

By: Representatives Creekmore IV, Felsher,
Foster

To: Public Health and Human
Services

HOUSE BILL NO. 1640
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 41-19-33, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DUTIES OF REGIONAL MENTAL HEALTH FACILITIES; TO
3 AMEND SECTION 41-21-65, MISSISSIPPI CODE OF 1972, AS AMENDED BY
4 HOUSE BILL NO. 1088, 2024 REGULAR SESSION, TO REQUIRE COMPLETION
5 OF A PRE-AFFIDAVIT SCREENING BEFORE ANY AFFIDAVIT FOR COMMITMENT
6 IS FILED; TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972, AS
7 AMENDED BY HOUSE BILL NO. 1088, 2024 REGULAR SESSION, TO REQUIRE
8 COMMUNITY MENTAL HEALTH CENTERS TO CONDUCT A PRELIMINARY
9 INVESTIGATION BEFORE AN AFFIDAVIT FOR COMMITMENT IS FILED; TO
10 AMEND SECTIONS 41-21-140 AND 41-19-43, MISSISSIPPI CODE OF 1972,
11 TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND SECTION 41-21-71,
12 MISSISSIPPI CODE OF 1972, AS AMENDED BY HOUSE BILL NO. 1088, 2024
13 REGULAR SESSION, TO REVISE HEARING DATES HELD AFTER EXAMINERS'
14 CERTIFICATES; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 41-19-33, Mississippi Code of 1972, is
17 amended as follows:

18 41-19-33. (1) Each region so designated or established
19 under Section 41-19-31 shall establish a regional commission to be
20 composed of members appointed by the boards of supervisors of the
21 various counties in the region. Each regional commission shall
22 employ or contract with an accountant for the purpose of managing
23 the finances of the commission. The accountant shall provide an
24 annual audit to the commission in addition to his or her other



25 duties. It shall be the duty of such regional commission to
26 administer mental health/intellectual disability programs
27 certified and required by the State Board of Mental Health and as
28 specified in Section 41-4-1(2). In addition, once designated and
29 established as provided hereinabove, a regional commission shall
30 have the following authority and shall pursue and promote the
31 following general purposes:

32 (a) To establish, own, lease, acquire, construct,
33 build, operate and maintain mental illness, mental health,
34 intellectual disability, alcoholism and general rehabilitative
35 facilities and services designed to serve the needs of the people
36 of the region so designated, provided that the services supplied
37 by the regional commissions shall include those services
38 determined by the Department of Mental Health to be necessary and
39 may include, in addition to the above, services for persons with
40 developmental and learning disabilities; for persons suffering
41 from narcotic addiction and problems of drug abuse and drug
42 dependence; and for the aging as designated and certified by the
43 Department of Mental Health. Such regional mental health and
44 intellectual disability commissions and other community service
45 providers shall, on or before July 1 of each year, submit an
46 annual operational plan to the Department of Mental Health for
47 approval or disapproval based on the minimum standards and minimum
48 required services established by the department for certification
49 and itemize the services as specified in Section 41-4-1(2),



50 including financial statements. As part of the annual operation
51 plan required by Section 41-4-7(h) submitted by any regional
52 community mental health center or by any other reasonable
53 certification deemed acceptable by the department, the community
54 mental health center shall state those services specified in
55 Section 41-4-1(2) that it will provide and also those services
56 that it will not provide. If the department finds deficiencies in
57 the plan of any regional commission or community service provider
58 based on the minimum standards and minimum required services
59 established for certification, the department shall give the
60 regional commission or community service provider a six-month
61 probationary period to bring its standards and services up to the
62 established minimum standards and minimum required services. The
63 regional commission or community service provider shall develop a
64 sustainability business plan within thirty (30) days of being
65 placed on probation, which shall be signed by all commissioners
66 and shall include policies to address one or more of the
67 following: the deficiencies in programmatic services, clinical
68 service staff expectations, timely and appropriate billing,
69 processes to obtain credentialing for staff, monthly reporting
70 processes, third-party financial reporting and any other required
71 documentation as determined by the department. After the
72 six-month probationary period, if the department determines that
73 the regional commission or community service provider still does
74 not meet the minimum standards and minimum required services



75 established for certification, the department may remove the
76 certification of the commission or provider, and from and after
77 July 1, 2011, the commission or provider shall be ineligible for
78 state funds from Medicaid reimbursement or other funding sources
79 for those services. After the six-month probationary period, the
80 Department of Mental Health may identify an appropriate community
81 service provider to provide any core services in that county that
82 are not provided by a community mental health center. However,
83 the department shall not offer reimbursement or other
84 accommodations to a community service provider of core services
85 that were not offered to the decertified community mental health
86 center for the same or similar services.

