

By: Senator(s) Boyd, England, DeLano,
Wiggins

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2744

1 AN ACT TO AMEND SECTION 41-4-7, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE STATE DEPARTMENT OF MENTAL HEALTH SHALL
3 PROMULGATE A RATING SCALE WITH PERFORMANCE INDICATORS FOR
4 COMMUNITY MENTAL HEALTH AUTHORITIES; TO REQUIRE THE DEPARTMENT TO
5 PERFORM A PERFORMANCE REVIEW AUDIT AT LEAST ONCE EVERY TWO YEARS;
6 TO PROVIDE THAT THE DEPARTMENT MAY PLACE REGIONAL COMMISSIONS OR
7 COMMUNITY MENTAL HEALTH CENTERS ON PROBATIONARY STATUS; TO PROVIDE
8 THAT IF THE COMMUNITY MENTAL HEALTH CENTER DOES NOT ACHIEVE A
9 PASSING SCORE ON THE PERFORMANCE AUDIT AFTER THE PROBATIONARY
10 PERIOD, THE REGIONAL COMMISSION SHALL REPLACE THE COMMUNITY MENTAL
11 HEALTH CENTER'S EXECUTIVE DIRECTOR AND ANY OTHER OFFICERS
12 IDENTIFIED BY THE DEPARTMENT WITH CONTRACTORS; TO PROVIDE THAT THE
13 CONTRACTOR SHALL REMAIN IN PLACE UNTIL THE DEPARTMENT DETERMINES
14 THAT THE COMMUNITY MENTAL HEALTH CENTER HAS ATTAINED SUSTAINED
15 COMPLIANCE WITH THE PERFORMANCE STANDARD; TO PROVIDE THAT NO
16 RULES, REGULATIONS, OPERATIONAL STANDARDS, PERFORMANCE STANDARDS,
17 OR OTHER STANDARDS PROMULGATED BY THE STATE BOARD OF MENTAL HEALTH
18 OR THE STATE DEPARTMENT OF MENTAL HEALTH SHALL BE CONSTRUED TO
19 CREATE A CAUSE OF ACTION; TO AMEND SECTION 41-19-33, MISSISSIPPI
20 CODE OF 1972, TO SET CERTAIN REQUIREMENTS OF REGIONAL COMMISSIONS
21 ESTABLISHING COMMUNITY MENTAL HEALTH CENTERS; TO REQUIRE COMMUNITY
22 MENTAL HEALTH CENTERS TO PROVIDE A REPORT TO THE BOARD OF
23 SUPERVISORS OF EACH COUNTY IN ITS REGION; TO REQUIRE COMMUNITY
24 MENTAL HEALTH CENTERS TO PROVIDE CERTAIN MENTAL HEALTH SERVICES;
25 TO ESTABLISH PROCEDURES RELATED TO PRE-AFFIDAVIT SCREENINGS FOR
26 CIVIL COMMITMENTS; TO SET CERTAIN REPORTING REQUIREMENTS OF
27 COMMUNITY MENTAL HEALTH CENTERS TO THE DEPARTMENT OF MENTAL
28 HEALTH, INCLUDING SALARY DATA AND CASH BALANCES; TO PROVIDE THAT
29 THE DEPARTMENT MAY DIRECT CONTROL OF THE COMMUNITY MENTAL HEALTH
30 CENTER'S EXCESS CASH BALANCE IN CERTAIN CIRCUMSTANCES WHERE THE
31 AUTHORITY IS NOT IN COMPLIANCE; TO AMEND SECTION 41-19-35,
32 MISSISSIPPI CODE OF 1972, TO AUTHORIZE MENTAL HEALTH REGIONAL
33 COMMISSIONS TO BE ESTABLISHED WITH A SET COMPOSITION OF MEMBERS IF
34 EACH BOARD OF SUPERVISORS OF THE COUNTIES PARTICIPATING IN A



35 PARTICULAR REGIONAL COMMISSION AGREE TO SUCH COMPOSITION AS
36 EVIDENCED BY RESOLUTIONS ADOPTED BY EACH BOARD; TO AMEND SECTION
37 41-21-65, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN INTERESTED
38 PERSON SHALL BE DIRECTED TO THE COMMUNITY MENTAL HEALTH CENTER FOR
39 A PRE-AFFIDAVIT SCREENING PRIOR TO FILING AN AFFIDAVIT FOR
40 COMMITMENT OF AN INDIVIDUAL; TO REQUIRE AN AFFIDAVIT FOR
41 COMMITMENT OF AN INDIVIDUAL TO STATE THAT LESS RESTRICTIVE
42 ALTERNATIVE TREATMENT WAS CONSIDERED AND SPECIFY WHY TREATMENT
43 LESS RESTRICTIVE THAN INVOLUNTARY COMMITMENT IS NOT APPROPRIATE;
44 TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972, TO ESTABLISH
45 A REQUIRED PRE-AFFIDAVIT SCREENING TO BE CONDUCTED BY THE
46 COMMUNITY MENTAL HEALTH CENTER IN THE COUNTY OF FINANCIAL
47 RESPONSIBILITY; TO REQUIRE THE INVESTIGATION TO INCLUDE CERTAIN
48 COMPONENTS; TO PROVIDE THAT THE SCREENING TEAM SHALL HAVE ACCESS
49 TO ALL RELEVANT MEDICAL RECORDS OF THE PROPOSED PATIENT; TO
50 REQUIRE THE PRE-AFFIDAVIT SCREENER TO PROVIDE WRITTEN NOTICE TO
51 CERTAIN ENTITIES; TO AUTHORIZE AN INTERESTED PERSON TO MAKE DIRECT
52 PETITION TO A CHANCELLOR WHERE THE PRE-AFFIDAVIT SCREENER DOES NOT
53 RECOMMEND COMMITMENT; TO PROVIDE THAT A JAIL OR OTHER DETENTION
54 CENTER MAY NOT BE USED FOR CUSTODY UNLESS CERTAIN CONDITIONS ARE
55 MET; TO PROHIBIT LAW ENFORCEMENT OR ANY OTHER PERSON FROM BRINGING
56 CRIMINAL CHARGES AGAINST A PERSON WHO IS MENTALLY ILL AND IN NEED
57 OF TREATMENT PURSUANT TO THIS CHAPTER SOLELY OR PRIMARILY BECAUSE
58 THE PERSON IS MENTALLY ILL OR BECAUSE OF THE UNAVAILABILITY OF A
59 STATE HOSPITAL BED; TO AMEND SECTION 41-21-73, MISSISSIPPI CODE OF
60 1972, TO LIMIT COMMITMENT IN A STATE-OPERATED FACILITY; TO PROVIDE
61 THAT IF A PERSON IS RECEIVING TREATMENT FOR A MENTAL ILLNESS OR AN
62 INTELLECTUAL DISABILITY IN A TREATMENT FACILITY AT THE TIME OF THE
63 HEARING, THE PERSON MAY NOT BE COMMITTED TO A STATE-OPERATED
64 FACILITY UNLESS CERTAIN FACTS ARE ESTABLISHED BY CLEAR AND
65 CONVINCING EVIDENCE; TO PROHIBIT A PERSON WHO HAS BEEN JUDICIALLY
66 COMMITTED UNDER THIS SECTION FROM BEING HELD IN A JAIL OR OTHER
67 DETENTION FACILITY WHILE AWAITING ADMISSION TO A STATE-OPERATED
68 FACILITY; TO PROVIDE THAT THE COUNTY OF RESIDENCE OF ANY SUCH
69 PERSON SHALL PAY THE COST OF INTERIM TREATMENT; TO AMEND SECTION
70 41-21-68, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS
71 OF THE ACT; TO AMEND SECTION 41-21-77, MISSISSIPPI CODE OF 1972,
72 TO PROVIDE THAT A JAIL OR DETENTION CENTER MAY NOT BE USED FOR
73 PERSONS WHO ARE AWAITING ADMISSION UNLESS THE COMMUNITY MENTAL
74 HEALTH CENTER HAS EXHAUSTED THE AVAILABILITY OF OTHER APPROPRIATE
75 FACILITIES, THE CHANCELLOR SPECIFICALLY AUTHORIZES IT, AND THE
76 RESPONDENT IS ACTIVELY VIOLENT; TO AMEND SECTION 27-104-7,
77 MISSISSIPPI CODE OF 1972, TO SECTION 41-21-68, MISSISSIPPI CODE OF
78 1972, WHICH ALLOWS REGIONAL MENTAL HEALTH COMMISSIONS TO ESTABLISH
79 REGIONAL HOLDING FACILITIES FOR THOSE HELD BY CIVIL COMMITMENT; TO
80 AMEND SECTION 27-104-7, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM
81 THE PUBLIC PROCUREMENT REVIEW BOARD ANY PERSONAL OR PROFESSIONAL
82 SERVICES CONTRACT ENTERED INTO BY THE MISSISSIPPI DEPARTMENT OF
83 MENTAL HEALTH IN CONTRACTING FOR STAFF OF COMMUNITY MENTAL HEALTH
84 CENTERS THAT IT IS REPLACING IN ACCORDANCE WITH THIS ACT; TO
85 REQUIRE PEER AND THE DEPARTMENT OF MENTAL HEALTH TO REPORT CERTAIN



86 INFORMATION TO THE LEGISLATURE EACH YEAR; AND FOR RELATED
87 PURPOSES.

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

89 **SECTION 1.** Section 41-4-7, Mississippi Code of 1972, is
90 amended as follows:

91 41-4-7. The State Board of Mental Health shall have the
92 following powers and duties:

93 (a) To appoint a full-time Executive Director of the
94 Department of Mental Health, who shall be employed by the board
95 and shall serve as executive secretary to the board. The first
96 director shall be a duly licensed physician with special interest
97 and competence in psychiatry, and shall possess a minimum of three
98 (3) years' experience in clinical and administrative psychiatry.
99 Subsequent directors shall possess at least a master's degree or
100 its equivalent, and shall possess at least ten (10) years'
101 administrative experience in the field of mental health. The
102 salary of the executive director shall be determined by the board;

103 (b) To appoint a Medical Director for the Department of
104 Mental Health. The medical director shall provide clinical
105 oversight in the implementation of evidence-based and best
106 practices; provide clinical leadership in the integration of
107 mental health, intellectual disability and addiction services with
108 community partners in the public and private sectors; and provide
109 oversight regarding standards of care. The medical director shall
110 serve at the will and pleasure of the board, and will undergo an



111 annual review of job performance and future service to the
112 department;

113 (c) To establish and implement its state strategic
114 plan;

115 (d) To develop a strategic plan for the development of
116 services for persons with mental illness, persons with
117 developmental disabilities and other clients of the public mental
118 health system. Such strategic planning program shall require that
119 the board, acting through the Strategic Planning and Best
120 Practices Committee, perform the following functions respecting
121 the delivery of services:

122 (i) Establish measures for determining the
123 efficiency and effectiveness of the services specified in Section
124 41-4-1(2);

125 (ii) Conducting studies of community-based care in
126 other jurisdictions to determine which services offered in these
127 jurisdictions have the potential to provide the citizens of
128 Mississippi with more effective and efficient community-based
129 care;

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

132 (iv) Recommending to the Legislature by January 1,
133 2014, any necessary additions, deletions or other changes
134 necessary to the services specified in Section 41-4-1(2);



135 (v) Implementing by July 1, 2012, a system of
136 performance measures for the services specified in Section
137 41-4-1(2);

138 (vi) Recommending to the Legislature any changes
139 that the department believes are necessary to the current laws
140 addressing civil commitment;

141 (vii) Conducting any other activities necessary to
142 the evaluation and study of the services specified in Section
143 41-4-1(2);

144 (viii) Assisting in conducting all necessary
145 strategic planning for the delivery of all other services of the
146 department. Such planning shall be conducted so as to produce a
147 single strategic plan for the services delivered by the public
148 mental health system and shall establish appropriate mission
149 statements, goals, objectives and performance indicators for all
150 programs and services of the public mental health system. For
151 services other than those specified in Section 41-4-1(2), the
152 committee shall recommend to the State Board of Mental Health a
153 strategic plan that the board may adopt or modify;

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

157 (f) [Repealed]

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



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

162 (h) To collect reasonable fees for its services;
163 however, if it is determined that a person receiving services is
164 unable to pay the total fee, the department shall collect no more
165 than the amount such person is able to pay;

166 (i) To certify, coordinate and establish minimum
167 standards and establish minimum required services, as specified in
168 Section 41-4-1(2), for regional mental health and intellectual
169 disability commissions and other community service providers for
170 community or regional programs and services in adult mental
171 health, children and youth mental health, intellectual
172 disabilities, alcoholism, drug misuse, developmental disabilities,
173 compulsive gambling, addictive disorders and related programs
174 throughout the state. Such regional mental health and
175 intellectual disability commissions and other community service
176 providers shall, on or before July 1 of each year, submit an
177 annual operational plan to the State Department of Mental Health
178 for approval or disapproval based on the minimum standards and
179 minimum required services established by the department for
180 certification and itemize the services specified in Section
181 41-4-1(2), including financial statements. As part of the annual
182 operation plan required by this paragraph (i) submitted by any
183 regional community mental health center or by any other reasonable
184 certification deemed acceptable by the department, the community



