

By: Senator(s) Sparks

To: Judiciary, Division A

SENATE BILL NO. 2821

1 AN ACT TO BRING FORWARD SECTIONS 9-23-1 THROUGH 9-23-23,
 2 MISSISSIPPI CODE OF 1972, WHICH ARE THE PROVISIONS THAT ENACT THE
 3 ALYCE GRIFFIN CLARKE INTERVENTION COURT ACT; TO AMEND SECTION
 4 9-23-11, MISSISSIPPI CODE OF 1972, TO MAKE A NONSUBSTANTIVE,
 5 TECHNICAL REVISION; TO BRING FORWARD SECTION 9-23-51, MISSISSIPPI
 6 CODE OF 1972, WHICH IS THE PROVISION THAT ESTABLISHES THE DRUG
 7 COURT FUND IN THE STATE TREASURY FOR THE PURPOSE OF POSSIBLE
 8 AMENDMENT; TO BRING FORWARD SECTION 9-25-1, MISSISSIPPI CODE OF
 9 1972, WHICH IS THE PROVISION THAT CREATE THE VETERAN TREATMENT
 10 COURTS FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO BRING FORWARD
 11 SECTIONS 9-27-1 THROUGH 9-27-21, MISSISSIPPI CODE OF 1972, WHICH
 12 ARE THE PROVISIONS THAT ENACT THE RIVERS MCGRAW MENTAL HEALTH
 13 TREATMENT COURT ACT FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR
 14 RELATED PURPOSES.

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

16 **SECTION 1.** Section 9-23-1, Mississippi Code of 1972, is
 17 brought forward as follows:

18 9-23-1. This chapter shall be known and may be cited as the
 19 "Alyce Griffin Clarke Intervention Court Act."

20 **SECTION 2.** Section 9-23-3, Mississippi Code of 1972, is
 21 brought forward as follows:

22 9-23-3. (1) The Legislature of Mississippi recognizes the
 23 critical need for judicial intervention to reduce the incidence of
 24 alcohol and drug use, alcohol and drug addiction, and crimes



25 committed as a result of alcohol and drug use and alcohol and drug
26 addiction. It is the intent of the Legislature to facilitate
27 local intervention court alternative orders adaptable to chancery,
28 circuit, county, youth, municipal and justice courts.

29 (2) The goals of the intervention courts under this chapter
30 include the following:

31 (a) To reduce alcoholism and other drug dependencies
32 among adult and juvenile offenders and defendants and among
33 respondents in juvenile petitions for abuse, neglect or both;

34 (b) To reduce criminal and delinquent recidivism and
35 the incidence of child abuse and neglect;

36 (c) To reduce the alcohol-related and other
37 drug-related court workload;

38 (d) To increase personal, familial and societal
39 accountability of adult and juvenile offenders and defendants and
40 respondents in juvenile petitions for abuse, neglect or both;

41 (e) To promote effective interaction and use of
42 resources among criminal and juvenile justice personnel, child
43 protective services personnel and community agencies; and

44 (f) To use corrections resources more effectively by
45 redirecting prison-bound offenders whose criminal conduct is
46 driven in part by drug and alcohol dependence to intensive
47 supervision and clinical treatment available in the intervention
48 court.



49 **SECTION 3.** Section 9-23-5, Mississippi Code of 1972, is
50 brought forward as follows:

51 9-23-5. For the purposes of this chapter, the following
52 words and phrases shall have the meanings ascribed unless the
53 context clearly requires otherwise:

54 (a) "Chemical" tests means the analysis of an
55 individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v)
56 saliva, (vi) urine, or (vii) other bodily substance to determine
57 the presence of alcohol or a controlled substance.

58 (b) "Crime of violence" means an offense listed in
59 Section 97-3-2.

60 (c) "Intervention court" means a drug court, mental
61 health court, veterans court or problem-solving court that
62 utilizes an immediate and highly structured intervention process
63 for eligible defendants or juveniles that brings together mental
64 health professionals, substance abuse professionals, local social
65 programs and intensive judicial monitoring.

66 (d) "Evidence-based practices" means supervision
67 policies, procedures and practices that scientific research
68 demonstrates reduce recidivism.

69 (e) "Risk and needs assessment" means the use of an
70 actuarial assessment tool validated on a Mississippi corrections
71 population to determine a person's risk to reoffend and the
72 characteristics that, if addressed, reduce the risk to reoffend.



73 **SECTION 4.** Section 9-23-7, Mississippi Code of 1972, is
74 brought forward as follows:

75 9-23-7. The Administrative Office of Courts shall be
76 responsible for certification and monitoring of local intervention
77 courts according to standards promulgated by the State
78 Intervention Courts Advisory Committee.

79 **SECTION 5.** Section 9-23-9, Mississippi Code of 1972, is
80 brought forward as follows:

81 9-23-9. (1) The State Intervention Courts Advisory
82 Committee is established to develop and periodically update
83 proposed statewide evaluation plans and models for monitoring all
84 critical aspects of intervention courts. The committee must
85 provide the proposed evaluation plans to the Chief Justice and the
86 Administrative Office of Courts. The committee shall be chaired
87 by the Director of the Administrative Office of Courts or a
88 designee of the director and shall consist of eleven (11) members
89 all of whom shall be appointed by the Supreme Court. The members
90 shall be broadly representative of the courts, mental health,
91 veterans affairs, law enforcement, corrections, criminal defense
92 bar, prosecutors association, juvenile justice, child protective
93 services and substance abuse treatment communities.

94 (2) The State Intervention Courts Advisory Committee may
95 also make recommendations to the Chief Justice, the Director of
96 the Administrative Office of Courts and state officials concerning
97 improvements to intervention court policies and procedures



98 including the intervention court certification process. The
99 committee may make suggestions as to the criteria for eligibility,
100 and other procedural and substantive guidelines for intervention
101 court operation.

