

By: Representatives Horan, Owen

To: Judiciary B

HOUSE BILL NO. 1088  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 41-21-63, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE A CIRCUIT COURT TO RETAIN JURISDICTION AND PROCEED  
3 WITH CIVIL COMMITMENT IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION  
4 99-13-9, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CIRCUIT COURT  
5 TO PROCEED WITH COMMITMENT PROCEDURES FOR ANY PERSONS WITH AN  
6 INTELLECTUAL DISABILITY AND HAVE UNRESOLVED FELONY CHARGES; TO  
7 AMEND SECTIONS 41-21-65, 41-21-67, 41-21-71, 41-21-73 AND  
8 41-21-83, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE CIRCUIT COURT  
9 TO PROCEED WITH COMMITMENT PROCEDURES; TO AMEND SECTION 47-7-47,  
10 MISSISSIPPI CODE OF 1972, TO REVISE THE JURISDICTIONAL TIME PERIOD  
11 FOR A COURT'S AUTHORITY TO REVISE A DEFENDANT'S SENTENCE; AND FOR  
12 RELATED PURPOSES.

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

14 **SECTION 1.** Section 41-21-63, Mississippi Code of 1972, is  
15 amended as follows:

16 41-21-63. (1) No person, other than persons charged with  
17 crime, shall be committed to a public treatment facility except  
18 under the provisions of Sections 41-21-61 through 41-21-107 or  
19 43-21-611 or 43-21-315. However, nothing herein shall be  
20 construed to repeal, alter or otherwise affect the provisions of  
21 Section 35-5-31 or to affect or prevent the commitment of persons  
22 to the Veterans Administration or other agency of the United



23 States under the provisions of and in the manner specified in  
24 those sections.

25 (2) (a) The chancery court, or the chancellor in vacation,  
26 shall have jurisdiction under Sections 41-21-61 through 41-21-107  
27 except over persons with unresolved felony charges unless  
28 paragraph (b) of this subsection applies.

29 (b) If a circuit court with jurisdiction over  
30 unresolved felony charges enters an order concluding that \* \* \* a  
31 person is incompetent to stand trial and is not restorable to  
32 competency in the foreseeable future, the \* \* \* circuit court  
33 shall retain jurisdiction and shall proceed with civil commitment  
34 procedures in the same manner as described in Sections 41-21-61  
35 through 41-21-107. The order of the circuit court finding that  
36 the person is incompetent to stand trial and is not restorable to  
37 competency in the foreseeable future shall be in lieu of the  
38 affidavit for commitment provided for in Section 41-21-65. \* \* \*  
39 Additionally, if the finding of the circuit court is based on the  
40 report and/or testimony of a physician or psychologist that has  
41 examined the person, the provisions of Section 41-21-67 for  
42 psychiatric examinations shall not apply.

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

45 (4) Before the release of a person referred for civil  
46 commitment under this section and committed under Sections  
47 41-21-61 through 41-21-107, the Department of Mental Health must



48 notify the district attorney of the county where the offense was  
49 committed. The district attorney must notify the crime victim or  
50 a family member who has requested notification under Section  
51 99-43-35 and the sheriffs of both the county where the offense was  
52 committed and the county of the committed person's destination.

53 **SECTION 2.** Section 99-13-9, Mississippi Code of 1972, is  
54 amended as follows:

55 99-13-9. When any person is indicted for an offense and  
56 acquitted on the ground of having an intellectual disability, the  
57 jury rendering the verdict shall state in the verdict that ground  
58 and whether the accused constitutes a danger to life or property  
59 and to the peace and safety of the community. If the jury  
60 certifies that the person with an intellectual disability is  
61 dangerous to the peace and safety of the community or to himself  
62 or herself, the circuit court shall \* \* \* proceed with the person  
63 according to the law provided in the case of persons with an  
64 intellectual disability, the person with an intellectual  
65 disability himself being remanded to custody to await the further  
66 action of the \* \* \* circuit court.

67 **SECTION 3.** Section 41-21-65, Mississippi Code of 1972, is  
68 amended as follows:

69 41-21-65. (1) It is the intention of the Legislature that  
70 the filing of an affidavit under this section be a simple,  
71 inexpensive, uniform, and streamlined process for the purpose of



72 facilitating and expediting the care of individuals in need of  
73 treatment.

