shall
1274 be set within seven (7) days of the filing of the certificates
1275 unless an extension is requested by the respondent's attorney. In
1276 no event shall the hearing be more than ten (10) days after the
1277 filing of the certificates.

1278 **SECTION 14.** Section 41-21-77, Mississippi Code of 1972, is
1279 brought forward as follows:

1280 41-21-77. If admission is ordered at a treatment facility,
1281 the sheriff, his or her deputy or any other person appointed or
1282 authorized by the court shall immediately deliver the respondent
1283 to the director of the appropriate facility. Neither the Board of
1284 Mental Health or its members, nor the Department of Mental Health



1285 or its related facilities, nor any employee of the Department of
1286 Mental Health or its related facilities, shall be appointed,
1287 authorized or ordered to deliver the respondent for treatment, and
1288 no person shall be so delivered or admitted until the director of
1289 the admitting institution determines that facilities and services
1290 are available. Persons who have been ordered committed and are
1291 awaiting admission may be given any such treatment in the facility
1292 by a licensed physician as is indicated by standard medical
1293 practice. Any county facility used for providing housing,
1294 maintenance and medical treatment for involuntarily committed
1295 persons pending their transportation and admission to a state
1296 treatment facility shall be certified by the State Department of
1297 Mental Health under the provisions of Section 41-4-7(kk). No
1298 person shall be delivered or admitted to any non-Department of
1299 Mental Health treatment facility unless the treatment facility is
1300 licensed and/or certified to provide the appropriate level of
1301 psychiatric care for persons with mental illness. It is the
1302 intent of this Legislature that county-owned hospitals work with
1303 regional community mental health/intellectual disability centers
1304 in providing care to local patients. The clerk shall provide the
1305 director of the admitting institution with a certified copy of the
1306 court order, a certified copy of the appointed examiners'
1307 certificates, a certified copy of the affidavit, and any other
1308 information available concerning the physical and mental condition
1309 of the respondent. Upon notification from the United States



1310 Veterans Administration or other agency of the United States
1311 government, that facilities are available and the respondent is
1312 eligible for care and treatment in those facilities, the court may
1313 enter an order for delivery of the respondent to or retention by
1314 the Veterans Administration or other agency of the United States
1315 government, and, in those cases the chief officer to whom the
1316 respondent is so delivered or by whom he is retained shall, with
1317 respect to the respondent, be vested with the same powers as the
1318 director of the Mississippi State Hospital at Whitfield, or the
1319 East Mississippi State Hospital at Meridian, with respect to
1320 retention and discharge of the respondent.

1321 **SECTION 15.** (1) There is created in the State Treasury a
1322 special fund to be designated as the "Mississippi Collaborative
1323 Response to Mental Health Fund," which shall consist of funds
1324 deposited therein under Section 27-69-75, Mississippi Code of
1325 1972, and funds from any other source designated for deposit into
1326 such fund. The fund shall be maintained by the State Treasurer as
1327 a separate and special fund, separate and apart from the General
1328 Fund of the state. Unexpended amounts remaining in the fund at
1329 the end of a fiscal year shall not lapse into the State General
1330 Fund, and any investment earnings or interest earned on amounts in
1331 the fund shall be deposited to the credit of the fund. Monies in
1332 the fund shall be used by the Department of Mental Health, upon
1333 appropriation by the Legislature, for the purposes provided in



1334 Sections 2 and 3 of this act and for the purposes described in
1335 subsection (2) of this section.

1336 (2) (a) The Department of Mental Health shall establish a
1337 program for reimbursing private hospitals, in whole or in part,
1338 for uncompensated behavioral treatment services provided to
1339 persons admitted to such hospitals pursuant to a chancery court
1340 order as provided in Section 41-27-77. A private hospital may
1341 apply to the Department of Mental Health for reimbursement of the
1342 uncompensated behavioral treatment services provided to persons
1343 admitted to the hospital pursuant to a chancery court order for
1344 behavioral treatment services. A private hospital desiring
1345 assistance under this section must submit an application to the
1346 Department of Mental Health. The application must include a
1347 description of the behavioral treatment services provided by the
1348 hospital for which the assistance is requested, the total costs of
1349 the behavioral treatment services provided by the hospital and the
1350 portion of such costs for which the hospital was not compensated,
1351 the amount of assistance requested and any other information
1352 required by the Department of Mental Health.