102 (3) The State Intervention Courts Advisory Committee shall
103 act as arbiter of disputes arising out of the operation of
104 intervention courts established under this chapter and make
105 recommendations to improve the intervention courts; it shall also
106 make recommendations to the Supreme Court necessary and incident
107 to compliance with established rules.

108 (4) The State Intervention Courts Advisory Committee shall
109 establish through rules and regulations a viable and fiscally
110 responsible plan to expand the number of adult and juvenile
111 intervention court programs operating in Mississippi. These rules
112 and regulations shall include plans to increase participation in
113 existing and future programs while maintaining their voluntary
114 nature.

115 (5) The State Intervention Courts Advisory Committee shall
116 receive and review the monthly reports submitted to the
117 Administrative Office of Courts by each certified intervention
118 court and provide comments and make recommendations, as necessary,
119 to the Chief Justice and the Director of the Administrative Office
120 of Courts.

121 **SECTION 6.** Section 9-23-11, Mississippi Code of 1972, is
122 amended as follows:



123 9-23-11. (1) The Administrative Office of Courts shall
124 establish, implement and operate a uniform certification process
125 for all intervention courts and other problem-solving courts
126 including juvenile courts, veterans courts or any other court
127 designed to adjudicate criminal actions involving an identified
128 classification of criminal defendant to ensure funding for
129 intervention courts supports effective and proven practices that
130 reduce recidivism and substance dependency among their
131 participants.

132 (2) The Administrative Office of Courts shall establish a
133 certification process that ensures any new or existing
134 intervention court meets minimum standards for intervention court
135 operation.

136 (a) These standards shall include, but are not limited
137 to:

138 (i) The use of evidence-based practices including,
139 but not limited to, the use of a valid and reliable risk and needs
140 assessment tool to identify participants and deliver appropriate
141 interventions;

142 (ii) Targeting medium to high-risk offenders for
143 participation;

144 (iii) The use of current, evidence-based
145 interventions proven to reduce dependency on drugs or alcohol, or
146 both;

147 (iv) Frequent testing for alcohol or drugs;



148 (v) Coordinated strategy between all intervention
149 court program personnel involving the use of graduated clinical
150 interventions;

151 (vi) Ongoing judicial interaction with each
152 participant; and

153 (vii) Monitoring and evaluation of intervention
154 court program implementation and outcomes through data collection
155 and reporting.

156 (b) Intervention court certification applications shall
157 include:

158 (i) A description of the need for the intervention
159 court;

160 (ii) The targeted population for the intervention
161 court;

162 (iii) The eligibility criteria for intervention
163 court participants;

164 (iv) A description of the process for identifying
165 appropriate participants including the use of a risk and needs
166 assessment and a clinical assessment;

167 (v) A description of the intervention court
168 intervention components, including anticipated budget and
169 implementation plan;

170 (vi) The data collection plan which shall include
171 collecting the following data:

172 1. Total number of participants;



- 173 2. Total number of successful participants;
174 3. Total number of unsuccessful participants
175 and the reason why each participant did not complete the program;
176 4. Total number of participants who were
177 arrested for a new criminal offense while in the intervention
178 court program;
179 5. Total number of participants who were
180 convicted of a new felony or misdemeanor offense while in the
181 intervention court program;
182 6. Total number of participants who committed
183 at least one (1) violation while in the intervention court program
184 and the resulting sanction(s);
185 7. Results of the initial risk and needs
186 assessment or other clinical assessment conducted on each
187 participant; * * *
188 8. Total number of applications for screening
189 by race, gender, offenses charged, indigence and, if not accepted,
190 the reason for nonacceptance; and
191 9. Any other data or information as required
192 by the Administrative Office of Courts.

193 (c) Every intervention court shall be certified under
194 the following schedule:

195 (i) An intervention court application submitted
196 after July 1, 2014, shall require certification of the
197 intervention court based on the proposed drug court plan.



198 (ii) An intervention court initially established
199 and certified after July 1, 2014, shall be recertified after its
200 second year of funded operation on a time frame consistent with
201 the other certified courts of its type.

202 (iii) A certified adult felony intervention court
203 in existence on December 31, 2018, must submit a recertification
204 petition by July 1, 2019, and be recertified under the
205 requirements of this section on or before December 31, 2019; after
206 the recertification, all certified adult felony intervention
207 courts must submit a recertification petition every two (2) years
208 to the Administrative Office of Courts. The recertification
209 process must be completed by December 31 * * * of every odd
210 calendar year.

211 (iv) A certified youth, family, misdemeanor or
212 chancery intervention court in existence on December 31, 2018,
213 must submit a recertification petition by July 31, 2020, and be
214 recertified under the requirements of this section by December 31,
215 2020. After the recertification, all certified youth, family,
216 misdemeanor and chancery intervention courts must submit a
217 recertification petition every two (2) years to the Administrative
218 Office of Courts. The recertification process must be completed
219 by December 31 * * * of every even calendar year.

220 (3) All certified intervention courts shall measure
221 successful completion of the drug court based on those



222 participants who complete the program without a new criminal
223 conviction.

224 (4) (a) All certified drug courts must collect and submit
225 to the Administrative Office of Courts each month, the following
226 data:

227 (i) Total number of participants at the beginning
228 of the month;

229 (ii) Total number of participants at the end of
230 the month;

231 (iii) Total number of participants who began the
232 program in the month;

233 (iv) Total number of participants who successfully
234 completed the intervention court in the month;

235 (v) Total number of participants who left the
236 program in the month;

237 (vi) Total number of participants who were
238 arrested for a new criminal offense while in the intervention
239 court program in the month;

240 (vii) Total number of participants who were
241 convicted for a new criminal arrest while in the intervention
242 court program in the month; and

243 (viii) Total number of participants who committed
244 at least one (1) violation while in the intervention court program
245 and any resulting sanction(s).



246 (b) By August 1, 2015, and each year thereafter, the
247 Administrative Office of Courts shall report to the PEER Committee
248 the information in subsection (4)(a) of this section in a
249 sortable, electronic format.

