

By: Senator(s) Horhn

To: Public Health and  
Welfare; Appropriations

## SENATE BILL NO. 2457

1 AN ACT TO ENACT THE CIVIL COMMITMENT REFORM ACT; TO DEFINE  
2 TERMS; TO CREATE THE CIVIL COMMITMENT REFORM GRANT PROGRAM TO BE  
3 ADMINISTERED BY THE DEPARTMENT OF MENTAL HEALTH FOR THE PURPOSE OF  
4 ENSURING THAT NO PERSON IS HELD IN JAIL PRIOR TO CIVIL COMMITMENT  
5 FOR MENTAL HEALTH TREATMENT BY EXPANDING AVAILABLE FACILITIES AT  
6 THE COMMUNITY MENTAL HEALTH CENTERS THROUGHOUT THE STATE; TO  
7 PROVIDE THAT EACH COMMUNITY MENTAL HEALTH CENTER SHALL RECEIVE A  
8 MINIMUM AMOUNT UNDER THE GRANT PROGRAM; TO REQUIRE THE DEPARTMENT  
9 TO PROMULGATE RULES AND REGULATIONS TO ADMINISTER THE GRANT  
10 PROGRAM; TO CREATE THE CIVIL COMMITMENT REFORM FUND AS A SPECIAL  
11 FUND IN THE STATE TREASURY; TO PROVIDE THAT MONIES APPROPRIATED  
12 OUT OF THE FUND MAY BE USED TO REIMBURSE ACTUAL OVERSIGHT COSTS UP  
13 TO A CERTAIN AMOUNT; TO AMEND SECTION 41-21-67, MISSISSIPPI CODE  
14 OF 1972, TO DELETE THE AUTHORITY OF A COURT TO HOLD A PERSON IN  
15 JAIL PRIOR TO CIVIL COMMITMENT; TO AMEND SECTION 41-20-5,  
16 MISSISSIPPI CODE OF 1972, TO AMEND THE POWERS AND DUTIES OF THE  
17 COORDINATOR OF MENTAL HEALTH ACCESSIBILITY; TO REQUIRE THE  
18 COORDINATOR TO DETERMINE RELEVANT FACTORS TO BE CONSIDERED IN THE  
19 DISTRIBUTION OF GRANTS UNDER THIS ACT; TO REPEAL SECTION 41-21-68,  
20 MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE AUTHORITY FOR  
21 REGIONAL COMMISSIONS TO ESTABLISH HOLDING FACILITIES FOR PERSONS  
22 FOR THE PURPOSE OF CIVIL COMMITMENT; AND FOR RELATED PURPOSES.

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

24 **SECTION 1.** This act shall be known and may be cited as the  
25 "Civil Commitment Reform Act."

26 **SECTION 2.** For purposes of this act, the following words  
27 shall have the meanings ascribed herein unless the context clearly  
28 requires otherwise:



29 (a) "Department" means the Department of Mental Health.

30 (b) "Grant program" means the Civil Commitment Reform  
31 Grant Program established in this act.

32 (c) "Community Mental Health Center" means the centers  
33 authorized in Section 41-19-33.

34 **SECTION 3.** (1) There is established the Civil Commitment  
35 Reform Grant Program which shall be administered by the department  
36 for the purpose of ensuring that no person is held in jail prior  
37 to civil commitment for mental health treatment by expanding  
38 available facilities at the community mental health centers  
39 throughout the state.

40 (2) The department shall distribute grants to the community  
41 mental health centers. Each community mental health center shall  
42 receive a grant in the amount of at least Five Hundred Thousand  
43 Dollars (\$500,000.00) under the grant program by October 1, 2024.

44 (3) The State Department of Mental Health shall promulgate  
45 rules and regulations to administer the grant program. The rules  
46 and regulations promulgated by the State Department of Mental  
47 Health may include the following considerations for recipients of  
48 grant funds:

49 (a) The number of persons held in holding facilities  
50 before civil commitment under Section 41-21-68 on the date of  
51 passage of this act;



(b) The needs of the individual community mental health centers, including existing facility upgrades and geographic considerations of the center's region;

(c) Any relevant factor determined by the Coordinator of Mental Health Accessibility; and

(d) Any other relevant factor to be determined by the State Department of Mental Health.

(4) The State Department of Mental Health shall provide an annual report to the Lieutenant Governor, Speaker of the House and Governor concerning the distribution of funds under this grant program. The report shall be filed by December 1 of each year.

**SECTION 4.** (1) There is created a special fund in the State Treasury to be known as the "Civil Commitment Reform Fund" which shall consist of monies from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund.

(2) (a) Monies in the fund shall be disbursed by the department for the purposes described in this act.

(b) In addition to the purposes in paragraph (a) of this subsection, monies appropriated out of the fund may be used to reimburse reasonable actual and necessary oversight costs incurred by the department in providing grants or loans under this section. The department shall maintain an accounting of actual



costs and expenses incurred for which reimbursement is sought for each grant or loan. Reimbursement of reasonable actual and necessary costs and expenses for assistance shall not exceed one and twenty-five one-hundredths percent (1.25%) of the monies appropriated out of the fund. Reimbursements made under this paragraph shall satisfy any applicable federal tax law requirements.

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

41-21-67. (1) (a) Prior to filing an affidavit for commitment 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 involuntary commitment. If the community mental health center is unavailable, any reputable licensed physician, psychologist, nurse practitioner or physician assistant, as allowed in the discretion of the court, may conduct the pre-affidavit screening and examination as set forth in Section 41-21-69. 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 petition is to be filed upon completion. The 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.