1353 (b) The Department of Mental Health shall have all
1354 powers necessary to implement and administer the program
1355 established under this section, and the department shall
1356 promulgate rules and regulations, in accordance with the
1357 Mississippi Administrative Procedures Law, necessary for the
1358 implementation of this section.



1359 **SECTION 16.** Section 27-69-3, Mississippi Code of 1972, is
1360 amended as follows:

1361 27-69-3. When used in this chapter:

1362 (a) "State" means the State of Mississippi as
1363 geographically defined, and any and all waters under the
1364 jurisdiction of the State of Mississippi.

1365 (b) "State Auditor" means the Auditor of Public
1366 Accounts of the State of Mississippi, or his legally appointed
1367 deputy, clerk or agent.

1368 (c) "Commissioner" means the Commissioner of Revenue of
1369 the Department of Revenue, and his authorized agents and
1370 employees.

1371 (d) "Person" means any individual, company,
1372 corporation, partnership, association, joint venture, estate,
1373 trust, or any other group, or combination acting as a unit, and
1374 the plural as well as the singular, unless the intention to give a
1375 more limited meaning is disclosed by the context.

1376 (e) "Consumer" means a person who comes into possession
1377 of tobacco for the purpose of consuming it, giving it away, or
1378 disposing of it in any way by sale, barter or exchange.

1379 (f) "Tobacco" means any cigarettes, cigars, cheroots,
1380 stogies, smoking tobacco (including granulated, plug cut, crimp
1381 cut, ready rubbed, and other kinds and forms of tobacco, or
1382 substitutes therefor, prepared in such manner as to be suitable
1383 for smoking in a pipe or cigarette) and including plug and twist



1384 chewing tobacco and snuff, when such "tobacco" is manufactured and
1385 prepared for sale or personal consumption. The term "tobacco"
1386 also includes vapor products. All words used herein, except vapor
1387 products, shall be given the meaning as defined in the regulations
1388 of the Treasury Department of the United States of America.

1389 (g) "First sale" means and includes the first sale, or
1390 distribution of such tobacco in intrastate commerce, or the first
1391 use or consumption of such tobacco within this state.

1392 (h) "Drop shipment" means and includes any delivery of
1393 tobacco received by any person within this state, when payment for
1394 such tobacco is made to the shipper, or seller by or through a
1395 person other than a consignee.

1396 (i) "Distributor" includes every person, except
1397 retailers as defined herein, in the state who manufactures or
1398 produces tobacco or who ships, transports, or imports into this
1399 state, or in any manner acquires or possesses tobacco, and makes a
1400 first sale of the same in the state.

1401 (j) "Wholesaler" includes dealers, whose principal
1402 business is that of a wholesale dealer or jobber, who is known to
1403 the retail trade as such, and whose place of business is located
1404 in Mississippi or in a state which affords reciprocity to
1405 wholesalers domiciled in Mississippi, who shall sell any taxable
1406 tobacco to retail dealers only for the purpose of resale.

1407 (k) "Retailer" includes every person, other than a
1408 wholesale dealer, as defined above, whose principal business is



1409 that of selling merchandise at retail, who shall sell, or offer
1410 for sale tobacco to the consumer. The sale of tobacco in quantity
1411 lots by retailers to other retailers, transient vendors, or other
1412 persons, shall not be construed as wholesale and shall not qualify
1413 such retailer for a permit as a wholesaler.