250 (5) All certified intervention courts may individually
251 establish rules and may make special orders and rules as necessary
252 that do not conflict with the rules promulgated by the Supreme
253 Court or the Administrative Office of Courts.

254 (6) A certified intervention court may appoint the full- or
255 part-time employees it deems necessary for the work of the
256 intervention court and shall fix the compensation of those
257 employees. Such employees shall serve at the will and pleasure of
258 the judge or the judge's designee.

259 (7) The Administrative Office of Courts shall promulgate
260 rules and regulations to carry out the certification and
261 re-certification process and make any other policies not
262 inconsistent with this section to carry out this process.

263 (8) A certified intervention court established under this
264 chapter is subject to the regulatory powers of the Administrative
265 Office of Courts as set forth in Section 9-23-17.

266 **SECTION 7.** Section 9-23-13, Mississippi Code of 1972, is
267 brought forward as follows:

268 9-23-13. (1) An intervention court's alcohol and drug
269 intervention component shall provide for eligible individuals,
270 either directly or through referrals, a range of necessary court



271 intervention services, including, but not limited to, the
272 following:

273 (a) Screening using a valid and reliable assessment
274 tool effective for identifying alcohol and drug dependent persons
275 for eligibility and appropriate services;

276 (b) Clinical assessment; for a DUI offense, if the
277 person has two (2) or more DUI convictions, the court shall order
278 the person to undergo an assessment that uses a standardized
279 evidence-based instrument performed by a physician to determine
280 whether the person has a diagnosis for alcohol and/or drug
281 dependence and would likely benefit from a court-approved
282 medication-assisted treatment indicated and approved for the
283 treatment of alcohol and/or drug dependence by the United States
284 Food and Drug Administration, as specified in the most recent
285 Diagnostic and Statistical Manual of Mental Disorders published by
286 the American Psychiatric Association. Upon considering the
287 results of the assessment, the court may refer the person to a
288 rehabilitative program that offers one or more forms of
289 court-approved medications that are approved for the treatment of
290 alcohol and/or drug dependence by the United States Food and Drug
291 Administration;

292 (c) Education;

293 (d) Referral;

294 (e) Service coordination and case management; and

295 (f) Counseling and rehabilitative care.



296 (2) Any inpatient treatment or inpatient detoxification
297 program ordered by the court shall be certified by the Department
298 of Mental Health, other appropriate state agency or the equivalent
299 agency of another state.

300 (3) All intervention courts shall make available the option
301 for participants to use court-approved medication-assisted
302 treatment while participating in the programs of the court in
303 accordance with the recommendations of the National Drug Court
304 Institute.

305 **SECTION 8.** Section 9-23-15, Mississippi Code of 1972, is
306 brought forward as follows:

307 9-23-15. (1) In order to be eligible for alternative
308 sentencing through a local intervention court, the participant
309 must satisfy each of the following criteria:

310 (a) The participant cannot have any felony convictions
311 for any offenses that are crimes of violence as defined in Section
312 97-3-2 within the previous ten (10) years.

313 (b) The crime before the court cannot be a crime of
314 violence as defined in Section 97-3-2.

315 (c) Other criminal proceedings alleging commission of a
316 crime of violence cannot be pending against the participant.

317 (d) The participant cannot be charged with burglary of
318 a dwelling under Section 97-17-23(2) or 97-17-37.



319 (e) The crime before the court cannot be a charge of
320 driving under the influence of alcohol or any other drug or drugs
321 that resulted in the death of a person.

322 (f) The crime charged cannot be one of trafficking in
323 controlled substances under Section 41-29-139(f), nor can the
324 participant have a prior conviction for same.

325 (2) Participation in the services of an alcohol and drug
326 intervention component shall be open only to the individuals over
327 whom the court has jurisdiction, except that the court may agree
328 to provide the services for individuals referred from another
329 intervention court. In cases transferred from another
330 jurisdiction, the receiving judge shall act as a special master
331 and make recommendations to the sentencing judge.

332 (3) (a) As a condition of participation in an intervention
333 court, a participant may be required to undergo a chemical test or
334 a series of chemical tests as specified by the intervention court.
335 A participant is liable for the costs of all chemical tests
336 required under this section, regardless of whether the costs are
337 paid to the intervention court or the laboratory; however, if
338 testing is available from other sources or the program itself, the
339 judge may waive any fees for testing. The judge may waive all
340 fees if the applicant is determined to be indigent.

341 (b) A laboratory that performs a chemical test under
342 this section shall report the results of the test to the
343 intervention court.



344 (4) A person does not have a right to participate in
345 intervention court under this chapter. The court having
346 jurisdiction over a person for a matter before the court shall
347 have the final determination about whether the person may
348 participate in intervention court under this chapter. However,
349 any person meeting the eligibility criteria in subsection (1) of
350 this section shall, upon request, be screened for admission to
351 intervention court.

352 **SECTION 9.** Section 9-23-17, Mississippi Code of 1972, is
353 brought forward as follows:

354 9-23-17. With regard to any intervention court, the
355 Administrative Office of Courts shall do the following:

356 (a) Certify and re-certify intervention court
357 applications that meet standards established by the Administrative
358 Office of Courts in accordance with this chapter.

359 (b) Ensure that the structure of the intervention
360 component complies with rules adopted under this section and
361 applicable federal regulations.

362 (c) Revoke the authorization of a program upon a
363 determination that the program does not comply with rules adopted
364 under this section and applicable federal regulations.

365 (d) Make agreements and contracts to effectuate the
366 purposes of this chapter with:

367 (i) Another department, authority or agency of the
368 state;



369 (ii) Another state;
370 (iii) The federal government;
371 (iv) A state-supported or private university; or
372 (v) A public or private agency, foundation,
373 corporation or individual.

374 (e) Directly, or by contract, approve and certify any
375 intervention component established under this chapter.

376 (f) Require, as a condition of operation, that each
377 intervention court created or funded under this chapter be
378 certified by the Administrative Office of Courts.

