

By: Senator(s) Bryan

To: Public Health and
Welfare

SENATE BILL NO. 2739

1 AN ACT TO BRING FORWARD SECTIONS 41-19-33, 41-19-43,
2 41-21-63, 41-21-65, 41-21-67, 41-21-71, 41-21-73, 41-21-83,
3 41-21-140, 47-7-47 AND 99-13-9, MISSISSIPPI CODE OF 1972, FOR THE
4 PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 41-19-33, Mississippi Code of 1972, is
7 brought forward as follows:

8 41-19-33. (1) Each region so designated or established
9 under Section 41-19-31 shall establish a regional commission to be
10 composed of members appointed by the boards of supervisors of the
11 various counties in the region. Each regional commission shall
12 employ or contract with an accountant for the purpose of managing
13 the finances of the commission. The accountant shall provide an
14 annual audit to the commission in addition to his or her other
15 duties. It shall be the duty of such regional commission to
16 administer mental health/intellectual disability programs
17 certified and required by the State Board of Mental Health and as
18 specified in Section 41-4-1(2). In addition, once designated and
19 established as provided hereinabove, a regional commission shall



have the following authority and shall pursue and promote the following general purposes:

(a) To establish, own, lease, acquire, construct, build, operate and maintain mental illness, mental health, intellectual disability, alcoholism and general rehabilitative facilities and services designed to serve the needs of the people of the region so designated, provided that the services supplied by the regional commissions shall include those services determined by the Department of Mental Health to be necessary and may include, in addition to the above, services for persons with developmental and learning disabilities; for persons suffering from narcotic addiction and problems of drug abuse and drug dependence; and for the aging as designated and certified by the Department of Mental Health. Such regional mental health and intellectual disability commissions and other community service providers shall, on or before July 1 of each year, submit an annual operational plan to the Department of Mental Health for approval or disapproval based on the minimum standards and minimum required services established by the department for certification and itemize the services as specified in Section 41-4-1(2), including financial statements. As part of the annual operation plan required by Section 41-4-7(h) submitted by any regional community mental health center or by any other reasonable certification deemed acceptable by the department, the community mental health center shall state those services specified in



45 Section 41-4-1(2) that it will provide and also those services
46 that it will not provide. If the department finds deficiencies in
47 the plan of any regional commission or community service provider
48 based on the minimum standards and minimum required services
49 established for certification, the department shall give the
50 regional commission or community service provider a six-month
51 probationary period to bring its standards and services up to the
52 established minimum standards and minimum required services. The
53 regional commission or community service provider shall develop a
54 sustainability business plan within thirty (30) days of being
55 placed on probation, which shall be signed by all commissioners
56 and shall include policies to address one or more of the
57 following: the deficiencies in programmatic services, clinical
58 service staff expectations, timely and appropriate billing,
59 processes to obtain credentialing for staff, monthly reporting
60 processes, third-party financial reporting and any other required
61 documentation as determined by the department. After the
62 six-month probationary period, if the department determines that
63 the regional commission or community service provider still does
64 not meet the minimum standards and minimum required services
65 established for certification, the department may remove the
66 certification of the commission or provider, and from and after
67 July 1, 2011, the commission or provider shall be ineligible for
68 state funds from Medicaid reimbursement or other funding sources
69 for those services. After the six-month probationary period, the



70 Department of Mental Health may identify an appropriate community
71 service provider to provide any core services in that county that
72 are not provided by a community mental health center. However,
73 the department shall not offer reimbursement or other
74 accommodations to a community service provider of core services
75 that were not offered to the decertified community mental health
76 center for the same or similar services.

77 (b) To provide facilities and services for the
78 prevention of mental illness, mental disorders, developmental and
79 learning disabilities, alcoholism, narcotic addiction, drug abuse,
80 drug dependence and other related handicaps or problems (including
81 the problems of the aging) among the people of the region so
82 designated, and for the rehabilitation of persons suffering from
83 such illnesses, disorders, handicaps or problems as designated and
84 certified by the Department of Mental Health.

