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To: Public Health and Human
Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1404

1 AN ACT TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE AN EXEMPTION FROM THE REQUIREMENT TO HAVE A
3 PRE-AFFIDAVIT SCREENING BEFORE A RELATIVE OR INTERESTED PERSON MAY
4 FILE AN AFFIDAVIT FOR COMMITMENT IF THE INDIVIDUAL TO BE COMMITTED
5 IS BEING TREATED IN AN ACUTE PSYCHIATRIC HOSPITAL AND HAS ALREADY
6 HAD TWO QUALIFIED PROFESSIONAL EVALUATIONS, PROVIDED THAT THE
7 ACUTE PSYCHIATRIC HOSPITAL NOTIFIES THE COMMUNITY MENTAL HEALTH
8 CENTER THAT THE INDIVIDUAL IS IN THE HOSPITAL AT LEAST TWENTY-FOUR
9 HOURS BEFORE FILING THE AFFIDAVIT; TO AMEND SECTION 41-21-65,
10 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION;
11 TO AMEND SECTIONS 41-21-77 AND 9-1-43, MISSISSIPPI CODE OF 1972,
12 TO PROVIDE THAT THE AMOUNT OF THE SALARY LIMITATION FOR THE
13 CHANCERY CLERK SHALL BE REDUCED FOR EACH FAILURE OF THE CHANCERY
14 CLERK TO PROVIDE CERTAIN RECORDS WITHIN THE REQUIRED TIME TO THE
15 DEPARTMENT OF MENTAL HEALTH; TO AMEND SECTION 41-19-33,
16 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COMMUNITY MENTAL
17 HEALTH CENTERS SHALL SUBMIT CERTAIN WRITTEN QUARTERLY REPORTS TO
18 THE BOARDS OF SUPERVISORS OF EACH COUNTY IN THEIR REGION ON A
19 STANDARD FORM DEVELOPED AND PROVIDED TO THE COMMUNITY MENTAL
20 HEALTH CENTERS BY THE STATE DEPARTMENT OF MENTAL HEALTH; TO AMEND
21 SECTION 41-30-3, MISSISSIPPI CODE OF 1972, TO ADD A DEFINITION TO
22 THE COMPREHENSIVE ALCOHOLISM AND ALCOHOL ABUSE PREVENTION, CONTROL
23 AND TREATMENT ACT; TO AMEND SECTIONS 41-30-27 AND 41-31-5,
24 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A PRE-AFFIDAVIT
25 SCREENING MUST BE CONDUCTED BEFORE AN AFFIDAVIT FOR EMERGENCY
26 INVOLUNTARY COMMITMENT OF A PERSON FOR ALCOHOL OR DRUG USE MAY BE
27 FILED; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** Section 41-21-67, Mississippi Code of 1972, is
30 amended as follows:



31 41-21-67. (1) (a) Prior to filing an affidavit for
32 commitment of an individual, the relative or interested person
33 shall be connected with the community mental health center in the
34 county of financial responsibility or the county where the
35 proposed patient is present for conduct of preliminary
36 investigation to determine the need to file an affidavit for
37 involuntary commitment. However, a pre-affidavit screening is not
38 required before the relative or interested person files the
39 affidavit for commitment if the individual to be committed is
40 being treated in an acute psychiatric hospital and has already had
41 two (2) qualified professional evaluations, provided that the
42 acute psychiatric hospital notifies the community mental health
43 center that the individual is in the hospital at least twenty-four
44 (24) hours before filing the affidavit. If the community mental
45 health center is unavailable, any reputable licensed physician,
46 psychologist, nurse practitioner or physician assistant, as
47 allowed in the discretion of the court, may conduct the
48 pre-affidavit screening and examination as set forth in Section
49 41-21-69. The pre-affidavit screening shall be completed within
50 twenty-four (24) hours of the community mental health center being
51 notified. The community mental health center shall provide the
52 pre-affidavit screening report to the chancery clerk for the
53 county in which the petition is to be filed upon completion. The
54 community mental health center shall appoint a screener to conduct



an investigation. The prospective petitioner may not be the pre-affidavit screener. The investigation must include:

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

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

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

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

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



79 (c) When the pre-affidavit screener recommends
80 commitment, a written report shall be sent to the chancery clerk
81 for the county in which the petition is to be filed. The
82 statement of facts contained in the written report must meet the
83 requirements of Section 41-21-65(5), specifically certifying that
84 a less restrictive alternative treatment was considered and
85 specifying why treatment less restrictive than involuntary
86 commitment is not appropriate.

87 (d) The pre-affidavit screener shall refuse to support
88 the filing of an affidavit if the investigation does not disclose
89 evidence sufficient to support commitment. Notice of the
90 pre-affidavit screener's decision shall be provided to the
91 prospective petitioner and the court. If a commitment is not
92 recommended, the pre-affidavit screener shall provide the
93 prospective petitioner with connection to other alternative
94 services and resources available and offered, if appropriate.

95 (e) If the interested person wishes to proceed with a
96 petition contrary to the recommendation of the pre-affidavit
97 screener, application may be made directly to the chancellor, who
98 shall determine whether or not to proceed with the petition.
99 Notice of the chancellor's determination shall be provided to the
100 interested party.

101 (2) After a pre-affidavit screener has attempted to complete
102 an in-person screening, if a person is actively violent or refuses
103 to participate in the pre-affidavit screening and the screening



cannot be completed, then upon recommendation of the community mental health center, the affidavit may be filed and a writ issued for a sheriff to intervene. The pre-affidavit screener shall document why the pre-affidavit screening could not be completed. After completing the pre-affidavit screening required by subsection (1) of this section, receiving the written report from the pre-affidavit screener, and upon filing of an affidavit of commitment, the clerk, upon direction of the chancellor of the court, shall issue a writ directed to the sheriff of the proper county to take into custody the person alleged to be in need of treatment and to take the person for physical and mental examination and treatment by the appropriate community mental health center established under Section 41-19-31. Except as otherwise provided in Section 41-21-63, the community mental health center will be designated as the first point of entry for pre-affidavit screening and treatment. The writ may provide where the person shall be held before being taken for examination and treatment, which shall include any licensed medical facility or crisis stabilization unit. Reapplication may be made to the chancellor. If a pauper's affidavit is filed by an affiant who is a guardian or conservator of a person in need of treatment, the court shall determine if either the affiant or the person in need of treatment is a pauper and if the affiant or the person in need of treatment is determined to be a pauper, the county of the



residence of the respondent shall bear the costs of commitment,
unless funds for those purposes are made available by the state.