379 (g) Collect monthly data reports submitted by all
380 certified intervention courts, provide those reports to the State
381 Intervention Courts Advisory Committee, compile an annual report
382 summarizing the data collected and the outcomes achieved by all
383 certified intervention courts and submit the annual report to the
384 Oversight Task Force.

385 (h) Every three (3) years contract with an external
386 evaluator to conduct an evaluation of the effectiveness of the
387 intervention court program, both statewide and individual
388 intervention court programs, in complying with the key components
389 of the intervention courts adopted by the National Association of
390 Drug Court Professionals.

391 (i) Adopt rules to implement this chapter.

392 **SECTION 10.** Section 9-23-19, Mississippi Code of 1972, is
393 brought forward as follows:



394 9-23-19. (1) All monies received from any source by the
395 intervention court shall be accumulated in a fund to be used only
396 for intervention court purposes. Any funds remaining in this fund
397 at the end of a fiscal year shall not lapse into any general fund,
398 but shall be retained in the Intervention Court Fund for the
399 funding of further activities by the intervention court.

400 (2) An intervention court may apply for and receive the
401 following:

402 (a) Gifts, bequests and donations from private sources.

403 (b) Grant and contract money from governmental sources.

404 (c) Other forms of financial assistance approved by the
405 court to supplement the budget of the intervention court.

406 (3) The costs of participation in an alcohol and drug
407 intervention program required by the certified intervention court
408 may be paid by the participant or out of user fees or such other
409 state, federal or private funds that may, from time to time, be
410 made available.

411 (4) The court may assess such reasonable and appropriate
412 fees to be paid to the local Intervention Court Fund for
413 participation in an alcohol or drug intervention program; however,
414 all fees may be waived if the applicant is determined to be
415 indigent.

416 **SECTION 11.** Section 9-23-21, Mississippi Code of 1972, is
417 brought forward as follows:



418 9-23-21. The director and members of the professional and
419 administrative staff of the intervention court who perform duties
420 in good faith under this chapter are immune from civil liability
421 for:

422 (a) Acts or omissions in providing services under this
423 chapter; and

424 (b) The reasonable exercise of discretion in
425 determining eligibility to participate in the intervention court.

426 **SECTION 12.** Section 9-23-23, Mississippi Code of 1972, is
427 brought forward as follows:

428 9-23-23. If the participant completes all requirements
429 imposed upon him by the intervention court, including the payment
430 of fines and fees assessed and not waived by the court, the charge
431 and prosecution shall be dismissed. If the defendant or
432 participant was sentenced at the time of entry of plea of guilty,
433 the successful completion of the intervention court order and
434 other requirements of probation or suspension of sentence will
435 result in the record of the criminal conviction or adjudication
436 being expunged. However, no expunction of any implied consent
437 violation shall be allowed.

438 **SECTION 13.** Section 9-23-51, Mississippi Code of 1972, is
439 brought forward as follows:

440 9-23-51. There is created in the State Treasury a special
441 interest-bearing fund to be known as the Drug Court Fund. The
442 purpose of the fund shall be to provide supplemental funding to



443 all drug courts in the state. Monies from the funds derived from
444 assessments under Section 99-19-73 shall be distributed by the
445 State Treasurer upon warrants issued by the Administrative Office
446 of Courts, pursuant to procedures set by the State Drug Courts
447 Advisory Committee to assist both juvenile drug courts and adult
448 drug courts. Funds from other sources shall be distributed to the
449 drug courts in the state based on a formula set by the State Drug
450 Courts Advisory Committee. The fund shall be a continuing fund,
451 not subject to fiscal-year limitations, and shall consist of: (a)
452 monies appropriated by the Legislature for the purposes of funding
453 drug courts; (b) the interest accruing to the fund; (c) monies
454 received under the provisions of Section 99-19-73; (d) monies
455 received from the federal government; and (e) monies received from
456 such other sources as may be provided by law.

457 **SECTION 14.** Section 9-25-1, Mississippi Code of 1972, is
458 brought forward as follows:

459 9-25-1. (1) The Legislature recognizes that our military
460 veterans have provided an invaluable service to our country. In
461 doing so, many may have suffered the effects of, including, but
462 not limited to, post-traumatic stress disorder, traumatic brain
463 injury and depression, and may also suffer drug and alcohol
464 dependency or addiction and co-occurring mental illness and
465 substance abuse problems. As a result of this, some veterans come
466 into contact with the criminal justice system and are charged with
467 felony offenses. There is a critical need for the justice system



468 to recognize these veterans, provide accountability for their
469 wrongdoing, provide for the safety of the public, and provide for
470 the treatment of our veterans. It is the intent of the
471 Legislature to create a framework for which specialized veterans
472 treatment courts may be established at the circuit court level and
473 at the discretion of the circuit court judge.

474 (2) **Authorization.** A circuit court judge may establish a
475 Veterans Treatment Court program. The Veterans Treatment Court
476 may, at the discretion of the circuit court judge, be a separate
477 court program or as a component of an existing intervention court
478 program. At the discretion of the circuit court judge, the
479 Veterans Treatment Court may be operated in one (1) county within
480 the circuit court district, and allow veteran participants from
481 all counties within the circuit court district to participate.

482 (3) **Eligibility.** (a) In order to be eligible to
483 participate in a Veterans Treatment Court program established
484 under this section, the attorney representing the state must
485 consent to the defendant's participation in the program. Further,
486 the court in which the criminal case is pending must have found
487 that the defendant is a veteran of the United States Armed Forces
488 as defined in Title 38 USCS.

489 (b) Participation in the services of an alcohol and
490 drug intervention component shall only be open to the individuals
491 over whom the court has jurisdiction, except that the court may
492 agree to provide the services for individuals referred from



493 another Veterans Treatment Court. In cases transferred from
494 another jurisdiction, the receiving judge shall act as a special
495 master and make recommendations to the sentencing judge.