87 (b) To provide facilities and services for the
88 prevention of mental illness, mental disorders, developmental and
89 learning disabilities, alcoholism, narcotic addiction, drug abuse,
90 drug dependence and other related handicaps or problems (including
91 the problems of the aging) among the people of the region so
92 designated, and for the rehabilitation of persons suffering from
93 such illnesses, disorders, handicaps or problems as designated and
94 certified by the Department of Mental Health.

95 (c) To promote increased understanding of the problems
96 of mental illness, intellectual disabilities, alcoholism,
97 developmental and learning disabilities, narcotic addiction, drug
98 abuse and drug dependence and other related problems (including
99 the problems of the aging) by the people of the region, and also



100 to promote increased understanding of the purposes and methods of
101 the rehabilitation of persons suffering from such illnesses,
102 disorders, handicaps or problems as designated and certified by
103 the Department of Mental Health.

104 (d) To enter into contracts and to make such other
105 arrangements as may be necessary, from time to time, with the
106 United States government, the government of the State of
107 Mississippi and such other agencies or governmental bodies as may
108 be approved by and acceptable to the regional commission for the
109 purpose of establishing, funding, constructing, operating and
110 maintaining facilities and services for the care, treatment and
111 rehabilitation of persons suffering from mental illness, an
112 intellectual disability, alcoholism, developmental and learning
113 disabilities, narcotic addiction, drug abuse, drug dependence and
114 other illnesses, disorders, handicaps and problems (including the
115 problems of the aging) as designated and certified by the
116 Department of Mental Health.

117 (e) To enter into contracts and make such other
118 arrangements as may be necessary with any and all private
119 businesses, corporations, partnerships, proprietorships or other
120 private agencies, whether organized for profit or otherwise, as
121 may be approved by and acceptable to the regional commission for
122 the purpose of establishing, funding, constructing, operating and
123 maintaining facilities and services for the care, treatment and
124 rehabilitation of persons suffering from mental illness, an



125 intellectual disability, alcoholism, developmental and learning
126 disabilities, narcotic addiction, drug abuse, drug dependence and
127 other illnesses, disorders, handicaps and problems (including the
128 problems of the aging) relating to minimum services established by
129 the Department of Mental Health.

130 (f) To promote the general mental health of the people
131 of the region.

132 (g) To pay the administrative costs of the operation of
133 the regional commissions, including per diem for the members of
134 the commission and its employees, attorney's fees, if and when
135 such are required in the opinion of the commission, and such other
136 expenses of the commission as may be necessary. The Department of
137 Mental Health standards and audit rules shall determine what
138 administrative cost figures shall consist of for the purposes of
139 this paragraph. Each regional commission shall submit a cost
140 report annually to the Department of Mental Health in accordance
141 with guidelines promulgated by the department.

142 (h) To employ and compensate any personnel that may be
143 necessary to effectively carry out the programs and services
144 established under the provisions of the aforesaid act, provided
145 such person meets the standards established by the Department of
146 Mental Health.

147 (i) To acquire whatever hazard, casualty or workers'
148 compensation insurance that may be necessary for any property,



149 real or personal, owned, leased or rented by the commissions, or
150 any employees or personnel hired by the commissions.

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

155 (k) To provide and finance within their own facilities,
156 or through agreements or contracts with other local, state or
157 federal agencies or institutions, nonprofit corporations, or
158 political subdivisions or representatives thereof, programs and
159 services for persons with mental illness, including treatment for
160 alcoholics, and promulgating and administering of programs to
161 combat drug abuse and programs for services for persons with an
162 intellectual disability.

163 (l) To borrow money from private lending institutions
164 in order to promote any of the foregoing purposes. A commission
165 may pledge collateral, including real estate, to secure the
166 repayment of money borrowed under the authority of this paragraph.
167 Any such borrowing undertaken by a commission shall be on terms
168 and conditions that are prudent in the sound judgment of the
169 members of the commission, and the interest on any such loan shall
170 not exceed the amount specified in Section 75-17-105. Any money
171 borrowed, debts incurred or other obligations undertaken by a
172 commission, regardless of whether borrowed, incurred or undertaken
173 before or after March 15, 1995, shall be valid, binding and



174 enforceable if it or they are borrowed, incurred or undertaken for
175 any purpose specified in this section and otherwise conform to the
176 requirements of this paragraph.