(3) (a) Upon receiving the pre-affidavit screening and
filing of an affidavit of commitment, the chancellor shall
immediately appoint and summon two (2) reputable, licensed
physicians or one (1) reputable, licensed physician and either one
(1) psychologist, nurse practitioner or physician assistant to
conduct a physical and mental examination of the person at a place
to be designated by the clerk or chancellor and to report their
findings to the clerk or chancellor. However, if the
pre-affidavit screening recommends against commitment, the
chancellor may refuse to appoint two (2) physicians to conduct a
physical and mental examination. However, any nurse practitioner
or physician assistant conducting the examination shall be
independent from, and not under the supervision of, the other
physician conducting the examination. A nurse practitioner or
psychiatric nurse practitioner conducting an examination under
this chapter must be functioning within a collaborative or
consultative relationship with a physician as required under
Section 73-15-20(3). In all counties in which there is a county
health officer, the county health officer, if available, may be
one (1) of the physicians so appointed. If a licensed physician
is not available to conduct the physical and mental examination
within forty-eight (48) hours of the pre-affidavit screening, the
court, in its discretion and upon good cause shown, may permit the



153 examination to be conducted by the following: (a) two (2) nurse
154 practitioners, one (1) of whom must be a psychiatric nurse
155 practitioner; or (b) one (1) psychiatric nurse practitioner and
156 one (1) psychologist or physician assistant. Neither of the
157 physicians nor the psychologist, nurse practitioner or physician
158 assistant selected shall be related to that person in any way, nor
159 have any direct or indirect interest in the estate of that person
160 nor shall any full-time staff of residential treatment facilities
161 operated directly by the State Department of Mental Health serve
162 as examiner.

163 (b) Any health care practitioner who conducts a
164 physical and mental examination of a person as provided under
165 paragraph (a) of this subsection may sign the certificate required
166 for establishing a guardianship or conservatorship for the person
167 and take care of other related requirements as otherwise provided
168 by law, at the time of conducting the physical and mental
169 examinations.

170 (4) The clerk shall ascertain whether the respondent is
171 represented by an attorney, and if it is determined that the
172 respondent does not have an attorney, the clerk shall immediately
173 notify the chancellor of that fact. If the chancellor determines
174 that the respondent for any reason does not have the services of
175 an attorney, the chancellor shall immediately appoint an attorney
176 for the respondent at the time the examiners are appointed.



177 (5) (a) If the chancellor determines that there is probable
178 cause to believe that the respondent has a mental illness and that
179 there is no reasonable alternative to detention, the chancellor
180 may order that the respondent be retained as an emergency patient
181 at any licensed medical facility, crisis stabilization unit, or
182 any other available suitable location for evaluation by a
183 physician, nurse practitioner or physician assistant and that a
184 peace officer transport the respondent to the specified facility,
185 unit or location. If the community mental health center serving
186 the county has partnered with Crisis Intervention Teams under the
187 provisions of Sections 41-21-131 through 41-21-143, the order may
188 specify that the licensed medical facility be a designated single
189 point of entry within the county or within an adjacent county
190 served by the community mental health center. If the person
191 evaluating the respondent finds that the respondent has a mental
192 illness and in need of treatment, the chancellor may order that
193 the respondent be retained at the licensed medical facility,
194 crisis stabilization unit, or any other available suitable
195 location as the court may so designate pending an admission
196 hearing. If necessary, the chancellor may order a peace officer
197 or other person to transport the respondent to that facility, or
198 unit or suitable location. Any respondent so retained may be
199 given such treatment as is indicated by standard medical practice.
200 However, the respondent shall not be held in a hospital operated
201 directly by the State Department of Mental Health.



(b) A jail or other detention center may not be used for custody unless the community mental health center has explored and exhausted the availability of other appropriate facilities, such as the crisis stabilization unit, the local hospital and any Department of Mental Health certified location; the chancellor specifically authorizes it; and the respondent is actively violent. The county of residence of any such person shall pay the cost of such interim treatment. The community mental health center shall provide documentation of the person's violent behavior and that no other appropriate facilities are available to the chancellor. Under these circumstances, no person may remain in a jail for longer than twenty-four (24) hours unless the community mental health center requests an additional twenty-four (24) hours from the chancellor. The community mental health center shall provide treatment during this timeframe pending placement at an appropriate facility.

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



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

229 (6) (a) Whenever a licensed psychologist, nurse
230 practitioner or physician assistant who is certified to complete
231 examinations for the purpose of commitment or a licensed physician
232 has reason to believe that a person poses an immediate substantial
233 likelihood of physical harm to himself or others or is gravely
234 disabled and unable to care for himself by virtue of mental
235 illness, as defined in Section 41-21-61(e), then the physician,
236 psychologist, nurse practitioner or physician assistant may hold
237 the person or may admit the person to and treat the person in a
238 licensed medical facility, without a civil order or warrant for a
239 period not to exceed seventy-two (72) hours. However, if the
240 seventy-two-hour period begins or ends when the chancery clerk's
241 office is closed, or within three (3) hours of closing, and the
242 chancery clerk's office will be continuously closed for a time
243 that exceeds seventy-two (72) hours, then the seventy-two-hour
244 period is extended until the end of the next business day that the
245 chancery clerk's office is open. The person may be held and
246 treated as an emergency patient at any licensed medical facility,
247 available regional mental health facility, or crisis stabilization
248 unit. The physician or psychologist, nurse practitioner or
249 physician assistant who holds the person shall certify in writing
250 the reasons for the need for holding.



251 If a person is being held and treated in a licensed medical
252 facility, and that person decides to continue treatment by
253 voluntarily signing consent for admission and treatment, the
254 seventy-two-hour hold may be discontinued without filing an
255 affidavit for commitment. Any respondent so held may be given
256 such treatment as indicated by standard medical practice. Persons
257 acting in good faith in connection with the detention and
258 reporting of a person believed to have a mental illness shall
259 incur no liability, civil or criminal, for those acts.

260 (b) Whenever an individual is held for purposes of
261 receiving treatment as prescribed under paragraph (a) of this
262 subsection, and it is communicated to the mental health
263 professional holding the individual that the individual resides or
264 has visitation rights with a minor child, and if the individual is
265 considered to be a danger to the minor child, the mental health
266 professional shall notify the Department of Child Protection
267 Services prior to discharge if the threat of harm continues to
268 exist, as is required under Section 43-21-353.

