

By: Representative Felsher

To: Judiciary A

## HOUSE BILL NO. 336

1 AN ACT TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972,  
2 TO LIMIT THE FINANCIAL RESPONSIBILITY OF THE BOARD OF SUPERVISORS  
3 FOR PAYMENT OF COSTS OF TREATMENT NEEDED BY CERTAIN MENTALLY ILL  
4 COUNTY RESIDENTS UNDER ORDER OF COMMITMENT WHO ARE INDIGENT TO AN  
5 AGREED UPON FEE SCHEDULE WITH THE TREATMENT FACILITY OR, IN THE  
6 ABSENCE OF SUCH A FEE SCHEDULE, TO THE MEDICAID REIMBURSEMENT  
7 RATE; TO PROVIDE THAT THE STATUS OF THE RESPONDENT IN A COMMITMENT  
8 PROCEEDING AS AN INDIGENT SHALL NOT BE SUFFICIENT GROUNDS TO BE  
9 HELD IN JAIL; TO AMEND SECTION 41-21-73, MISSISSIPPI CODE OF 1972,  
10 TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 41-21-67, Mississippi Code of 1972, is  
13 amended as follows:

14 41-21-67. (1) Whenever the affidavit provided for in  
15 Section 41-21-65 is filed with the chancery clerk, the clerk, upon  
16 direction of the chancellor of the court, shall issue a writ  
17 directed to the sheriff of the proper county to take into custody  
18 the person alleged to be in need of treatment and to take the  
19 person for pre-evaluation screening and treatment by the  
20 appropriate community mental health center established under  
21 Section 41-19-31. The community mental health center will be  
22 designated as the first point of entry for pre-evaluation



23 screening and treatment. If the community mental health center is  
24 unavailable, any reputable licensed physician, psychologist, nurse  
25 practitioner or physician assistant, as allowed in the discretion  
26 of the court, may conduct the pre-evaluation screening and  
27 examination as set forth in Section 41-21-69. The \* \* \* writ may  
28 provide where the person shall be held \* \* \* for  
29 pre-evaluation \* \* \* and examination. However, when the affidavit  
30 fails to set forth factual allegations and witnesses sufficient to  
31 support the need for treatment, the chancellor shall refuse to  
32 direct issuance of the writ. Reapplication may be made to the  
33 chancellor. If a pauper's affidavit is filed by an affiant who is  
34 a guardian or conservator of a person in need of treatment, the  
35 court shall determine if either the affiant or the person in need  
36 of treatment is a pauper and if \* \* \* the affiant or the person in  
37 need of treatment is determined to be a pauper, the county of the  
38 residence of the respondent shall bear the costs of the commitment  
39 proceedings in court, unless funds for those purposes are made  
40 available by the state.

41 In any county in which a Crisis Intervention Team has been  
42 established under the provisions of Sections 41-21-131 through  
43 41-21-143, the clerk, upon the direction of the chancellor, may  
44 require that the person be referred to the Crisis Intervention  
45 Team for appropriate psychiatric or other medical services before  
46 the issuance of the writ.



47           (2) Upon issuance of the writ, the chancellor shall  
48 immediately appoint and summon two (2) reputable, licensed  
49 physicians or one (1) reputable, licensed physician and either one  
50 (1) psychologist, nurse practitioner or physician assistant to  
51 conduct a physical and mental examination of the person at a place  
52 to be designated by the clerk or chancellor and to report their  
53 findings to the clerk or chancellor. However, any nurse  
54 practitioner or physician assistant conducting the examination  
55 shall be independent from, and not under the supervision of, the  
56 other physician conducting the examination. A nurse practitioner  
57 or psychiatric nurse practitioner conducting an examination under  
58 this chapter must be functioning within a collaborative or  
59 consultative relationship with a physician as required under  
60 Section 73-15-20(3). In all counties in which there is a county  
61 health officer, the county health officer, if available, may be  
62 one (1) of the physicians so appointed. If a licensed physician  
63 is not available to conduct the physical and mental examination  
64 within forty-eight (48) hours of the issuance of the writ, the  
65 court, in its discretion and upon good cause shown, may permit the  
66 examination to be conducted by the following: (a) two (2) nurse  
67 practitioners, one (1) of whom must be a psychiatric nurse  
68 practitioner; or (b) one (1) psychiatric nurse practitioner and  
69 one (1) psychologist or physician assistant. Neither of the  
70 physicians nor the psychologist, nurse practitioner or physician  
71 assistant selected shall be related to that person in any way, nor



72 have any direct or indirect interest in the estate of that person  
73 nor shall any full-time staff of residential treatment facilities  
74 operated directly by the State Department of Mental Health serve  
75 as examiner.