85 (c) To promote increased understanding of the problems
86 of mental illness, intellectual disabilities, alcoholism,
87 developmental and learning disabilities, narcotic addiction, drug
88 abuse and drug dependence and other related problems (including
89 the problems of the aging) by the people of the region, and also
90 to promote increased understanding of the purposes and methods of
91 the rehabilitation of persons suffering from such illnesses,
92 disorders, handicaps or problems as designated and certified by
93 the Department of Mental Health.



94 (d) To enter into contracts and to make such other
95 arrangements as may be necessary, from time to time, with the
96 United States government, the government of the State of
97 Mississippi and such other agencies or governmental bodies as may
98 be approved by and acceptable to the regional commission for the
99 purpose of establishing, funding, constructing, operating and
100 maintaining facilities and services for the care, treatment and
101 rehabilitation of persons suffering from mental illness, an
102 intellectual disability, alcoholism, developmental and learning
103 disabilities, narcotic addiction, drug abuse, drug dependence and
104 other illnesses, disorders, handicaps and problems (including the
105 problems of the aging) as designated and certified by the
106 Department of Mental Health.

107 (e) To enter into contracts and make such other
108 arrangements as may be necessary with any and all private
109 businesses, corporations, partnerships, proprietorships or other
110 private agencies, whether organized for profit or otherwise, as
111 may be approved by and acceptable to the regional commission for
112 the purpose of establishing, funding, constructing, operating and
113 maintaining facilities and services for the care, treatment and
114 rehabilitation of persons suffering from mental illness, an
115 intellectual disability, alcoholism, developmental and learning
116 disabilities, narcotic addiction, drug abuse, drug dependence and
117 other illnesses, disorders, handicaps and problems (including the



118 problems of the aging) relating to minimum services established by
119 the Department of Mental Health.

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

122 (g) To pay the administrative costs of the operation of
123 the regional commissions, including per diem for the members of
124 the commission and its employees, attorney's fees, if and when
125 such are required in the opinion of the commission, and such other
126 expenses of the commission as may be necessary. The Department of
127 Mental Health standards and audit rules shall determine what
128 administrative cost figures shall consist of for the purposes of
129 this paragraph. Each regional commission shall submit a cost
130 report annually to the Department of Mental Health in accordance
131 with guidelines promulgated by the department.

132 (h) To employ and compensate any personnel that may be
133 necessary to effectively carry out the programs and services
134 established under the provisions of the aforesaid act, provided
135 such person meets the standards established by the Department of
136 Mental Health.

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

141 (j) To acquire professional liability insurance on all
142 employees as may be deemed necessary and proper by the commission,



and to pay, out of the funds of the commission, all premiums due and payable on account thereof.

(k) To provide and finance within their own facilities, or through agreements or contracts with other local, state or federal agencies or institutions, nonprofit corporations, or political subdivisions or representatives thereof, programs and services for persons with mental illness, including treatment for alcoholics, and promulgating and administering of programs to combat drug abuse and programs for services for persons with an intellectual disability.

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



167 (m) To acquire, own and dispose of real and personal
168 property. Any real and personal property paid for with state
169 and/or county appropriated funds must have the written approval of
170 the Department of Mental Health and/or the county board of
171 supervisors, depending on the original source of funding, before
172 being disposed of under this paragraph.

173 (n) To enter into managed care contracts and make such
174 other arrangements as may be deemed necessary or appropriate by
175 the regional commission in order to participate in any managed
176 care program. Any such contract or arrangement affecting more
177 than one (1) region must have prior written approval of the
178 Department of Mental Health before being initiated and annually
179 thereafter.

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

184 (p) To enter into contracts, agreements or other
185 arrangements with any person, payor, provider or other entity,
186 under which the regional commission assumes financial risk for the
187 provision or delivery of any services, when deemed to be necessary
188 or appropriate by the regional commission. Any action under this
189 paragraph affecting more than one (1) region must have prior
190 written approval of the Department of Mental Health before being
191 initiated and annually thereafter.