496 (c) (i) As a condition of participation in a Veterans
497 Treatment Court, a participant may be required to undergo a
498 chemical test or a series of chemical tests as specified by the
499 Veterans Treatment Court program. A participant may be held
500 liable for costs associated with all chemical tests required under
501 this section. However, a judge may waive any fees for testing.

502 (ii) A laboratory that performs chemical tests
503 under this section shall report the results of the tests to the
504 Veterans Treatment Courts.

505 (d) A person does not have the right to participate in
506 a Veterans Treatment Court program under this chapter. The court
507 having jurisdiction over a person for a matter before the court
508 shall have the final determination about whether the person may
509 participate in the Veterans Treatment Court program.

510 (e) A defendant shall be excluded from participating in
511 a Veterans Treatment Court program if any one (1) of the following
512 applies:

513 (i) The crime before the court is a crime of
514 violence as set forth in paragraph (c) of this subsection.

515 (ii) The defendant does not demonstrate a
516 willingness to participate in a treatment program.



517 (iii) The defendant has been previously convicted
518 of a felony crime of violence including, but not limited to:
519 murder, rape, sexual battery, statutory rape of a child under the
520 age of sixteen (16), armed robbery, arson, aggravated kidnapping,
521 aggravated assault, stalking, or any offense involving the
522 discharge of a firearm or where serious bodily injury or death
523 resulted to any person.

524 (f) The court in which the criminal case is pending
525 shall allow an eligible defendant to choose whether to proceed
526 through the Veterans Treatment Court program or otherwise through
527 the justice system.

528 (g) Proof of matters under this section may be
529 submitted to the court in which the criminal case is pending in
530 any form the court determines to be appropriate, including
531 military service and medical records, previous determinations of a
532 disability by a veteran's organization or by the United States
533 Department of Veterans Affairs, testimony or affidavits of other
534 veterans or service members, and prior determinations of
535 eligibility for benefits by any state or county veterans office.

536 (4) **Administrative Office of Courts.** With regard to any
537 Veterans Treatment Court established under this chapter, the
538 Administrative Office of Courts may do the following:

539 (a) Ensure that the structure of the intervention
540 component complies with rules adopted under this chapter and
541 applicable federal regulations.



542 (b) Revoke the authorization of a program upon a
543 determination that the program does not comply with rules adopted
544 under this chapter and applicable federal regulations.

545 (c) Enter into agreements and contracts to effectuate
546 the purposes of this chapter with:

547 (i) Another department, authority, or agency of
548 the state;

549 (ii) Another state;

550 (iii) The federal government;

551 (iv) A state-supported or private university; or

552 (v) A public or private agency, foundation,
553 corporation, or individual.

554 (d) Directly, or by contract, approve and certify any
555 intervention component established under this chapter.

556 (e) Require, as a condition of operation, that each
557 veterans court created or funded under this chapter be certified
558 by the Administrative Office of Courts.

559 (f) Adopt rules to implement this chapter.

560 (5) **State Intervention Court Advisory Committee.** (a) The
561 State Intervention Court Advisory Committee shall be responsible
562 for developing statewide rules and policies as they relate to
563 Veterans Treatment Court programs.

564 (b) The State Intervention Court Advisory Committee may
565 also make recommendations to the Chief Justice, the Director of



566 the Administrative Office of Courts and state officials concerning
567 improvements to Veterans Treatment Court policies and procedures.

568 (c) The State Intervention Court Advisory Committee
569 shall act as an arbiter of disputes arising out of the operation
570 of Veterans Treatment Court programs established under this
571 chapter and make recommendations to improve the Veterans Treatment
572 Court programs.

573 (6) **Funding for Veterans Treatment Courts.** (a) All monies
574 received from any source by the Veterans Treatment Court program
575 shall be accumulated in a fund to be used only for Veterans
576 Treatment Court purposes. Any funds remaining in this fund at the
577 end of the fiscal year shall not lapse into the General Fund, but
578 shall be retained in the Veterans Treatment Court fund for the
579 funding of further activities by the Veterans Treatment Court
580 program.

581 (b) A Veterans Treatment Court program may apply for
582 and receive the following:

583 (i) Gifts, bequests and donations from private
584 sources.

585 (ii) Grant and contract money from governmental
586 sources.

587 (iii) Other forms of financial assistance approved
588 by the court to supplement the budget of the Veterans Treatment
589 Court program.



590 (7) **Immunity.** The coordinator and members of the
591 professional and administrative staff of the Veterans Treatment
592 Court program who perform duties in good faith under this chapter
593 are immune from civil liability for:

594 (a) Acts or omissions in providing services under this
595 chapter; and

596 (b) The reasonable exercise of discretion in
597 determining eligibility to participate in the Veterans Treatment
598 Court program.

599 (8) This section shall be codified as a separate article in
600 Title 9, Mississippi Code of 1972.

601 **SECTION 15.** Section 9-27-1, Mississippi Code of 1972, is
602 brought forward as follows:

603 9-27-1. This chapter shall be known and may be cited as the
604 "Rivers McGraw Mental Health Treatment Court Act."

605 **SECTION 16.** Section 9-27-3, Mississippi Code of 1972, is
606 brought forward as follows:

607 9-27-3. (1) The Legislature recognizes the critical need
608 for judicial intervention to establish court processes and
609 procedures that are more responsive to the needs of defendants
610 with mental illnesses, while maintaining public safety and the
611 integrity of the court process.

612 (2) The goals of the mental health treatment courts under
613 this chapter include the following:



- 614 (a) Reduce the number of future criminal justice
615 contacts among offenders with mental illnesses;
- 616 (b) Reduce the inappropriate institutionalization of
617 people with mental illnesses;
- 618 (c) Improve the mental and behavioral health and
619 well-being of defendants who come in contact with the criminal
620 justice system;
- 621 (d) Improve linkages between the criminal justice
622 system and the mental health system;
- 623 (e) Expedite case processing;
- 624 (f) Protect public safety;
- 625 (g) Establish linkages with other state and local
626 agencies and programs that target people with mental illnesses in
627 order to maximize the delivery of services; and
- 628 (h) To use corrections resources more effectively by
629 redirecting prison-bound offenders whose criminal conduct is
630 driven in part by mental illnesses to intensive supervision and
631 clinical treatment available in the mental health treatment court.

