

## Senate Amendments to House Bill No. 1640

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

12           **SECTION 1.** Section 41-21-67, Mississippi Code of 1972, is  
13 amended as follows:  
14           41-21-67. (1) (a) Prior to filing an affidavit for  
15 commitment of an individual, the relative or interested person  
16 shall be directed to the community mental health center in the  
17 county of financial responsibility or the county where the  
18 proposed patient is present for conduct of preliminary  
19 investigation to determine the need to file an affidavit for  
20 involuntary commitment. If the community mental health center is  
21 unavailable, any reputable licensed physician, psychologist, nurse  
22 practitioner or physician assistant, as allowed in the discretion  
23 of the court, may conduct the pre-affidavit screening and  
24 examination as set forth in Section 41-21-69. The pre-affidavit  
25 screening shall be completed within twenty-four (24) hours of the  
26 community mental health center being notified or before noon of  
27 the next day that the chancery clerk's office is in fact open,  
28 whichever is later. The community mental health center shall

29 appoint a screener to conduct an investigation. The prospective  
30 petitioner may not be the pre-affidavit screener. The  
31 investigation must include:

32 (i) An interview with the proposed patient and  
33 other individuals who appear to have knowledge of the condition of  
34 the proposed patient, if practicable. In-person interviews with  
35 the proposed patient are preferred. If the proposed patient is  
36 not interviewed, specific reasons must be documented;

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

39 (iii) Identification, exploration, and listing of  
40 the specific reasons for rejecting or recommending alternatives to  
41 involuntary commitment; and

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

44 (b) In conducting the investigation required by this  
45 subsection, the screener shall have access to all relevant medical  
46 records of proposed patients currently in treatment facilities,  
47 state-operated treatment programs, or community-based treatment  
48 programs. Data collected pursuant to this clause shall be  
49 considered private data on individuals. The pre-affidavit  
50 screening report is not admissible as evidence in court except by  
51 agreement of counsel or as permitted by the rules of court and is  
52 not admissible in any court proceedings unrelated to the  
53 commitment proceedings.

54           (c) The notice must inform the proposed patient that if  
55 an affidavit for involuntary commitment is filed, the patient has  
56 certain rights, including the right to a court-appointed attorney,  
57 the right to attend hearings, and the right to oppose the  
58 proceeding and to present and contest evidence.

59           (d) When the pre-affidavit screener recommends  
60 commitment, a written report shall be sent to the chancery clerk  
61 for the county in which the petition is to be filed. The  
62 statement of facts contained in the written report must meet the  
63 requirements of Section 41-21-65(5), specifically certifying that  
64 a less restrictive alternative treatment was considered and  
65 specifying why treatment less restrictive than involuntary  
66 commitment is not appropriate.

67           (e) The pre-affidavit screener shall refuse to support  
68 the filing of an affidavit if the investigation does not disclose  
69 evidence sufficient to support commitment. Notice of the  
70 pre-affidavit screener's decision shall be provided to the court.

71           (f) If the interested person wishes to proceed with a  
72 petition contrary to the recommendation of the pre-affidavit  
73 screener, application may be made directly to the chancellor, who  
74 shall determine whether or not to proceed with the petition.  
75 Notice of the chancellor's determination shall be provided to the  
76 interested party.

77           ( \* \* \*2) \* \* \* After a pre-affidavit screener has attempted  
78 to complete an in-person screening, if a person is actively  
79 violent or refuses to participate in the pre-affidavit screening

80 and the screening cannot be completed, then upon recommendation of  
81 the community mental health center, the affidavit may be filed and  
82 a writ issued for a sheriff to intervene. After completing the  
83 pre-affidavit screening required by subsection (1) of this  
84 section, receiving the written report from the pre-affidavit  
85 screeener, and upon filing of an affidavit of commitment, the  
86 clerk, upon direction of the chancellor of the court, shall issue  
87 a writ directed to the sheriff of the proper county to take into  
88 custody the person alleged to be in need of treatment and to take  
89 the person for pre-evaluation screening and treatment by the  
90 appropriate community mental health center established under  
91 Section 41-19-31. The community mental health center will be  
92 designated as the first point of entry for \* \* \* pre-affidavit  
93 screening and treatment. \* \* \* The \* \* \* writ may provide where  
94 the person shall be held before being taken for \* \* \* examination  
95 and treatment, which shall include any licensed medical facility  
96 or crisis stabilization unit. \* \* \* Reapplication may be made to  
97 the chancellor. If a pauper's affidavit is filed by an affiant  
98 who is a guardian or conservator of a person in need of treatment,  
99 the court shall determine if either the affiant or the person in  
100 need of treatment is a pauper and if \* \* \* the affiant or the  
101 person in need of treatment is determined to be a pauper, the  
102 county of the residence of the respondent shall bear the costs of  
103 commitment, unless funds for those purposes are made available by  
104 the state.