76 (3) The clerk shall ascertain whether the respondent is  
77 represented by an attorney, and if it is determined that the  
78 respondent does not have an attorney, the clerk shall immediately  
79 notify the chancellor of that fact. If the chancellor determines  
80 that the respondent for any reason does not have the services of  
81 an attorney, the chancellor shall immediately appoint an attorney  
82 for the respondent at the time the examiners are appointed.

83 (4) (a) If the chancellor determines that there is probable  
84 cause to believe that the respondent is mentally ill and that  
85 there is no reasonable alternative to detention, the chancellor  
86 may order that the respondent be retained as an emergency patient  
87 at any licensed medical facility for evaluation by a physician,  
88 nurse practitioner or physician assistant and that a peace officer  
89 transport the respondent to the specified facility. If the  
90 community mental health center serving the county has partnered  
91 with Crisis Intervention Teams under the provisions of Sections  
92 41-21-131 through 41-21-143, the order may specify that the  
93 licensed medical facility be a designated single point of entry  
94 within the county or within an adjacent county served by the  
95 community mental health center. If the person evaluating the  
96 respondent finds that the respondent is mentally ill and in need



97 of treatment, the chancellor may order that the respondent be  
98 retained at the licensed medical facility or any other available  
99 suitable location as the court may so designate pending an  
100 admission hearing. If necessary, the chancellor may order a peace  
101 officer or other person to transport the respondent to that  
102 facility or suitable location. Any respondent so retained may be  
103 given such treatment as is indicated by standard medical practice.  
104 However, the respondent shall not be held in a hospital operated  
105 directly by the State Department of Mental Health, and shall not  
106 be held in jail unless the court finds that there is no reasonable  
107 alternative. The respondent's status as an indigent or pauper  
108 shall not constitute sufficient grounds for the court to find that  
109 there is no reasonable alternative for the respondent to be held  
110 in jail.

111           (b) (i) For indigent patients with no payor source or  
112 without payor coverage before a chancellor's determination  
113 concerning psychiatric treatment, the respondent's county of  
114 residence may bear the costs of prehearing placement or detention  
115 provided by a licensed medical facility pursuant to an agreed upon  
116 fee schedule with the licensed medical facility. In the absence  
117 of an agreed upon fee schedule, the respondent's county of  
118 residence may pay for the cost of placement or detention in an  
119 amount no greater than the applicable reimbursement rate based on  
120 the Mississippi Medicaid reimbursement rate or schedule, and the



121 county shall not be liable for any costs that exceed the  
122 Mississippi Medicaid reimbursement rate or schedule.

123 (ii) For indigent respondents with no payor source  
124 or without payor coverage where the chancellor has determined that  
125 the respondent is in need of psychiatric treatment and no State  
126 Department of Mental Health beds or community mental health center  
127 crisis stabilization beds are available, the respondent's county  
128 of residence shall bear the costs of treatment at an amount  
129 negotiated with the treatment facilities, but the county shall not  
130 be liable for any costs that exceed the Mississippi Medicaid  
131 reimbursement rate or schedule.

132 (5) (a) Whenever a licensed psychologist, nurse  
133 practitioner or physician assistant who is certified to complete  
134 examinations for the purpose of commitment or a licensed physician  
135 has reason to believe that a person poses an immediate substantial  
136 likelihood of physical harm to himself or others or is gravely  
137 disabled and unable to care for himself by virtue of mental  
138 illness, as defined in Section 41-21-61(e), then the physician,  
139 psychologist, nurse practitioner or physician assistant may hold  
140 the person or may admit the person to and treat the person in a  
141 licensed medical facility, without a civil order or warrant for a  
142 period not to exceed seventy-two (72) hours. However, if the  
143 seventy-two-hour period begins or ends when the chancery clerk's  
144 office is closed, or within three (3) hours of closing, and the  
145 chancery clerk's office will be continuously closed for a time



that exceeds seventy-two (72) hours, then the seventy-two-hour period is extended until the end of the next business day that the chancery clerk's office is open. The person may be held and treated as an emergency patient at any licensed medical facility, available regional mental health facility, or crisis intervention center. The physician or psychologist, nurse practitioner or physician assistant who holds the person shall certify in writing the reasons for the need for holding.