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

271 **SECTION 2.** Section 41-21-65, Mississippi Code of 1972, is
272 amended as follows:

273 41-21-65. (1) It is the intention of the Legislature that
274 the filing of an affidavit under this section be a simple,
275 inexpensive, uniform, and streamlined process for the purpose of



276 facilitating and expediting the care of individuals in need of
277 treatment.

278 (2) The Uniform Civil Commitment Affidavit developed by the
279 Department of Mental Health under this section must be provided by
280 the clerk of the chancery court to any party or affiant seeking a
281 civil commitment under this section, and must be utilized in all
282 counties to commence civil commitment proceedings under this
283 section. The affidavit must be made available to the public on
284 the website of the Mississippi Department of Mental Health.

285 (3) The Department of Mental Health, in consultation with
286 the Mississippi Chancery Clerks Association, the Mississippi
287 Conference of Chancery Court Judges and the Mississippi
288 Association of Community Mental Health Centers, must develop a
289 written guide setting out the steps in the commitment process no
290 later than January 1, 2020. The guide shall be designated as the
291 "Uniform Civil Commitment Guide" and must include, but not be
292 limited to, the following:

293 (a) Steps in the civil commitment process from
294 affidavit to commitment, written in easily understandable layman's
295 terms;

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

298 (c) Eligibility requirements and instructions for
299 filing a pauper's affidavit; and



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

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

(5) If any person is alleged to be in need of treatment, any relative of the person, or any interested person, may make affidavit of that fact and shall file the Uniform Civil Commitment Affidavit with the clerk of the chancery court of the county in which the person alleged to be in need of treatment resides, but the chancellor or duly appointed special master may, in his or her discretion, hear the matter in the county in which the person may be found or the circuit judge may hear such matter as provided in Section 41-21-63. Prior to filing an affidavit for commitment of an individual, the relative or interested person shall be connected with the community mental health center for a pre-affidavit screening as set forth in Section 41-21-67. The pre-affidavit screening is mandatory and must be completed before any affidavit for commitment is filed, except as otherwise provided in Section 41-21-67(1) or (2). The affidavit shall set



325 forth the name and address of the proposed patient's nearest
326 relatives and whether the proposed patient resides or has
327 visitation rights with any minor children, if known, and the
328 reasons for the affidavit. The affidavit must contain factual
329 descriptions of the proposed patient's recent behavior, including
330 a description of the behavior, where it occurred, and over what
331 period of time it occurred, if known. The affidavit shall state
332 specifically that a less restrictive alternative treatment was
333 considered and specify why treatment less restrictive than
334 involuntary commitment is not appropriate. Each factual
335 allegation may be supported by observations of witnesses and the
336 pre-affidavit screener named in the affidavit. The Department of
337 Mental Health, in consultation with the Mississippi Chancery
338 Clerks' Association, shall develop a simple, one-page affidavit
339 form for the use of affiants as provided in this section. The
340 affidavit also must state whether the affiant has received notice
341 of the pre-affidavit screening from a community mental health
342 center determining whether the alleged acts by the proposed
343 respondent warrant civil commitment in lieu of other
344 less-restrictive treatment options. No chancery clerk shall
345 require an affiant to retain an attorney for the filing of an
346 affidavit under this section.

347 (6) The chancery clerk may charge a total filing fee for all
348 services equal to the amount set out in Section 25-7-9(o), and the
349 appropriate state and county assessments as required by law which



include, but are not limited to, assessments for the Judicial Operation Fund (Section 25-7-9(3)(b)); the Electronic Court System Fund (Section 25-7-9(3)(a)); the Civil Legal Assistance Fund (Section 25-7-9(1)(k)); the Court Education and Training Fund (Section 37-26-3); State Court Constituent's Fund (Section 37-26-9(4)); and reasonable court reporter's fee. Costs incidental to the court proceedings as set forth in Section 41-21-79 may not be included in the assessments permitted by this subsection. The total of the fees and assessments permitted by this subsection may not exceed One Hundred Fifty Dollars (\$150.00).

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

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

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

SECTION 3. Section 41-21-77, Mississippi Code of 1972, is amended as follows:



375 41-21-77. (1) If admission is ordered at a treatment
376 facility, the sheriff, his or her deputy or any other person
377 appointed or authorized by the court shall immediately deliver the
378 respondent to the director of the appropriate facility. Neither
379 the Board of Mental Health or its members, nor the Department of
380 Mental Health or its related facilities, nor any employee of the
381 Department of Mental Health or its related facilities, shall be
382 appointed, authorized or ordered to deliver the respondent for
383 treatment, and no person shall be so delivered or admitted until
384 the director of the admitting institution determines that
385 facilities and services are available. Persons who have been
386 ordered committed and are awaiting admission may be given any such
387 treatment in the facility by a licensed physician as is indicated
388 by standard medical practice. Any county facility used for
389 providing housing, maintenance and medical treatment for
390 involuntarily committed persons pending their transportation and
391 admission to a state treatment facility shall be certified by the
392 State Department of Mental Health under the provisions of Section
393 41-4-7(kk). No person shall be delivered or admitted to any
394 non-Department of Mental Health treatment facility unless the
395 treatment facility is licensed and/or certified to provide the
396 appropriate level of psychiatric care for persons with mental
397 illness. It is the intent of this Legislature that county-owned
398 hospitals work with regional community mental health/intellectual
399 disability centers in providing care to local patients. The clerk



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

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



(b) The chancery clerk shall maintain a record each time such clerk receives a denial for admission to a community mental health center crisis stabilization bed, the reason provided to the clerk for such denial, and the subsequent action taken by the clerk upon receiving the denial.

(c) Each chancery clerk shall provide the records required by paragraphs (a) and (b) of this subsection (2) to the Department of Mental Health within thirty (30) days of the end of each calendar quarter. For each failure of the chancery clerk to provide the records to the Department of Mental Health within the time provided in this section, the chancery clerk shall be penalized as provided in Section 9-1-43(1). Within sixty (60) days of receipt of the chancery clerk records, the Department of Mental Health shall provide a summary to the Chairpersons of the Appropriations, Public Health and Judiciary A and B Committees for the Mississippi House of Representatives and the Mississippi Senate, the Coordinator of Mental Health and the President of the Mississippi Association of Community Mental Health Centers.