105           In any county in which a Crisis Intervention Team has been  
106 established under the provisions of Sections 41-21-131 through  
107 41-21-143, the clerk, upon the direction of the chancellor, may  
108 require that the person be referred to the Crisis Intervention  
109 Team for appropriate psychiatric or other medical services before  
110 the issuance of the writ.

111           ( \* \* \*3) Upon \* \* \* receiving the pre-affidavit screening  
112 and filing of an affidavit of commitment, the chancellor shall  
113 immediately appoint and summon two (2) reputable, licensed  
114 physicians or one (1) reputable, licensed physician and either one  
115 (1) psychologist, nurse practitioner or physician assistant to  
116 conduct a physical and mental examination of the person at a place  
117 to be designated by the clerk or chancellor and to report their  
118 findings to the clerk or chancellor. However, if the  
119 pre-affidavit screening recommends against commitment, the  
120 chancellor may refuse to appoint two (2) physicians to conduct a  
121 physical and mental examination. However, any nurse practitioner  
122 or physician assistant conducting the examination shall be  
123 independent from, and not under the supervision of, the other  
124 physician conducting the examination. A nurse practitioner or  
125 psychiatric nurse practitioner conducting an examination under  
126 this chapter must be functioning within a collaborative or  
127 consultative relationship with a physician as required under  
128 Section 73-15-20(3). In all counties in which there is a county  
129 health officer, the county health officer, if available, may be  
130 one (1) of the physicians so appointed. If a licensed physician

131 is not available to conduct the physical and mental examination  
132 within forty-eight (48) hours of the \* \* \* pre-affidavit  
133 screening, the court, in its discretion and upon good cause shown,  
134 may permit the examination to be conducted by the following: (a)  
135 two (2) nurse practitioners, one (1) of whom must be a psychiatric  
136 nurse practitioner; or (b) one (1) psychiatric nurse practitioner  
137 and one (1) psychologist or physician assistant. Neither of the  
138 physicians nor the psychologist, nurse practitioner or physician  
139 assistant selected shall be related to that person in any way, nor  
140 have any direct or indirect interest in the estate of that person  
141 nor shall any full-time staff of residential treatment facilities  
142 operated directly by the State Department of Mental Health serve  
143 as examiner.

144 ( \* \* \* 4) The clerk shall ascertain whether the respondent  
145 is represented by an attorney, and if it is determined that the  
146 respondent does not have an attorney, the clerk shall immediately  
147 notify the chancellor of that fact. If the chancellor determines  
148 that the respondent for any reason does not have the services of  
149 an attorney, the chancellor shall immediately appoint an attorney  
150 for the respondent at the time the examiners are appointed.

151 ( \* \* \* 5) (a) If the chancellor determines that there is  
152 probable cause to believe that the respondent \* \* \* has a mental  
153 illness and that there is no reasonable alternative to detention,  
154 the chancellor may order that the respondent be retained as an  
155 emergency patient at any licensed medical facility, crisis  
156 stabilization unit, or any other available suitable location for

157 evaluation by a physician, nurse practitioner or physician  
158 assistant and that a peace officer transport the respondent to the  
159 specified facility, unit or location. If the community mental  
160 health center serving the county has partnered with Crisis  
161 Intervention Teams under the provisions of Sections 41-21-131  
162 through 41-21-143, the order may specify that the licensed medical  
163 facility be a designated single point of entry within the county  
164 or within an adjacent county served by the community mental health  
165 center. If the person evaluating the respondent finds that the  
166 respondent \* \* \* has a mental illness and in need of treatment,  
167 the chancellor may order that the respondent be retained at the  
168 licensed medical facility, crisis stabilization unit, or any other  
169 available suitable location as the court may so designate pending  
170 an admission hearing. If necessary, the chancellor may order a  
171 peace officer or other person to transport the respondent to that  
172 facility, or unit or suitable location. Any respondent so  
173 retained may be given such treatment as is indicated by standard  
174 medical practice. However, the respondent shall not be held in a  
175 hospital operated directly by the State Department of Mental  
176 Health \* \* \*.