177 (m) To acquire, own and dispose of real and personal
178 property. Any real and personal property paid for with state
179 and/or county appropriated funds must have the written approval of
180 the Department of Mental Health and/or the county board of
181 supervisors, depending on the original source of funding, before
182 being disposed of under this paragraph.

183 (n) To enter into managed care contracts and make such
184 other arrangements as may be deemed necessary or appropriate by
185 the regional commission in order to participate in any managed
186 care program. Any such contract or arrangement affecting more
187 than one (1) region must have prior written approval of the
188 Department of Mental Health before being initiated and annually
189 thereafter.

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

194 (p) To enter into contracts, agreements or other
195 arrangements with any person, payor, provider or other entity,
196 under which the regional commission assumes financial risk for the
197 provision or delivery of any services, when deemed to be necessary
198 or appropriate by the regional commission. Any action under this



199 paragraph affecting more than one (1) region must have prior
200 written approval of the Department of Mental Health before being
201 initiated and annually thereafter.

202 (q) To provide direct or indirect funding, grants,
203 financial support and assistance for any health maintenance
204 organization, preferred provider organization or other managed
205 care entity or contractor, where such organization, entity or
206 contractor is operated on a nonprofit basis. Any action under
207 this paragraph affecting more than one (1) region must have prior
208 written approval of the Department of Mental Health before being
209 initiated and annually thereafter.

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

217 (s) To meet at least annually with the board of
218 supervisors of each county in its region for the purpose of
219 presenting its total annual budget and total mental
220 health/intellectual disability services system. The commission
221 shall submit an annual report on the adult mental health services,
222 children mental health services and intellectual disability
223 services required by the State Board of Mental Health.



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

227 (u) To make purchases and enter into contracts for
228 purchasing in compliance with the public purchasing law, Sections
229 31-7-12 and 31-7-13, with compliance with the public purchasing
230 law subject to audit by the State Department of Audit.

231 (v) To ensure that all available funds are used for the
232 benefit of persons with mental illness, persons with an
233 intellectual disability, substance abusers and persons with
234 developmental disabilities with maximum efficiency and minimum
235 administrative cost. At any time a regional commission, and/or
236 other related organization whatever it may be, accumulates surplus
237 funds in excess of one-half (1/2) of its annual operating budget,
238 the entity must submit a plan to the Department of Mental Health
239 stating the capital improvements or other projects that require
240 such surplus accumulation. If the required plan is not submitted
241 within forty-five (45) days of the end of the applicable fiscal
242 year, the Department of Mental Health shall withhold all state
243 appropriated funds from such regional commission until such time
244 as the capital improvement plan is submitted. If the submitted
245 capital improvement plan is not accepted by the department, the
246 surplus funds shall be expended by the regional commission in the
247 local mental health region on group homes for persons with mental
248 illness, persons with an intellectual disability, substance



249 abusers, children or other mental health/intellectual disability
250 services approved by the Department of Mental Health.

251 (w) Notwithstanding any other provision of law, to
252 fingerprint and perform a criminal history record check on every
253 employee or volunteer. Every employee or volunteer shall provide
254 a valid current social security number and/or driver's license
255 number that will be furnished to conduct the criminal history
256 record check. If no disqualifying record is identified at the
257 state level, fingerprints shall be forwarded to the Federal Bureau
258 of Investigation for a national criminal history record check.

259 (x) Notwithstanding any other provisions of law, each
260 regional commission shall have the authority to create and operate
261 a primary care health clinic to treat (i) its patients; and (ii)
262 its patients' family members related within the third degree; and
263 (iii) its patients' household members or caregivers, subject to
264 the following requirements:

265 (i) The regional commission may employ and
266 compensate any personnel necessary and must satisfy applicable
267 state and federal laws and regulations regarding the
268 administration and operation of a primary care health clinic.

269 (ii) A Mississippi licensed physician must be
270 employed or under agreement with the regional commission to
271 provide medical direction and/or to carry out the physician
272 responsibilities as described under applicable state and/or
273 federal law and regulations.



274 (iii) The physician providing medical direction
275 for the primary care clinic shall not be certified solely in
276 psychiatry.