74 (2) The Uniform Civil Commitment Affidavit developed by the  
75 Department of Mental Health under this section must be provided by  
76 the clerk of the chancery court to any party or affiant seeking a  
77 civil commitment under this section, and must be utilized in all  
78 counties to commence civil commitment proceedings under this  
79 section. The affidavit must be made available to the public on  
80 the website of the Mississippi Department of Mental Health.

81 (3) The Department of Mental Health, in consultation with  
82 the Mississippi Chancery Clerks Association, the Mississippi  
83 Conference of Chancery Court Judges and the Mississippi  
84 Association of Community Mental Health Centers, must develop a  
85 written guide setting out the steps in the commitment process no  
86 later than January 1, 2020. The guide shall be designated as the  
87 "Uniform Civil Commitment Guide" and must include, but not be  
88 limited to, the following:

89 (a) Steps in the civil commitment process from  
90 affidavit to commitment, written in easily understandable layman's  
91 terms;

92 (b) A schedule of fees and assessments that will be  
93 charged to commence a commitment proceeding under this section;

94 (c) Eligibility requirements and instructions for  
95 filing a pauper's affidavit; and



96 (d) A statement on the front cover of the guide  
97 advising that persons wishing to pursue a civil commitment under  
98 this section are not required to retain an attorney for any  
99 portion of the commitment process.

100 (4) Immediately upon availability, but no later than January  
101 1, 2020, the Uniform Civil Commitment Guide must be provided by  
102 the clerk of the chancery court to any party or affiant seeking a  
103 civil commitment under this section and also must be made  
104 available to the public on the website of the Mississippi  
105 Department of Mental Health.

106 (5) If any person is alleged to be in need of treatment, any  
107 relative of the person, or any interested person, may make  
108 affidavit of that fact and shall file the Uniform Civil Commitment  
109 Affidavit with the clerk of the chancery court of the county in  
110 which the person alleged to be in need of treatment resides, but  
111 the chancellor or duly appointed special master may, in his or her  
112 discretion, hear the matter in the county in which the person may  
113 be found or the circuit judge may hear such matter as provided in  
114 Section 41-21-63. The affidavit shall set forth the name and  
115 address of the proposed patient's nearest relatives and whether  
116 the proposed patient resides or has visitation rights with any  
117 minor children, if known, and the reasons for the affidavit. The  
118 affidavit must contain factual descriptions of the proposed  
119 patient's recent behavior, including a description of the  
120 behavior, where it occurred, and over what period of time it



121 occurred, if known. Each factual allegation may be supported by  
122 observations of witnesses named in the affidavit. The Department  
123 of Mental Health, in consultation with the Mississippi Chancery  
124 Clerks' Association, shall develop a simple, one-page affidavit  
125 form for the use of affiants as provided in this section. The  
126 affidavit also must state whether the affiant has consulted with a  
127 Community Mental Health Center or a physician to determine whether  
128 the alleged acts by the proposed respondent warrant civil  
129 commitment in lieu of other less-restrictive treatment options.  
130 No chancery clerk shall require an affiant to retain an attorney  
131 for the filing of an affidavit under this section.

132 (6) The chancery clerk may charge a total filing fee for all  
133 services equal to the amount set out in Section 25-7-9(o), and the  
134 appropriate state and county assessments as required by law which  
135 include, but are not limited to, assessments for the Judicial  
136 Operation Fund (Section 25-7-9(3)(b)); the Electronic Court System  
137 Fund (Section 25-7-9(3)(a)); the Civil Legal Assistance Fund  
138 (Section 25-7-9(1)(k)); the Court Education and Training Fund  
139 (Section 37-26-3); State Court Constituent's Fund (Section  
140 37-26-9(4)); and reasonable court reporter's fee. Costs  
141 incidental to the court proceedings as set forth in Section  
142 41-21-79 may not be included in the assessments permitted by this  
143 subsection. The total of the fees and assessments permitted by  
144 this subsection may not exceed One Hundred Fifty Dollars  
145 (\$150.00).



146 (7) The prohibition against charging the affiant other fees,  
147 expenses, or costs shall not preclude the imposition of monetary  
148 criminal penalties under Section 41-21-107 or any other criminal  
149 statute, or the imposition by the chancellor of monetary penalties  
150 for contempt if the affiant is found to have filed an  
151 intentionally false affidavit or filed the affidavit in bad faith  
152 for a malicious purpose.