177 (b) A jail or other detention center may not be used  
178 for custody unless the community mental health center has explored  
179 and exhausted the availability of other appropriate facilities,  
180 such as the crisis stabilization unit, the local hospital and any  
181 Department of Mental Health certified location; the chancellor  
182 specifically authorizes it; and the respondent is actively

183 violent. The county of residence of any such person shall pay the  
184 cost of such interim treatment. The community mental health  
185 center shall provide documentation of the person's violent  
186 behavior and that no other appropriate facilities are available to  
187 the chancellor. Under these circumstances, no person may remain  
188 in a jail for longer than twenty-four (24) hours unless the  
189 community mental health center requests an additional twenty-four  
190 (24) hours from the chancellor. The community mental health  
191 center shall provide treatment during this timeframe pending  
192 placement at an appropriate facility. No peace officer or any  
193 other person shall place criminal charges against a person who has  
194 a mental illness and is in need of treatment pursuant to this  
195 chapter solely or primarily because the person has a mental  
196 illness or because of the unavailability of a state hospital bed.

197 For the purposes of this subsection (5), "actively violent"  
198 means that the behavior presents an immediate and serious danger  
199 to the safety of the individual or another, the individual has  
200 inflicted or attempted to inflict serious bodily harm on another,  
201 or has acted in such a way as to create a substantial risk of  
202 serious bodily harm to another, or has engaged in extreme  
203 destruction of property; and that there is a reasonable  
204 probability that this conduct will be repeated.

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



208 ( \* \* \* 6) (a) Whenever a licensed psychologist, nurse  
209 practitioner or physician assistant who is certified to complete  
210 examinations for the purpose of commitment or a licensed physician  
211 has reason to believe that a person poses an immediate substantial  
212 likelihood of physical harm to himself or others or is gravely  
213 disabled and unable to care for himself by virtue of mental  
214 illness, as defined in Section 41-21-61(e), then the physician,  
215 psychologist, nurse practitioner or physician assistant may hold  
216 the person or may admit the person to and treat the person in a  
217 licensed medical facility, without a civil order or warrant for a  
218 period not to exceed seventy-two (72) hours. However, if the  
219 seventy-two-hour period begins or ends when the chancery clerk's  
220 office is closed, or within three (3) hours of closing, and the  
221 chancery clerk's office will be continuously closed for a time  
222 that exceeds seventy-two (72) hours, then the seventy-two-hour  
223 period is extended until the end of the next business day that the  
224 chancery clerk's office is open. The person may be held and  
225 treated as an emergency patient at any licensed medical facility,  
226 available regional mental health facility, or crisis \* \* \*  
227 stabilization unit. The physician or psychologist, nurse  
228 practitioner or physician assistant who holds the person shall  
229 certify in writing the reasons for the need for holding.

230 If a person is being held and treated in a licensed medical  
231 facility, and that person decides to continue treatment by  
232 voluntarily signing consent for admission and treatment, the  
233 seventy-two-hour hold may be discontinued without filing an

234 affidavit for commitment. Any respondent so held may be given  
235 such treatment as indicated by standard medical practice. Persons  
236 acting in good faith in connection with the detention and  
237 reporting of a person believed to \* \* \* have a mental illness  
238 shall incur no liability, civil or criminal, for those acts.

239 (b) Whenever an individual is held for purposes of  
240 receiving treatment as prescribed under paragraph (a) of this  
241 subsection, and it is communicated to the mental health  
242 professional holding the individual that the individual resides or  
243 has visitation rights with a minor child, and if the individual is  
244 considered to be a danger to the minor child, the mental health  
245 professional shall notify the Department of Child Protection  
246 Services prior to discharge if the threat of harm continues to  
247 exist, as is required under Section 43-21-353.

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

250 **SECTION 2.** This act shall take effect and be in force from  
251 and after its passage.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE COMMUNITY MENTAL HEALTH CENTERS TO CONDUCT A  
3 PRELIMINARY INVESTIGATION BEFORE AN AFFIDAVIT FOR COMMITMENT IS  
4 FILED; TO PROHIBIT A JAIL OR OTHER DETENTION CENTER FROM BEING  
5 USED FOR CUSTODY UNLESS THE COMMUNITY MENTAL HEALTH CENTER HAS  
6 EXPLORED AND EXHAUSTED THE AVAILABILITY OF OTHER APPROPRIATE  
7 FACILITIES, SUCH AS THE CRISIS STABILIZATION UNIT, THE LOCAL  
8 HOSPITAL AND ANY DEPARTMENT OF MENTAL HEALTH CERTIFIED LOCATION  
9 UNLESS THE CHANCELLOR SPECIFICALLY AUTHORIZES IT AND THE  
10 RESPONDENT IS ACTIVELY VIOLENT; AND FOR RELATED PURPOSES.

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Amanda White  
Secretary of the Senate