1414 (l) "Dealer" includes every person, firm, corporation
1415 or association of persons, except retailers as defined herein, who
1416 manufacture tobacco for distribution, for sale, for use or for
1417 consumption in the State of Mississippi.

1418 The word "dealer" is further defined to mean any person,
1419 firm, corporation or association of persons, except retailers as
1420 defined herein, who imports tobacco from any state or foreign
1421 country for distribution, sale, use, or consumption in the State
1422 of Mississippi.

1423 (m) "Distributing agent" includes every person in the
1424 state who acts as an agent of any person outside the State of
1425 Mississippi, by receiving tobacco in interstate commerce, and
1426 storing such tobacco in this state subject to distribution, or
1427 delivery upon order from the person outside the state to
1428 distributors, wholesalers, retailers and dealers.

1429 (n) "Transient vendor" means and includes every person
1430 commonly and generally termed "peddlers" and every person acting
1431 for himself, or as an agent, employee, salesman, or in any
1432 capacity for another, whether as owner, bailee, or other custodian
1433 of tobacco, and going from person to person, dealer to dealer,



1434 house to house, or place to place, and selling or offering for
1435 sale at retail or wholesale tobacco, and every person who does not
1436 keep a regular place of business open at all times in regular
1437 hours, and every person who goes from person to person, dealer to
1438 dealer, house to house, or place to place, and sells or offers for
1439 sale tobacco which he carries with him, and who delivers the same
1440 at the time of, or immediately after the sale, or without
1441 returning to the place of business operations (a permanent place
1442 of business within the state) between the taking of the order and
1443 the delivery of the tobacco, or

1444 All persons who go from person to person, house to house,
1445 place to place, or dealer to dealer, soliciting orders by
1446 exhibiting samples, or taking orders, and thereafter making
1447 delivery of tobacco, or filling the order without carrying or
1448 sending the order to the permanent place of business, and
1449 thereafter making delivery of the tobacco pursuant to the terms of
1450 the order, or

1451 All persons who go from person to person, place to place,
1452 house to house, or dealer to dealer, carrying samples and selling
1453 tobacco from samples, and afterwards making delivery without
1454 taking and sending an order therefor to a permanent place of
1455 business for the filling of the order, and delivery of the
1456 tobacco, or the exchange of tobacco having become damaged or
1457 unsalable, or the purchase by tobacco of advertising space, or



1458 All persons who have in their possession, or under their
1459 control, any tobacco offered, or to be offered for sale or to be
1460 delivered, unless the sale or delivery thereof is to be made in
1461 pursuance of a bona fide order for the tobacco, to be sold or
1462 delivered, the order to be evidenced by an invoice or memorandum.

1463 (o) "Contraband tobacco" means all tobacco found in the
1464 possession of any person whose permit to engage in dealing in
1465 tobacco has been revoked by the commissioner; and any cigarettes
1466 found in the possession of any person to which the proper tax
1467 stamps have not been affixed; and any cigarettes improperly
1468 stamped when found in the possession of any person; and all other
1469 tobacco upon which the excise tax has not been paid.

1470 (p) "Sale" means an exchange for money or goods, giving
1471 away, or distributing any tobacco as defined in this chapter.

1472 (q) "Forty-eight (48) hours" and "seventy-two (72)
1473 hours" means two (2) calendar days and three (3) calendar days,
1474 respectively, excluding Sundays and legal holidays.

1475 (r) "Stamp" or "stamping," or the import of such word,
1476 when used in this chapter, means any manner of stamp or impression
1477 permitted by the commissioner that carries out the purposes of the
1478 chapter in clearly indicating upon the packages of cigarettes
1479 taxed the due payment of the tax and clearly identifying, by
1480 serial number or otherwise, the permittee who affixed the stamp to
1481 the particular package.