SECTION 4. Section 9-1-43, Mississippi Code of 1972, is amended as follows:

9-1-43. (1) After making deductions for employer contributions paid by the chancery or circuit clerk to the Public Employees' Retirement System under Sections 25-11-106.1 and 25-11-123(f)(4), employee salaries and related salary expenses, and expenses allowed as deductions by Schedule C of the Internal



Revenue Code, no office of the chancery clerk or circuit clerk of any county in the state shall receive fees as compensation for the chancery clerk's or circuit clerk's services in excess of Ninety-nine Thousand Five Hundred Dollars (\$99,500.00), or such lower amount as provided in the last paragraph of this subsection (1). All such fees received by the office of chancery or circuit clerks that are in excess of the salary limitation shall be deposited by such clerk into the county general fund on or before April 15 for the preceding calendar year.

If the chancery clerk or circuit clerk serves less than one (1) year, then he shall not receive as compensation any fees in excess of that portion of the salary limitation that can be attributed to his time in office on a pro rata basis.

Upon leaving office, income earned by any clerk in his last full year of office but not received until after his last full year of office shall not be included in determining the salary limitation of the successor clerk.

There shall be exempted from the provisions of this subsection any monies or commissions from private or governmental sources which: (a) are to be held by the chancery or circuit clerk in a trust or custodial capacity as prescribed in subsections (4) and (5); or (b) are received as compensation for services performed upon order of a court or board of supervisors which are not required of the chancery clerk or circuit clerk by statute.



474 The amount of the salary limitation for the chancery clerk in
475 this subsection (1) shall be reduced by One Thousand Dollars
476 (\$1,000.00) for each failure of the chancery clerk to provide the
477 records to the Department of Mental Health as required by Section
478 41-21-77(2) within the time provided in that section. Any
479 reductions in the salary limitation for failure of the chancery
480 clerk to timely provide the records to the department for any of
481 the first three (3) calendar quarters shall remain in effect
482 through the end of the calendar year. Any reduction in the salary
483 limitation for failure of the chancery clerk to timely provide the
484 records to the department for the fourth calendar quarter shall
485 take effect for the next calendar year and shall remain in effect
486 through the end of that calendar year.

487 (2) It shall be unlawful for any chancery clerk or circuit
488 clerk to use fees in excess of Ninety-nine Thousand Five Hundred
489 Dollars (\$99,500.00), or such lower amount as provided in
490 subsection (1) of this section, to pay the salaries or actual or
491 necessary expenses of employees who are related to such clerk by
492 blood or marriage within the first degree of kinship according to
493 the civil law method of computing kinship as provided in Sections
494 1-3-71 and 1-3-73. However, the prohibition of this subsection
495 shall not apply to any individual who was an employee of the
496 clerk's office prior to the date his or her relative was elected
497 as chancery or circuit clerk. The spouse and/or any children of
498 the chancery clerk or circuit clerk employed in the office of the



chancery clerk may be paid a salary; however, the combined annual salaries of the clerk, spouse and any child of the clerk may not exceed an amount equal to the salary limitation.

(3) The chancery clerk and the circuit clerk shall be liable on their official bond for the proper deposit and accounting of all monies received by his office. The State Auditor shall promulgate uniform accounting methods for the accounting of all sources of income by the offices of the chancery and circuit clerk.

(4) There is created in the county depository of each county a clearing account to be designated as the "chancery court clerk clearing account," into which shall be deposited: (a) all such monies as the clerk of the chancery court shall receive from any person complying with any writ of garnishment, attachment, execution or other like process authorized by law for the enforcement of child support, spousal support or any other judgment; (b) any portion of any fees required by law to be collected in civil cases which are to pay for the service of process or writs in another county; and (c) any other money as shall be deposited with the court which by its nature is not, at the time of its deposit, public monies, but which is to be held by the court in a trust or custodial capacity in a case or proceeding before the court. The clerk of the chancery court shall account for all monies deposited in and disbursed from such account and shall be authorized and empowered to draw and issue checks on such



account at such times, in such amounts and to such persons as shall be proper and in accordance with law.

The following monies paid to the chancery clerk shall be subject to the salary limitation prescribed under subsection (1):

(a) all fees required by law to be collected for the filing, recording or abstracting of any bill, petition, pleading or decree in any civil case in chancery; (b) all fees collected for land recordings, charters, notary bonds, certification of decrees and copies of any documents; (c) all land redemption and mineral documentary stamp commissions; and (d) any other monies or commissions from private or governmental sources for statutory functions which are not to be held by the court in a trust capacity. Such fees as shall exceed the salary limitations shall be maintained in a bank account in the county depository and accounted for separately from those monies paid into the chancery court clerk clearing account.

(5) There is created in the county depository in each county a clearing account to be designated as the "circuit court clerk civil clearing account," into which shall be deposited: (a) all such monies and fees as the clerk of the circuit court shall receive from any person complying with any writ of garnishment, attachment, execution or any other like process authorized by law for the enforcement of a judgment; (b) any portion of any fees required by law or court order to be collected in civil cases; (c) all fees collected for the issuance of marriage licenses; and



549 (d) any other money as shall be deposited with the court which by
550 its nature is not, at the time of its deposit, public monies but
551 which is to be held by the court in a trust or custodial capacity
552 in a case or proceeding before the court.

553 There is created in the county depository in each county a
554 clearing account to be designated as the "circuit court clerk
555 criminal clearing account," into which shall be deposited: (a)
556 all such monies as are received in criminal cases in the circuit
557 court pursuant to any order requiring payment as restitution to
558 the victims of criminal offenses; (b) any portion of any fees and
559 fines required by law or court order to be collected in criminal
560 cases; and (c) all cash bonds as shall be deposited with the
561 court. The clerk of the circuit court shall account for all
562 monies deposited in and disbursed from such account and shall be
563 authorized and empowered to draw and issue checks on such account,
564 at such times, in such amounts and to such persons as shall be
565 proper and in accordance with law; however, such monies as are
566 forfeited in criminal cases shall be paid by the clerk of the
567 circuit court to the clerk of the board of supervisors for deposit
568 in the general fund of the county.