632 **SECTION 17.** Section 9-27-5, Mississippi Code of 1972, is
633 brought forward as follows:

634 9-27-5. For the purposes of this chapter, the following
635 words and phrases shall have the meanings ascribed unless the
636 context clearly requires otherwise:

- 637 (a) "Behavioral health" means the promotion of mental
638 health, resilience and wellbeing; the treatment of mental and



639 substance use disorders; and the support of those who experience
640 and/or are in recovery from these conditions, along with their
641 families and communities.

642 (b) "Chemical tests" means the analysis of an
643 individual's: (i) blood, (ii) breath, (iii) hair, (iv) sweat, (v)
644 saliva, (vi) urine, or (vii) other bodily substance to determine
645 the presence of alcohol or a controlled substance.

646 (c) "Clinical assessment" means the use of an actuarial
647 assessment tool which evaluates an individual's physical, medical,
648 cognitive, psychological (personality, emotions, beliefs and
649 attitudes), and behavioral history and current conditions in order
650 to determine the presence and severity of any mental health
651 disorder.

652 (d) "Co-occurring disorder" means coexistence of both a
653 mental health and a substance use disorder as defined in the
654 Diagnostic and Statistical Manual (DSM).

655 (e) "Diagnostic and Statistical Manual (DSM)" is the
656 publication by the American Psychiatric Association used by
657 behavioral health professionals for the classification and
658 diagnosing of mental health disorders.

659 (f) "Evidence-based practices" means practices which
660 have been empirically researched and proven to have measurable
661 positive outcomes; have been rigorously tested; have yielded
662 consistent, replicable results; and have proven safe, beneficial
663 and effective for a specific population.



664 (g) "Mental health" means a state of mental or
665 emotional well-being that enables people to cope with the stresses
666 of life, realize their abilities, learn, work well, and contribute
667 to their community.

668 (h) "Mental health disorder" means a syndrome
669 characterized by a clinically significant disturbance in an
670 individual's cognition, emotion regulation or behavior that
671 reflects a dysfunction in the psychological, biological or
672 developmental process underlying mental functioning as defined by
673 the current Diagnostic and Statistical Manual of Mental Disorders
674 as published by the American Psychiatric Association.

675 (i) "Mental Health Treatment program" means a highly
676 structured evidence-based program for mental and behavioral health
677 treatment of defendants that:

678 (i) Brings together mental health professionals,
679 local social programs and intensive judicial monitoring;

680 (ii) Follows the key components of the mental
681 health treatment court curriculum published by the Bureau of
682 Justice Assistance; and

683 (iii) Utilizes supervision, policies, procedures
684 and practices that scientific research demonstrates reduces
685 recidivism.

686 (j) "Risk and needs assessment" means an actuarial
687 evaluation tool to guide decision making at various points across
688 the criminal justice continuum by approximating an individual's



689 likelihood of reoffending and determining what individual
690 criminogenic needs must be addressed to reduce that likelihood.
691 Criminogenic risk and needs assessment tools consist of questions
692 that are designed to ascertain someone's history of criminal
693 behavior, attitudes and personality, and life circumstances.

694 (k) "Risk and needs screening" means the use of a brief
695 actuarial tool that is used to determine a defendant's eligibility
696 of a mental health treatment court by measuring the criminogenic
697 risk and needs, identifying risk and protective factors, supports
698 development of case management plan goals and determines the need
699 of a full risk and needs assessment.

700 (l) "Substance use disorder" means a cluster of
701 cognitive, behavioral, and physiological symptoms indicating that
702 the individual continues using the substance despite significant
703 substance-related problems such as impaired control, social
704 impairment, risky behaviors, and pharmacological tolerance and
705 withdrawal.

706 **SECTION 18.** Section 9-27-7, Mississippi Code of 1972, is
707 brought forward as follows:

708 9-27-7. (1) The Administrative Office of Courts is the
709 repository for reports filed by mental health treatment courts
710 established under this chapter. The goal of the mental health
711 treatment courts is to support effective and proven practices that
712 reduce recidivism and provide behavioral health treatment for
713 participants.



714 (2) Mental health treatment courts must adhere to the
715 standards established in this chapter.

716 (a) These standards shall include, but are not limited
717 to:

718 (i) The use of evidence-based practices including,
719 but not limited to, the use of a valid and reliable risk and needs
720 screening tool to identify participants, deliver appropriate
721 treatments and services;

722 (ii) Targeting moderate to high-risk offenders for
723 participation;

724 (iii) Utilizing current, evidence-based practices
725 proven effective for behavioral health treatment;

726 (iv) Frequent testing for alcohol or drugs;

727 (v) Coordinated strategy between all mental health
728 treatment court personnel;

729 (vi) Ongoing judicial interaction with each
730 participant; and

731 (vii) Monitoring and evaluation of mental health
732 treatment court implementation and outcomes through data
733 collection and reporting.

734 (b) Mental health treatment courts must implement a
735 data collection plan, utilizing the treatment court case
736 management system, which shall include collecting the following
737 data:

738 (i) Total number of participants;



739 (ii) Total number of successful participants;
740 (iii) Total number of unsuccessful participants
741 and the reason why each participant did not complete the program;
742 (iv) Total number of participants who were
743 arrested for a new criminal offense while in the mental health
744 treatment court;
745 (v) Total number of participants who were
746 convicted of a new felony offense while in the mental health
747 treatment court;
748 (vi) Total number of participants who committed at
749 least one (1) violation while in the mental health treatment court
750 and the resulting sanction(s);
751 (vii) Results of the initial risk and needs
752 screening or other clinical assessments conducted on each
753 participant;
754 (viii) Total number of applications for screening
755 by race, gender, offenses charged, indigence and if not accepted,
756 the reason for nonacceptance; and
757 (ix) Any other data or information as required by
758 the Administrative Office of Courts.
759 (3) All mental health treatment courts must measure
760 successful completion of the program based on those participants
761 who complete the program without a new criminal conviction.