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



210 for those services. However, the department shall not mandate a
211 standard or service, or decertify a regional commission or
212 community service provider for not meeting a standard or service,
213 if the standard or service does not have funding appropriated by
214 the Legislature or have a state, federal or local funding source
215 identified by the department. No county shall be required to levy
216 millage to provide a mandated standard or service above the
217 minimum rate required by Section 41-19-39. After the six-month
218 probationary period, the department may identify an appropriate
219 community service provider to provide any core services in that
220 county that are not provided by a community mental health center.
221 However, the department shall not offer reimbursement or other
222 accommodations to a community service provider of core services
223 that were not offered to the decertified community mental health
224 center for the same or similar services. The State Board of
225 Mental Health shall promulgate rules and regulations necessary to
226 implement the provisions of this paragraph (i), in accordance with
227 the Administrative Procedures Law (Section 25-43-1.101 et seq.);

228 (j) To establish and promulgate reasonable minimum
229 standards for the construction and operation of state and all
230 Department of Mental Health certified facilities, including
231 reasonable minimum standards for the admission, diagnosis, care,
232 treatment, transfer of patients and their records, and also
233 including reasonable minimum standards for providing day care,
234 outpatient care, emergency care, inpatient care and follow-up



235 care, when such care is provided for persons with mental or
236 emotional illness, an intellectual disability, alcoholism, drug
237 misuse and developmental disabilities;

238 (k) To implement best practices for all services
239 specified in Section 41-4-1(2), and to establish and implement all
240 other services delivered by the Department of Mental Health. To
241 carry out this responsibility, the board shall require the
242 department to establish a division responsible for developing best
243 practices based on a comprehensive analysis of the mental health
244 environment to determine what the best practices for each service
245 are. In developing best practices, the board shall consider the
246 cost and benefits associated with each practice with a goal of
247 implementing only those practices that are cost-effective
248 practices for service delivery. Such best practices shall be
249 utilized by the board in establishing performance standards and
250 evaluations of the community mental health centers' services
251 required by paragraph (d) of this section;

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

255 (m) To establish and collect reasonable fees for
256 necessary inspection services incidental to certification or
257 compliance;

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



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

262 (p) To serve as the single state agency in receiving
263 and administering any and all funds available from any source for
264 the purpose of service delivery, training, research and education
265 in regard to all forms of mental illness, intellectual
266 disabilities, alcoholism, drug misuse and developmental
267 disabilities, unless such funds are specifically designated to a
268 particular agency or institution by the federal government, the
269 Mississippi Legislature or any other grantor;

270 (q) To establish mental health holding centers for the
271 purpose of providing short-term emergency mental health treatment,
272 places for holding persons awaiting commitment proceedings or
273 awaiting placement in a state mental health facility following
274 commitment, and for diverting placement in a state mental health
275 facility. These mental health holding facilities shall be readily
276 accessible, available statewide, and be in compliance with
277 emergency services' minimum standards. They shall be
278 comprehensive and available to triage and make appropriate
279 clinical disposition, including the capability to access inpatient
280 services or less restrictive alternatives, as needed, as
281 determined by medical staff. Such facility shall have medical,
282 nursing and behavioral services available on a
283 twenty-four-hour-a-day basis. The board may provide for all or
284 part of the costs of establishing and operating the holding



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

290 (r) To certify/license case managers, mental health
291 therapists, intellectual disability therapists, mental
292 health/intellectual disability program administrators, addiction
293 counselors and others as deemed appropriate by the board. Persons
294 already professionally licensed by another state board or agency
295 are not required to be certified/licensed under this section by
296 the Department of Mental Health. The department shall not use
297 professional titles in its certification/licensure process for
298 which there is an independent licensing procedure. Such
299 certification/licensure shall be valid only in the state mental
300 health system, in programs funded and/or certified by the
301 Department of Mental Health, and/or in programs certified/licensed
302 by the State Department of Health that are operated by the state
303 mental health system serving persons with mental illness, an
304 intellectual disability, a developmental disability or addictions,
305 and shall not be transferable;

306 (s) To develop formal mental health worker
307 qualifications for regional mental health and intellectual
308 disability commissions and other community service providers. The
309 State Personnel Board shall develop and promulgate a recommended



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

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

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

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

324 (w) To survey statutory designations, building markers
325 and the names given to mental health/intellectual disability
326 facilities and proceedings in order to recommend deletion of
327 obsolete and offensive terminology relative to the mental
328 health/intellectual disability system. Based upon a
329 recommendation of the executive director, the board shall have the
330 authority to name/rename any facility operated under the auspices
331 of the Department of Mental Health for the sole purpose of
332 deleting such terminology;

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



335 private psychiatric hospitals to ensure their continued well-being
336 in the community;

337 (y) To develop formal service delivery standards
338 designed to measure the quality of services delivered to community
339 clients, as well as the timeliness of services to community
340 clients provided by regional mental health/intellectual disability
341 commissions and other community services providers;

342 (z) To establish regional state offices to provide
343 mental health crisis intervention centers and services available
344 throughout the state to be utilized on a case-by-case emergency
345 basis. The regional services director, other staff and delivery
346 systems shall meet the minimum standards of the Department of
347 Mental Health;

348 (aa) To require performance contracts with community
349 mental health/intellectual disability service providers to contain
350 performance indicators to measure successful outcomes, including
351 diversion of persons from inpatient psychiatric hospitals,
352 rapid/timely response to emergency cases, client satisfaction with
353 services and other relevant performance measures;

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



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

363 (dd) To establish a peer review/quality assurance
364 evaluation system that assures that appropriate assessment,
365 diagnosis and treatment is provided according to established
366 professional criteria and guidelines;

367 (ee) To develop and implement state plans for the
368 purpose of assisting with the care and treatment of persons with
369 Alzheimer's disease and other dementia. This plan shall include
370 education and training of service providers, caregivers in the
371 home setting and others who deal with persons with Alzheimer's
372 disease and other dementia, and development of adult day care,
373 family respite care and counseling programs to assist families who
374 maintain persons with Alzheimer's disease and other dementia in
375 the home setting. No agency shall be required to provide any
376 services under this section until such time as sufficient funds
377 have been appropriated or otherwise made available by the
378 Legislature specifically for the purposes of the treatment of
379 persons with Alzheimer's and other dementia;

380 (ff) Working with the advice and consent of the
381 administration of Ellisville State School, to enter into
382 negotiations with the Economic Development Authority of Jones
383 County for the purpose of negotiating the possible exchange, lease



384 or sale of lands owned by Ellisville State School to the Economic
385 Development Authority of Jones County. It is the intent of the
386 Mississippi Legislature that such negotiations shall ensure that
387 the financial interest of the persons with an intellectual
388 disability served by Ellisville State School will be held
389 paramount in the course of these negotiations. The Legislature
390 also recognizes the importance of economic development to the
391 citizens of the State of Mississippi and Jones County, and
392 encourages fairness to the Economic Development Authority of Jones
393 County. Any negotiations proposed which would result in the
394 recommendation for exchange, lease or sale of lands owned by
395 Ellisville State School must have the approval of the State Board
396 of Mental Health. The State Board of Mental Health may and has
397 the final authority as to whether or not these negotiations result
398 in the exchange, lease or sale of the properties it currently
399 holds in trust for persons with an intellectual disability served
400 at Ellisville State School.

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



409 School. The State Treasurer shall invest the monies of the trust
410 fund in any of the investments authorized for the Mississippi
411 Prepaid Affordable College Tuition Program under Section 37-155-9,
412 and those investments shall be subject to the limitations
413 prescribed by Section 37-155-9. Unexpended amounts remaining in
414 the trust fund at the end of a fiscal year shall not lapse into
415 the State General Fund, and any interest earned on amounts in the
416 trust fund shall be deposited to the credit of the trust fund.
417 The administration of Ellisville State School may use any interest
418 earned on the principal of the trust fund, upon appropriation by
419 the Legislature, as needed for services or facilities by the
420 clients of Ellisville State School. Ellisville State School shall
421 make known to the Legislature, through the Legislative Budget
422 Committee and the respective Appropriations Committees of the
423 House and Senate, its proposed use of interest earned on the
424 principal of the trust fund for any fiscal year in which it
425 proposes to make expenditures thereof. The State Treasurer shall
426 provide Ellisville State School with an annual report on the
427 Ellisville State School Client's Trust Fund to indicate the total
428 monies in the trust fund, interest earned during the year,
429 expenses paid from the trust fund and such other related
430 information.

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



434 subsidiaries and divisions, which hospitals, subsidiaries and
435 divisions are licensed and regulated by the Mississippi State
436 Department of Health unless such hospitals, subsidiaries or
437 divisions voluntarily request certification by the Mississippi
438 State Department of Mental Health.

439 All new programs authorized under this section shall be
440 subject to the availability of funds appropriated therefor by the
441 Legislature;

442 (gg) Working with the advice and consent of the
443 administration of Boswell Regional Center, to enter into
444 negotiations with the Economic Development Authority of Simpson
445 County for the purpose of negotiating the possible exchange, lease
446 or sale of lands owned by Boswell Regional Center to the Economic
447 Development Authority of Simpson County. It is the intent of the
448 Mississippi Legislature that such negotiations shall ensure that
449 the financial interest of the persons with an intellectual
450 disability served by Boswell Regional Center will be held
451 paramount in the course of these negotiations. The Legislature
452 also recognizes the importance of economic development to the
453 citizens of the State of Mississippi and Simpson County, and
454 encourages fairness to the Economic Development Authority of
455 Simpson County. Any negotiations proposed which would result in
456 the recommendation for exchange, lease or sale of lands owned by
457 Boswell Regional Center must have the approval of the State Board
458 of Mental Health. The State Board of Mental Health may and has



459 the final authority as to whether or not these negotiations result
460 in the exchange, lease or sale of the properties it currently
461 holds in trust for persons with an intellectual disability served
462 at Boswell Regional Center. In any such exchange, lease or sale
463 of such lands owned by Boswell Regional Center, title to all
464 minerals, oil and gas on such lands shall be reserved, together
465 with the right of ingress and egress to remove same, whether such
466 provisions be included in the terms of any such exchange, lease or
467 sale or not.

468 If the State Board of Mental Health authorizes the sale of
469 lands owned by Boswell Regional Center, as provided for under this
470 paragraph (gg), the monies derived from the sale shall be placed
471 into a special fund that is created in the State Treasury to be
472 known as the "Boswell Regional Center Client's Trust Fund." The
473 principal of the trust fund shall remain inviolate and shall never
474 be expended. Any earnings on the principal may be expended solely
475 for the benefits of clients served at Boswell Regional Center.
476 The State Treasurer shall invest the monies of the trust fund in
477 any of the investments authorized for the Mississippi Prepaid
478 Affordable College Tuition Program under Section 37-155-9, and
479 those investments shall be subject to the limitations prescribed
480 by Section 37-155-9. Unexpended amounts remaining in the trust
481 fund at the end of a fiscal year shall not lapse into the State
482 General Fund, and any earnings on amounts in the trust fund shall
483 be deposited to the credit of the trust fund. The administration



484 of Boswell Regional Center may use any earnings on the principal
485 of the trust fund, upon appropriation by the Legislature, as
486 needed for services or facilities by the clients of Boswell
487 Regional Center. Boswell Regional Center shall make known to the
488 Legislature, through the Legislative Budget Committee and the
489 respective Appropriations Committees of the House and Senate, its
490 proposed use of the earnings on the principal of the trust fund
491 for any fiscal year in which it proposes to make expenditures
492 thereof. The State Treasurer shall provide Boswell Regional
493 Center with an annual report on the Boswell Regional Center
494 Client's Trust Fund to indicate the total monies in the trust
495 fund, interest and other income earned during the year, expenses
496 paid from the trust fund and such other related information.

497 Nothing in this section shall be construed as applying to or
498 affecting mental health/intellectual disability services provided
499 by hospitals as defined in Section 41-9-3(a), and/or their
500 subsidiaries and divisions, which hospitals, subsidiaries and
501 divisions are licensed and regulated by the Mississippi State
502 Department of Health unless such hospitals, subsidiaries or
503 divisions voluntarily request certification by the Mississippi
504 State Department of Mental Health.

