

By: Representative Currie

To: Judiciary A

HOUSE BILL NO. 1598

1 AN ACT TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT A RESPONDENT IN A CIVIL COMMITMENT PROCEEDING WHO
 3 IS TAKEN INTO CUSTODY IN A COUNTY IN WHICH A CRISIS STABILIZATION
 4 UNIT IS LOCATED SHALL BE TRANSPORTED TO THE CRISIS STABILIZATION
 5 UNIT FOR PRE-EVALUATION SCREENING AND TREATMENT AND RETAINED THERE
 6 AFTER EVALUATION IF THE CRISIS STABILIZATION UNIT HAS AN AVAILABLE
 7 BED; TO PROVIDE THAT ONLY IF THE CRISIS INTERVENTION UNIT DOES NOT
 8 HAVE AN AVAILABLE BED AND THERE IS NO LICENSED MEDICAL FACILITY OR
 9 ANY OTHER AVAILABLE SUITABLE LOCATION MAY THE RESPONDENT BE
 10 RETAINED IN JAIL; 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 order may
28 provide where the person shall be held before being taken for
29 pre-evaluation screening and treatment. However, when the
30 affidavit fails to set forth factual allegations and witnesses
31 sufficient to support the need for treatment, the chancellor shall
32 refuse to direct issuance of the writ. Reapplication may be made
33 to the chancellor. If a pauper's affidavit is filed by an affiant
34 who is a guardian or conservator of a person in need of treatment,
35 the court shall determine if either the affiant or the person in
36 need of treatment is a pauper and if * * * the affiant or the
37 person in need of treatment is determined to be a pauper, the
38 county of the residence of the respondent shall bear the costs of
39 commitment, unless funds for those purposes are made available by
40 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) 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. Notwithstanding any provision to the contrary in
108 this section, a respondent who is taken into custody in a county
109 in which a crisis stabilization unit is located shall be
110 transported to the crisis stabilization unit for pre-evaluation
111 screening and treatment and retained there after evaluation if the
112 crisis stabilization unit has an available bed. Only if the
113 crisis intervention unit does not have an available bed and there
114 is no licensed medical facility or any other available suitable
115 location may the respondent be retained in jail.

116 (5) (a) Whenever a licensed psychologist, nurse
117 practitioner or physician assistant who is certified to complete
118 examinations for the purpose of commitment or a licensed physician
119 has reason to believe that a person poses an immediate substantial
120 likelihood of physical harm to himself or others or is gravely
121 disabled and unable to care for himself by virtue of mental



122 illness, as defined in Section 41-21-61(e), then the physician,
123 psychologist, nurse practitioner or physician assistant may hold
124 the person or may admit the person to and treat the person in a
125 licensed medical facility, without a civil order or warrant for a
126 period not to exceed seventy-two (72) hours. However, if the
127 seventy-two-hour period begins or ends when the chancery clerk's
128 office is closed, or within three (3) hours of closing, and the
129 chancery clerk's office will be continuously closed for a time
130 that exceeds seventy-two (72) hours, then the seventy-two-hour
131 period is extended until the end of the next business day that the
132 chancery clerk's office is open. The person may be held and
133 treated as an emergency patient at any licensed medical facility,
134 available regional mental health facility, or crisis intervention
135 center. The physician or psychologist, nurse practitioner or
136 physician assistant who holds the person shall certify in writing
137 the reasons for the need for holding.

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



147 (b) Whenever an individual is held for purposes of
148 receiving treatment as prescribed under paragraph (a) of this
149 subsection, and it is communicated to the mental health
150 professional holding the individual that the individual resides or
151 has visitation rights with a minor child, and if the individual is
152 considered to be a danger to the minor child, the mental health
153 professional shall notify the Department of Child Protection
154 Services prior to discharge if the threat of harm continues to
155 exist, as is required under Section 43-21-353.

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

158 **SECTION 2.** This act shall take effect and be in force from
159 and after July 1, 2024.