762 (4) (a) Mental health treatment courts must collect and
763 submit to the Administrative Office of Courts each month, the
764 following data:

765 (i) Total number of participants at the beginning
766 of the month;

767 (ii) Total number of participants at the end of
768 the month;

769 (iii) Total number of new participants who began
770 the program in the month;

771 (iv) Total number of participants who successfully
772 completed the program in the month;

773 (v) Total number of participants who left the
774 program in the month;

775 (vi) Total number of participants who were
776 arrested for a new criminal offense while in the program in the
777 month;

778 (vii) Total number of participants who were
779 convicted of a new criminal offense while in the program in the
780 month;

781 (viii) Total number of participants who committed
782 at least one (1) violation while in the program and any resulting
783 sanction(s);

784 (ix) Total number of active participants who did
785 not receive treatment in the month;



786 (x) Total number of participants on prescribed
787 psychotropic medications in the month;

788 (xi) Total number of new participants admitted to
789 an acute psychiatric facility or a crisis stabilization unit in
790 the first thirty (30) days of acceptance into the mental health
791 treatment court; and

792 (xii) Total number of participants admitted to an
793 acute psychiatric facility or a crisis stabilization unit in the
794 month.

795 (b) By August 1, 2023, and each year thereafter, the
796 Administrative Office of Courts shall report to the PEER Committee
797 the information in subsection (4) (a) of this section in a
798 sortable, electronic format.

799 (5) A certified mental health treatment court may
800 individually establish rules and may make special orders and rules
801 as necessary that do not conflict with rules promulgated by the
802 Supreme Court or the Administrative Office of Courts.

803 (6) A certified mental health treatment court may appoint
804 full- or part-time employees it deems necessary for the work of
805 the mental health treatment court and shall fix the compensation
806 of those employees, who shall serve at the will and pleasure of
807 the circuit court judge who presides over the mental health
808 treatment court.



809 (7) A certified mental health treatment court established
810 under this chapter is subject to the regulatory powers of the
811 Administrative Office of Courts as set forth in Section 9-27-13.

812 **SECTION 19.** Section 9-27-9, Mississippi Code of 1972, is
813 brought forward as follows:

814 9-27-9. (1) Any mental and behavioral health treatment
815 provider directly administering services to a participant shall be
816 licensed by the appropriate state licensing board or hold a
817 current and valid certification by the State Department of Mental
818 Health or other appropriate state agency.

819 (2) A mental health treatment court shall provide either
820 directly or through referrals, a range of services, including, but
821 not limited to, the following:

822 (a) Screenings using a valid and reliable screening
823 tool effective for identifying individuals with mental and
824 behavioral health issues for eligibility and appropriate services;

825 (b) Clinical assessment;

826 (c) Referral to appropriate level of treatment
827 services;

828 (d) Counseling and treatment for co-occurring substance
829 use disorders;

830 (e) Employment Services;

831 (f) Education and/or vocational services; and

832 (g) Community service coordination, care and support.



833 **SECTION 20.** Section 9-27-11, Mississippi Code of 1972, is
834 brought forward as follows:

835 9-27-11. (1) In order to be eligible for alternative
836 sentencing through a local mental health treatment court, the
837 defendant must satisfy each of the following criteria:

838 (a) The defendant cannot have any felony convictions
839 for any offenses that are crimes of violence as defined in Section
840 97-3-2, other than burglary under Section 97-17-23(1), within the
841 previous ten (10) years.

842 (b) The crime before the court cannot be a crime of
843 violence as defined in Section 97-3-2, other than burglary under
844 Section 97-17-23(1).

845 (c) Other criminal proceedings alleging commission of a
846 crime of violence other than burglary under Section 97-17-23(1)
847 cannot be pending against the defendant.

848 (d) The crime before the court cannot be a charge of
849 driving under the influence of alcohol or any other substance that
850 resulted in the death of a person. In addition, defendants who
851 are ineligible for nonadjudication under Section 63-11-30 shall be
852 ineligible to participate in a mental health treatment court.

853 (e) The crime charged cannot be one of trafficking in
854 controlled substances under Section 41-29-139(f), nor can the
855 defendant have a prior conviction for the same.

856 (2) Participation in the services of a mental health
857 treatment component court shall be open only to the defendant over



858 whom the court has jurisdiction, except that the court may agree
859 to provide the services for participants referred from another
860 mental health treatment court. In cases transferred from another
861 jurisdiction, the receiving judge shall act as a special master
862 and make recommendations to the sentencing judge.

863 (3) (a) As a condition of participation in a mental health
864 treatment court, a defendant shall be required to undergo chemical
865 testing as specified by the program. A participant is liable for
866 the costs of all chemical tests required under this section,
867 regardless of whether the costs are paid to the mental health
868 treatment court or the laboratory; however, if testing is
869 available from other sources or the program itself, the judge may
870 waive any fees for testing. Fees may be waived if the defendant
871 is determined by the court to be indigent.

872 (b) A laboratory that performs a chemical test under
873 this section shall report the results of the test to the mental
874 health treatment court.

875 (4) A defendant does not have a right to participate in a
876 mental health treatment court under this chapter. The court
877 having jurisdiction over a defendant for a matter before the court
878 shall have the final determination about whether the defendant may
879 participate in the mental health treatment court under this
880 chapter. However, any defendant meeting the eligibility criteria
881 in subsection (1) of this section, shall, upon request, be
882 screened for admission into the court's program.



883 **SECTION 21.** Section 9-27-13, Mississippi Code of 1972, is
884 brought forward as follows:

885 9-27-13. (1) With regard to any mental health treatment
886 court, the Administrative Office of the Courts shall do the
887 following:

888 (a) Certify and re-certify mental health treatment
889 court applications that meet with standards established by the
890 Administrative Office of Courts in accordance with this chapter.