153 (8) Nothing in this section shall be construed so as to  
154 conflict with Section 41-21-63.

155 (9) The Department of Mental Health shall provide annual  
156 training to chancery and circuit court clerks to inform them about  
157 statutory procedures for civil commitments.

158 **SECTION 4.** Section 41-21-67, Mississippi Code of 1972, is  
159 amended as follows:

160 41-21-67. (1) Whenever the affidavit provided for in  
161 Section 41-21-65 is filed with the chancery clerk, the clerk, upon  
162 direction of the chancellor of the court, shall issue a writ  
163 directed to the sheriff of the proper county to take into custody  
164 the person alleged to be in need of treatment and to take the  
165 person for pre-evaluation screening and treatment by the  
166 appropriate community mental health center established under  
167 Section 41-19-31. Except as otherwise provided in Section  
168 41-21-63, the community mental health center will be designated as  
169 the first point of entry for pre-evaluation screening and  
170 treatment. If the community mental health center is unavailable,



171 any reputable licensed physician, psychologist, nurse practitioner  
172 or physician assistant, as allowed in the discretion of the court,  
173 may conduct the pre-evaluation screening and examination as set  
174 forth in Section 41-21-69. The order may provide where the person  
175 shall be held before being taken for pre-evaluation screening and  
176 treatment. However, when the affidavit fails to set forth factual  
177 allegations and witnesses sufficient to support the need for  
178 treatment, the chancellor shall refuse to direct issuance of the  
179 writ. Reapplication may be made to the chancellor. If a pauper's  
180 affidavit is filed by an affiant who is a guardian or conservator  
181 of a person in need of treatment, the court shall determine if  
182 either the affiant or the person in need of treatment is a pauper  
183 and if \* \* \* the affiant or the person in need of treatment is  
184 determined to be a pauper, the county of the residence of the  
185 respondent shall bear the costs of commitment, unless funds for  
186 those purposes are made available by the state.

187 In any county in which a Crisis Intervention Team has been  
188 established under the provisions of Sections 41-21-131 through  
189 41-21-143, the clerk, upon the direction of the chancellor, may  
190 require that the person be referred to the Crisis Intervention  
191 Team for appropriate psychiatric or other medical services before  
192 the issuance of the writ.

193 (2) Upon issuance of the writ, the chancellor shall  
194 immediately appoint and summon two (2) reputable, licensed  
195 physicians or one (1) reputable, licensed physician and either one





196 (1) psychologist, nurse practitioner or physician assistant to  
197 conduct a physical and mental examination of the person at a place  
198 to be designated by the clerk or chancellor and to report their  
199 findings to the clerk or chancellor. However, any nurse  
200 practitioner or physician assistant conducting the examination  
201 shall be independent from, and not under the supervision of, the  
202 other physician conducting the examination. A nurse practitioner  
203 or psychiatric nurse practitioner conducting an examination under  
204 this chapter must be functioning within a collaborative or  
205 consultative relationship with a physician as required under  
206 Section 73-15-20(3). In all counties in which there is a county  
207 health officer, the county health officer, if available, may be  
208 one (1) of the physicians so appointed. If a licensed physician  
209 is not available to conduct the physical and mental examination  
210 within forty-eight (48) hours of the issuance of the writ, the  
211 court, in its discretion and upon good cause shown, may permit the  
212 examination to be conducted by the following: (a) two (2) nurse  
213 practitioners, one (1) of whom must be a psychiatric nurse  
214 practitioner; or (b) one (1) psychiatric nurse practitioner and  
215 one (1) psychologist or physician assistant. Neither of the  
216 physicians nor the psychologist, nurse practitioner or physician  
217 assistant selected shall be related to that person in any way, nor  
218 have any direct or indirect interest in the estate of that person  
219 nor shall any full-time staff of residential treatment facilities



220 operated directly by the State Department of Mental Health serve  
221 as examiner.

222 (3) The clerk shall ascertain whether the respondent is  
223 represented by an attorney, and if it is determined that the  
224 respondent does not have an attorney, the clerk shall immediately  
225 notify the chancellor of that fact. If the chancellor determines  
226 that the respondent for any reason does not have the services of  
227 an attorney, the chancellor shall immediately appoint an attorney  
228 for the respondent at the time the examiners are appointed.