1482 (s) "Manufacturer's list price" means the full sales
1483 price at which tobacco is sold or offered for sale by a
1484 manufacturer to the wholesaler or distributor in this state
1485 without any deduction for freight, trade discount, cash discounts,
1486 special discounts or deals, cash rebates, or any other reduction
1487 from the regular selling price. In the event freight charges on
1488 shipments to wholesalers or distributors are not paid by the
1489 manufacturer, then such freight charges required to be paid by the
1490 wholesalers and distributors shall be added to the amount paid to
1491 the manufacturer in order to determine "manufacturer's list
1492 price." In the case of a wholesaler or distributor whose place of
1493 business is located outside this state, the "manufacturer's list
1494 price" for tobacco sold in this state by such wholesaler or
1495 distributor shall in all cases be considered to be the same as
1496 that of a wholesaler or distributor located within this state.

1497 (t) "Vapor product" means an electronic product or
1498 device that may be used to deliver any aerosolized or vaporized
1499 substance to the person inhaling from the product or device,
1500 including, but not limited to, an e-cigar, e-cigarillo, e-pipe,
1501 vape pen or e-hookah; and includes any cartridge, component, part
1502 or accessory of the electronic product or device, whether or not
1503 sold separately, and also includes any liquid, capsule, powder or
1504 substance intended to be aerosolized, vaporized or otherwise
1505 ingested during the use of the electronic product or device,
1506 whether or not the substance contains nicotine. The term "vapor



1507 product" does not include (i) a product that is a drug under 21
1508 USCS 321(g) (1); (ii) a product that is a device under 21 USCS
1509 321(h); or (iii) a combination product described in 21 USCS
1510 353(g).

1511 **SECTION 17.** Section 27-69-13, Mississippi Code of 1972, is
1512 amended as follows:

1513 27-69-13. There is hereby imposed, levied and assessed, to
1514 be collected and paid as hereinafter provided in this chapter, an
1515 excise tax on each person or dealer in cigarettes, cigars,
1516 stogies, snuff, chewing tobacco, * * * smoking tobacco, vapor
1517 products, or substitutes therefor, upon the sale, use,
1518 consumption, handling or distribution in the State of Mississippi,
1519 as follows:

1520 (a) On cigarettes, the rate of tax shall be Three and
1521 Four-tenths Cents (3.4¢) on each cigarette sold with a maximum
1522 length of one hundred twenty (120) millimeters; any cigarette in
1523 excess of this length shall be taxed as if it were two (2) or more
1524 cigarettes. Provided, however, if the federal tax rate on
1525 cigarettes in effect on June 1, 1985, is reduced, then the rate as
1526 provided herein shall be increased by the amount of the federal
1527 tax reduction. Such tax increase shall take effect on the first
1528 day of the month following the effective date of such reduction in
1529 the federal tax rate.

1530 (b) On cigars, cheroots, stogies, snuff, chewing and
1531 smoking tobacco and all other tobacco products except cigarettes



1532 and vapor products, the rate of tax shall be fifteen percent (15%)
1533 of the manufacturer's list price.

1534 (c) On vapor products, the rate of tax shall be
1535 twenty-five percent (25%) of the manufacturer's list price.

1536 No stamp evidencing the tax herein levied on cigarettes shall
1537 be of a denomination of less than One Cent (1¢), and whenever the
1538 tax computed at the rates herein prescribed on cigarettes shall be
1539 a specified amount, plus a fractional part of One Cent (1¢), the
1540 package shall be stamped for the next full cent; however, the
1541 additional face value of stamps purchased to comply with taxes
1542 imposed by this section after June 1, 1985, shall be subject to a
1543 four percent (4%) discount or compensation to dealers for their
1544 services rather than the eight percent (8%) discount or
1545 compensation allowed by Section 27-69-31.

1546 Every wholesaler shall purchase stamps as provided in this
1547 chapter, and affix the same to all packages of cigarettes handled
1548 by him as herein provided.