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

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

282 (vi) The regional commission must provide a
283 semiannual report to the Chairmen of the Public Health Committees
284 in both the House of Representatives and Senate. At a minimum,
285 for each reporting period, these reports shall describe the number
286 of patients provided primary care services, the types of services
287 provided, and the payer source for the patients. Except for
288 patient information and any other information that may be exempt
289 from disclosure under the Health Information Portability and
290 Accountability Act (HIPAA) and the Mississippi Public Records Act,
291 the reports shall be considered public records.

292 (vii) The regional commission must employ or
293 contract with a core clinical staff that is multidisciplinary and
294 culturally and linguistically competent.

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



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

300 (ix) The regional commission must provide an
301 independent financial audit report to the State Department of
302 Mental Health and, except for patient information and any other
303 information that may be exempt from disclosure under HIPAA and the
304 Mississippi Public Records Act, the audit report shall be
305 considered a public record.

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

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

313 (z) All regional commissioners shall receive new
314 orientation training and annual training with continuing education
315 regarding the Mississippi mental health system and services as
316 developed by the State Department of Mental Health. Training
317 shall be provided at the expense of the department except for
318 travel expenses which shall be paid by the regional commission.

319 (aa) To establish a community mental health center to
320 provide mental health services in its region.

321 (2) The types of services established by the State
322 Department of Mental Health that must be provided by the regional



323 mental health/intellectual disability centers for certification by
324 the department, and the minimum levels and standards for those
325 services established by the department, shall be provided by the
326 regional mental health/intellectual disability centers to children
327 when such services are appropriate for children, in the
328 determination of the department.

329 (3) Each regional commission shall compile quarterly
330 financial statements and status reports from each individual
331 community health center. The compiled reports shall be submitted
332 to the coordinator quarterly. The reports shall contain a:

- 333 (a) Balance sheet;
- 334 (b) Statement of operations;
- 335 (c) Statement of cash flows; and
- 336 (d) Description of the status of individual community
337 health center's actions taken to increase access to and
338 availability of community mental health services.

339 (4) (a) The community mental health center shall submit a
340 written quarterly report to the board of supervisors of each
341 county in its region. The report shall include the following
342 information for the prior quarter:

343 (i) The number of occupancy percentages reported
344 by the crisis stabilization unit in the region;

345 (ii) The number of individuals held in jail after
346 the commitment process has been initiated and the number of



347 individuals the community mental health center provided treatment
348 to while they were in jail, as required by Section 41-21-67;

349 (iii) The number of pre-affidavit screenings
350 conducted;

351 (iv) The number of individuals diverted to a
352 lesser restrictive alternative from commitment;

353 (v) The number of crisis stabilization unit
354 denials and the reason for denial;

355 (vi) Summary report of Medicaid claims, including
356 denials; and

357 (vii) Cash balance as of the date of the end of
358 the quarter.

359 (b) The community mental health center shall provide
360 the Department of Mental Health, local sheriffs and chancery court
361 judges with a copy of the community mental health center's report
362 each quarter.

363 **SECTION 2.** Section 41-21-65, Mississippi Code of 1972, as
364 amended by House Bill No. 1088, 2024 Regular Session, is amended
365 as follows:

366 41-21-65. (1) It is the intention of the Legislature that
367 the filing of an affidavit under this section be a simple,
368 inexpensive, uniform, and streamlined process for the purpose of
369 facilitating and expediting the care of individuals in need of
370 treatment.



371 (2) The Uniform Civil Commitment Affidavit developed by the
372 Department of Mental Health under this section must be provided by
373 the clerk of the chancery court to any party or affiant seeking a
374 civil commitment under this section, and must be utilized in all
375 counties to commence civil commitment proceedings under this
376 section. The affidavit must be made available to the public on
377 the website of the Mississippi Department of Mental Health.

378 (3) The Department of Mental Health, in consultation with
379 the Mississippi Chancery Clerks Association, the Mississippi
380 Conference of Chancery Court Judges and the Mississippi
381 Association of Community Mental Health Centers, must develop a
382 written guide setting out the steps in the commitment process no
383 later than January 1, 2020. The guide shall be designated as the
384 "Uniform Civil Commitment Guide" and must include, but not be
385 limited to, the following:

386 (a) Steps in the civil commitment process from
387 affidavit to commitment, written in easily understandable layman's
388 terms;

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

391 (c) Eligibility requirements and instructions for
392 filing a pauper's affidavit; and

393 (d) A statement on the front cover of the guide
394 advising that persons wishing to pursue a civil commitment under



395 this section are not required to retain an attorney for any
396 portion of the commitment process.