192 (q) To provide direct or indirect funding, grants,
193 financial support and assistance for any health maintenance
194 organization, preferred provider organization or other managed
195 care entity or contractor, where such organization, entity or
196 contractor is operated on a nonprofit basis. Any action under
197 this paragraph affecting more than one (1) region must have prior
198 written approval of the Department of Mental Health before being
199 initiated and annually thereafter.

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

207 (s) To meet at least annually with the board of
208 supervisors of each county in its region for the purpose of
209 presenting its total annual budget and total mental
210 health/intellectual disability services system. The commission
211 shall submit an annual report on the adult mental health services,
212 children mental health services and intellectual disability
213 services required by the State Board of Mental Health.

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



217 (u) To make purchases and enter into contracts for
218 purchasing in compliance with the public purchasing law, Sections
219 31-7-12 and 31-7-13, with compliance with the public purchasing
220 law subject to audit by the State Department of Audit.

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



241 (w) Notwithstanding any other provision of law, to
242 fingerprint and perform a criminal history record check on every
243 employee or volunteer. Every employee or volunteer shall provide
244 a valid current social security number and/or driver's license
245 number that will be furnished to conduct the criminal history
246 record check. If no disqualifying record is identified at the
247 state level, fingerprints shall be forwarded to the Federal Bureau
248 of Investigation for a national criminal history record check.

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

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

259 (ii) A Mississippi licensed physician must be
260 employed or under agreement with the regional commission to
261 provide medical direction and/or to carry out the physician
262 responsibilities as described under applicable state and/or
263 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.

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

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

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

(viii) The regional commission must ensure that its physician as described in subparagraph (ii) of this paragraph (x) has admitting privileges at one or more local hospitals or has



an agreement with a physician who has admitting privileges at one or more local hospitals to ensure continuity of care.

(ix) The regional commission must provide an independent financial audit report to the State Department of Mental Health and, except for patient information and any other information that may be exempt from disclosure under HIPAA and the Mississippi Public Records Act, the audit report shall be considered a public record.

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

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

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

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

(2) The types of services established by the State Department of Mental Health that must be provided by the regional



313 mental health/intellectual disability centers for certification by
314 the department, and the minimum levels and standards for those
315 services established by the department, shall be provided by the
316 regional mental health/intellectual disability centers to children
317 when such services are appropriate for children, in the
318 determination of the department.

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

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

329 (4) (a) The community mental health center shall submit a
330 written quarterly report to the board of supervisors of each
331 county in its region. The report shall include the following
332 information for the prior quarter:

- 333 (i) The number of occupancy percentages reported
334 by the crisis stabilization unit in the region;
- 335 (ii) The number of individuals held in jail after
336 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;

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

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

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

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

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

SECTION 2. Section 41-19-43, Mississippi Code of 1972, is brought forward as follows:

41-19-43. Whenever it is necessary to commit and transport any eligible patient to a regional mental health or intellectual disability facility for treatment or care, the chancery clerk and sheriff shall be entitled to expenses as provided for by the laws of Mississippi for commitment and transportation to state mental institutions and transportation in the county or outside of the



county to a community mental health center or other appropriate facility.

SECTION 3. Section 41-21-63, Mississippi Code of 1972, is brought forward as follows:

41-21-63. (1) No person, other than persons charged with crime, shall be committed to a public treatment facility except under the provisions of Sections 41-21-61 through 41-21-107 or 43-21-611 or 43-21-315. However, nothing herein shall be construed to repeal, alter or otherwise affect the provisions of Section 35-5-31 or to affect or prevent the commitment of persons to the Veterans Administration or other agency of the United States under the provisions of and in the manner specified in those sections.

(2) (a) The chancery court, or the chancellor in vacation, shall have jurisdiction under Sections 41-21-61 through 41-21-107 except over persons with unresolved felony charges unless paragraph (b) of this subsection applies.