229 (4) If the chancellor determines that there is probable  
230 cause to believe that the respondent is mentally ill and that  
231 there is no reasonable alternative to detention, the chancellor  
232 may order that the respondent be retained as an emergency patient  
233 at any licensed medical facility for evaluation by a physician,  
234 nurse practitioner or physician assistant and that a peace officer  
235 transport the respondent to the specified facility. If the  
236 community mental health center serving the county has partnered  
237 with Crisis Intervention Teams under the provisions of Sections  
238 41-21-131 through 41-21-143, the order may specify that the  
239 licensed medical facility be a designated single point of entry  
240 within the county or within an adjacent county served by the  
241 community mental health center. If the person evaluating the  
242 respondent finds that the respondent is mentally ill and in need  
243 of treatment, the chancellor may order that the respondent be  
244 retained at the licensed medical facility or any other available



245 suitable location as the court may so designate pending an  
246 admission hearing. If necessary, the chancellor may order a peace  
247 officer or other person to transport the respondent to that  
248 facility or suitable location. Any respondent so retained may be  
249 given such treatment as is indicated by standard medical practice.  
250 However, the respondent shall not be held in a hospital operated  
251 directly by the State Department of Mental Health, and shall not  
252 be held in jail unless the court finds that there is no reasonable  
253 alternative.

254 (5) (a) Whenever a licensed psychologist, nurse  
255 practitioner or physician assistant who is certified to complete  
256 examinations for the purpose of commitment or a licensed physician  
257 has reason to believe that a person poses an immediate substantial  
258 likelihood of physical harm to himself or others or is gravely  
259 disabled and unable to care for himself by virtue of mental  
260 illness, as defined in Section 41-21-61(e), then the physician,  
261 psychologist, nurse practitioner or physician assistant may hold  
262 the person or may admit the person to and treat the person in a  
263 licensed medical facility, without a civil order or warrant for a  
264 period not to exceed seventy-two (72) hours. However, if the  
265 seventy-two-hour period begins or ends when the chancery clerk's  
266 office is closed, or within three (3) hours of closing, and the  
267 chancery clerk's office will be continuously closed for a time  
268 that exceeds seventy-two (72) hours, then the seventy-two-hour  
269 period is extended until the end of the next business day that the



270 chancery clerk's office is open. The person may be held and  
271 treated as an emergency patient at any licensed medical facility,  
272 available regional mental health facility, or crisis intervention  
273 center. The physician or psychologist, nurse practitioner or  
274 physician assistant who holds the person shall certify in writing  
275 the reasons for the need for holding.

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

285 (b) Whenever an individual is held for purposes of  
286 receiving treatment as prescribed under paragraph (a) of this  
287 subsection, and it is communicated to the mental health  
288 professional holding the individual that the individual resides or  
289 has visitation rights with a minor child, and if the individual is  
290 considered to be a danger to the minor child, the mental health  
291 professional shall notify the Department of Child Protection  
292 Services prior to discharge if the threat of harm continues to  
293 exist, as is required under Section 43-21-353.



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

296 **SECTION 5.** Section 41-21-71, Mississippi Code of 1972, is  
297 amended as follows:

298 41-21-71. If, as a result of the examination, the appointed  
299 examiners certify that the person is not in need of treatment, the  
300 chancellor \* \* \*, clerk or circuit judge as applicable shall  
301 dismiss the affidavit without the need for a further hearing.

302 \* \* \* Except as otherwise provided in Section 41-21-63, the  
303 chancellor or chancery clerk finds, based upon the appointed  
304 examiners' certificates and any other relevant evidence, that the  
305 respondent is in need of treatment and the certificates are filed  
306 with the chancery clerk within forty-eight (48) hours after the  
307 order for examination, or extension of that time as provided in  
308 Section 41-21-69, the clerk shall immediately set the matter for a  
309 hearing. The hearing shall be set within seven (7) days of the  
310 filing of the certificates unless an extension is requested by the  
311 respondent's attorney. In no event shall the hearing be more than  
312 ten (10) days after the filing of the certificates.

313 **SECTION 6.** Section 41-21-73, Mississippi Code of 1972, is  
314 amended as follows:

315 41-21-73. (1) Except as otherwise provided in Section  
316 41-21-63, the hearing shall be conducted before the chancellor.  
317 However, the hearing may be held at the location where the  
318 respondent is being held. Within a reasonable period of time



319 before the hearing, notice of same shall be provided the  
320 respondent and his attorney, which shall include: (a) notice of  
321 the date, time and place of the hearing; (b) a clear statement of  
322 the purpose of the hearing; (c) the possible consequences or  
323 outcome of the hearing; (d) the facts that have been alleged in  
324 support of the need for commitment; (e) the names, addresses and  
325 telephone numbers of the examiner(s); and (f) other witnesses  
326 expected to testify.