569 The following monies paid to the circuit clerk shall be
570 subject to the salary limitation prescribed under subsection (1):
571 (a) all fees required by law to be collected for the filing,
572 recording or abstracting of any bill, petition, pleading or decree
573 in any civil action in circuit court; (b) copies of any documents;



574 and (c) any other monies or commissions from private or
575 governmental sources for statutory functions which are not to be
576 held by the court in a trust capacity.

577 (6) The chancery clerk and the circuit clerk shall establish
578 and maintain a cash journal for recording cash receipts from
579 private or government sources for furnishing copies of any papers
580 of record or on file, or for rendering services as a notary
581 public, or other fees wherein the total fee for the transaction is
582 Ten Dollars (\$10.00) or less. The cash journal entry shall
583 include the date, amount and type of transaction, and the clerk
584 shall not be required to issue a receipt to the person receiving
585 such services. The State Auditor shall not take exception to the
586 furnishing of copies or the rendering of services as a notary by
587 any clerk free of charge.

588 In any county having two (2) judicial districts, whenever the
589 chancery clerk serves as deputy to the circuit clerk in one (1)
590 judicial district and the circuit clerk serves as deputy to the
591 chancery clerk in the other judicial district, the chancery clerk
592 may maintain a cash journal, separate from the cash journal
593 maintained for chancery clerk receipts, for recording the cash
594 receipts paid to him as deputy circuit clerk, and the circuit
595 clerk may maintain a cash journal, separate from the cash journal
596 maintained for circuit clerk receipts, for recording the cash
597 receipts paid to him as deputy chancery clerk. The cash receipts
598 collected by the chancery clerk in his capacity as deputy circuit



clerk and the cash receipts collected by the circuit clerk in his capacity as deputy chancery clerk shall be subject to the salary limitation prescribed under subsection (1).

(7) Any clerk who knowingly shall fail to deposit funds or otherwise violate the provisions of this section shall be guilty of a misdemeanor in office and, upon conviction thereof, shall be fined in an amount not to exceed double the amount that he failed to deposit, or imprisoned for not to exceed six (6) months in the county jail, or be punished by both such fine and imprisonment.

SECTION 5. Section 41-19-33, Mississippi Code of 1972, is amended as follows:

41-19-33. (1) Each region so designated or established under Section 41-19-31 shall establish a regional commission to be composed of members appointed by the boards of supervisors of the various counties in the region. Each regional commission shall employ or contract with an accountant for the purpose of managing the finances of the commission. The accountant shall provide an annual audit to the commission in addition to his or her other duties. It shall be the duty of such regional commission to administer mental health/intellectual disability programs certified and required by the State Board of Mental Health and as specified in Section 41-4-1(2). In addition, once designated and established as provided hereinabove, a regional commission shall have the following authority and shall pursue and promote the following general purposes:



624 (a) To establish, own, lease, acquire, construct,
625 build, operate and maintain mental illness, mental health,
626 intellectual disability, alcoholism and general rehabilitative
627 facilities and services designed to serve the needs of the people
628 of the region so designated, provided that the services supplied
629 by the regional commissions shall include those services
630 determined by the Department of Mental Health to be necessary and
631 may include, in addition to the above, services for persons with
632 developmental and learning disabilities; for persons suffering
633 from narcotic addiction and problems of drug abuse and drug
634 dependence; and for the aging as designated and certified by the
635 Department of Mental Health. Such regional mental health and
636 intellectual disability commissions and other community service
637 providers shall, on or before July 1 of each year, submit an
638 annual operational plan to the Department of Mental Health for
639 approval or disapproval based on the minimum standards and minimum
640 required services established by the department for certification
641 and itemize the services as specified in Section 41-4-1(2),
642 including financial statements. As part of the annual operation
643 plan required by Section 41-4-7(h) submitted by any regional
644 community mental health center or by any other reasonable
645 certification deemed acceptable by the department, the community
646 mental health center shall state those services specified in
647 Section 41-4-1(2) that it will provide and also those services
648 that it will not provide. If the department finds deficiencies in



649 the plan of any regional commission or community service provider
650 based on the minimum standards and minimum required services
651 established for certification, the department shall give the
652 regional commission or community service provider a six-month
653 probationary period to bring its standards and services up to the
654 established minimum standards and minimum required services. The
655 regional commission or community service provider shall develop a
656 sustainability business plan within thirty (30) days of being
657 placed on probation, which shall be signed by all commissioners
658 and shall include policies to address one or more of the
659 following: the deficiencies in programmatic services, clinical
660 service staff expectations, timely and appropriate billing,
661 processes to obtain credentialing for staff, monthly reporting
662 processes, third-party financial reporting and any other required
663 documentation as determined by the department. After the
664 six-month probationary period, if the department determines that
665 the regional commission or community service provider still does
666 not meet the minimum standards and minimum required services
667 established for certification, the department may remove the
668 certification of the commission or provider, and from and after
669 July 1, 2011, the commission or provider shall be ineligible for
670 state funds from Medicaid reimbursement or other funding sources
671 for those services. After the six-month probationary period, the
672 Department of Mental Health may identify an appropriate community
673 service provider to provide any core services in that county that



674 are not provided by a community mental health center. However,
675 the department shall not offer reimbursement or other
676 accommodations to a community service provider of core services
677 that were not offered to the decertified community mental health
678 center for the same or similar services.

679 (b) To provide facilities and services for the
680 prevention of mental illness, mental disorders, developmental and
681 learning disabilities, alcoholism, narcotic addiction, drug abuse,
682 drug dependence and other related handicaps or problems (including
683 the problems of the aging) among the people of the region so
684 designated, and for the rehabilitation of persons suffering from
685 such illnesses, disorders, handicaps or problems as designated and
686 certified by the Department of Mental Health.

687 (c) To promote increased understanding of the problems
688 of mental illness, intellectual disabilities, alcoholism,
689 developmental and learning disabilities, narcotic addiction, drug
690 abuse and drug dependence and other related problems (including
691 the problems of the aging) by the people of the region, and also
692 to promote increased understanding of the purposes and methods of
693 the rehabilitation of persons suffering from such illnesses,
694 disorders, handicaps or problems as designated and certified by
695 the Department of Mental Health.

696 (d) To enter into contracts and to make such other
697 arrangements as may be necessary, from time to time, with the
698 United States government, the government of the State of



Mississippi and such other agencies or governmental bodies as may be approved by and acceptable to the regional commission for the purpose of establishing, funding, constructing, operating and maintaining facilities and services for the care, treatment and rehabilitation of persons suffering from mental illness, an intellectual disability, alcoholism, developmental and learning disabilities, narcotic addiction, drug abuse, drug dependence and other illnesses, disorders, handicaps and problems (including the problems of the aging) as designated and certified by the Department of Mental Health.