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

(b) Whenever an individual is held for purposes of receiving treatment as prescribed under paragraph (a) of this subsection, and it is communicated to the mental health professional holding the individual that the individual resides or has visitation rights with a minor child, and if the individual is considered to be a danger to the minor child, the mental health professional shall notify the Department of Child Protection



Services prior to discharge if the threat of harm continues to exist, as is required under Section 43-21-353.

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

**SECTION 2.** Section 41-21-73, Mississippi Code of 1972, is amended as follows:

41-21-73. (1) The hearing shall be conducted before the chancellor. However, the hearing may be held at the location where the respondent is being held. Within a reasonable period of time before the hearing, notice of same shall be provided the respondent and his attorney, which shall include: (a) notice of the date, time and place of the hearing; (b) a clear statement of the purpose of the hearing; (c) the possible consequences or outcome of the hearing; (d) the facts that have been alleged in support of the need for commitment; (e) the names, addresses and telephone numbers of the examiner(s); and (f) other witnesses expected to testify.

(2) The respondent must be present at the hearing unless the chancellor determines that the respondent is unable to attend and makes that determination and the reasons therefor part of the record. At the time of the hearing, the respondent shall not be so under the influence or suffering from the effects of drugs, medication or other treatment so as to be hampered in participating in the proceedings. The court, at the time of the hearing, shall be presented a record of all drugs, medication or





195 other treatment that the respondent has received pending the  
196 hearing, unless the court determines that such a record would be  
197 impractical and documents the reasons for that determination.

198 (3) The respondent shall have the right to offer evidence,  
199 to be confronted with the witnesses against him and to  
200 cross-examine them and shall have the privilege against  
201 self-incrimination. The rules of evidence applicable in other  
202 judicial proceedings in this state shall be followed.

203 (4) If the court finds by clear and convincing evidence that  
204 the proposed patient is a person with mental illness or a person  
205 with an intellectual disability and, if after careful  
206 consideration of reasonable alternative dispositions, including,  
207 but not limited to, dismissal of the proceedings, the court finds  
208 that there is no suitable alternative to judicial commitment, the  
209 court shall commit the patient for treatment in the least  
210 restrictive treatment facility that can meet the patient's  
211 treatment needs. Treatment before admission to a state-operated  
212 facility shall be located as closely as possible to the patient's  
213 county of residence and the county of residence shall be  
214 responsible for that cost. Admissions to state-operated  
215 facilities shall be in compliance with the catchment areas  
216 established by the State Department of Mental Health. A  
217 nonresident of the state may be committed for treatment or  
218 confinement in the county where the person was found.



219 Alternatives to commitment to inpatient care may include, but  
220 shall not be limited to: voluntary or court-ordered outpatient  
221 commitment for treatment with specific reference to a treatment  
222 regimen, day treatment in a hospital, night treatment in a  
223 hospital, placement in the custody of a friend or relative, or the  
224 provision of home health services.

225 For persons committed as having mental illness or having an  
226 intellectual disability, the initial commitment shall not exceed  
227 three (3) months.

228 (5) No person shall be committed to a treatment facility  
229 whose primary problems are the physical disabilities associated  
230 with old age or birth defects of infancy.

231 (6) The court shall state the findings of fact and  
232 conclusions of law that constitute the basis for the order of  
233 commitment. The findings shall include a listing of less  
234 restrictive alternatives considered by the court and the reasons  
235 that each was found not suitable.

236 (7) A stenographic transcription shall be recorded by a  
237 stenographer or electronic recording device and retained by the  
238 court.

239 (8) Notwithstanding any other provision of law to the  
240 contrary, neither the State Board of Mental Health or its members,  
241 nor the State Department of Mental Health or its related  
242 facilities, nor any employee of the State Department of Mental  
243 Health or its related facilities, unless related to the respondent



244 by blood or marriage, shall be assigned or adjudicated custody,  
245 guardianship, or conservatorship of the respondent.

246 (9) The county where a person in need of treatment is found  
247 is authorized to charge the county of the person's residence for  
248 the costs incurred while the person is confined in the county  
249 where such person was found subject to the provisions of Section  
250 41-21-67 for medical treatment.

251 **SECTION 3.** This act shall take effect and be in force from  
252 and after July 1, 2024.