1549 The above tax is levied upon the sale, use, gift, possession
1550 or consumption of tobacco within the State of Mississippi, and the
1551 impact of the tax levied by this chapter is hereby declared to be
1552 on the vendee, user, consumer or possessor of tobacco in this
1553 state; and when said tax is paid by any other person, such payment
1554 shall be considered as an advance payment and shall thereafter be
1555 added to the price of the tobacco and recovered from the ultimate
1556 consumer or user.



1557 **SECTION 18.** Section 27-69-15, Mississippi Code of 1972, is
1558 amended as follows:

1559 27-69-15. Any retailer, transient vendor, distributing
1560 agent, salesman, or other dealer who shall receive any cigarettes
1561 other than from a wholesaler having a permit as herein provided,
1562 and not having the necessary stamps already affixed, shall, after
1563 the receipt of such cigarettes, within the time limit herein
1564 provided, present the same to some wholesaler having such permit,
1565 for the affixing of the stamps required, and it shall be the duty
1566 of such wholesaler, thereupon and upon the payment to him by such
1567 retailer of the face value of the stamps required, to affix the
1568 stamps to said cigarettes in the same manner as if the cigarettes
1569 were handled and sold by such wholesaler, provided, that such
1570 wholesaler, before affixing the stamps, shall require of the
1571 retailer, transient vendor, distributing agent, salesman, or other
1572 dealer, the original invoice for the cigarettes to be stamped, and
1573 such wholesaler shall in each instance note upon the invoice, the
1574 denominations and number of stamps affixed to the cigarettes
1575 covered by said invoice, the notation to be made in ink, or other
1576 manner not easy to erase, at the time the stamps are affixed.

1577 It is further provided that, in addition hereto, the
1578 wholesaler shall keep a separate record of all stamps affixed to
1579 taxable cigarettes presented by retailers, transient vendors,
1580 distributing agents, salesmen, or other dealers, showing the name
1581 of the retailer, transient vendor, distributing agent, salesman,



1582 or other dealer, name of the shipper, date of shipper's invoice,
1583 the date stamps were affixed, denomination of stamps affixed, and
1584 total value of stamps affixed.

1585 When the request is made to any wholesaler in this state by a
1586 retailer, transient vendor, distributing agent, salesman, or other
1587 dealer in this state, said request being duly and seasonably made
1588 for the affixing of stamps, and the request is accompanied by
1589 proper remittance and invoice, and such wholesaler refuses to
1590 affix the stamps to cigarettes as requested, said wholesaler shall
1591 forfeit to the state a penalty of Twenty-five Dollars (\$25.00) for
1592 each offense, the same to be collected by the commissioner and, in
1593 addition thereto, in the discretion of the commissioner, forfeit
1594 his permit to handle stamps. In the event of such refusal on the
1595 part of any wholesaler to affix stamps said retailer, transient
1596 vendor, distributing agent, salesman, or other dealer may make
1597 application to the commissioner for stamps to be placed on the
1598 cigarettes upon which the wholesaler refused to affix the stamps,
1599 said application to be accompanied by an affidavit from the
1600 retailer, transient vendor, distributing agent, salesman, or other
1601 dealer, or some other credible person, setting forth the facts,
1602 whereupon the commissioner may issue and sell to such retailer,
1603 transient vendor, distributing agent, salesman, or other dealer, a
1604 sufficient number of stamps to be affixed to the cigarettes.



1605 Stamps shall not be affixed to any cigarettes except by a
1606 wholesale dealer having a permit, except as otherwise provided in
1607 this chapter.

1608 Stamps shall not be required to be affixed to any cigarettes
1609 while the same is in interstate commerce.

1610 Any person who receives cigars, smoking tobacco, chewing
1611 tobacco, snuff, vapor products or any other tobacco products
1612 except cigarettes from anyone other than a wholesaler having a
1613 tobacco permit issued by this state and the excise tax on the
1614 tobacco received has not been paid, shall compute the excise tax
1615 due the State of Mississippi at the rate prescribed herein on
1616 forms furnished by the commissioner for that purpose. Such report
1617 shall be accompanied by the remittance for the tax due and shall
1618 be filed with the commissioner within forty-eight (48) hours after
1619 receipt of the tobacco by such person.