397 (4) Immediately upon availability, but no later than January
398 1, 2020, the Uniform Civil Commitment Guide must be provided by
399 the clerk of the chancery court to any party or affiant seeking a
400 civil commitment under this section and also must be made
401 available to the public on the website of the Mississippi
402 Department of Mental Health.

403 (5) If any person is alleged to be in need of treatment, any
404 relative of the person, or any interested person, may make
405 affidavit of that fact and shall file the Uniform Civil Commitment
406 Affidavit with the clerk of the chancery court of the county in
407 which the person alleged to be in need of treatment resides, but
408 the chancellor or duly appointed special master may, in his or her
409 discretion, hear the matter in the county in which the person may
410 be found or the circuit judge may hear such matter as provided in
411 Section 41-21-63. Prior to filing an affidavit for commitment of
412 an individual, the relative or interested person shall be
413 connected with the community mental health center for a
414 pre-affidavit screening as set forth in Section 41-21-67. The
415 pre-affidavit screening is mandatory and must be completed before
416 any affidavit for commitment is filed, except as otherwise
417 provided in Section 41-21-67(2). The affidavit shall set forth
418 the name and address of the proposed patient's nearest relatives
419 and whether the proposed patient resides or has visitation rights



420 with any minor children, if known, and the reasons for the
421 affidavit. The affidavit must contain factual descriptions of the
422 proposed patient's recent behavior, including a description of the
423 behavior, where it occurred, and over what period of time it
424 occurred, if known. The affidavit shall state specifically that a
425 less restrictive alternative treatment was considered and specify
426 why treatment less restrictive than involuntary commitment is not
427 appropriate. Each factual allegation may be supported by
428 observations of witnesses and the pre-affidavit screener named in
429 the affidavit. The Department of Mental Health, in consultation
430 with the Mississippi Chancery Clerks' Association, shall develop a
431 simple, one-page affidavit form for the use of affiants as
432 provided in this section. The affidavit also must state whether
433 the affiant has * * * received notice of the pre-affidavit
434 screening from a community mental health center * * * determining
435 whether the alleged acts by the proposed respondent warrant civil
436 commitment in lieu of other less-restrictive treatment options.
437 No chancery clerk shall require an affiant to retain an attorney
438 for the filing of an affidavit under this section.

439 (6) The chancery clerk may charge a total filing fee for all
440 services equal to the amount set out in Section 25-7-9(o), and the
441 appropriate state and county assessments as required by law which
442 include, but are not limited to, assessments for the Judicial
443 Operation Fund (Section 25-7-9(3)(b)); the Electronic Court System
444 Fund (Section 25-7-9(3)(a)); the Civil Legal Assistance Fund



445 (Section 25-7-9(1)(k)); the Court Education and Training Fund
446 (Section 37-26-3); State Court Constituent's Fund (Section
447 37-26-9(4)); and reasonable court reporter's fee. Costs
448 incidental to the court proceedings as set forth in Section
449 41-21-79 may not be included in the assessments permitted by this
450 subsection. The total of the fees and assessments permitted by
451 this subsection may not exceed One Hundred Fifty Dollars
452 (\$150.00).

453 (7) The prohibition against charging the affiant other fees,
454 expenses, or costs shall not preclude the imposition of monetary
455 criminal penalties under Section 41-21-107 or any other criminal
456 statute, or the imposition by the chancellor of monetary penalties
457 for contempt if the affiant is found to have filed an
458 intentionally false affidavit or filed the affidavit in bad faith
459 for a malicious purpose.