(b) If a circuit court with jurisdiction over unresolved felony charges enters an order concluding that a person is incompetent to stand trial and is not restorable to competency in the foreseeable future, the circuit court shall retain jurisdiction and shall proceed with civil commitment procedures in the same manner as described in Sections 41-21-61 through 41-21-107. The order of the circuit court finding that the person is incompetent to stand trial and is not restorable to competency



in the foreseeable future shall be in lieu of the affidavit for commitment provided for in Section 41-21-65. Additionally, if the finding of the circuit court is based on the report and/or testimony of a physician or psychologist that has examined the person, the provisions of Section 41-21-67 for psychiatric examinations shall not apply.

(3) The circuit court shall also have jurisdiction under Sections 99-13-7, 99-13-9 and 99-13-11.

(4) Before the release of a person referred for civil commitment under this section and committed under Sections 41-21-61 through 41-21-107, the Department of Mental Health must notify the district attorney of the county where the offense was committed. The district attorney must notify the crime victim or a family member who has requested notification under Section 99-43-35 and the sheriffs of both the county where the offense was committed and the county of the committed person's destination.

SECTION 4. Section 41-21-65, Mississippi Code of 1972, is brought forward as follows:

41-21-65. (1) It is the intention of the Legislature that the filing of an affidavit under this section be a simple, inexpensive, uniform, and streamlined process for the purpose of facilitating and expediting the care of individuals in need of treatment.

(2) The Uniform Civil Commitment Affidavit developed by the Department of Mental Health under this section must be provided by



the clerk of the chancery court to any party or affiant seeking a civil commitment under this section, and must be utilized in all counties to commence civil commitment proceedings under this section. The affidavit must be made available to the public on the website of the Mississippi Department of Mental Health.

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

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

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

(c) Eligibility requirements and instructions for 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(2). The affidavit shall set forth the name and address of the proposed patient's nearest relatives and whether the proposed patient resides or has visitation rights with any minor children, if known, and the reasons for the affidavit. The affidavit must contain factual descriptions of the



460 proposed patient's recent behavior, including a description of the
461 behavior, where it occurred, and over what period of time it
462 occurred, if known. The affidavit shall state specifically that a
463 less restrictive alternative treatment was considered and specify
464 why treatment less restrictive than involuntary commitment is not
465 appropriate. Each factual allegation may be supported by
466 observations of witnesses and the pre-affidavit screener named in
467 the affidavit. The Department of Mental Health, in consultation
468 with the Mississippi Chancery Clerks' Association, shall develop a
469 simple, one-page affidavit form for the use of affiants as
470 provided in this section. The affidavit also must state whether
471 the affiant has received notice of the pre-affidavit screening
472 from a community mental health center determining whether the
473 alleged acts by the proposed respondent warrant civil commitment
474 in lieu of other less-restrictive treatment options. No chancery
475 clerk shall require an affiant to retain an attorney for the
476 filing of an affidavit under this section.

477 (6) The chancery clerk may charge a total filing fee for all
478 services equal to the amount set out in Section 25-7-9(o), and the
479 appropriate state and county assessments as required by law which
480 include, but are not limited to, assessments for the Judicial
481 Operation Fund (Section 25-7-9(3)(b)); the Electronic Court System
482 Fund (Section 25-7-9(3)(a)); the Civil Legal Assistance Fund
483 (Section 25-7-9(1)(k)); the Court Education and Training Fund
484 (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 5. Section 41-21-67, Mississippi Code of 1972, is brought forward 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



510 investigation to determine the need to file an affidavit for
511 involuntary commitment. If the community mental health center is
512 unavailable, any reputable licensed physician, psychologist, nurse
513 practitioner or physician assistant, as allowed in the discretion
514 of the court, may conduct the pre-affidavit screening and
515 examination as set forth in Section 41-21-69. The pre-affidavit
516 screening shall be completed within twenty-four (24) hours of the
517 community mental health center being notified. The community
518 mental health center shall provide the pre-affidavit screening
519 report to the chancery clerk for the county in which the petition
520 is to be filed upon completion. The community mental health
521 center shall appoint a screener to conduct an investigation. The
522 prospective petitioner may not be the pre-affidavit screener. The
523 investigation must include:

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

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

531 (iii) Identification, exploration, and listing of
532 the specific reasons for rejecting or recommending alternatives to
533 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.

