

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1640

BY: Committee

**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) 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 screeener, 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.