891 (b) Ensure that the structure of the mental health
892 treatment court complies with rules adopted under this section and
893 applicable federal regulations.

894 (c) Revoke certification of a mental health treatment
895 court upon a determination that the program does not comply with
896 rules adopted under this section and applicable federal
897 regulations.

898 (d) Make agreements and contracts to effectuate the
899 purposes of this chapter with:

900 (i) Another department, authority or agency of the
901 state;

902 (ii) Another state;

903 (iii) The federal government;

904 (iv) A state-supported or private institute of
905 higher learning; or

906 (v) A public or private agency, foundation,
907 corporation or individual.



908 (e) Directly, or by contract, approve and certify any
909 mental health treatment court component established under this
910 chapter.

911 (f) Require, as a condition of operation, that each
912 mental health treatment court created or funded under this chapter
913 be certified by the Administrative Office of Courts.

914 (g) Collect monthly data from each certified mental
915 health treatment court and compile an annual report summarizing
916 the data collected and the outcomes achieved.

917 (h) Every three (3) years, if funding is available,
918 contract with an external evaluator to conduct an evaluation of
919 the compliance with the Bureau of Justice Assistance key
920 components, as adapted for mental health treatment courts, and
921 effectiveness of:

922 (i) Statewide mental health treatment court
923 program; and

924 (ii) Individual mental health treatment courts.

925 (i) Adopt rules to implement this chapter.

926 **SECTION 22.** Section 9-27-15, Mississippi Code of 1972, is
927 brought forward as follows:

928 9-27-15. (1) All monies received from any source by a
929 mental health treatment court shall be accumulated in a local fund
930 to be used only for mental health treatment court purposes. Any
931 funds remaining in a local fund at the end of a fiscal year shall
932 not lapse into any general fund, but shall be retained in the



933 mental health treatment court fund for the funding of further
934 activities by the mental health treatment court.

935 (2) A mental health treatment court may apply for and
936 receive the following:

937 (a) Gifts, bequests and donations from private sources;

938 (b) Grant and contract monies from governmental
939 sources; or

940 (c) Other forms of financial assistance approved by the
941 court to supplement the budget of the mental health treatment
942 court.

943 (3) The costs of participation required by the mental health
944 treatment court may be paid by the participant or out of user fees
945 or such other state, federal or private funds that may, from time
946 to time, be made available.

947 (4) The mental health treatment court may assess reasonable
948 and appropriate fees to be paid to the local mental health
949 treatment court fund for participation in a mental health
950 treatment court; however, all fees may be waived by the court if
951 the defendant is determined by the court to be indigent.

952 **SECTION 23.** Section 9-27-17, Mississippi Code of 1972, is
953 brought forward as follows:

954 9-27-17. The mental health treatment court coordinator and
955 members of the professional and administrative staff of the mental
956 health treatment court who perform duties in good faith under this
957 chapter are immune from civil liability for:



958 (a) Acts or omissions in providing services under this
959 chapter; and

960 (b) The reasonable exercise of discretion in
961 determining eligibility to participate in the mental health court.

962 **SECTION 24.** Section 9-27-19, Mississippi Code of 1972, is
963 brought forward as follows:

964 9-27-19. If the participant completes all requirements
965 imposed by the mental health treatment court, the charge and
966 prosecution shall be dismissed. If the defendant was sentenced at
967 the time of entry of a plea of guilty, the successful completion
968 of the mental health treatment court order and other requirements
969 of probation or suspension of sentence will result in the record
970 of the criminal conviction or adjudication being expunged.
971 However, no expunction of any implied consent violations shall be
972 allowed.

973 **SECTION 25.** Section 9-27-21, Mississippi Code of 1972, is
974 brought forward as follows:

975 9-27-21. (1) The Administrative Office of Courts shall be
976 responsible for certification and monitoring of mental health
977 treatment courts.

978 (2) The Administrative Office of Courts shall promulgate
979 rules and regulations to carry out the certification and
980 re-certification process and make any other policies consistent
981 with this section to carry out this process.



982 (3) The Administrative Office of Courts shall establish,
983 implement and operate a uniform certification process for all
984 mental health treatment courts designed to adjudicate criminal
985 actions involving an identified classification of criminal
986 defendants to ensure funding for mental health treatment courts
987 which supports effective and proven behavioral health treatment
988 practices that reduce recidivism among their participants.

989 (4) (a) The Administrative Office of Courts shall establish
990 a certification process that ensures any new or existing mental
991 health treatment court meets standards for mental health treatment
992 court operation.

993 (b) Mental health treatment court certification
994 application must include:

995 (i) A description of the need for the mental
996 health treatment court;

997 (ii) The targeted population for the mental health
998 treatment court;

999 (iii) The eligibility criteria for mental health
1000 treatment court participants;

1001 (iv) A description of the process for identifying
1002 eligible participants, using a risk and needs screening and a
1003 clinical assessment which focuses on accepting moderate to
1004 high-risk individuals; and

1005 (v) A description of the mental health treatment
1006 court components, including anticipated budget, implementation



1007 plan, and a list of the evidence-based programs to which
1008 participants will be referred by the mental health treatment
1009 court.

1010 (5) Every mental health treatment court shall be certified
1011 under the following schedule:

1012 (a) All certified mental health treatment courts in
1013 existence on December 31, 2022, must submit a recertification
1014 petition to the Administrative Office of Courts before July 1,
1015 2023. The mental health treatment court must submit a
1016 recertification petition every two (2) years.

1017 (b) A mental health treatment court's certification
1018 expires on December 31 of every odd calendar year.

1019 (6) A certified mental health treatment court established
1020 under this chapter is subject to the regulatory powers of the
1021 Administrative Office of Courts as set forth in Section 9-27-13.

1022 **SECTION 26.** This act shall take effect and be in force from
1023 and after July 1, 2024.