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

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

465 **SECTION 3.** Section 41-21-67, Mississippi Code of 1972, as
466 amended by House Bill No. 1088, 2024 Regular Session, is amended
467 as follows:

468 41-21-67. (1) (a) Prior to filing an affidavit for
469 commitment of an individual, the relative or interested person



470 shall be connected with the community mental health center in the
471 county of financial responsibility or the county where the
472 proposed patient is present for conduct of preliminary
473 investigation to determine the need to file an affidavit for
474 involuntary commitment. If the community mental health center is
475 unavailable, any reputable licensed physician, psychologist, nurse
476 practitioner or physician assistant, as allowed in the discretion
477 of the court, may conduct the pre-affidavit screening and
478 examination as set forth in Section 41-21-69. The pre-affidavit
479 screening shall be completed within twenty-four (24) hours of the
480 community mental health center being notified. The community
481 mental health center shall provide the pre-affidavit screening
482 report to the chancery clerk for the county in which the petition
483 is to be filed upon completion. The community mental health
484 center shall appoint a screener to conduct an investigation. The
485 prospective petitioner may not be the pre-affidavit screener. The
486 investigation must include:

487 (i) An interview with the proposed patient and
488 other individuals who appear to have knowledge of the condition of
489 the proposed patient, if practicable. In-person interviews with
490 the proposed patient are preferred. If the proposed patient is
491 not interviewed, specific reasons must be documented;

492 (ii) Identification and investigation of specific
493 alleged conduct that is the basis for application;



494 (iii) Identification, exploration, and listing of
495 the specific reasons for rejecting or recommending alternatives to
496 involuntary commitment; and

497 (iv) In the case of a commitment based on mental
498 illness, information relevant to treatment.

499 (b) In conducting the investigation required by this
500 subsection, the screener shall have access to all relevant medical
501 records of proposed patients currently in treatment facilities,
502 state-operated treatment programs, or community-based treatment
503 programs. Data collected pursuant to this paragraph shall be
504 considered private data on individuals. The pre-affidavit
505 screening report is not admissible as evidence in court except by
506 agreement of counsel or as permitted by the rules of court and is
507 not admissible in any court proceedings unrelated to the
508 commitment proceedings.

509 (c) When the pre-affidavit screener recommends
510 commitment, a written report shall be sent to the chancery clerk
511 for the county in which the petition is to be filed. The
512 statement of facts contained in the written report must meet the
513 requirements of Section 41-21-65(5), specifically certifying that
514 a less restrictive alternative treatment was considered and
515 specifying why treatment less restrictive than involuntary
516 commitment is not appropriate.

517 (d) The pre-affidavit screener shall refuse to support
518 the filing of an affidavit if the investigation does not disclose



519 evidence sufficient to support commitment. Notice of the
520 pre-affidavit screener's decision shall be provided to the
521 prospective petitioner and the court. If a commitment is not
522 recommended, the pre-affidavit screener shall provide the
523 prospective petitioner with connection to other alternative
524 services and resources available and offered, if appropriate.

525 (e) If the interested person wishes to proceed with a
526 petition contrary to the recommendation of the pre-affidavit
527 screener, application may be made directly to the chancellor, who
528 shall determine whether or not to proceed with the petition.
529 Notice of the chancellor's determination shall be provided to the
530 interested party.

531 (* * *2) * * * After a pre-affidavit screener has attempted
532 to complete an in-person screening, if a person is actively
533 violent or refuses to participate in the pre-affidavit screening
534 and the screening cannot be completed, then upon recommendation of
535 the community mental health center, the affidavit may be filed and
536 a writ issued for a sheriff to intervene. The pre-affidavit
537 screener shall document why the pre-affidavit screening could not
538 be completed. After completing the pre-affidavit screening
539 required by subsection (1) of this section, receiving the written
540 report from the pre-affidavit screener, and upon filing of an
541 affidavit of commitment, the clerk, upon direction of the
542 chancellor of the court, shall issue a writ directed to the
543 sheriff of the proper county to take into custody the person



544 alleged to be in need of treatment and to take the person
545 for * * * physical and mental examination and treatment by the
546 appropriate community mental health center established under
547 Section 41-19-31. Except as otherwise provided in Section
548 41-21-63, the community mental health center will be designated as
549 the first point of entry for * * * pre-affidavit screening and
550 treatment. * * * The * * * writ may provide where the person
551 shall be held before being taken for * * * examination and
552 treatment, which shall include any licensed medical facility or
553 crisis stabilization unit. * * * Reapplication may be made to the
554 chancellor. If a pauper's affidavit is filed by an affiant who is
555 a guardian or conservator of a person in need of treatment, the
556 court shall determine if either the affiant or the person in need
557 of treatment is a pauper and if * * * the affiant or the person in
558 need of treatment is determined to be a pauper, the county of the
559 residence of the respondent shall bear the costs of commitment,
560 unless funds for those purposes are made available by the state.