1620 In no case shall the provisions of this chapter be construed
1621 to require the payment of a tax upon any tobacco upon which the
1622 tax herein levied has once been paid to the state.

1623 **SECTION 19.** Section 27-69-27, Mississippi Code of 1972, is
1624 amended as follows:

1625 27-69-27. The payment of the tax imposed by this chapter
1626 shall be evidenced by affixing stamps to each individual package
1627 of cigarettes usually sold to consumers, as distinguished from
1628 cartons or larger units which are composed of a number of
1629 individual packages.



1630 Except as otherwise provided in this paragraph, the stamp
1631 shall be affixed within seventy-two (72) hours after the receipt
1632 of the cigarettes by the wholesaler, and within forty-eight (48)
1633 hours after receipt of the cigarettes by the retailer; provided,
1634 that in the case a dealer conducts a wholesale and retail business
1635 at one (1) place of business, stamps shall be affixed within
1636 forty-eight (48) hours after receipt of the cigarettes. However,
1637 the provisions of this paragraph shall not apply to tobacco at the
1638 point it is purchased at a sale under Section 27-69-56. The stamp
1639 must be so securely affixed as to require the continued
1640 application of water or of steam to remove it, or so that it
1641 cannot be otherwise removed without destruction or mutilation.

1642 The excise tax imposed on cigars, smoking tobacco, chewing
1643 tobacco, snuff, vapor products and all other tobacco products
1644 except cigarettes shall be computed by the application of the
1645 excise tax rate to the manufacturer's list price on all purchases
1646 of such tobacco. The excise tax shall be due and payable on or
1647 before the fifteenth day of the month next succeeding the month in
1648 which the tax accrues. The tax shall be filed with the
1649 commissioner on forms prescribed by the commissioner.

1650 Provided, however, manufacturers or other wholesale
1651 distributors of tobacco, which are subject to the excise taxes
1652 imposed by Section 27-69-13 of this chapter for the privilege of
1653 selling or using such tobaccos within this state, who maintain
1654 "terminals" or warehouses in which such tobaccos are stored, and



1655 who sell only to licensed wholesale dealers within the state who
1656 are qualified to purchase and affix the stamps required, may
1657 maintain such "spot stocks," intended only for such sales, without
1658 affixing the stamps or filing returns and paying the tax.

1659 Any person desiring to maintain such "terminal" or warehouse,
1660 shall make application to the commissioner and obtain a permit to
1661 maintain such stocks without affixing stamps thereto, for sale
1662 exclusively to out-of-state purchasers, or licensed wholesale
1663 dealers within this state, and the commissioner is hereby
1664 authorized to grant such permit upon the execution and filing with
1665 the commissioner, by the applicant, a bond with surety companies,
1666 authorized to do business in Mississippi, as surety thereon, and
1667 conditioned for the strict compliance by the applicant, with the
1668 following conditions under which said privilege may be granted.

1669 The person maintaining such stock of untaxed tobacco shall
1670 supply to the commissioner monthly, or at such times as the
1671 commissioner may require, complete invoices of all tobaccos
1672 received, and shall also supply correct invoices of all tobaccos
1673 removed from such "terminal" or warehouse, said invoices to
1674 contain the correct name and address of all persons to whom such
1675 tobacco shall be delivered or consigned, whether within or without
1676 the State of Mississippi.

1677 The penalty of such bond shall be determined by the
1678 commissioner, in an amount sufficient to protect the State of
1679 Mississippi from any loss of revenue which might occur by reason



1680 of the failure of principal to strictly adhere to the requirement
1681 that no tobacco would be sold from such stock within the State of
1682 Mississippi, except to licensed wholesale dealers.