327 (2) The respondent must be present at the hearing unless the  
328 chancellor determines that the respondent is unable to attend and  
329 makes that determination and the reasons therefor part of the  
330 record. At the time of the hearing, the respondent shall not be  
331 so under the influence or suffering from the effects of drugs,  
332 medication or other treatment so as to be hampered in  
333 participating in the proceedings. The court, at the time of the  
334 hearing, shall be presented a record of all drugs, medication or  
335 other treatment that the respondent has received pending the  
336 hearing, unless the court determines that such a record would be  
337 impractical and documents the reasons for that determination.

338 (3) The respondent shall have the right to offer evidence,  
339 to be confronted with the witnesses against him and to  
340 cross-examine them and shall have the privilege against  
341 self-incrimination. The rules of evidence applicable in other  
342 judicial proceedings in this state shall be followed.



343 (4) If the court finds by clear and convincing evidence that  
344 the proposed patient is a person with mental illness or a person  
345 with an intellectual disability and, if after careful  
346 consideration of reasonable alternative dispositions, including,  
347 but not limited to, dismissal of the proceedings, the court finds  
348 that there is no suitable alternative to judicial commitment, the  
349 court shall commit the patient for treatment in the least  
350 restrictive treatment facility that can meet the patient's  
351 treatment needs. Treatment before admission to a state-operated  
352 facility shall be located as closely as possible to the patient's  
353 county of residence and the county of residence shall be  
354 responsible for that cost. Admissions to state-operated  
355 facilities shall be in compliance with the catchment areas  
356 established by the State Department of Mental Health. A  
357 nonresident of the state may be committed for treatment or  
358 confinement in the county where the person was found.

359 Alternatives to commitment to inpatient care may include, but  
360 shall not be limited to: voluntary or court-ordered outpatient  
361 commitment for treatment with specific reference to a treatment  
362 regimen, day treatment in a hospital, night treatment in a  
363 hospital, placement in the custody of a friend or relative, or the  
364 provision of home health services.

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



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

371 (6) The court shall state the findings of fact and  
372 conclusions of law that constitute the basis for the order of  
373 commitment. The findings shall include a listing of less  
374 restrictive alternatives considered by the court and the reasons  
375 that each was found not suitable.

376 (7) A stenographic transcription shall be recorded by a  
377 stenographer or electronic recording device and retained by the  
378 court.

379 (8) Notwithstanding any other provision of law to the  
380 contrary, neither the State Board of Mental Health or its members,  
381 nor the State Department of Mental Health or its related  
382 facilities, nor any employee of the State Department of Mental  
383 Health or its related facilities, unless related to the respondent  
384 by blood or marriage, shall be assigned or adjudicated custody,  
385 guardianship, or conservatorship of the respondent.

386 (9) The county where a person in need of treatment is found  
387 is authorized to charge the county of the person's residence for  
388 the costs incurred while the person is confined in the county  
389 where such person was found.

390 **SECTION 7.** Section 41-21-83, Mississippi Code of 1972, is  
391 amended as follows:





392 41-21-83. Except as otherwise provided in Section 41-21-63,  
393 if a hearing is requested as provided in Section 41-21-74,  
394 41-21-81 or 41-21-99, the court shall not make a determination of  
395 the need for continued commitment unless a hearing is held and the  
396 court finds by clear and convincing evidence that (a) the person  
397 continues to have mental illness or have an intellectual  
398 disability; and (b) involuntary commitment is necessary for the  
399 protection of the patient or others; and (c) there is no  
400 alternative to involuntary commitment. Hearings held under this  
401 section shall be held in the chancery court of the county where  
402 the facility is located; however, if the patient is confined at  
403 the Mississippi State Hospital at Whitfield, Mississippi, the  
404 hearing shall be conducted by the Chancery Court of the First  
405 Judicial District of Hinds County, Mississippi.