505 All new programs authorized under this section shall be
506 subject to the availability of funds appropriated therefor by the
507 Legislature;



508 (hh) Notwithstanding any other section of the code, the
509 Board of Mental Health shall be authorized to fingerprint and
510 perform a criminal history record check on every employee or
511 volunteer. Every employee and volunteer shall provide a valid
512 current social security number and/or driver's license number
513 which shall be furnished to conduct the criminal history record
514 check. If no disqualifying record is identified at the state
515 level, fingerprints shall be forwarded to the Federal Bureau of
516 Investigation for a national criminal history record check;

517 (ii) The Department of Mental Health shall have the
518 authority for the development of a consumer friendly single point
519 of intake and referral system within its service areas for persons
520 with mental illness, an intellectual disability, developmental
521 disabilities or alcohol or substance abuse who need assistance
522 identifying or accessing appropriate services. The department
523 will develop and implement a comprehensive evaluation procedure
524 ensuring that, where appropriate, the affected person or their
525 parent or legal guardian will be involved in the assessment and
526 planning process. The department, as the point of intake and as
527 service provider, shall have the authority to determine the
528 appropriate institutional, hospital or community care setting for
529 persons who have been diagnosed with mental illness, an
530 intellectual disability, developmental disabilities and/or alcohol
531 or substance abuse, and may provide for the least restrictive
532 placement if the treating professional believes such a setting is



533 appropriate, if the person affected or their parent or legal
534 guardian wants such services, and if the department can do so with
535 a reasonable modification of the program without creating a
536 fundamental alteration of the program. The least restrictive
537 setting could be an institution, hospital or community setting,
538 based upon the needs of the affected person or their parent or
539 legal guardian;

540 (jj) To have the sole power and discretion to enter
541 into, sign, execute and deliver long-term or multiyear leases of
542 real and personal property owned by the Department of Mental
543 Health to and from other state and federal agencies and private
544 entities deemed to be in the public's best interest. Any monies
545 derived from such leases shall be deposited into the funds of the
546 Department of Mental Health for its exclusive use. Leases to
547 private entities shall be approved by the Department of Finance
548 and Administration and all leases shall be filed with the
549 Secretary of State;

550 (kk) To certify and establish minimum standards and
551 minimum required services for county facilities used for housing,
552 feeding and providing medical treatment for any person who has
553 been involuntarily ordered admitted to a treatment center by a
554 court of competent jurisdiction. The minimum standard for the
555 initial assessment of those persons being housed in county
556 facilities is for the assessment to be performed by a physician,
557 preferably a psychiatrist, or by a nurse practitioner, preferably



558 a psychiatric nurse practitioner. If the department finds
559 deficiencies in any such county facility or its provider based on
560 the minimum standards and minimum required services established
561 for certification, the department shall give the county or its
562 provider a six-month probationary period to bring its standards
563 and services up to the established minimum standards and minimum
564 required services. After the six-month probationary period, if
565 the department determines that the county or its provider still
566 does not meet the minimum standards and minimum required services,
567 the department may remove the certification of the county or
568 provider and require the county to contract with another county
569 having a certified facility to hold those persons for that period
570 of time pending transportation and admission to a state treatment
571 facility. Any cost incurred by a county receiving an
572 involuntarily committed person from a county with a decertified
573 holding facility shall be reimbursed by the home county to the
574 receiving county; * * *

575 (11) To provide orientation training to all new
576 commissioners of regional commissions and annual training for all
577 commissioners with continuing education regarding the Mississippi
578 mental health system and services as developed by the State
579 Department of Mental Health. Training shall be provided at the
580 expense of the department except for travel expenses which shall
581 be paid by the regional commission * * *;



582 (mm) To assess the performance of the community mental
583 health centers, the State Department of Mental Health shall
584 promulgate a rating scale with performance indicators and a
585 scorecard. The performance standards shall identify the data that
586 the community mental health centers must provide to the department
587 to enable the department to assess their performance. The
588 department shall conduct a performance review audit of each
589 community mental health center at least once every two (2) years.
590 If the community mental health center does not achieve a passing
591 score on a performance audit, the department shall give the
592 regional commission or community mental health center a nine-month
593 probationary period to achieve a passing score. If the community
594 mental health center does not achieve a passing score on the
595 performance audit after the nine-month probationary period, the
596 regional commission shall replace the community mental health
597 center's executive director and any other officers identified by
598 the department with contractors selected by the department to
599 operate the community mental health center. The department shall
600 be the party that contracts with the contractors and the
601 contractors shall report to the department. The department has
602 the authority to override a regional commission, community mental
603 health center, or both, concerning the management and operation of
604 such community mental health center or initiate and make decisions
605 concerning the management and operation of the community mental
606 health center.



607 The contractor(s) selected by the department shall have the
608 full powers and authority possessed by the officer he or she
609 replaces. The contractor(s) shall remain in place until the
610 department determines in its reasonable judgment that the
611 community mental health center has attained sustained compliance
612 with the performance standards; and

613 (nn) No rules, regulations, operational standards,
614 performance standards, or other standards promulgated by the State
615 Board of Mental Health or the State Department of Mental Health
616 shall be construed to create a cause of action.

617 **SECTION 2.** Section 41-19-33, Mississippi Code of 1972, is
618 amended as follows:

619 41-19-33. (1) Each region so designated or established
620 under Section 41-19-31 shall establish a regional commission to be
621 composed of members appointed by the boards of supervisors of the
622 various counties in the region. Each regional commission shall
623 employ or contract with an accountant for the purpose of managing
624 the finances of the commission. The accountant shall provide an
625 annual audit to the commission in addition to his or her other
626 duties. It shall be the duty of such regional commission to
627 administer mental health/intellectual disability programs
628 certified and required by the State Board of Mental Health and as
629 specified in Section 41-4-1(2). In addition, once designated and
630 established as provided hereinabove, a regional commission shall



631 have the following authority and shall pursue and promote the
632 following general purposes:

633 (a) To establish, own, lease, acquire, construct,
634 build, operate and maintain mental illness, mental health,
635 intellectual disability, alcoholism and general rehabilitative
636 facilities and services designed to serve the needs of the people
637 of the region so designated, provided that the services supplied
638 by the regional commissions shall include those services
639 determined by the Department of Mental Health to be necessary and
640 may include, in addition to the above, services for persons with
641 developmental and learning disabilities; for persons suffering
642 from narcotic addiction and problems of drug abuse and drug
643 dependence; and for the aging as designated and certified by the
644 Department of Mental Health. * * *

645 (b) (i) To establish a community mental health center
646 to provide mental health services in its region. From and after
647 the effective date of this act, the community mental health center
648 established by each regional commission before July 1, 2024, shall
649 be a community mental health center. The regional commissions may
650 establish a community mental health center that did not exist as
651 of July 1, 2024, only with the express written permission of the
652 State Board of Mental Health or the Department of Mental Health.

653 (ii) At a meeting of the board of supervisors each
654 quarter, the community mental health center shall provide a report
655 to the board of supervisors, sheriff and Chancery Court judges of



656 each county in its region. The report shall include the following
657 information for the prior month:

658 1. The occupancy percentage reported by the
659 crisis stabilization unit in the region;

660 2. The number of individuals held in jail
661 after the commitment process has been initiated and the number of
662 individuals who the community mental health center provided
663 treatment to while they were in jail, as required by Section
664 41-21-67(5);

665 3. The number of pre-affidavit screenings
666 conducted;

667 4. The number of individuals diverted to a
668 lesser restrictive alternative from commitment;

669 5. The number of crisis stabilization unit
670 denials and the reason for denial;

671 6. Medicaid billing statement; and

672 7. Cash balance as of the date of the report.

673 (iii) The board of supervisors shall provide the
674 Department of Mental Health with a summary of the community mental
675 health center's monthly report each quarter.

676 (c) If the Department of Mental Health finds
677 deficiencies in the * * * performance audit of the regional
678 commissions required by Section 41-19-33 based on the minimum
679 standards and minimum required services established for
680 certification, the department shall give the regional commission,



681 community mental health center or community service provider
682 a * * * nine-month probationary period to bring its standards and
683 services up to the established minimum standards and minimum
684 required services. The regional commission or community service
685 provider shall develop a sustainability business plan within
686 thirty (30) days of being placed on probation, which shall be
687 signed by all commissioners and shall include policies to address
688 one or more of the following: the deficiencies in programmatic
689 services, clinical service staff expectations, timely and
690 appropriate billing, processes to obtain credentialing for staff,
691 monthly reporting processes, third-party financial reporting and
692 any other required documentation as determined by the department.
693 After the * * * nine-month probationary period, if the department
694 determines that the regional commission or community service
695 provider still does not meet the minimum standards and minimum
696 required services established for certification, the department
697 may remove the certification of the commission or provider, and
698 from and after July 1, 2011, the commission or provider shall be
699 ineligible for state funds from Medicaid reimbursement or other
700 funding sources for those services. After the * * * nine-month
701 probationary period, the Department of Mental Health may identify
702 an appropriate community service provider to provide any * * *
703 mental health services in * * * the region or county that are not
704 provided by a community mental health center. However, the
705 department shall not offer reimbursement or other accommodations



706 to a community service provider of * * * mental health services
707 that were not offered to the decertified community mental health
708 center for the same or similar services.

709 (* * * d) To provide facilities and services for the
710 prevention of mental illness, mental disorders, developmental and
711 learning disabilities, alcoholism, narcotic addiction, drug abuse,
712 drug dependence and other related handicaps or problems (including
713 the problems of the aging) among the people of the region so
714 designated, and for the rehabilitation of persons suffering from
715 such illnesses, disorders, handicaps or problems as designated and
716 certified by the Department of Mental Health.

717 (* * * e) To promote increased understanding of the
718 problems of mental illness, intellectual disabilities, alcoholism,
719 developmental and learning disabilities, narcotic addiction, drug
720 abuse and drug dependence and other related problems (including
721 the problems of the aging) by the people of the region, and also
722 to promote increased understanding of the purposes and methods of
723 the rehabilitation of persons suffering from such illnesses,
724 disorders, handicaps or problems as designated and certified by
725 the Department of Mental Health.

726 (* * * f) To enter into contracts and to make such
727 other arrangements as may be necessary, from time to time, with
728 the United States government, the government of the State of
729 Mississippi and such other agencies or governmental bodies as may
730 be approved by and acceptable to the regional commission for the



731 purpose of establishing, funding, constructing, operating and
732 maintaining facilities and services for the care, treatment and
733 rehabilitation of persons suffering from mental illness, an
734 intellectual disability, alcoholism, developmental and learning
735 disabilities, narcotic addiction, drug abuse, drug dependence and
736 other illnesses, disorders, handicaps and problems (including the
737 problems of the aging) as designated and certified by the
738 Department of Mental Health.

739 (* * *g) To enter into contracts and make such other
740 arrangements as may be necessary with any and all private
741 businesses, corporations, partnerships, proprietorships or other
742 private agencies, whether organized for profit or otherwise, as
743 may be approved by and acceptable to the regional commission for
744 the purpose of establishing, funding, constructing, operating and
745 maintaining facilities and services for the care, treatment and
746 rehabilitation of persons suffering from mental illness, an
747 intellectual disability, alcoholism, developmental and learning
748 disabilities, narcotic addiction, drug abuse, drug dependence and
749 other illnesses, disorders, handicaps and problems (including the
750 problems of the aging) relating to minimum services established by
751 the Department of Mental Health.

752 (* * *h) To promote the general mental health of the
753 people of the region.

754 (* * *i) To pay the administrative costs of the
755 operation of the regional commissions, including per diem for the



756 members of the commission and its employees, attorney's fees, if
757 and when such are required in the opinion of the commission, and
758 such other expenses of the commission as may be necessary. The
759 Department of Mental Health standards and audit rules shall
760 determine what administrative cost figures shall consist of for
761 the purposes of this paragraph. Each regional commission shall
762 submit a cost report annually to the Department of Mental Health
763 in accordance with guidelines promulgated by the department.

764 (* * *j) To employ and compensate any personnel that
765 may be necessary to effectively carry out the programs and
766 services established under the provisions of the aforesaid act,
767 provided such person meets the standards established by the State
768 Board of Mental Health or the Department of Mental Health.

769 (* * *k) To acquire whatever hazard, casualty or
770 workers' compensation insurance that may be necessary for any
771 property, real or personal, owned, leased or rented by the
772 commissions, or any employees or personnel hired by the
773 commissions.

774 (* * *l) To acquire professional liability insurance
775 on all employees as may be deemed necessary and proper by the
776 commission, and to pay, out of the funds of the commission, all
777 premiums due and payable on account thereof.

778 (* * *m) To provide and finance within their own
779 facilities, or through agreements or contracts with other local,
780 state or federal agencies or institutions, nonprofit corporations,



781 or political subdivisions or representatives thereof, programs and
782 services for persons with mental illness, including treatment for
783 alcoholics, and promulgating and administering of programs to
784 combat drug abuse and programs for services for persons with an
785 intellectual disability.

786 (* * *n) To borrow money from private lending
787 institutions in order to promote any of the foregoing purposes. A
788 commission may pledge collateral, including real estate, to secure
789 the repayment of money borrowed under the authority of this
790 paragraph. Any such borrowing undertaken by a commission shall be
791 on terms and conditions that are prudent in the sound judgment of
792 the members of the commission, and the interest on any such loan
793 shall not exceed the amount specified in Section 75-17-105. Any
794 money borrowed, debts incurred or other obligations undertaken by
795 a commission, regardless of whether borrowed, incurred or
796 undertaken before or after March 15, 1995, shall be valid, binding
797 and enforceable if it or they are borrowed, incurred or undertaken
798 for any purpose specified in this section and otherwise conform to
799 the requirements of this paragraph.

800 (* * *o) To acquire, own and dispose of real and
801 personal property. Any real and personal property paid for with
802 state and/or county appropriated funds must have the written
803 approval of the Department of Mental Health and/or the county
804 board of supervisors, depending on the original source of funding,
805 before being disposed of under this paragraph.



806 (* * *p) To enter into managed care contracts and make
807 such other arrangements as may be deemed necessary or appropriate
808 by the regional commission in order to participate in any managed
809 care program. Any such contract or arrangement affecting more
810 than one (1) region must have prior written approval of the
811 Department of Mental Health before being initiated and annually
812 thereafter.

813 (* * *q) To provide facilities and services on a
814 discounted or capitated basis. Any such action when affecting
815 more than one (1) region must have prior written approval of the
816 Department of Mental Health before being initiated and annually
817 thereafter.