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

(d) The pre-affidavit screener shall refuse to support the filing of an affidavit if the investigation does not disclose evidence sufficient to support commitment. Notice of the pre-affidavit screener's decision shall be provided to the prospective petitioner and the court. If a commitment is not



recommended, the pre-affidavit screener shall provide the prospective petitioner with connection to other alternative services and resources available and offered, if appropriate.

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

(2) After a pre-affidavit screener has attempted to complete an in-person screening, if a person is actively violent or refuses 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 examination to be conducted by the following: (a) two (2) nurse practitioners, one (1) of whom must be a psychiatric nurse practitioner; or (b) one (1) psychiatric nurse practitioner and one (1) psychologist or physician assistant. Neither of the physicians nor the psychologist, nurse practitioner or physician assistant selected shall be related to that person in any way, nor have any direct or indirect interest in the estate of that person nor shall any full-time staff of residential treatment facilities operated directly by the State Department of Mental Health serve as examiner.

(b) Any health care practitioner who conducts a physical and mental examination of a person as provided under paragraph (a) of this subsection may sign the certificate required for establishing a guardianship or conservatorship for the person



634 and take care of other related requirements as otherwise provided
635 by law, at the time of conducting the physical and mental
636 examinations.

637 (4) The clerk shall ascertain whether the respondent is
638 represented by an attorney, and if it is determined that the
639 respondent does not have an attorney, the clerk shall immediately
640 notify the chancellor of that fact. If the chancellor determines
641 that the respondent for any reason does not have the services of
642 an attorney, the chancellor shall immediately appoint an attorney
643 for the respondent at the time the examiners are appointed.

644 (5) (a) If the chancellor determines that there is probable
645 cause to believe that the respondent has a mental illness and that
646 there is no reasonable alternative to detention, the chancellor
647 may order that the respondent be retained as an emergency patient
648 at any licensed medical facility, crisis stabilization unit, or
649 any other available suitable location for evaluation by a
650 physician, nurse practitioner or physician assistant and that a
651 peace officer transport the respondent to the specified facility,
652 unit or location. If the community mental health center serving
653 the county has partnered with Crisis Intervention Teams under the
654 provisions of Sections 41-21-131 through 41-21-143, the order may
655 specify that the licensed medical facility be a designated single
656 point of entry within the county or within an adjacent county
657 served by the community mental health center. If the person
658 evaluating the respondent finds that the respondent has a mental



659 illness and in need of treatment, the chancellor may order that
660 the respondent be retained at the licensed medical facility,
661 crisis stabilization unit, or any other available suitable
662 location as the court may so designate pending an admission
663 hearing. If necessary, the chancellor may order a peace officer
664 or other person to transport the respondent to that facility, or
665 unit or suitable location. Any respondent so retained may be
666 given such treatment as is indicated by standard medical practice.
667 However, the respondent shall not be held in a hospital operated
668 directly by the State Department of Mental Health.

669 (b) A jail or other detention center may not be used
670 for custody unless the community mental health center has explored
671 and exhausted the availability of other appropriate facilities,
672 such as the crisis stabilization unit, the local hospital and any
673 Department of Mental Health certified location; the chancellor
674 specifically authorizes it; and the respondent is actively
675 violent. The county of residence of any such person shall pay the
676 cost of such interim treatment. The community mental health
677 center shall provide documentation of the person's violent
678 behavior and that no other appropriate facilities are available to
679 the chancellor. Under these circumstances, no person may remain
680 in a jail for longer than twenty-four (24) hours unless the
681 community mental health center requests an additional twenty-four
682 (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.