127 (c) When the pre-affidavit screener recommends  
128 commitment, a written report shall be sent to the chancery clerk  
129 for the county in which the petition is to be filed. The  
130 statement of facts contained in the written report must meet the  
131 requirements of Section 41-21-65(5), specifically certifying that  
132 a less restrictive alternative treatment was considered and  
133 specifying why treatment less restrictive than involuntary  
134 commitment is not appropriate.

135 (d) The pre-affidavit screener shall refuse to support  
136 the filing of an affidavit if the investigation does not disclose  
137 evidence sufficient to support commitment. Notice of the  
138 pre-affidavit screener's decision shall be provided to the  
139 prospective petitioner and the court. If a commitment is not  
140 recommended, the pre-affidavit screener shall provide the  
141 prospective petitioner with connection to other alternative  
142 services and resources available and offered, if appropriate.

143 (e) If the interested person wishes to proceed with a  
144 petition contrary to the recommendation of the pre-affidavit  
145 screener, application may be made directly to the chancellor, who  
146 shall determine whether or not to proceed with the petition.  
147 Notice of the chancellor's determination shall be provided to the  
148 interested party.

149 (2) After a pre-affidavit screener has attempted to complete  
150 an in-person screening, if a person is actively violent or refuses  
151 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





201 examination to be conducted by the following: (a) two (2) nurse  
202 practitioners, one (1) of whom must be a psychiatric nurse  
203 practitioner; or (b) one (1) psychiatric nurse practitioner and  
204 one (1) psychologist or physician assistant. Neither of the  
205 physicians nor the psychologist, nurse practitioner or physician  
206 assistant selected shall be related to that person in any way, nor  
207 have any direct or indirect interest in the estate of that person  
208 nor shall any full-time staff of residential treatment facilities  
209 operated directly by the State Department of Mental Health serve  
210 as examiner.

211 (b) Any health care practitioner who conducts a  
212 physical and mental examination of a person as provided under  
213 paragraph (a) of this subsection may sign the certificate required  
214 for establishing a guardianship or conservatorship for the person  
215 and take care of other related requirements as otherwise provided  
216 by law, at the time of conducting the physical and mental  
217 examinations.

218 (4) The clerk shall ascertain whether the respondent is  
219 represented by an attorney, and if it is determined that the  
220 respondent does not have an attorney, the clerk shall immediately  
221 notify the chancellor of that fact. If the chancellor determines  
222 that the respondent for any reason does not have the services of  
223 an attorney, the chancellor shall immediately appoint an attorney  
224 for the respondent at the time the examiners are appointed.



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



(b) A jail or other detention center may not be used for custody \* \* \*.

The provisions of this paragraph (b) shall \* \* \* be construed to include jails that are designated as holding facilities under the requirement provided by Section 41-21-77.

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



physician assistant who holds the person shall certify in writing the reasons for the need for holding.

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

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

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

**SECTION 6.** Section 41-20-5, Mississippi Code of 1972, is amended as follows:



41-20-5. The coordinator shall have the following powers and duties:

(a) To perform a comprehensive review of Mississippi's mental health system to determine whether mental health services, including community mental health services, are offered in each county and available to the entire population of each county, especially to those with serious and persistent mental illness.

(b) To analyze and review the structure of the mental health system.

(c) To review the adequacy and quality of the individualized supports and services provided to persons discharged from the state hospitals or to persons at risk of institutionalization throughout the state.

(d) To review the quarterly financial statements and status reports of the individual community mental health centers described in Section 41-19-33(3)(b).

(e) To consult with the Special Master appointed in the United States of America v. State of Mississippi, No. 3:16-CV-622-CWR-FKB (S.D. Miss. Feb. 25, 2020) or any monitor or other person appointed by the court, the State Department of Mental Health, the Division of Medicaid, the State Department of Rehabilitation Services, the State Department of Health, county boards of supervisors, regional commissions, community mental health centers, mental health advocates, community leaders and any other necessary parties or entities, both private and



governmental, regarding the status of the services offered by Mississippi's mental health system.

(f) To determine where in any county, or geographic area within a county, the delivery or availability of mental health services are inadequate.

(g) To determine whether each community mental health center has sufficient funds to provide the required mental health services.

(h) To coordinate with the State Department of Mental Health on the development of relevant factors to be considered in the distribution of grants under Section 1 of this act.

( \* \* \*i) To report on the status of the mental health system quarterly to the Governor, the Lieutenant Governor, the Speaker of the House, the State Department of Mental Health, the regional commissions, the Division of Medicaid, the State Department of Rehabilitative Services, the State Department of Health, the Department of Finance and Administration, the PEER Committee and the Legislative Budget Office. The coordinator shall deliver the quarterly status report to the Secretary of the Senate and the Clerk of the House, who shall disseminate the report to the appropriate members.

( \* \* \*j) In addition to the quarterly report required by paragraph ( \* \* \*i), to provide the PEER Committee each quarter with a financial report, assessment and review of each community mental health region and the services provided by the region,



349 together with findings by the coordinator on other relevant  
350 matters relating to the region. The State Department of Mental  
351 Health and the regional commissions shall cooperate with the PEER  
352 Committee in its assessment and review of the community mental  
353 health regions and shall provide the committee with all necessary  
354 information and documentation as requested by the committee.

355       **SECTION 7.** Section 41-21-68, Mississippi Code of 1972, which  
356 provides the authority for regional commissions to establish  
357 regional holding facilities for persons for the purpose of civil  
358 commitment, is repealed.

359       **SECTION 8.** This act shall take effect and be in force from  
360 and after its passage.