818 (* * *r) To enter into contracts, agreements or other
819 arrangements with any person, payor, provider or other entity,
820 under which the regional commission assumes financial risk for the
821 provision or delivery of any services, when deemed to be necessary
822 or appropriate by the regional commission. Any action under this
823 paragraph affecting more than one (1) region must have prior
824 written approval of the Department of Mental Health before being
825 initiated and annually thereafter.

826 (* * *s) To provide direct or indirect funding,
827 grants, financial support and assistance for any health
828 maintenance organization, preferred provider organization or other
829 managed care entity or contractor, where such organization, entity
830 or contractor is operated on a nonprofit basis. Any action under



831 this paragraph affecting more than one (1) region must have prior
832 written approval of the Department of Mental Health before being
833 initiated and annually thereafter.

834 (* * *t) To form, establish, operate, and/or be a
835 member of or participant in, either individually or with one or
836 more other regional commissions, any managed care entity as
837 defined in Section 83-41-403(c). Any action under this paragraph
838 affecting more than one (1) region must have prior written
839 approval of the Department of Mental Health before being initiated
840 and annually thereafter.

841 (* * *u) To meet at least annually with the board of
842 supervisors of each county in its region for the purpose of
843 presenting its total annual budget and total mental
844 health/intellectual disability services system. The commission
845 shall submit an annual report on the adult mental health services,
846 children mental health services and intellectual disability
847 services required by the State Board of Mental Health.

848 (* * *y) To provide alternative living arrangements
849 for persons with serious mental illness, including, but not
850 limited to, group homes for persons with chronic mental illness.

851 (* * *w) To make purchases and enter into contracts
852 for purchasing in compliance with the public purchasing law,
853 Sections 31-7-12 and 31-7-13, with compliance with the public
854 purchasing law subject to audit by the State Department of Audit.



855 (* * *x) To ensure that all available funds are used
856 for the benefit of persons with mental illness, persons with an
857 intellectual disability, substance abusers and persons with
858 developmental disabilities with maximum efficiency and minimum
859 administrative cost. At any time a regional commission, and/or
860 other related organization whatever it may be, accumulates surplus
861 funds in excess of one-half (1/2) of its annual operating budget,
862 the entity must submit a plan to the Department of Mental Health
863 stating the capital improvements or other projects that require
864 such surplus accumulation. If the required plan is not submitted
865 within forty-five (45) days of the end of the applicable fiscal
866 year, the Department of Mental Health shall withhold all state
867 appropriated funds from such regional commission until such time
868 as the capital improvement plan is submitted. If the submitted
869 capital improvement plan is not accepted by the department, the
870 surplus funds shall be expended by the regional commission in the
871 local mental health region on group homes for persons with mental
872 illness, persons with an intellectual disability, substance
873 abusers, children or other mental health/intellectual disability
874 services approved by the Department of Mental Health.

875 (* * *y) Notwithstanding any other provision of law,
876 to fingerprint and perform a criminal history record check on
877 every employee or volunteer. Every employee or volunteer shall
878 provide a valid current social security number and/or driver's
879 license number that will be furnished to conduct the criminal



880 history record check. If no disqualifying record is identified at
881 the state level, fingerprints shall be forwarded to the Federal
882 Bureau of Investigation for a national criminal history record
883 check.

884 (* * * z) Notwithstanding any other provisions of law,
885 each regional commission shall have the authority to create and
886 operate a primary care health clinic to treat (i) its patients;
887 and (ii) its patients' family members related within the third
888 degree; and (iii) its patients' household members or caregivers,
889 subject to the following requirements:

890 (i) The regional commission may employ and
891 compensate any personnel necessary and must satisfy applicable
892 state and federal laws and regulations regarding the
893 administration and operation of a primary care health clinic.

894 (ii) A Mississippi licensed physician must be
895 employed or under agreement with the regional commission to
896 provide medical direction and/or to carry out the physician
897 responsibilities as described under applicable state and/or
898 federal law and regulations.

899 (iii) The physician providing medical
900 direction for the primary care clinic shall not be certified
901 solely in psychiatry.

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



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

907 (vi) The regional commission must provide a
908 semiannual report to the Chairmen of the Public Health Committees
909 in both the House of Representatives and Senate. At a minimum,
910 for each reporting period, these reports shall describe the number
911 of patients provided primary care services, the types of services
912 provided, and the payer source for the patients. Except for
913 patient information and any other information that may be exempt
914 from disclosure under the Health Information Portability and
915 Accountability Act (HIPAA) and the Mississippi Public Records Act,
916 the reports shall be considered public records.

917 (vii) The regional commission must employ or
918 contract with a core clinical staff that is multidisciplinary and
919 culturally and linguistically competent.

920 (viii) The regional commission must ensure
921 that its physician as described in subparagraph (ii) of this
922 paragraph (* * * z) has admitting privileges at one or more local
923 hospitals or has an agreement with a physician who has admitting
924 privileges at one or more local hospitals to ensure continuity of
925 care.

926 (ix) The regional commission must provide an
927 independent financial audit report to the State Department of
928 Mental Health and, except for patient information and any other



929 information that may be exempt from disclosure under HIPAA and the
930 Mississippi Public Records Act, the audit report shall be
931 considered a public record.

932 For the purposes of this paragraph (* * *z), the term
933 "caregiver" means an individual who has the principal and primary
934 responsibility for caring for a child or dependent adult,
935 especially in the home setting.

936 (* * *aa) In general to take any action which will
937 promote, either directly or indirectly, any and all of the
938 foregoing purposes.

939 (* * *bb) All regional commissioners shall receive new
940 orientation training and annual training with continuing education
941 regarding the Mississippi mental health system and services as
942 developed by the State Department of Mental Health. Training
943 shall be provided at the expense of the department except for
944 travel expenses which shall be paid by the regional commission.

945 (2) The types of services established by the State
946 Department of Mental Health that must be provided by the regional
947 mental health/intellectual disability centers for certification by
948 the department, and the minimum levels and standards for those
949 services established by the department, shall be provided by the
950 regional mental health/intellectual disability centers to children
951 when such services are appropriate for children, in the
952 determination of the department.



953 (3) Each regional commission shall compile quarterly
954 financial statements and status reports from each individual
955 community health center. The compiled reports shall be submitted
956 to the coordinator quarterly. The reports shall contain a:

957 (a) Balance sheet;

958 (b) Statement of operations;

959 (c) Statement of cash flows; and

960 (d) Description of the status of individual community
961 health center's actions taken to increase access to and
962 availability of community mental health services.

963 (4) Each community mental health center shall be the entity
964 in its region responsible for delivering mental health services.
965 Each community mental health center shall deliver mental health
966 services in accordance with the rules, regulations, operational
967 standards, performance standards and other standards promulgated
968 by the State Board of Mental Health or the Department of Mental
969 Health.

970 (a) During the pre-affidavit screening process of
971 persons in its region, the community mental health center shall
972 determine, in accordance with the standards promulgated by the
973 State Board of Mental Health or the State Department of Mental
974 Health, whether the person meets the criteria for the intensive
975 community services available in its region and shall make those
976 services available to the persons as appropriate under the
977 standards promulgated by the department. During the pre-affidavit



978 screening process, the community mental health center shall
979 consider all persons who are civilly committed in its region for
980 treatment in a crisis stabilization unit to attempt to divert the
981 person from placement in a state hospital. The community mental
982 health center shall provide temporary care and maintenance, as
983 specified in Section 19-5-43, to persons during the civil
984 commitment process.

985 (b) Prior to a person's discharge from a state
986 hospital, staff of the community mental health center that will be
987 servicing the person upon discharge shall meet with the person,
988 either in person or via videoconference, to conduct assertive
989 engagement and enroll the person in appropriate services.

990 (5) On or before July 1 of each year, each community mental
991 health center shall report the annual salary and fringe benefits
992 of its executive director and any other officer with an annual
993 salary of more than One Hundred Thousand Dollars (\$100,000.00) to
994 the State Department of Mental Health. As of July 1, 2024, no
995 community mental health center's executive director shall be paid
996 an annual salary greater than one hundred twenty percent (120%) of
997 the salary received by the Executive Director of the Department of
998 Mental Health.

999 (6) On or before August 1 of each year, each community
1000 mental health center shall report its cash balance as of the
1001 preceding June 30 to the State Department of Mental Health and
1002 shall include in its annual operational plan a detailed proposal



1003 for how it intends to utilize its excess cash balance in the
1004 fiscal year commencing on the applicable July 1 of each year. The
1005 proposal shall describe how the community mental health center
1006 will utilize its cash balance to provide treatment to individuals
1007 with a serious mental illness, a serious emotional disturbance, a
1008 substance-use disorder or an intellectual or developmental
1009 disability. If after six (6) months, the community mental health
1010 center is not on course to meet its expenditure goal, the
1011 department shall give the regional commission or community mental
1012 health center a six-week probationary period to come into
1013 compliance with its expenditure goal. If the community mental
1014 health center does not come into compliance with its expenditure
1015 proposal after the six-week probationary period, the department
1016 may direct control of the community mental health center's excess
1017 cash balance to implement the expenditures toward providing
1018 community mental health services. The department shall remain in
1019 control of the community mental health center's cash balance until
1020 it determines in reasonable judgement that the community mental
1021 health center has attained sustained compliance with its
1022 expenditure plan. For the purposes of this subsection, the term
1023 "cash balance" means the amount of cash or cash equivalents that a
1024 community mental health center has in its account(s) in any bank
1025 or other financial institution of any kind or on hand as of June
1026 30 of the applicable year. For the purpose of this subsection,
1027 the term "excess cash" means the cash balance exceeding fifty



1028 percent (50%) of operating revenue for the related year cash is
1029 being reported. No community mental health center shall expend
1030 more than fifty percent (50%) of its excess cash balance in any
1031 fiscal year without the express written permission of the
1032 department. To the fullest extent reasonably feasible, each
1033 community mental health center shall utilize its cash balance to
1034 provide community mental health services.

1035 **SECTION 3.** Section 41-19-35, Mississippi Code of 1972, is
1036 amended as follows:

1037 41-19-35. (1) Except as otherwise provided in subsection
1038 (2) of this section, the board of supervisors of each
1039 participating county in the program shall appoint one (1) member
1040 to represent its county on the regional commission in its
1041 respective region for a term of four (4) years who shall serve at
1042 the will and pleasure of the appointing board of supervisors, who
1043 may be a clerk, sheriff or deputy.

1044 (2) (a) A regional commission may have a different
1045 composition than provided in subsection (1) of this section if
1046 each board of supervisors of the county or counties participating
1047 in such regional commission agrees to such composition as
1048 evidenced by resolutions adopted by the board or boards of
1049 supervisors.

1050 (b) Each member shall represent his or her county on
1051 the regional commission in its respective region for a term of



1052 four (4) years and shall serve at the will and pleasure of their
1053 appointing board of supervisors.

1054 (3) In addition, the chancery clerks of the counties in each
1055 region shall select a chancery clerk or a deputy clerk to serve as
1056 a nonvoting liaison to the commission, and the sheriffs of the
1057 counties in each region shall select a sheriff or a deputy sheriff
1058 to serve as a nonvoting liaison to the commission. Any
1059 compensation of such members shall be paid by the regional
1060 commission, in its discretion, from any funds available. Each
1061 member of the commission shall attend the orientation training for
1062 new commissioners and the annual training for all commissioners
1063 held by the Department of Mental Health. The Department of Mental
1064 Health shall notify the board of supervisors when a commissioner
1065 does not attend either the orientation training or annual
1066 training. Upon notice from the Department of Mental Health that a
1067 commissioner has failed to attend the required meetings, the
1068 appointing board of supervisors shall remove the commissioner,
1069 unless the department and the commission agree to an alternate
1070 arrangement to allow the commissioner to continue to serve until
1071 the next opportunity to attend the orientation meeting and/or the
1072 annual training.

1073 **SECTION 4.** Section 41-21-65, Mississippi Code of 1972, is
1074 amended as follows:

1075 41-21-65. (1) It is the intention of the Legislature that
1076 the filing of an affidavit under this section be a simple,



1077 inexpensive, uniform, and streamlined process for the purpose of
1078 facilitating and expediting the care of individuals in need of
1079 treatment.

1080 (2) The Uniform Civil Commitment Affidavit developed by the
1081 Department of Mental Health under this section must be provided by
1082 the clerk of the chancery court to any party or affiant seeking a
1083 civil commitment under this section, and must be utilized in all
1084 counties to commence civil commitment proceedings under this
1085 section. The affidavit must be made available to the public on
1086 the website of the Mississippi Department of Mental Health.

1087 (3) The Department of Mental Health, in consultation with
1088 the Mississippi Chancery Clerks Association, the Mississippi
1089 Conference of Chancery Court Judges and the Mississippi
1090 Association of Community Mental Health Centers, must develop a
1091 written guide setting out the steps in the commitment process no
1092 later than January 1, 2020. The guide shall be designated as the
1093 "Uniform Civil Commitment Guide" and must include, but not be
1094 limited to, the following:

1095 (a) Steps in the civil commitment process from
1096 affidavit to commitment, written in easily understandable layman's
1097 terms;

1098 (b) A schedule of fees and assessments that will be
1099 charged to commence a commitment proceeding under this section;

1100 (c) Eligibility requirements and instructions for
1101 filing a pauper's affidavit; and



1102 (d) A statement on the front cover of the guide
1103 advising that persons wishing to pursue a civil commitment under
1104 this section are not required to retain an attorney for any
1105 portion of the commitment process.