406 The hearing shall be held within fourteen (14) days after  
407 receipt by the court of the request for a hearing. The court may  
408 continue the hearing for good cause shown. The clerk shall  
409 ascertain whether the patient is represented by counsel, and, if  
410 the patient is not represented, shall notify the chancellor who  
411 shall appoint counsel for him if the chancellor determines that  
412 the patient for any reason does not have the services of an  
413 attorney; however, the patient may waive the appointment of  
414 counsel subject to the approval of the court. Notice of the time  
415 and place of the hearing shall be served at least seventy-two (72)  
416 hours before the time of the hearing upon the patient, his



417 attorney, the director, and the person requesting the hearing, if  
418 other than the patient, and any witnesses requested by the patient  
419 or his attorney, or any witnesses the court may deem necessary or  
420 desirable.

421 The patient must be present at the hearing unless the  
422 chancellor determines that the patient is unable to attend and  
423 makes that determination and the reasons therefor part of the  
424 record.

425 The court shall put its findings and the reasons supporting  
426 its findings in writing and shall have copies delivered to the  
427 patient, his attorney, and the director of the treatment facility.  
428 An appeal from the final commitment order by either party may be  
429 had on the terms prescribed for appeals in civil cases; however,  
430 such appeal shall be without supersedeas. The record on appeal  
431 shall include the transcript of the commitment hearing.

432 **SECTION 8.** Section 47-7-47, Mississippi Code of 1972, is  
433 amended as follows:

434 47-7-47. (1) The judge of any circuit court may place an  
435 offender on a program of earned probation, in an intensive  
436 supervision program or any intervention court authorized by law  
437 after a period of confinement as set out herein and the judge may  
438 seek the advice of the commissioner and shall direct that the  
439 defendant be under the supervision of the department.

440 (2) (a) Any circuit court or county court may, upon its own  
441 motion, acting upon the advice and consent of the commissioner not



442 earlier than thirty (30) days nor later than \* \* \* three (3) years  
443 after the defendant has been delivered to the custody of the  
444 department, \* \* \* incarcerated by order of the court or otherwise  
445 sentenced, modify, alter or suspend the further execution of the  
446 sentence and place the defendant on earned probation, in an  
447 intensive supervision program or any intervention court authorized  
448 by law except when a death sentence or life imprisonment is the  
449 maximum penalty which may be imposed or if the defendant has been  
450 confined two (2) or more times for the conviction of a felony on a  
451 previous occasion in any court or courts of the United States and  
452 of any state or territories thereof or has been convicted of a  
453 felony involving the use of a deadly weapon.

454 (b) The authority granted in this subsection shall be  
455 exercised by the judge who imposed sentence on the defendant, or  
456 his successor.

457 (c) The time limit imposed by paragraph (a) of this  
458 subsection is not applicable to those defendants sentenced to the  
459 custody of the department prior to April 14, 1977. Persons who  
460 are convicted of crimes that carry mandatory sentences shall not  
461 be eligible for earned probation.

462 (3) When any circuit or county court places an offender on  
463 earned probation, the court shall give notice to the Mississippi  
464 Department of Corrections within fifteen (15) days of the court's  
465 decision to place the offender on earned probation. Notice shall  
466 be delivered to the central office of the Mississippi Department



467 of Corrections and to the regional office of the department which  
468 will be providing supervision to the offender on earned probation.

469 (4) If the court places any person on probation or earned  
470 probation, the court may order the person, as a condition of  
471 probation, to a period of confinement and treatment at a private  
472 or public agency or institution, either within or without the  
473 state, which treats emotional, mental or drug-related problems.  
474 Any person who, as a condition of probation, is confined for  
475 treatment at an out-of-state facility shall be supervised pursuant  
476 to Section 47-7-71, and any person confined at a private agency  
477 shall not be confined at public expense. Time served in any such  
478 agency or institution may be counted as time required to meet the  
479 criteria of subsection (2) (a).

480 (5) If the court places any person on probation or earned  
481 probation, the court may order the person to make appropriate  
482 restitution to any victim of his crime or to society through the  
483 performance of reasonable work for the benefit of the community.

484 (6) If the court places any person on probation or earned  
485 probation, the court may order the person, as a condition of  
486 probation, to submit, as provided in Section 47-5-601, to any type  
487 of breath, saliva or urine chemical analysis test, the purpose of  
488 which is to detect the possible presence of alcohol or a substance  
489 prohibited or controlled by any law of the State of Mississippi or  
490 the United States.



491           **SECTION 9.** This act shall take effect and be in force from  
492 and after July 1, 2024.