The provisions of this paragraph (b) shall not 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 41-21-71, Mississippi Code of 1972, is brought forward as follows:

41-21-71. If, as a result of the examination, the appointed examiners certify that the person is not in need of treatment, the chancellor, clerk or circuit judge as applicable shall dismiss the affidavit without the need for a further hearing. Except as otherwise provided in Section 41-21-63, if the chancellor or chancery clerk finds, based upon the appointed examiners' certificates and any other relevant evidence, that the respondent is in need of treatment and the certificates are filed with the chancery clerk within forty-eight (48) hours after the order for examination, or extension of that time as provided in Section 41-21-69, the clerk shall immediately set the matter for a hearing. The hearing shall be set within three (3) days of the filing of the certificates unless an extension is requested by the respondent's attorney. In no event shall the hearing be more than five (5) days after the filing of the certificates, unless the court orders to extend the hearing date, which shall not exceed five (5) additional days.



757 **SECTION 7.** Section 41-21-73, Mississippi Code of 1972, is
758 brought forward as follows:

759 41-21-73. (1) Except as otherwise provided in Section
760 41-21-63, the hearing shall be conducted before the chancellor.
761 However, the hearing may be held at the location where the
762 respondent is being held. Within a reasonable period of time
763 before the hearing, notice of same shall be provided the
764 respondent and his attorney, which shall include: (a) notice of
765 the date, time and place of the hearing; (b) a clear statement of
766 the purpose of the hearing; (c) the possible consequences or
767 outcome of the hearing; (d) the facts that have been alleged in
768 support of the need for commitment; (e) the names, addresses and
769 telephone numbers of the examiner(s); and (f) other witnesses
770 expected to testify.

771 (2) The respondent must be present at the hearing unless the
772 chancellor determines that the respondent is unable to attend and
773 makes that determination and the reasons therefor part of the
774 record. At the time of the hearing, the respondent shall not be
775 so under the influence or suffering from the effects of drugs,
776 medication or other treatment so as to be hampered in
777 participating in the proceedings. The court, at the time of the
778 hearing, shall be presented a record of all drugs, medication or
779 other treatment that the respondent has received pending the
780 hearing, unless the court determines that such a record would be
781 impractical and documents the reasons for that determination.



782 (3) The respondent shall have the right to offer evidence,
783 to be confronted with the witnesses against him and to
784 cross-examine them and shall have the privilege against
785 self-incrimination. The rules of evidence applicable in other
786 judicial proceedings in this state shall be followed.

787 (4) If the court finds by clear and convincing evidence that
788 the proposed patient is a person with mental illness or a person
789 with an intellectual disability and, if after careful
790 consideration of reasonable alternative dispositions, including,
791 but not limited to, dismissal of the proceedings, the court finds
792 that there is no suitable alternative to judicial commitment, the
793 court shall commit the patient for treatment in the least
794 restrictive treatment facility that can meet the patient's
795 treatment needs. Treatment before admission to a state-operated
796 facility shall be located as closely as possible to the patient's
797 county of residence and the county of residence shall be
798 responsible for that cost. Admissions to state-operated
799 facilities shall be in compliance with the catchment areas
800 established by the State Department of Mental Health. A
801 nonresident of the state may be committed for treatment or
802 confinement in the county where the person was found.

803 Alternatives to commitment to inpatient care may include, but
804 shall not be limited to: voluntary or court-ordered outpatient
805 commitment for treatment with specific reference to a treatment
806 regimen, day treatment in a hospital, night treatment in a



hospital, placement in the custody of a friend or relative, or the provision of home health services.

For persons committed as having mental illness or having an intellectual disability, the initial commitment shall not exceed three (3) months.

(5) No person shall be committed to a treatment facility whose primary problems are the physical disabilities associated with old age or birth defects of infancy.