1106 (4) Immediately upon availability, but no later than January
1107 1, 2020, the Uniform Civil Commitment Guide must be provided by
1108 the clerk of the chancery court to any party or affiant seeking a
1109 civil commitment under this section and also must be made
1110 available to the public on the website of the Mississippi
1111 Department of Mental Health.

1112 (5) If any person is alleged to be in need of treatment, any
1113 relative of the person, or any interested person, may make
1114 affidavit of that fact and shall file the Uniform Civil Commitment
1115 Affidavit with the clerk of the chancery court of the county in
1116 which the person alleged to be in need of treatment resides, but
1117 the chancellor or duly appointed special master may, in his or her
1118 discretion, hear the matter in the county in which the person may
1119 be found. Prior to filing an affidavit for commitment of an
1120 individual, the relative or interested person shall be directed to
1121 the community mental health center for a pre-affidavit screening
1122 as set forth in Section 41-21-67. Pre-affidavit screening is
1123 mandatory and must be completed before any affidavit for
1124 commencement is filed. The affidavit shall set forth the name and
1125 address of the proposed patient's nearest relatives and whether
1126 the proposed patient resides or has visitation rights with any



1127 minor children, if known, and the reasons for the affidavit. The
1128 affidavit must contain factual descriptions of the proposed
1129 patient's recent behavior, including a description of the
1130 behavior, where it occurred, and over what period of time it
1131 occurred, if known. The affidavit shall state specifically that a
1132 less restrictive alternative treatment was considered and specify
1133 why treatment less restrictive than involuntary commitment is not
1134 appropriate. Each factual allegation may be supported by
1135 observations of witnesses and the pre-affidavit certified screener
1136 named in the affidavit. The Department of Mental Health, in
1137 consultation with the Mississippi Chancery Clerks' Association,
1138 shall develop a simple, one-page affidavit form for the use of
1139 affiants as provided in this section. The affidavit also must
1140 state whether the affiant has * * * received notice of the
1141 pre-affidavit screening from the community mental health center
1142 determining whether the alleged acts by the proposed respondent
1143 warrant civil commitment in lieu of other less-restrictive
1144 treatment options. No chancery clerk shall require an affiant to
1145 retain an attorney for the filing of an affidavit under this
1146 section.

1147 (6) The chancery clerk may charge a total filing fee for all
1148 services equal to the amount set out in Section 25-7-9(o), and the
1149 appropriate state and county assessments as required by law which
1150 include, but are not limited to, assessments for the Judicial
1151 Operation Fund (Section 25-7-9(3)(b)); the Electronic Court System



1152 Fund (Section 25-7-9(3)(a)); the Civil Legal Assistance Fund
1153 (Section 25-7-9(1)(k)); the Court Education and Training Fund
1154 (Section 37-26-3); State Court Constituent's Fund (Section
1155 37-26-9(4)); and reasonable court reporter's fee. Costs
1156 incidental to the court proceedings as set forth in Section
1157 41-21-79 may not be included in the assessments permitted by this
1158 subsection. The total of the fees and assessments permitted by
1159 this subsection may not exceed One Hundred Fifty Dollars
1160 (\$150.00).

1161 (7) The prohibition against charging the affiant other fees,
1162 expenses, or costs shall not preclude the imposition of monetary
1163 criminal penalties under Section 41-21-107 or any other criminal
1164 statute, or the imposition by the chancellor or duly appointed
1165 special master of monetary penalties for contempt if the affiant
1166 is found to have filed an intentionally false affidavit or filed
1167 the affidavit in bad faith for a malicious purpose.

1168 (8) Nothing in this section shall be construed so as to
1169 conflict with Section 41-21-63.

1170 **SECTION 5.** Section 41-21-67, Mississippi Code of 1972, is
1171 amended as follows:

1172 41-21-67. (1) (a) Prior to filing an affidavit for
1173 commitment of an individual, the relative or interested person
1174 shall be directed to the community mental health center in the
1175 county of financial responsibility or the county where the
1176 proposed patient is present for the conduct of a preliminary



1177 investigation to determine the need to file an affidavit of
1178 involuntary commitment. The pre-affidavit screening must be
1179 completed within twenty-four (24) hours of the community mental
1180 health center being notified. Any physician, psychologist, nurse
1181 practitioner or physician assistant conducting a screening or
1182 examination shall immediately report back to the community mental
1183 health center. Once a community mental health center receives
1184 such report, it is responsible for further action.

1185 If the community mental health center is unavailable, any
1186 reputable licensed physician, psychologist, nurse practitioner or
1187 physician assistant, as allowed in the discretion of the court,
1188 may conduct the pre-affidavit screening and examination as set
1189 forth in Section 41-21-69. The community mental health center
1190 shall appoint a pre-affidavit certified screener to conduct an
1191 investigation. The prospective petitioner may not also serve as
1192 the screener. The investigation must include:

1193 (i) An interview with the proposed patient and
1194 other individuals who appear to have knowledge of the condition of
1195 the proposed patient, if practicable. In-person interviews with
1196 the proposed patient are preferred and shall be attempted. If the
1197 proposed patient is not interviewed, specific reasons why the
1198 patient was not interviewed must be documented;

1199 (ii) Identification and investigation of specific
1200 alleged conduct that is the basis for application;



1201 (iii) Identification, exploration, and listing of
1202 the specific reasons for rejecting or recommending alternatives to
1203 involuntary commitment; and

1204 (iv) In the case of a commitment based on mental
1205 illness, information listed in paragraph (d) of this subsection
1206 for other purposes relevant to treatment.

1207 (b) In conducting the investigation required by this
1208 subsection, the screener shall have access to all relevant medical
1209 records of proposed patients currently in treatment facilities,
1210 state-operated treatment programs, or community-based treatment
1211 programs. Data collected pursuant to this paragraph shall be
1212 considered private data on individuals. The pre-affidavit
1213 screening report is not admissible as evidence in court except by
1214 agreement of counsel or as permitted by the rules of court and is
1215 not admissible in any court proceedings unrelated to the
1216 commitment proceedings.

1217 (c) The pre-affidavit certified screener shall provide
1218 a notice, written in easily understood language, to the
1219 prospective petitioner, the court, and, with the proposed
1220 patient's consent, other interested parties. The notice must
1221 contain information regarding the process, purpose, and legal
1222 effects of civil commitment.

1223 (d) When the pre-affidavit certified screener
1224 recommends commitment, a written report shall be sent to the
1225 chancery clerk for the county in which the petition is to be



1226 filed. The statement of facts contained in the written report
1227 must meet the requirements of Section 41-21-65(5), including a
1228 certification that a less restrictive alternative treatment was
1229 considered and specific enumerated reasons why treatment less
1230 restrictive than involuntary commitment is not appropriate.

1231 (e) The pre-affidavit certified screener shall refuse
1232 to support the filing of an affidavit if the investigation does
1233 not disclose evidence sufficient to support commitment. Notice of
1234 the pre-affidavit certified screener's decision shall be provided
1235 to the prospective petitioner, the court, any specific individuals
1236 identified in the examiner's statement, and to the proposed
1237 patient.

1238 (f) If the interested person wishes to proceed with a
1239 petition contrary to the recommendation of the pre-affidavit
1240 certified screener, application may be made directly to the
1241 chancellor or duly appointed special master, who shall determine
1242 whether or not to proceed with the petition. Notice of the
1243 chancellor's, or duly appointed special master's determination
1244 shall be provided to the interested party.

1245 (* * *2) * * * The authority of the chancellor may be
1246 exercised by a duly appointed special master within the chancery
1247 district. After a pre-affidavit screener has attempted to
1248 complete an in-person screening, if the person is actively violent
1249 or refuses to participate in the pre-affidavit screening and the
1250 screening cannot be completed, then upon recommendation of the



1251 community mental health center, the affidavit may be filed and a
1252 writ issued for a sheriff to intervene. After completing the
1253 pre-affidavit screening required by subsection (1) of this
1254 section, receiving the written report from the pre-affidavit
1255 certified screener, and upon filing of the affidavit provided for
1256 in Section 41-21-65 * * *, the chancery clerk, upon direction of
1257 the chancellor or duly appointed special master of the court,
1258 shall issue a writ directed to the sheriff of the proper county to
1259 take into custody the person alleged to be in need of treatment
1260 and to take the person for * * * physical and mental health
1261 examination and treatment by the appropriate community mental
1262 health center established under Section 41-19-31. The community
1263 mental health center will be designated as the first point of
1264 entry for * * * pre-affidavit screening and treatment. * * *
1265 The * * * writ may provide where the person shall be held before
1266 being taken for * * * evaluation and treatment, which shall
1267 include any licensed medical facility or crisis stabilization
1268 unit. * * * Reapplication may be made to the chancellor or duly
1269 appointed special master. If a pauper's affidavit is filed by an
1270 affiant who is a guardian or conservator of a person in need of
1271 treatment, the court shall determine if either the affiant or the
1272 person in need of treatment is a pauper and if * * * the affiant
1273 or the person in need of treatment is determined to be a pauper,
1274 the county of the residence of the respondent shall bear the costs



1275 of commitment, unless funds for those purposes are made available
1276 by the state.

1277 * * *

1278 (* * *3) Upon * * * receiving the written report from the
1279 pre-affidavit screening and a filed affidavit of commitment, the
1280 chancellor or duly appointed special master shall immediately
1281 appoint and summon two (2) reputable, licensed physicians or one
1282 (1) reputable, licensed physician and either one (1) psychologist,
1283 nurse practitioner or physician assistant to conduct a physical
1284 and mental examination of the person at a place to be designated
1285 by the clerk * * *, chancellor or duly appointed special master
1286 and to report their findings to the clerk * * *, chancellor or
1287 duly appointed special master. However, if the pre-affidavit
1288 screening recommends against commitment, the chancellor or duly
1289 appointed special master may refuse to appoint two (2) physicians
1290 to conduct a physical and mental examination. However, any nurse
1291 practitioner or physician assistant conducting the examination
1292 shall be independent from, and not under the supervision of, the
1293 other physician conducting the examination. A nurse practitioner
1294 or psychiatric nurse practitioner conducting an examination under
1295 this chapter must be functioning within a collaborative or
1296 consultative relationship with a physician as required under
1297 Section 73-15-20(3). In all counties in which there is a county
1298 health officer, the county health officer, if available, may be
1299 one (1) of the physicians so appointed. If a licensed physician



1300 is not available to conduct the physical and mental examination
1301 within forty-eight (48) hours of the * * * pre-affidavit
1302 screening, the court, in its discretion and upon good cause shown,
1303 may permit the examination to be conducted by the following: (a)
1304 two (2) nurse practitioners, one (1) of whom must be a psychiatric
1305 nurse practitioner; or (b) one (1) psychiatric nurse practitioner
1306 and one (1) psychologist or physician assistant. Neither of the
1307 physicians nor the psychologist, nurse practitioner or physician
1308 assistant selected shall be related to that person in any way, nor
1309 have any direct or indirect interest in the estate of that person
1310 nor shall any full-time staff of residential treatment facilities
1311 operated directly by the State Department of Mental Health serve
1312 as examiner.

1313 (* * * 4) The clerk shall ascertain whether the respondent
1314 is represented by an attorney, and if it is determined that the
1315 respondent does not have an attorney, the clerk shall immediately
1316 notify the chancellor or duly appointed special master of that
1317 fact. If the chancellor or duly appointed special master
1318 determines that the respondent for any reason does not have the
1319 services of an attorney, the chancellor or duly appointed special
1320 master shall immediately appoint an attorney for the respondent at
1321 the time the examiners are appointed.

1322 (* * * 5) (a) If the chancellor or duly appointed special
1323 master determines that there is probable cause to believe that the
1324 respondent * * * has mental illness and that there is no



1325 reasonable alternative to detention, the chancellor or duly
1326 appointed special master may order that the respondent be retained
1327 as an emergency patient at any licensed medical facility, crisis
1328 stabilization unit or any other available suitable location for
1329 evaluation by a physician, nurse practitioner or physician
1330 assistant and that a peace officer transport the respondent to the
1331 specified facility, unit, or location. If the community mental
1332 health center serving the county has partnered with Crisis
1333 Intervention Teams under the provisions of Sections 41-21-131
1334 through 41-21-143, the order may specify that the licensed medical
1335 facility be a designated single point of entry within the county
1336 or within an adjacent county served by the community mental health
1337 center. If the person evaluating the respondent finds that the
1338 respondent * * * has a mental illness and in need of treatment,
1339 the chancellor or duly appointed special master may order that the
1340 respondent be retained at the licensed medical facility, crisis
1341 stabilization unit or any other available suitable location as the
1342 court may so designate pending an admission hearing. If
1343 necessary, the chancellor or duly appointed special master may
1344 order a peace officer or other person to transport the respondent
1345 to that facility or suitable location. Any respondent so retained
1346 may be given such treatment as is indicated by standard medical
1347 practice. However, the respondent shall not be held in a hospital
1348 operated directly by the State Department of Mental Health * * *.



1349 (b) A jail or other detention center may not be used
1350 for custody unless:

1351 (i) The community mental health center has
1352 explored and exhausted the availability of other appropriate
1353 facilities, including local crisis stabilization units and
1354 hospitals, and any Department of Mental Health certified location;

1355 (ii) The chancellor or properly-appointed family
1356 master specifically authorizes it; and

1357 (iii) The respondent is actively violent.