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

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



724 (g) To pay the administrative costs of the operation of
725 the regional commissions, including per diem for the members of
726 the commission and its employees, attorney's fees, if and when
727 such are required in the opinion of the commission, and such other
728 expenses of the commission as may be necessary. The Department of
729 Mental Health standards and audit rules shall determine what
730 administrative cost figures shall consist of for the purposes of
731 this paragraph. Each regional commission shall submit a cost
732 report annually to the Department of Mental Health in accordance
733 with guidelines promulgated by the department.

734 (h) To employ and compensate any personnel that may be
735 necessary to effectively carry out the programs and services
736 established under the provisions of the aforesaid act, provided
737 such person meets the standards established by the Department of
738 Mental Health.

739 (i) To acquire whatever hazard, casualty or workers'
740 compensation insurance that may be necessary for any property,
741 real or personal, owned, leased or rented by the commissions, or
742 any employees or personnel hired by the commissions.

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

747 (k) To provide and finance within their own facilities,
748 or through agreements or contracts with other local, state or



749 federal agencies or institutions, nonprofit corporations, or
750 political subdivisions or representatives thereof, programs and
751 services for persons with mental illness, including treatment for
752 alcoholics, and promulgating and administering of programs to
753 combat drug abuse and programs for services for persons with an
754 intellectual disability.

755 (1) To borrow money from private lending institutions
756 in order to promote any of the foregoing purposes. A commission
757 may pledge collateral, including real estate, to secure the
758 repayment of money borrowed under the authority of this paragraph.
759 Any such borrowing undertaken by a commission shall be on terms
760 and conditions that are prudent in the sound judgment of the
761 members of the commission, and the interest on any such loan shall
762 not exceed the amount specified in Section 75-17-105. Any money
763 borrowed, debts incurred or other obligations undertaken by a
764 commission, regardless of whether borrowed, incurred or undertaken
765 before or after March 15, 1995, shall be valid, binding and
766 enforceable if it or they are borrowed, incurred or undertaken for
767 any purpose specified in this section and otherwise conform to the
768 requirements of this paragraph.

769 (m) To acquire, own and dispose of real and personal
770 property. Any real and personal property paid for with state
771 and/or county appropriated funds must have the written approval of
772 the Department of Mental Health and/or the county board of



773 supervisors, depending on the original source of funding, before
774 being disposed of under this paragraph.

775 (n) To enter into managed care contracts and make such
776 other arrangements as may be deemed necessary or appropriate by
777 the regional commission in order to participate in any managed
778 care program. Any such contract or arrangement affecting more
779 than one (1) region must have prior written approval of the
780 Department of Mental Health before being initiated and annually
781 thereafter.

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

786 (p) To enter into contracts, agreements or other
787 arrangements with any person, payor, provider or other entity,
788 under which the regional commission assumes financial risk for the
789 provision or delivery of any services, when deemed to be necessary
790 or appropriate by the regional commission. Any action under this
791 paragraph affecting more than one (1) region must have prior
792 written approval of the Department of Mental Health before being
793 initiated and annually thereafter.

794 (q) To provide direct or indirect funding, grants,
795 financial support and assistance for any health maintenance
796 organization, preferred provider organization or other managed
797 care entity or contractor, where such organization, entity or



798 contractor is operated on a nonprofit basis. Any action under
799 this paragraph affecting more than one (1) region must have prior
800 written approval of the Department of Mental Health before being
801 initiated and annually thereafter.

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

809 (s) To meet at least annually with the board of
810 supervisors of each county in its region for the purpose of
811 presenting its total annual budget and total mental
812 health/intellectual disability services system. The commission
813 shall submit an annual report on the adult mental health services,
814 children mental health services and intellectual disability
815 services required by the State Board of Mental Health.

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

819 (u) To make purchases and enter into contracts for
820 purchasing in compliance with the public purchasing law, Sections
821 31-7-12 and 31-7-13, with compliance with the public purchasing
822 law subject to audit by the State Department of Audit.



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

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



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

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

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

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

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

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



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

874 (vi) The regional commission must provide a
875 semiannual report to the Chairmen of the Public Health Committees
876 in both the House of Representatives and Senate. At a minimum,
877 for each reporting period, these reports shall describe the number
878 of patients provided primary care services, the types of services
879 provided, and the payer source for the patients. Except for
880 patient information and any other information that may be exempt
881 from disclosure under the Health Information Portability and
882 Accountability Act (HIPAA) and the Mississippi Public Records Act,
883 the reports shall be considered public records.

884 (vii) The regional commission must employ or
885 contract with a core clinical staff that is multidisciplinary and
886 culturally and linguistically competent.

887 (viii) The regional commission must ensure that
888 its physician as described in subparagraph (ii) of this paragraph
889 (x) has admitting privileges at one or more local hospitals or has
890 an agreement with a physician who has admitting privileges at one
891 or more local hospitals to ensure continuity of care.

892 (ix) The regional commission must provide an
893 independent financial audit report to the State Department of
894 Mental Health and, except for patient information and any other
895 information that may be exempt from disclosure under HIPAA and the



896 Mississippi Public Records Act, the audit report shall be
897 considered a public record.

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

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

905 (z) All regional commissioners shall receive new
906 orientation training and annual training with continuing education
907 regarding the Mississippi mental health system and services as
908 developed by the State Department of Mental Health. Training
909 shall be provided at the expense of the department except for
910 travel expenses which shall be paid by the regional commission.

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

913 (2) The types of services established by the State
914 Department of Mental Health that must be provided by the regional
915 mental health/intellectual disability centers for certification by
916 the department, and the minimum levels and standards for those
917 services established by the department, shall be provided by the
918 regional mental health/intellectual disability centers to children
919 when such services are appropriate for children, in the
920 determination of the department.