1683 **SECTION 20.** Section 27-69-33, Mississippi Code of 1972, is
1684 amended as follows:

1685 27-69-33. Manufacturers, distributors and wholesalers of
1686 cigars, cigarettes * * *, smoking tobacco or vapor products
1687 subject to the tax under this chapter, doing both intrastate and
1688 interstate business in such tobacco, must qualify as interstate
1689 dealers in such tobacco by applying to the commissioner for
1690 permission to engage in such business, and, upon receipt of such
1691 permission, he shall be permitted to set aside such part of his
1692 stock as may be absolutely necessary for the conduct of such
1693 interstate business, without affixing the stamps to cigarettes
1694 required by this chapter. Said interstate stock shall be kept in
1695 an entirely separate part of the building, separate and apart from
1696 intrastate stock, and the said interstate business shall be
1697 conducted by the said wholesale dealer in accordance with rules
1698 and regulations to be promulgated by the commissioner.

1699 It is further provided that shipment of such merchandise be
1700 made only by a railroad, express company, boat line, or motor
1701 freight line certified by the Mississippi Public Service
1702 Commission as a common carrier, or by registered or insured parcel
1703 post.



1704 It is further provided that any manufacturer, distributor, or
1705 wholesaler of cigars, cigarettes * * *, smoking tobacco or vapor
1706 products, engaged in interstate commerce in such tobaccos, shall
1707 report to the commissioner on or before the fifteenth day of each
1708 month, on forms prescribed by the commissioner, all sales of
1709 cigarettes made in interstate commerce during the preceding month
1710 to which Mississippi stamps were not affixed. These reports must
1711 be made supplementary to the reports required to be filed by
1712 Section 27-69-35 of this chapter.

1713 Each shipment must be covered by a complete copy of invoice
1714 of the consignor, and supported by properly receipted bill of
1715 lading of the transportation company, or post office department as
1716 specified in the foregoing, and the receipted bills of lading and
1717 invoices shall be subject to inspection by the commissioner for a
1718 period of three (3) years.

1719 The commissioner is further authorized to verify the actual
1720 delivery to the consignee of such unstamped taxable cigarettes
1721 before allowing credit, and for the purpose of such verification,
1722 the commissioner may exchange information with the proper
1723 authorities of other states as to movement of taxable tobacco to
1724 and from other states into and from the State of Mississippi.

1725 **SECTION 21.** Section 27-69-35, Mississippi Code of 1972, is
1726 amended as follows:

1727 27-69-35. It shall be the duty of every person subject to
1728 the provisions of this chapter, to keep an accurate set of



1729 records, showing all transactions had with reference to the
1730 purchase, sale or gift of cigars, cigarettes, * * *, smoking
1731 tobacco or vapor products, and such person shall keep separately
1732 all invoices of cigars, cigarettes * * *, smoking tobacco or vapor
1733 products, and shall keep a record of all stamps purchased, and
1734 such records, and all stocks of cigars, cigarettes * * *, smoking
1735 tobacco or vapor products on hand, shall be open to inspection at
1736 all reasonable times to the commissioner; provided, however, that
1737 all retail dealers, transient vendors, distributing agents, or
1738 other dealers purchasing, or receiving cigars, cigarettes, * * *, smoking
1739 tobacco or vapor products from without the state, whether
1740 the same shall have been ordered through a wholesaler, or jobber
1741 in this state, or by drop shipment, or otherwise, shall within
1742 five (5) days after receipt of the same, mail a duplicate invoice
1743 of all such purchases, or receipts, to the commissioner, and
1744 failure to furnish such duplicate invoices shall be deemed a
1745 misdemeanor.

1746 It is further provided that all manufacturers, distributors
1747 and wholesalers of cigars, cigarettes * * *, smoking tobacco or
1748 vapor products, who have a permit required by this chapter shall
1749 furnish the commissioner with a statement monthly, showing the
1750 amount of taxable tobacco received, and must also furnish the
1751 commissioner with duplicate invoices covering stamps affixed to
1752 drop shipments purchased by retailers.