1358 (c) The community mental health center shall provide
1359 documentation of the person's violent behavior and that no other
1360 appropriate facilities are available to the chancellor or duly
1361 appointed special master. The county of residence of any such
1362 person shall pay the cost of such interim treatment. No person
1363 may remain in a jail for longer than twenty-four (24) hours under
1364 the authority of this paragraph unless the community mental health
1365 center requests an additional twenty-four-hour period from the
1366 chancellor. The community mental health center shall provide
1367 treatment during this timeframe pending placement at an
1368 appropriate facility. No peace officer or any other person shall
1369 place criminal charges against a person who has a mental illness
1370 and in need of treatment pursuant to this chapter solely or
1371 primarily because the person has a mental illness or because of
1372 the unavailability of a state hospital bed.



1373 For the purposes of this subsection (5), "actively violent"
1374 means that the behavior presents an immediate and serious danger
1375 to the safety of the individual or another, the individual has
1376 inflicted or attempted to inflict serious bodily harm on another,
1377 or has acted in such a way as to create a substantial risk of
1378 serious bodily harm to another, or has engaged in extreme
1379 destruction of property; and that there is a reasonable
1380 probability that this conduct will be repeated.

1381 The provisions of this paragraph (b) shall not be construed
1382 to include jails that are designated as holding facilities under
1383 the requirement provided by Section 41-21-77.

1384 (* * *6) (a) Whenever a licensed psychologist, nurse
1385 practitioner or physician assistant who is certified to complete
1386 examinations for the purpose of commitment or a licensed physician
1387 has reason to believe that a person poses an immediate substantial
1388 likelihood of physical harm to himself or others or is gravely
1389 disabled and unable to care for himself by virtue of mental
1390 illness, as defined in Section 41-21-61(e), then the physician,
1391 psychologist, nurse practitioner or physician assistant may hold
1392 the person or may admit the person to and treat the person in a
1393 licensed medical facility, without a civil order or warrant for a
1394 period not to exceed seventy-two (72) hours. However, if the
1395 seventy-two-hour period begins or ends when the chancery clerk's
1396 office is closed, or within three (3) hours of closing, and the
1397 chancery clerk's office will be continuously closed for a time



1398 that exceeds seventy-two (72) hours, then the seventy-two-hour
1399 period is extended until the end of the next business day that the
1400 chancery clerk's office is open. The person may be held and
1401 treated as an emergency patient at any licensed medical facility,
1402 available regional mental health facility, or crisis * * *
1403 stabilization unit. The physician or psychologist, nurse
1404 practitioner or physician assistant who holds the person shall
1405 certify in writing the reasons for the need for holding.

1406 If a person is being held and treated in a licensed medical
1407 facility, and that person decides to continue treatment by
1408 voluntarily signing consent for admission and treatment, the
1409 seventy-two-hour hold may be discontinued without filing an
1410 affidavit for commitment. Any respondent so held may be given
1411 such treatment as indicated by standard medical practice. Persons
1412 acting in good faith in connection with the detention and
1413 reporting of a person believed to * * * have a mental illness
1414 shall incur no liability, civil or criminal, for those acts.

1415 (b) Whenever an individual is held for purposes of
1416 receiving treatment as prescribed under paragraph (a) of this
1417 subsection, and it is communicated to the mental health
1418 professional holding the individual that the individual resides or
1419 has visitation rights with a minor child, and if the individual is
1420 considered to be a danger to the minor child, the mental health
1421 professional shall notify the Department of Child Protection



1422 Services prior to discharge if the threat of harm continues to
1423 exist, as is required under Section 43-21-353.

1424 This paragraph (b) shall be known and may be cited as the
1425 "Andrew Lloyd Law."

1426 (7) The Department of Mental Health shall develop annual
1427 training for chancery clerks as well as orientation training for
1428 new chancery clerks regarding civil commitment laws. The
1429 Department of Mental Health shall ensure a virtual option is made
1430 available to chancery clerks. The training shall be provided at
1431 the expense of the department with travel expenses to be paid by
1432 the county.

1433 **SECTION 6.** Section 41-21-68, Mississippi Code of 1972, is
1434 amended as follows:

1435 41-21-68. (1) Regional commissions established under
1436 Section 41-19-31 et seq. are authorized to establish regional
1437 holding facilities for the treatment and holding of any person
1438 eighteen (18) years of age or older being held for the purpose of
1439 civil commitment. If a regional commission has not established a
1440 regional holding facility in accordance with this section, the
1441 regional commission shall otherwise comply with the provisions of
1442 this chapter regarding treatment facilities.

1443 (2) For the purpose of establishing regional holding
1444 facilities, each regional commission is authorized to create a
1445 holding facility fund and enter into holding facility cooperative
1446 agreements with counties both inside and outside the regional



1447 commission's designated region. Each county electing to use a
1448 regional holding facility may contribute to the regional
1449 commission's holding facility fund. The State of Mississippi may
1450 match the county's contribution by paying not more than Two
1451 Dollars (\$2.00) into the holding facility fund for each One Dollar
1452 (\$1.00) received from the counties, if sufficient funds are
1453 available.

1454 (3) Crisis stabilization units operating and receiving state
1455 funds from the Department of Mental Health as of January 1, 2015,
1456 shall not be eligible for the holding facility state matching
1457 contributions provided for in this section. The matching funds
1458 provided for in this section shall only be allocated to holding
1459 facilities established under this section. Regional commissions
1460 requesting decertification of any such crisis stabilization unit
1461 to reestablish the unit as a regional holding facility under this
1462 section in order to be eligible for state matching contributions
1463 may do so only with the approval of the Department of Mental
1464 Health.

1465 (4) Counties not contributing to a regional commission
1466 holding facility fund shall not be entitled to use of a holding
1467 facility. No patient shall be ordered by any court to a holding
1468 facility established under this section if the county in which the
1469 commitment action is pending has not entered into a cooperative
1470 agreement with a regional commission and has not made a
1471 contribution to a regional commission holding facility fund.



1472 (5) Holding facilities established under this section shall
1473 at a minimum comply with the operational standards for holding
1474 facilities established by the Department of Mental Health.
1475 Holding facilities may also seek designation and certification as
1476 a crisis stabilization unit, single point of entry, and other type
1477 of treatment facility so that they may receive reimbursement from
1478 the Division of Medicaid for eligible patients.

1479 (6) Holding facilities and committing courts shall not
1480 remove persons from the holding facility unless the removal is for
1481 clinical purposes. Persons taken to a holding facility
1482 established under this section and any treatment professionals
1483 called as witnesses shall not be required to appear at the court's
1484 location for commitment proceedings, except when extraordinary
1485 circumstances are found and determined as reflected by a written
1486 order of the chancellor or duly appointed special master. For the
1487 purpose of civil commitment hearings, persons being committed and
1488 treatment professionals may participate through videoconferencing.
1489 Holding facilities established under this section shall have the
1490 capacity and ability to provide videoconferencing between the
1491 person being held, the committing court, and treatment
1492 professionals. Any attorney for the person being held shall be
1493 present at the location of the person during videoconferenced
1494 hearings and shall have the ability to consult in private with the
1495 person.



1496 (7) Holding facilities are authorized to provide any
1497 necessary treatment in person or through the use of
1498 videoconferencing between the person and the treatment
1499 professional.

1500 (8) For purposes of public participation, jurisdiction and
1501 venue, the location of the commitment actions for persons being
1502 held at holding facilities established under this section shall be
1503 deemed to be the county of the committing court, even though the
1504 individual being committed and treatment professionals may be
1505 physically located in other jurisdictions when participating in
1506 any hearing through videoconference. The jurisdiction of the
1507 committing court and law enforcement officials transporting
1508 persons to holding facilities shall extend to other jurisdictions
1509 for the purpose of conducting hearings held by videoconferencing,
1510 and for the purpose of holding and transporting individuals to
1511 holding facilities established under this section.

1512 (9) Persons being held or detained for the purpose of civil
1513 commitment shall not have a jail photograph or "mug shot"
1514 published, except as permitted under Section 41-21-97. Persons
1515 and businesses who publish those photographs shall immediately
1516 remove the photographs from publication, and destroy any and all
1517 copies of those photographs in their possession.

1518 **SECTION 7.** Section 41-21-73, Mississippi Code of 1972, is
1519 amended as follows:



1520 41-21-73. (1) The hearing shall be conducted before the
1521 chancellor or duly appointed special master. However, the hearing
1522 may be held at the location where the respondent is being held.
1523 Within a reasonable period of time before the hearing, notice of
1524 same shall be provided the respondent and his attorney, which
1525 shall include: (a) notice of the date, time and place of the
1526 hearing; (b) a clear statement of the purpose of the hearing; (c)
1527 the possible consequences or outcome of the hearing; (d) the facts
1528 that have been alleged in support of the need for commitment; (e)
1529 the names, addresses and telephone numbers of the examiner(s); and
1530 (f) other witnesses expected to testify.

1531 (2) The respondent must be present at the hearing unless the
1532 chancellor or duly appointed special master determines that the
1533 respondent is unable to attend and makes that determination and
1534 the reasons therefor part of the record. At the time of the
1535 hearing, the respondent shall not be so under the influence or
1536 suffering from the effects of drugs, medication or other treatment
1537 so as to be hampered in participating in the proceedings. The
1538 court, at the time of the hearing, shall be presented a record of
1539 all drugs, medication or other treatment that the respondent has
1540 received pending the hearing, unless the court determines that
1541 such a record would be impractical and documents the reasons for
1542 that determination.

1543 (3) The respondent shall have the right to offer evidence,
1544 to be confronted with the witnesses against him and to



1545 cross-examine them and shall have the privilege against
1546 self-incrimination. The rules of evidence applicable in other
1547 judicial proceedings in this state shall be followed.

1548 (4) If the court finds by clear and convincing evidence that
1549 the proposed patient is a person with mental illness or a person
1550 with an intellectual disability and, if after careful
1551 consideration of reasonable alternative dispositions, including,
1552 but not limited to, dismissal of the proceedings, the court finds
1553 that there is no suitable alternative to judicial commitment, the
1554 court shall commit the patient for treatment in the least
1555 restrictive treatment facility that can meet the patient's
1556 treatment needs. However, if the person is receiving acute
1557 psychiatric treatment for a mental illness or an intellectual
1558 disability in a treatment facility at the time of the hearing, the
1559 person may not be committed to a state-operated facility unless,
1560 in addition to all other requirements of this subsection (4), the
1561 affiant for commitment shows by clear and convincing evidence that
1562 the treatment the person requires is not available in the facility
1563 the person is being treated in at the time of the hearing, and
1564 that the treatment the person requires is available only in the
1565 state-operated facility whose catchment area includes the person's
1566 county of residence. If treatment is only available at a
1567 state-operated facility, the patient shall be discharged from the
1568 treating facility. For the purposes of this subsection (4),
1569 transfers of inpatients from any treatment facility are considered



1570 discharges for documentation and statistical purposes. Treatment
1571 before admission to a state-operated facility shall be located as
1572 closely as possible to the patient's county of residence and the
1573 county of residence shall be responsible for that cost.

1574 Admissions to state-operated facilities shall be in compliance
1575 with the catchment areas established by the State Department of
1576 Mental Health. A nonresident of the state may be committed for
1577 treatment or confinement in the county where the person was found.
1578 A person who has been judicially committed under this section
1579 shall not be held in a jail or other detention facility while that
1580 person is awaiting admission to a state-operated facility. In all
1581 instances where admission to a state-operated facility is not
1582 available at the time a person is judicially committed under this
1583 section, the community mental health center whose catchment area
1584 includes the county from which the commitment order was issued
1585 must place the person in a treatment facility to receive interim
1586 treatment until admission to a state-operated facility is
1587 available. The county of residence of any such person shall pay
1588 the cost of such interim treatment. Such interim treatment shall
1589 not exceed the daily rate allowable by the Division of Medicaid.

1590 Alternatives to commitment to inpatient care may include, but
1591 shall not be limited to: voluntary or court-ordered outpatient
1592 commitment for treatment with specific reference to a treatment
1593 regimen, day treatment in a hospital, night treatment in a



1594 hospital, placement in the custody of a friend or relative, or the
1595 provision of home health services.

1596 For persons committed as having mental illness or having an
1597 intellectual disability, the initial commitment shall not exceed
1598 three (3) months.

1599 (5) No person shall be committed to a treatment facility
1600 whose primary problems are the physical disabilities associated
1601 with old age or birth defects of infancy.

1602 (6) The court shall state the findings of fact and
1603 conclusions of law that constitute the basis for the order of
1604 commitment. The findings shall include a listing of less
1605 restrictive alternatives considered by the court and the reasons
1606 that each was found not suitable.

1607 (7) A stenographic transcription shall be recorded by a
1608 stenographer or electronic recording device and retained by the
1609 court.

1610 (8) Notwithstanding any other provision of law to the
1611 contrary, neither the State Board of Mental Health or its members,
1612 nor the State Department of Mental Health or its related
1613 facilities, nor any employee of the State Department of Mental
1614 Health or its related facilities, unless related to the respondent
1615 by blood or marriage, shall be assigned or adjudicated custody,
1616 guardianship, or conservatorship of the respondent.