561 * * *

562 (* * *3) (a) Upon * * * receiving the pre-affidavit
563 screening and filing of an affidavit of commitment, the chancellor
564 shall immediately appoint and summon two (2) reputable, licensed
565 physicians or one (1) reputable, licensed physician and either one
566 (1) psychologist, nurse practitioner or physician assistant to
567 conduct a physical and mental examination of the person at a place
568 to be designated by the clerk or chancellor and to report their



569 findings to the clerk or chancellor. However, if the
570 pre-affidavit screening recommends against commitment, the
571 chancellor may refuse to appoint two (2) physicians to conduct a
572 physical and mental examination. However, any nurse practitioner
573 or physician assistant conducting the examination shall be
574 independent from, and not under the supervision of, the other
575 physician conducting the examination. A nurse practitioner or
576 psychiatric nurse practitioner conducting an examination under
577 this chapter must be functioning within a collaborative or
578 consultative relationship with a physician as required under
579 Section 73-15-20(3). In all counties in which there is a county
580 health officer, the county health officer, if available, may be
581 one (1) of the physicians so appointed. If a licensed physician
582 is not available to conduct the physical and mental examination
583 within forty-eight (48) hours of the * * * pre-affidavit
584 screening, the court, in its discretion and upon good cause shown,
585 may permit the examination to be conducted by the following: (a)
586 two (2) nurse practitioners, one (1) of whom must be a psychiatric
587 nurse practitioner; or (b) one (1) psychiatric nurse practitioner
588 and one (1) psychologist or physician assistant. Neither of the
589 physicians nor the psychologist, nurse practitioner or physician
590 assistant selected shall be related to that person in any way, nor
591 have any direct or indirect interest in the estate of that person
592 nor shall any full-time staff of residential treatment facilities



593 operated directly by the State Department of Mental Health serve
594 as examiner.

595 (b) Any health care practitioner who conducts a
596 physical and mental examination of a person as provided under
597 paragraph (a) of this subsection may sign the certificate required
598 for establishing a guardianship or conservatorship for the person
599 and take care of other related requirements as otherwise provided
600 by law, at the time of conducting the physical and mental
601 examinations.

602 (* * *4) The clerk shall ascertain whether the respondent
603 is represented by an attorney, and if it is determined that the
604 respondent does not have an attorney, the clerk shall immediately
605 notify the chancellor of that fact. If the chancellor determines
606 that the respondent for any reason does not have the services of
607 an attorney, the chancellor shall immediately appoint an attorney
608 for the respondent at the time the examiners are appointed.

609 (* * *5) (a) If the chancellor determines that there is
610 probable cause to believe that the respondent * * * has a mental
611 illness and that there is no reasonable alternative to detention,
612 the chancellor may order that the respondent be retained as an
613 emergency patient at any licensed medical facility, crisis
614 stabilization unit, or any other available suitable location for
615 evaluation by a physician, nurse practitioner or physician
616 assistant and that a peace officer transport the respondent to the
617 specified facility, unit or location. If the community mental



618 health center serving the county has partnered with Crisis
619 Intervention Teams under the provisions of Sections 41-21-131
620 through 41-21-143, the order may specify that the licensed medical
621 facility be a designated single point of entry within the county
622 or within an adjacent county served by the community mental health
623 center. If the person evaluating the respondent finds that the
624 respondent * * * has a mental illness and in need of treatment,
625 the chancellor may order that the respondent be retained at the
626 licensed medical facility, crisis stabilization unit, or any other
627 available suitable location as the court may so designate pending
628 an admission hearing. If necessary, the chancellor may order a
629 peace officer or other person to transport the respondent to that
630 facility, or unit or suitable location. Any respondent so
631 retained may be given such treatment as is indicated by standard
632 medical practice. However, the respondent shall not be held in a
633 hospital operated directly by the State Department of Mental
634 Health * * *.

635 (b) A jail or other detention center may not be used
636 for custody unless the community mental health center has explored
637 and exhausted the availability of other appropriate facilities,
638 such as the crisis stabilization unit, the local hospital and any
639 Department of Mental Health certified location; the chancellor
640 specifically authorizes it; and the respondent is actively
641 violent. The county of residence of any such person shall pay the
642 cost of such interim treatment. The community mental health



643 center shall provide documentation of the person's violent
644 behavior and that no other appropriate facilities are available to
645 the chancellor. Under these circumstances, no person may remain
646 in a jail for longer than twenty-four (24) hours unless the
647 community mental health center requests an additional twenty-four
648 (24) hours from the chancellor. The community mental health
649 center shall provide treatment during this timeframe pending
650 placement at an appropriate facility.