1753 In the examination of such books, records, etc., the
1754 commissioner shall have the power to administer oaths to any
1755 person, and any person answering falsely, under oath, any of such
1756 questions, shall be guilty of perjury.

1757 If any person being so examined, fails to answer questions
1758 propounded to him by the commissioner, or if any person, being
1759 summoned to appear and answer such questions, shall fail or refuse
1760 to do so, or if any person shall fail or refuse to permit the
1761 inspection of his stock of merchandise, or invoices, or books, or
1762 papers pertaining to any dealers in cigars, cigarettes * * *,
1763 smoking tobacco or vapor products, the commissioner may make such
1764 fact known to the circuit court of the county in which such
1765 failure or refusal occurs, or judge thereof in termtime or in
1766 vacation, by petition, and such circuit court, or judge thereof,
1767 shall issue a summons for such person so refusing, returnable on a
1768 date to be fixed by said court, or said judge, and on said date,
1769 the said circuit court, or the circuit judge, shall proceed to
1770 examine into the truth of the matter set out in said petition, and
1771 if the same be found to be true, the said circuit court, or
1772 circuit judge, shall issue a writ of subpoena duces tecum ordering
1773 and directing the person so summoned to bring into court, and
1774 exhibit for the inspection of the commissioner, all such books,
1775 records, invoices, etc., as the court may deem proper from all the
1776 facts and circumstances in the case. Any person failing or
1777 refusing to present such books, records, invoices, etc., or



1778 failing or refusing to testify, shall be punished for contempt as
1779 provided by Section 9-1-17 of the Mississippi Code of 1972.

1780 **SECTION 22.** Section 27-69-75, Mississippi Code of 1972, is
1781 amended as follows:

1782 27-69-75. All taxes levied by this chapter shall be payable
1783 to the commissioner in cash, or by personal check, cashier's
1784 check, bank exchange, post office money order or express money
1785 order, and shall be deposited by the commissioner in the State
1786 Treasury on the same day collected. No remittance other than cash
1787 shall be a final discharge of liability for the tax herein
1788 assessed and levied, unless and until it has been paid in cash to
1789 the commissioner.

1790 Except as otherwise provided in this section, all tobacco
1791 taxes collected, including tobacco license taxes, shall be
1792 deposited into the State Treasury to the credit of the General
1793 Fund. All tobacco taxes collected on vapor products under Section
1794 27-69-13 shall be deposited into the Mississippi Collaborative
1795 Response to Mental Health Fund created in Section 15 of this act.

1796 Wholesalers who are entitled to purchase stamps at a
1797 discount, as provided by Section 27-69-31, may have consigned to
1798 them, without advance payment, such stamps, if and when such
1799 wholesaler shall give to the commissioner a good and sufficient
1800 bond executed by some surety company authorized to do business in
1801 this state, conditioned to secure the payment for the stamps so
1802 consigned. The commissioner shall require payment for such stamps



1803 not later than thirty (30) days from the date the stamps were
1804 consigned.

1805 **SECTION 23.** Section 27-69-69, Mississippi Code of 1972, is
1806 brought forward as follows:

1807 27-69-69. Any municipality within this state, in which any
1808 business licensed under the provisions of this chapter, may be
1809 carried on, shall have the right to impose upon persons engaged in
1810 such business, an annual privilege tax of not more than fifty
1811 percent (50%) of the permit fee imposed by Section 27-69-7 of this
1812 chapter; provided, however, that no person engaged in the
1813 wholesale sale, or distribution of cigars, cigarettes or smoking
1814 tobacco taxed by this chapter shall be taxed by any municipality
1815 other than that in which the warehouse or wholesale business is
1816 located.

1817 **SECTION 24.** This act shall take effect and be in force from
1818 and after its passage.