1617 (9) The county where a person in need of treatment is found
1618 is authorized to charge the county of the person's residence for



1619 the costs incurred while the person is confined in the county
1620 where such person was found.

1621 **SECTION 8.** Section 41-21-77, Mississippi Code of 1972, is
1622 amended as follows:

1623 41-21-77. (1) If admission is ordered at a treatment
1624 facility, the sheriff, his or her deputy or any other person
1625 appointed or authorized by the court shall immediately deliver the
1626 respondent to the director of the appropriate facility. Neither
1627 the Board of Mental Health or its members, nor the Department of
1628 Mental Health or its related facilities, nor any employee of the
1629 Department of Mental Health or its related facilities, shall be
1630 appointed, authorized or ordered to deliver the respondent for
1631 treatment, and no person shall be so delivered or admitted until
1632 the director of the admitting institution determines that
1633 facilities and services are available. Persons who have been
1634 ordered committed and are awaiting admission may be given any such
1635 treatment in the facility by a licensed physician as is indicated
1636 by standard medical practice. * * * However, a jail or detention
1637 center may not be used for persons who are awaiting admission
1638 unless the community mental health center has explored and
1639 exhausted the availability of other appropriate facilities, such
1640 as the crisis stabilization unit and the local hospital; the
1641 chancellor or duly appointed special master specifically
1642 authorizes it; and the respondent is actively violent. The
1643 community mental health center shall provide documentation of the



1644 person's violent behavior and that no other appropriate facilities
1645 are available to the chancellor or duly appointed special master.
1646 Under these circumstances, no person may remain in a jail for
1647 longer than twenty-four (24) hours, and the community mental
1648 health center shall provide treatment during this timeframe
1649 pending placement at an appropriate facility. No peace officer or
1650 any other person shall place criminal charges against a person who
1651 is mentally ill and in need of treatment pursuant to this chapter
1652 solely or primarily because the person is mentally ill or because
1653 of the unavailability of a state hospital bed. For the purposes
1654 of this subsection, "actively violent" means that the behavior
1655 presents an immediate and serious danger to the safety of the
1656 individual or another, the individual has inflicted or attempted
1657 to inflict serious bodily harm on another, or has acted in such a
1658 way as to create a substantial risk of serious bodily harm to
1659 another, or has engaged in extreme destruction of property; and
1660 there is a reasonable probability that this conduct will be
1661 repeated. No person shall be delivered or admitted to any
1662 non-Department of Mental Health treatment facility unless the
1663 treatment facility is licensed and/or certified to provide the
1664 appropriate level of psychiatric care for persons with mental
1665 illness. It is the intent of this Legislature that county-owned
1666 hospitals work with regional community mental health/intellectual
1667 disability centers in providing care to local patients. The clerk
1668 shall provide the director of the admitting institution with a



1669 certified copy of the court order, a certified copy of the
1670 appointed examiners' certificates, a certified copy of the
1671 affidavit, and any other information available concerning the
1672 physical and mental condition of the respondent. Upon
1673 notification from the United States Veterans Administration or
1674 other agency of the United States government, that facilities are
1675 available and the respondent is eligible for care and treatment in
1676 those facilities, the court may enter an order for delivery of the
1677 respondent to or retention by the Veterans Administration or other
1678 agency of the United States government, and, in those cases the
1679 chief officer to whom the respondent is so delivered or by whom he
1680 is retained shall, with respect to the respondent, be vested with
1681 the same powers as the director of the Mississippi State Hospital
1682 at Whitfield, or the East Mississippi State Hospital at Meridian,
1683 with respect to retention and discharge of the respondent.

1684 (2) (a) When admission to a treatment facility is ordered
1685 by the court, the chancery clerk shall make record of the
1686 admission. Each chancery clerk shall maintain a record of the
1687 number of persons ordered by the court to be admitted to a
1688 treatment facility, the number of hearings held by the court to
1689 determine whether a person should be admitted to a treatment
1690 facility and the number of affidavits filed to admit a person to a
1691 treatment facility under Section 41-21-61 * * * et seq.

1692 (b) The chancery clerk shall maintain a record each
1693 time such clerk receives a denial for admission to a community



1694 mental health center crisis stabilization bed, the reason provided
1695 to the clerk for such denial, and the subsequent action taken by
1696 the clerk upon receiving the denial.

1697 (c) Each chancery clerk shall provide the records
1698 required by paragraphs (a) and (b) of this subsection (2) to the
1699 Department of Mental Health within thirty (30) days of the end of
1700 each calendar quarter. Within sixty (60) days of receipt of the
1701 chancery clerk records, the Department of Mental Health shall
1702 provide a summary to the Chairpersons of the Appropriations,
1703 Public Health and Judiciary A and B Committees for the Mississippi
1704 House of Representatives and the Mississippi Senate, the
1705 Coordinator of Mental Health and the President of the Mississippi
1706 Association of Community Mental Health Centers.

1707 **SECTION 9.** Section 27-104-7, Mississippi Code of 1972, is
1708 amended as follows:

1709 27-104-7. (1) (a) There is created the Public Procurement
1710 Review Board, which shall be reconstituted on January 1, 2018, and
1711 shall be composed of the following members:

1712 (i) Three (3) individuals appointed by the
1713 Governor with the advice and consent of the Senate;

1714 (ii) Two (2) individuals appointed by the
1715 Lieutenant Governor with the advice and consent of the Senate; and

1716 (iii) The Executive Director of the Department of
1717 Finance and Administration, serving as an ex officio and nonvoting
1718 member.



1719 (b) The initial terms of each appointee shall be as
1720 follows:

1721 (i) One (1) member appointed by the Governor to
1722 serve for a term ending on June 30, 2019;

1723 (ii) One (1) member appointed by the Governor to
1724 serve for a term ending on June 30, 2020;

1725 (iii) One (1) member appointed by the Governor to
1726 serve for a term ending on June 30, 2021;

1727 (iv) One (1) member appointed by the Lieutenant
1728 Governor to serve for a term ending on June 30, 2019; and

1729 (v) One (1) member appointed by the Lieutenant
1730 Governor to serve for a term ending on June 30, 2020.

1731 After the expiration of the initial terms, all appointed
1732 members' terms shall be for a period of four (4) years from the
1733 expiration date of the previous term, and until such time as the
1734 member's successor is duly appointed and qualified.

1735 (c) When appointing members to the Public Procurement
1736 Review Board, the Governor and Lieutenant Governor shall take into
1737 consideration persons who possess at least five (5) years of
1738 management experience in general business, health care or finance
1739 for an organization, corporation or other public or private
1740 entity. Any person, or any employee or owner of a company, who
1741 receives any grants, procurements or contracts that are subject to
1742 approval under this section shall not be appointed to the Public
1743 Procurement Review Board. Any person, or any employee or owner of



1744 a company, who is a principal of the source providing a personal
1745 or professional service shall not be appointed to the Public
1746 Procurement Review Board if the principal owns or controls a
1747 greater than five percent (5%) interest or has an ownership value
1748 of One Million Dollars (\$1,000,000.00) in the source's business,
1749 whichever is smaller. No member shall be an officer or employee
1750 of the State of Mississippi while serving as a voting member on
1751 the Public Procurement Review Board.

1752 (d) Members of the Public Procurement Review Board
1753 shall be entitled to per diem as authorized by Section 25-3-69 and
1754 travel reimbursement as authorized by Section 25-3-41.

1755 (e) The members of the Public Procurement Review Board
1756 shall elect a chair from among the membership, and he or she shall
1757 preside over the meetings of the board. The board shall annually
1758 elect a vice chair, who shall serve in the absence of the chair.
1759 No business shall be transacted, including adoption of rules of
1760 procedure, without the presence of a quorum of the board. Three
1761 (3) members shall be a quorum. No action shall be valid unless
1762 approved by a majority of the members present and voting, entered
1763 upon the minutes of the board and signed by the chair. Necessary
1764 clerical and administrative support for the board shall be
1765 provided by the Department of Finance and Administration. Minutes
1766 shall be kept of the proceedings of each meeting, copies of which
1767 shall be filed on a monthly basis with the chairs of the
1768 Accountability, Efficiency and Transparency Committees of the



1769 Senate and House of Representatives and the chairs of the
1770 Appropriations Committees of the Senate and House of
1771 Representatives.

1772 (2) The Public Procurement Review Board shall have the
1773 following powers and responsibilities:

1774 (a) Approve all purchasing regulations governing the
1775 purchase or lease by any agency, as defined in Section 31-7-1, of
1776 commodities and equipment, except computer equipment acquired
1777 pursuant to Sections 25-53-1 through 25-53-29;

1778 (b) Adopt regulations governing the approval of
1779 contracts let for the construction and maintenance of state
1780 buildings and other state facilities as well as related contracts
1781 for architectural and engineering services.

1782 The provisions of this paragraph (b) shall not apply to such
1783 contracts involving buildings and other facilities of state
1784 institutions of higher learning which are self-administered as
1785 provided under this paragraph (b) or Section 37-101-15(m);

1786 (c) Adopt regulations governing any lease or rental
1787 agreement by any state agency or department, including any state
1788 agency financed entirely by federal funds, for space outside the
1789 buildings under the jurisdiction of the Department of Finance and
1790 Administration. These regulations shall require each agency
1791 requesting to lease such space to provide the following
1792 information that shall be published by the Department of Finance
1793 and Administration on its website: the agency to lease the space;



1794 the terms of the lease; the approximate square feet to be leased;
1795 the use for the space; a description of a suitable space; the
1796 general location desired for the leased space; the contact
1797 information for a person from the agency; the deadline date for
1798 the agency to have received a lease proposal; any other specific
1799 terms or conditions of the agency; and any other information
1800 deemed appropriate by the Division of Real Property Management of
1801 the Department of Finance and Administration or the Public
1802 Procurement Review Board. The information shall be provided
1803 sufficiently in advance of the time the space is needed to allow
1804 the Division of Real Property Management of the Department of
1805 Finance and Administration to review and preapprove the lease
1806 before the time for advertisement begins;

1807 (d) Adopt, in its discretion, regulations to set aside
1808 at least five percent (5%) of anticipated annual expenditures for
1809 the purchase of commodities from minority businesses; however, all
1810 such set-aside purchases shall comply with all purchasing
1811 regulations promulgated by the department and shall be subject to
1812 all bid requirements. Set-aside purchases for which competitive
1813 bids are required shall be made from the lowest and best minority
1814 business bidder; however, if no minority bid is available or if
1815 the minority bid is more than two percent (2%) higher than the
1816 lowest bid, then bids shall be accepted and awarded to the lowest
1817 and best bidder. However, the provisions in this paragraph shall
1818 not be construed to prohibit the rejection of a bid when only one



1819 (1) bid is received. Such rejection shall be placed in the
1820 minutes. For the purposes of this paragraph, the term "minority
1821 business" means a business which is owned by a person who is a
1822 citizen or lawful permanent resident of the United States and who
1823 is:

1824 (i) Black: having origins in any of the black
1825 racial groups of Africa;

1826 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
1827 Central or South American, or other Spanish or Portuguese culture
1828 or origin regardless of race;

1829 (iii) Asian-American: having origins in any of
1830 the original people of the Far East, Southeast Asia, the Indian
1831 subcontinent, or the Pacific Islands;

1832 (iv) American Indian or Alaskan Native: having
1833 origins in any of the original people of North America; or

1834 (v) Female;

1835 (e) In consultation with and approval by the Chairs of
1836 the Senate and House Public Property Committees, approve leases,
1837 for a term not to exceed eighteen (18) months, entered into by
1838 state agencies for the purpose of providing parking arrangements
1839 for state employees who work in the Woolfolk Building, the Carroll
1840 Gartin Justice Building or the Walter Sillers Office Building;

1841 (f) (i) Except as otherwise provided in subparagraph
1842 (ii) of this paragraph, promulgate rules and regulations governing
1843 the solicitation and selection of contractual services personnel,



1844 including personal and professional services contracts for any
1845 form of consulting, policy analysis, public relations, marketing,
1846 public affairs, legislative advocacy services or any other
1847 contract that the board deems appropriate for oversight, with the
1848 exception of:

1849 1. Any personal service contracts entered
1850 into by any agency that employs only nonstate service employees as
1851 defined in Section 25-9-107(c);

1852 2. Any personal service contracts entered
1853 into for computer or information technology-related services
1854 governed by the Mississippi Department of Information Technology
1855 Services;

1856 3. Any personal service contracts entered
1857 into by the individual state institutions of higher learning;

1858 4. Any personal service contracts entered
1859 into by the Mississippi Department of Transportation;

1860 5. Any personal service contracts entered
1861 into by the Department of Human Services through June 30, 2019,
1862 which the Executive Director of the Department of Human Services
1863 determines would be useful in establishing and operating the
1864 Department of Child Protection Services;

1865 6. Any personal service contracts entered
1866 into by the Department of Child Protection Services through June
1867 30, 2019;



1868 7. Any contracts for entertainers and/or
1869 performers at the Mississippi State Fairgrounds entered into by
1870 the Mississippi Fair Commission;

1871 8. Any contracts entered into by the
1872 Department of Finance and Administration when procuring aircraft
1873 maintenance, parts, equipment and/or services;

1874 9. Any contract entered into by the
1875 Department of Public Safety for service on specialized equipment
1876 and/or software required for the operation of such specialized
1877 equipment for use by the Office of Forensics Laboratories;

1878 10. Any personal or professional service
1879 contract entered into by the Mississippi Department of Health or
1880 the Department of Revenue solely in connection with their
1881 respective responsibilities under the Mississippi Medical Cannabis
1882 Act from February 2, 2022, through June 30, 2026;

1883 11. Any contract for attorney, accountant,
1884 actuary auditor, architect, engineer, anatomical pathologist, or
1885 utility rate expert services;

1886 12. Any personal service contracts approved
1887 by the Executive Director of the Department of Finance and
1888 Administration and entered into by the Coordinator of Mental
1889 Health Accessibility through June 30, 2022;

1890 13. Any personal or professional services
1891 contract entered into by the State Department of Health in



1892 carrying out its responsibilities under the ARPA Rural Water
1893 Associations Infrastructure Grant Program through June 30, 2026;

1894 14. * * * Any personal or professional
1895 services contract entered into by the Mississippi Department of
1896 Environmental Quality in carrying out its responsibilities under
1897 the Mississippi Municipality and County Water Infrastructure Grant
1898 Program Act of 2022, through June 30, 2026 * * *; and

1899 15. Any personal or professional services
1900 contract entered into by the Mississippi Department of Mental
1901 Health in carrying out its responsibilities under Section
1902 41-4-7(11).