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

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

(4) (a) The community mental health center shall submit a written quarterly report to the board of supervisors of each county in its region. The report shall be prepared on a standard form developed and provided to the community mental health centers by the State Department of Mental Health. The report shall include the following information for the prior quarter:

- (i) The number of occupancy percentages reported by the crisis stabilization unit in the region;
- (ii) The number of individuals held in jail after the commitment process has been initiated and the number of individuals the community mental health center provided treatment to while they were in jail, as required by Section 41-21-67;
- (iii) The number of pre-affidavit screenings conducted;



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

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

949 (vi) Summary report of Medicaid claims, including
950 denials; and

951 (vii) Cash balance as of the date of the end of
952 the quarter.

953 (b) The community mental health center shall provide
954 the Department of Mental Health, local sheriffs and chancery court
955 judges with a copy of the community mental health center's report
956 each quarter.

957 **SECTION 6.** Section 41-30-3, Mississippi Code of 1972, is
958 amended as follows:

959 41-30-3. For purposes of this chapter, the following words
960 shall * * * be defined as provided in this section unless the
961 context otherwise requires:

962 (a) "Board" shall mean the * * * State Board of Mental
963 Health.

964 (b) "Division" shall mean the Bureau of Alcohol and
965 Drug Services.

966 (c) "Director" shall mean the Director of the Bureau of
967 Alcohol and Drug Services.

968 (d) "Consortium" shall mean the University Consortium
969 on Alcohol Abuse and Alcoholism.



970 (e) "State hospitals" shall mean the Mississippi State
971 Hospital at Whitfield and the East Mississippi State Hospital at
972 Meridian.

973 (f) "Alcoholic" shall mean any person who chronically
974 and habitually uses alcoholic beverages to the extent that he has
975 lost the power of self-control with respect to the use of such
976 beverages, or any person who, while chronically under the
977 influence of alcoholic beverages, endangers public morals, health,
978 safety or welfare.

979 (g) "Certified private treatment facility" shall mean
980 any private facility, service or program approved by the division
981 providing treatment or rehabilitation services for alcoholics and
982 drug addicts, including, but not limited to, detoxication centers,
983 licensed hospitals, community or regional mental health
984 facilities, clinics or programs, halfway houses, and
985 rehabilitation centers.

986 (h) "Certified public treatment facility" shall mean
987 any center, facility, service or program approved by the division
988 owned and operated or sponsored and operated by any federal, state
989 or local governmental entity and which provides treatment and
990 rehabilitation services for alcoholics or drug addicts.

991 (i) "Intoxicated person" shall mean a person whose
992 mental or physical functioning is substantially impaired as a
993 result of the use of alcohol or drugs.



(j) "Drug addict" and "drug addiction" shall have the meanings as defined in Section 41-31-1.

(k) "Interested person" means an adult, including, but not limited to, a public official, and the legal guardian, spouse, parent, legal counsel, adult child, next of kin, or other person designated by a proposed patient.

SECTION 7. Section 41-30-27, Mississippi Code of 1972, is amended as follows:

41-30-27. (1) * * * A person may be admitted to an approved public or private treatment facility for emergency care and treatment upon a decree of the chancery court accepting an * * * affidavit for admission * * * to the facility accompanied by a pre-affidavit screening and the certificates of two (2) licensed physicians. Before filing an affidavit for commitment of an individual, the relative or interested person shall be connected with the community mental health center for a pre-affidavit screening as set forth in Section 41-31-5. The pre-affidavit screening is mandatory and must be completed before any affidavit for commitment is filed. The * * * affidavit shall be to the chancery court of the county of such person's residence and may be made by * * * a relative or interested person. The * * * affidavit shall state facts to support the need for immediate commitment, including factual allegations showing that the person to be committed has threatened, attempted or actually inflicted physical harm upon himself or another. The physicians'



certificates shall state that they examined the person within two (2) days of the certificate date and shall set out the facts to support the physicians' conclusion that the person is an alcoholic or drug addict who has lost the power of self-control with respect to the use of alcoholic beverages or habit-forming drugs and that unless immediately committed he or she is likely to inflict physical harm upon himself or herself or others. A hearing on * * * the pre-affidavit screening and certificates shall be heard by the chancery court in term time or in vacation, and the hearing shall be held in the presence of the person sought to be admitted unless he or she fails or refuses to attend. Notice of the hearing shall be given to the person sought to be admitted, as soon as practicable after the examination by the certifying physicians, and the person sought to be admitted shall have an opportunity to be represented by counsel, and shall be entitled to have compulsory process for the attendance of witnesses.

* * *

(2) The chancery judge may refuse an * * * affidavit if in his or her opinion the * * * affidavit, pre-affidavit screening and certificates fail to sustain the grounds for commitment. Upon acceptance of the * * * affidavit after hearing thereon and decree sustaining the * * * affidavit by the judge, the person shall be transported to the facility by a peace officer, health officer, the * * * affiant for commitment, the patient's spouse or the patient's guardian. The person shall be retained at the facility



that admitted him or her, or be transferred to any other appropriate treatment resource, until discharged pursuant to subsection (3).

(3) The attending physician shall discharge any person committed pursuant to this section when he or she determines that the grounds for commitment no longer exist, but no person committed pursuant to this section shall be retained in any facility for more than five (5) days.

(4) * * * If the * * * affidavit for emergency involuntary commitment is accepted under subsection (2) of this section, the chancery judge shall order a hearing on the affidavit for commitment pursuant to Title 41, Chapter 31, Mississippi Code of 1972, to be held on the fifth day of such involuntary emergency commitment, the provisions of Section 41-31-5 regarding the time of hearing to the contrary notwithstanding; * * * however, * * * at the time of such involuntary commitment, the alleged alcoholic or drug addict shall be served with a citation to appear at * * * the hearing and shall have an opportunity to be represented by counsel.

SECTION 8. Section 41-31-5, Mississippi Code of 1972, is amended as follows:

41-31-5. (1) (a) Before filing an affidavit for inpatient commitment or outpatient treatment of an individual, the relative or interested person shall be connected with the community mental health center in the county of financial responsibility or the



county where the proposed patient is present for conduct of
preliminary investigation to determine the need to file an
affidavit for inpatient commitment or outpatient treatment. If
the community mental health center is unavailable, any licensed
physician may conduct the pre-affidavit screening. The
pre-affidavit screening shall be completed within twenty-four (24)
hours of the community mental health center being notified. The
community mental health center shall provide the pre-affidavit
screening report to the chancery clerk for the county in which the
affidavit is to be filed upon completion. The community mental
health center shall appoint a screener to conduct an
investigation. The prospective affiant may not be the
pre-affidavit screener. The investigation must include:

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

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

(iii) Identification, exploration and listing of
the specific reasons for rejecting or recommending alternatives to
inpatient commitment or outpatient treatment.