651 For the purposes of this subsection (5), "actively violent"
652 means that the behavior presents an immediate and serious danger
653 to the safety of the individual or another, the individual has
654 inflicted or attempted to inflict serious bodily harm on another,
655 or has acted in such a way as to create a substantial risk of
656 serious bodily harm to another, or has engaged in extreme
657 destruction of property; and that there is a reasonable
658 probability that this conduct will be repeated.

659 The provisions of this paragraph (b) shall not be construed
660 to include jails that are designated as holding facilities under
661 the requirement provided by Section 41-21-77.

662 (* * *6) (a) Whenever a licensed psychologist, nurse
663 practitioner or physician assistant who is certified to complete
664 examinations for the purpose of commitment or a licensed physician
665 has reason to believe that a person poses an immediate substantial
666 likelihood of physical harm to himself or others or is gravely
667 disabled and unable to care for himself by virtue of mental



668 illness, as defined in Section 41-21-61(e), then the physician,
669 psychologist, nurse practitioner or physician assistant may hold
670 the person or may admit the person to and treat the person in a
671 licensed medical facility, without a civil order or warrant for a
672 period not to exceed seventy-two (72) hours. However, if the
673 seventy-two-hour period begins or ends when the chancery clerk's
674 office is closed, or within three (3) hours of closing, and the
675 chancery clerk's office will be continuously closed for a time
676 that exceeds seventy-two (72) hours, then the seventy-two-hour
677 period is extended until the end of the next business day that the
678 chancery clerk's office is open. The person may be held and
679 treated as an emergency patient at any licensed medical facility,
680 available regional mental health facility, or crisis * * *
681 stabilization unit. The physician or psychologist, nurse
682 practitioner or physician assistant who holds the person shall
683 certify in writing the reasons for the need for holding.

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



693 (b) Whenever an individual is held for purposes of
694 receiving treatment as prescribed under paragraph (a) of this
695 subsection, and it is communicated to the mental health
696 professional holding the individual that the individual resides or
697 has visitation rights with a minor child, and if the individual is
698 considered to be a danger to the minor child, the mental health
699 professional shall notify the Department of Child Protection
700 Services prior to discharge if the threat of harm continues to
701 exist, as is required under Section 43-21-353.

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

704 **SECTION 4.** Section 41-21-140, Mississippi Code of 1972, is
705 amended as follows:

706 41-21-140. A law enforcement officer shall transport
707 the * * * person who is in crisis to the appropriate health care
708 facility in the county or outside of the county at the request of
709 the crisis intervention team or mobile crisis response team.

710 **SECTION 5.** Section 41-19-43, Mississippi Code of 1972, is
711 amended as follows:

712 41-19-43. Whenever it is necessary to commit and transport
713 any eligible patient to a regional mental health or intellectual
714 disability facility for treatment or care, the chancery clerk and
715 sheriff shall be entitled to expenses as provided for by the laws
716 of Mississippi for commitment and transportation to state mental
717 institutions and transportation in the county or outside of the



718 county to a community mental health center or other appropriate
719 facility.

720 **SECTION 6.** Section 41-21-71, Mississippi Code of 1972, as
721 amended by House Bill No. 1088, 2024 Regular Session, is amended
722 as follows:

723 41-21-71. If, as a result of the examination, the appointed
724 examiners certify that the person is not in need of treatment, the
725 chancellor * * *, clerk or circuit judge as applicable shall
726 dismiss the affidavit without the need for a further hearing.
727 Except as otherwise provided in Section 41-21-63, if the
728 chancellor or chancery clerk finds, based upon the appointed
729 examiners' certificates and any other relevant evidence, that the
730 respondent is in need of treatment and the certificates are filed
731 with the chancery clerk within forty-eight (48) hours after the
732 order for examination, or extension of that time as provided in
733 Section 41-21-69, the clerk shall immediately set the matter for a
734 hearing. The hearing shall be set within * * * three (3) days of
735 the filing of the certificates unless an extension is requested by
736 the respondent's attorney. In no event shall the hearing be more
737 than * * * five (5) days after the filing of the certificates,
738 unless the court orders to extend the hearing date, which shall
739 not exceed five (5) additional days.

740 **SECTION 7.** This act shall take effect and be in force from
741 and after July 1, 2024.