1903 Any such rules and regulations shall provide for maintaining
1904 continuous internal audit covering the activities of such agency
1905 affecting its revenue and expenditures as required under Section
1906 7-7-3(6) (d). Any rules and regulation changes related to personal
1907 and professional services contracts that the Public Procurement
1908 Review Board may propose shall be submitted to the Chairs of the
1909 Accountability, Efficiency and Transparency Committees of the
1910 Senate and House of Representatives and the Chairs of the
1911 Appropriation Committees of the Senate and House of
1912 Representatives at least fifteen (15) days before the board votes
1913 on the proposed changes, and those rules and regulation changes,
1914 if adopted, shall be promulgated in accordance with the
1915 Mississippi Administrative Procedures Act.



1916 (ii) From and after July 1, 2024, the Public
1917 Procurement Review Board shall promulgate rules and regulations
1918 that require the Department of Finance and Administration to
1919 conduct personal and professional services solicitations as
1920 provided in subparagraph (i) of this paragraph for those services
1921 in excess of Seventy-five Thousand Dollars (\$75,000.00) for the
1922 Department of Marine Resources, the Department of Wildlife,
1923 Fisheries and Parks, the Mississippi Emergency Management Agency
1924 and the Mississippi Development Authority, with assistance to be
1925 provided from these entities. Any powers that have been conferred
1926 upon agencies in order to comply with the provisions of this
1927 section for personal and professional services solicitations shall
1928 be conferred upon the Department of Finance and Administration to
1929 conduct personal and professional services solicitations for the
1930 Department of Marine Resources, the Department of Wildlife,
1931 Fisheries and Parks, the Mississippi Emergency Management Agency
1932 and the Mississippi Development Authority for those services in
1933 excess of Seventy-five Thousand Dollars (\$75,000.00). The
1934 Department of Finance and Administration shall make any
1935 submissions that are required to be made by other agencies to the
1936 Public Procurement Review Board for the Department of Marine
1937 Resources, the Department of Wildlife, Fisheries and Parks, the
1938 Mississippi Emergency Management Agency and the Mississippi
1939 Development Authority.



1940 The provisions of this subparagraph (ii) shall stand repealed
1941 on June 30, 2027;

1942 (g) Approve all personal and professional services
1943 contracts involving the expenditures of funds in excess of
1944 Seventy-five Thousand Dollars (\$75,000.00), except as provided in
1945 paragraph (f) of this subsection (2) and in subsection (8);

1946 (h) Develop mandatory standards with respect to
1947 contractual services personnel that require invitations for public
1948 bid, requests for proposals, record keeping and financial
1949 responsibility of contractors. The Public Procurement Review
1950 Board shall, unless exempted under this paragraph (h) or under
1951 paragraph (i) or (o) of this subsection (2), require the agency
1952 involved to submit the procurement to a competitive procurement
1953 process, and may reserve the right to reject any or all resulting
1954 procurements;

1955 (i) Prescribe certain circumstances by which agency
1956 heads may enter into contracts for personal and professional
1957 services without receiving prior approval from the Public
1958 Procurement Review Board. The Public Procurement Review Board may
1959 establish a preapproved list of providers of various personal and
1960 professional services for set prices with which state agencies may
1961 contract without bidding or prior approval from the board;

1962 (i) Agency requirements may be fulfilled by
1963 procuring services performed incident to the state's own programs.
1964 The agency head shall determine in writing whether the price



1965 represents a fair market value for the services. When the
1966 procurements are made from other governmental entities, the
1967 private sector need not be solicited; however, these contracts
1968 shall still be submitted for approval to the Public Procurement
1969 Review Board.

1970 (ii) Contracts between two (2) state agencies,
1971 both under Public Procurement Review Board purview, shall not
1972 require Public Procurement Review Board approval. However, the
1973 contracts shall still be entered into the enterprise resource
1974 planning system;

1975 (j) Provide standards for the issuance of requests for
1976 proposals, the evaluation of proposals received, consideration of
1977 costs and quality of services proposed, contract negotiations, the
1978 administrative monitoring of contract performance by the agency
1979 and successful steps in terminating a contract;

1980 (k) Present recommendations for governmental
1981 privatization and to evaluate privatization proposals submitted by
1982 any state agency;

1983 (l) Authorize personal and professional service
1984 contracts to be effective for more than one (1) year provided a
1985 funding condition is included in any such multiple year contract,
1986 except the State Board of Education, which shall have the
1987 authority to enter into contractual agreements for student
1988 assessment for a period up to ten (10) years. The State Board of



1989 Education shall procure these services in accordance with the
1990 Public Procurement Review Board procurement regulations;

1991 (m) Request the State Auditor to conduct a performance
1992 audit on any personal or professional service contract;

1993 (n) Prepare an annual report to the Legislature
1994 concerning the issuance of personal and professional services
1995 contracts during the previous year, collecting any necessary
1996 information from state agencies in making such report;

1997 (o) Develop and implement the following standards and
1998 procedures for the approval of any sole source contract for
1999 personal and professional services regardless of the value of the
2000 procurement:

2001 (i) For the purposes of this paragraph (o), the
2002 term "sole source" means only one (1) source is available that can
2003 provide the required personal or professional service.

2004 (ii) An agency that has been issued a binding,
2005 valid court order mandating that a particular source or provider
2006 must be used for the required service must include a copy of the
2007 applicable court order in all future sole source contract reviews
2008 for the particular personal or professional service referenced in
2009 the court order.

2010 (iii) Any agency alleging to have a sole source
2011 for any personal or professional service, other than those
2012 exempted under paragraph (f) of this subsection (2) and subsection
2013 (8), shall publish on the procurement portal website established



2014 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)
2015 days, the terms of the proposed contract for those services. In
2016 addition, the publication shall include, but is not limited to,
2017 the following information:

2018 1. The personal or professional service
2019 offered in the contract;

2020 2. An explanation of why the personal or
2021 professional service is the only one that can meet the needs of
2022 the agency;

2023 3. An explanation of why the source is the
2024 only person or entity that can provide the required personal or
2025 professional service;

2026 4. An explanation of why the amount to be
2027 expended for the personal or professional service is reasonable;
2028 and

2029 5. The efforts that the agency went through
2030 to obtain the best possible price for the personal or professional
2031 service.

2032 (iv) If any person or entity objects and proposes
2033 that the personal or professional service published under
2034 subparagraph (iii) of this paragraph (o) is not a sole source
2035 service and can be provided by another person or entity, then the
2036 objecting person or entity shall notify the Public Procurement
2037 Review Board and the agency that published the proposed sole



2038 source contract with a detailed explanation of why the personal or
2039 professional service is not a sole source service.

2040 (v) 1. If the agency determines after review that
2041 the personal or professional service in the proposed sole source
2042 contract can be provided by another person or entity, then the
2043 agency must withdraw the sole source contract publication from the
2044 procurement portal website and submit the procurement of the
2045 personal or professional service to an advertised competitive bid
2046 or selection process.

2047 2. If the agency determines after review that
2048 there is only one (1) source for the required personal or
2049 professional service, then the agency may appeal to the Public
2050 Procurement Review Board. The agency has the burden of proving
2051 that the personal or professional service is only provided by one
2052 (1) source.

2053 3. If the Public Procurement Review Board has
2054 any reasonable doubt as to whether the personal or professional
2055 service can only be provided by one (1) source, then the agency
2056 must submit the procurement of the personal or professional
2057 service to an advertised competitive bid or selection process. No
2058 action taken by the Public Procurement Review Board in this appeal
2059 process shall be valid unless approved by a majority of the
2060 members of the Public Procurement Review Board present and voting.

2061 (vi) The Public Procurement Review Board shall
2062 prepare and submit a quarterly report to the House of



2063 Representatives and Senate Accountability, Efficiency and
2064 Transparency Committees that details the sole source contracts
2065 presented to the Public Procurement Review Board and the reasons
2066 that the Public Procurement Review Board approved or rejected each
2067 contract. These quarterly reports shall also include the
2068 documentation and memoranda required in subsection (4) of this
2069 section. An agency that submitted a sole source contract shall be
2070 prepared to explain the sole source contract to each committee by
2071 December 15 of each year upon request by the committee;

2072 (p) Assess any fines and administrative penalties
2073 provided for in Sections 31-7-401 through 31-7-423.

2074 (3) All submissions shall be made sufficiently in advance of
2075 each monthly meeting of the Public Procurement Review Board as
2076 prescribed by the Public Procurement Review Board. If the Public
2077 Procurement Review Board rejects any contract submitted for review
2078 or approval, the Public Procurement Review Board shall clearly set
2079 out the reasons for its action, including, but not limited to, the
2080 policy that the agency has violated in its submitted contract and
2081 any corrective actions that the agency may take to amend the
2082 contract to comply with the rules and regulations of the Public
2083 Procurement Review Board.

2084 (4) All sole source contracts for personal and professional
2085 services awarded by state agencies, other than those exempted
2086 under Section 27-104-7(2)(f) and (8), whether approved by an
2087 agency head or the Public Procurement Review Board, shall contain



2088 in the procurement file a written determination for the approval,
2089 using a request form furnished by the Public Procurement Review
2090 Board. The written determination shall document the basis for the
2091 determination, including any market analysis conducted in order to
2092 ensure that the service required was practicably available from
2093 only one (1) source. A memorandum shall accompany the request
2094 form and address the following four (4) points:

2095 (a) Explanation of why this service is the only service
2096 that can meet the needs of the purchasing agency;

2097 (b) Explanation of why this vendor is the only
2098 practicably available source from which to obtain this service;

2099 (c) Explanation of why the price is considered
2100 reasonable; and

2101 (d) Description of the efforts that were made to
2102 conduct a noncompetitive negotiation to get the best possible
2103 price for the taxpayers.

2104 (5) In conjunction with the State Personnel Board, the
2105 Public Procurement Review Board shall develop and promulgate rules
2106 and regulations to define the allowable legal relationship between
2107 contract employees and the contracting departments, agencies and
2108 institutions of state government under the jurisdiction of the
2109 State Personnel Board, in compliance with the applicable rules and
2110 regulations of the federal Internal Revenue Service (IRS) for
2111 federal employment tax purposes. Under these regulations, the
2112 usual common law rules are applicable to determine and require



2113 that such worker is an independent contractor and not an employee,
2114 requiring evidence of lawful behavioral control, lawful financial
2115 control and lawful relationship of the parties. Any state
2116 department, agency or institution shall only be authorized to
2117 contract for personnel services in compliance with those
2118 regulations.

2119 (6) No member of the Public Procurement Review Board shall
2120 use his or her official authority or influence to coerce, by
2121 threat of discharge from employment, or otherwise, the purchase of
2122 commodities, the contracting for personal or professional
2123 services, or the contracting for public construction under this
2124 chapter.

2125 (7) Notwithstanding any other laws or rules to the contrary,
2126 the provisions of subsection (2) of this section shall not be
2127 applicable to the Mississippi State Port Authority at Gulfport.

2128 (8) Nothing in this section shall impair or limit the
2129 authority of the Board of Trustees of the Public Employees'
2130 Retirement System to enter into any personal or professional
2131 services contracts directly related to their constitutional
2132 obligation to manage the trust funds, including, but not limited
2133 to, actuarial, custodial banks, cash management, investment
2134 consultant and investment management contracts. Nothing in this
2135 section shall impair or limit the authority of the State Treasurer
2136 to enter into any personal or professional services contracts
2137 involving the management of trust funds, including, but not



2138 limited to, actuarial, custodial banks, cash management,
2139 investment consultant and investment management contracts.

2140 (9) Through December 31, 2024, the provisions of this
2141 section related to rental agreements or leasing of real property
2142 for the purpose of conducting agency business shall not apply to
2143 the Office of Workforce Development created in Section 37-153-7.

2144 **SECTION 10.** By December 2024 and every year thereafter, PEER
2145 and the Department of Mental Health shall provide a report to the
2146 House and Senate Public Health Committees on information related
2147 to this act.

2148 **SECTION 11.** This act shall take effect and be in force from
2149 and after July 1, 2024.