(b) In conducting the investigation required by this
subsection, the screener shall have access to all relevant medical



1094 records of proposed patients currently in treatment facilities,
1095 state-operated treatment programs, or community-based treatment
1096 programs. Data collected pursuant to this paragraph (b) shall be
1097 considered private data on individuals. The pre-affidavit
1098 screening report is not admissible as evidence in court except by
1099 agreement of counsel or as permitted by the rules of court and is
1100 not admissible in any court proceedings unrelated to the
1101 commitment proceedings.

1102 (c) When the pre-affidavit screener recommends
1103 commitment, a written report shall be sent to the chancery clerk
1104 for the county in which the petition is to be filed. The
1105 statement of facts contained in the written report must meet the
1106 requirements of Section 41-31-3(4), specifically certifying that a
1107 less restrictive alternative treatment was considered and
1108 specifying why treatment less restrictive than inpatient
1109 commitment or outpatient treatment is not appropriate.

1110 (d) The pre-affidavit screener shall refuse to support
1111 the filing of an affidavit if the investigation does not disclose
1112 evidence sufficient to support inpatient commitment or outpatient
1113 treatment. Notice of the pre-affidavit screener's decision shall
1114 be provided to the prospective affiant and the court. If an
1115 inpatient or outpatient commitment is not recommended, the
1116 pre-affidavit screener shall provide the prospective petitioner
1117 with connection to other alternative services and resources
1118 available and offered, if appropriate.



1119 (e) If the interested person wishes to proceed with a
1120 petition contrary to the recommendation of the pre-affidavit
1121 screeners, application may be made directly to the chancellor, who
1122 shall determine whether or not to proceed with the petition.
1123 Notice of the chancellor's determination shall be provided to the
1124 interested party.

1125 (* * *2) Whenever an affidavit is filed, the chancellor
1126 of * * * the court shall, by order, fix a time upon a day certain
1127 for the hearing thereof, either in termtime or in vacation, which
1128 hearing shall be fixed not less than five (5) days nor more than
1129 twenty (20) days from the filing of the affidavit. The person
1130 alleged to be an alcoholic or drug addict shall be served with a
1131 citation to appear at * * * the hearing not less than three (3)
1132 days prior to the day fixed for * * * the hearing, and there shall
1133 be served with such citation a true and correct copy of the
1134 affidavit.

1135 (* * *3) The clerk must ascertain whether the respondent is
1136 represented by an attorney, and if it is determined that the
1137 respondent does not have an attorney, the clerk immediately must
1138 notify the chancellor of that fact. If the chancellor determines
1139 that the respondent for any reason does not have the services of
1140 an attorney, the chancellor shall appoint an attorney for the
1141 respondent before a hearing on the affidavit.

1142 (* * *4) At the time fixed, the chancellor shall hear
1143 evidence on the affidavit, with or without the presence of the



1144 alleged alcoholic or drug addict, and all persons interested shall
1145 have the right to appear and present evidence touching upon the
1146 truth and correctness of the allegations of the affidavit.

1147 The * * * chancellor, in his or her discretion, may require that
1148 the alleged alcoholic or drug addict be examined by the county
1149 health officer or by such other competent physician or physicians
1150 as the chancellor may select, and may consider the results of such
1151 examination in reaching a decision in * * * the matter.

1152 (* * * 5) If the alleged alcoholic or drug addict * * *
1153 admits the truth and correctness of the allegations of the
1154 affidavit, or if the chancellor * * * finds from the evidence that
1155 such person is an alcoholic or drug addict, and is in need of
1156 detention, care and treatment in an institution, and that the
1157 other material allegations of * * * the petition are true,
1158 then * * * the chancellor shall enter an order so finding, and
1159 shall order that such person be remanded and committed to and
1160 confined in the proper state institution under this chapter or a
1161 private treatment facility under the provisions of Title 41,
1162 Chapter 32, Mississippi Code of 1972, or, in the case of an
1163 alcoholic to an approved public or private treatment facility
1164 pursuant to the provisions of Title 41, Chapter 30, Mississippi
1165 Code of 1972, for care and treatment for a period of not less than
1166 thirty (30) days nor more than ninety (90) days as the necessity
1167 of the case may, in his or her discretion, require. However, when
1168 such person * * * is so committed, the medical director of



1169 the * * * institution shall be vested with full discretion as to
1170 the treatment and discharge of such person, and may discharge and
1171 release such person at any time when the condition of such
1172 person * * * so * * * justifies.

1173 (* * *6) (a) If the chancellor determines under this
1174 section that the alleged alcoholic or drug addict is in need of
1175 care and treatment but also affirmatively finds that the alleged
1176 alcoholic or drug addict would benefit from the less restrictive
1177 option of an outpatient treatment program, the chancellor, in his
1178 or her discretion and upon agreement of both the affiant and the
1179 person in need of treatment, may order the alleged alcoholic or
1180 drug addict into an outpatient treatment program.

1181 (b) If the order directs outpatient treatment, the
1182 outpatient treatment provider may prescribe or administer to the
1183 respondent treatment consistent with accepted alcohol and drug
1184 abuse treatment standards. If the respondent fails or clearly
1185 refuses to comply with outpatient treatment, the director of the
1186 treatment program, his or her designee or an interested person
1187 must make all reasonable efforts to solicit the respondent's
1188 compliance. These efforts must be documented and, if the
1189 respondent fails or clearly refuses to comply with outpatient
1190 treatment after the efforts are made, the efforts must be
1191 documented with the court by affidavit. Upon the filing of the
1192 affidavit, the sheriff of the proper county may take the
1193 respondent into custody. The chancellor thereafter may order the



1194 respondent to inpatient treatment as soon as a treatment facility
1195 is available.

1196 (c) The respondent may request a hearing within ten
1197 (10) days of commitment to inpatient treatment by filing a written
1198 request with the chancery clerk of the committing court, or the
1199 respondent may request such a hearing in writing to any member of
1200 the professional staff of the treatment facility, which must be
1201 forwarded to the director and promptly filed with the chancery
1202 clerk of the committing court. The respondent must be advised of
1203 the right to request such a hearing and of the right to consult a
1204 lawyer.

1205 **SECTION 9.** This act shall take effect and be in force from
1206 and after July 1, 2025.