(6) The court shall state the findings of fact and conclusions of law that constitute the basis for the order of commitment. The findings shall include a listing of less restrictive alternatives considered by the court and the reasons that each was found not suitable.

(7) A stenographic transcription shall be recorded by a stenographer or electronic recording device and retained by the court.

(8) Notwithstanding any other provision of law to the contrary, neither the State Board of Mental Health or its members, nor the State Department of Mental Health or its related facilities, nor any employee of the State Department of Mental Health or its related facilities, unless related to the respondent by blood or marriage, shall be assigned or adjudicated custody, guardianship, or conservatorship of the respondent.

(9) The county where a person in need of treatment is found is authorized to charge the county of the person's residence for



the costs incurred while the person is confined in the county where such person was found.

SECTION 8. Section 41-21-83, Mississippi Code of 1972, is brought forward as follows:

41-21-83. Except as otherwise provided in Section 41-21-63, if a hearing is requested as provided in Section 41-21-74, 41-21-81 or 41-21-99, the court shall not make a determination of the need for continued commitment unless a hearing is held and the court finds by clear and convincing evidence that (a) the person continues to have mental illness or have an intellectual disability; and (b) involuntary commitment is necessary for the protection of the patient or others; and (c) there is no alternative to involuntary commitment. Hearings held under this section shall be held in the chancery court of the county where the facility is located; however, if the patient is confined at the Mississippi State Hospital at Whitfield, Mississippi, the hearing shall be conducted by the Chancery Court of the First Judicial District of Hinds County, Mississippi.

The hearing shall be held within fourteen (14) days after receipt by the court of the request for a hearing. The court may continue the hearing for good cause shown. The clerk shall ascertain whether the patient is represented by counsel, and, if the patient is not represented, shall notify the chancellor who shall appoint counsel for him if the chancellor determines that the patient for any reason does not have the services of an



857 attorney; however, the patient may waive the appointment of
858 counsel subject to the approval of the court. Notice of the time
859 and place of the hearing shall be served at least seventy-two (72)
860 hours before the time of the hearing upon the patient, his
861 attorney, the director, and the person requesting the hearing, if
862 other than the patient, and any witnesses requested by the patient
863 or his attorney, or any witnesses the court may deem necessary or
864 desirable.

865 The patient must be present at the hearing unless the
866 chancellor determines that the patient is unable to attend and
867 makes that determination and the reasons therefor part of the
868 record.

869 The court shall put its findings and the reasons supporting
870 its findings in writing and shall have copies delivered to the
871 patient, his attorney, and the director of the treatment facility.
872 An appeal from the final commitment order by either party may be
873 had on the terms prescribed for appeals in civil cases; however,
874 such appeal shall be without supersedeas. The record on appeal
875 shall include the transcript of the commitment hearing.

876 **SECTION 9.** Section 41-21-140, Mississippi Code of 1972, is
877 brought forward as follows:

878 41-21-140. A law enforcement officer shall transport the
879 person who is in crisis to the appropriate health care facility in
880 the county or outside of the county at the request of the crisis
881 intervention team or mobile crisis response team.



882 **SECTION 10.** Section 47-7-47, Mississippi Code of 1972, is
883 brought forward as follows:

884 47-7-47. (1) The judge of any circuit court may place an
885 offender on a program of earned probation, in an intensive
886 supervision program or any intervention court authorized by law
887 after a period of confinement as set out herein and the judge may
888 seek the advice of the commissioner and shall direct that the
889 defendant be under the supervision of the department.

890 (2) (a) Any circuit court or county court may, upon its own
891 motion, acting upon the advice and consent of the commissioner not
892 earlier than thirty (30) days nor later than three (3) years after
893 the defendant has been delivered to the custody of the department,
894 incarcerated by order of the court or otherwise sentenced, modify,
895 alter or suspend the further execution of the sentence and place
896 the defendant on earned probation, in an intensive supervision
897 program or any intervention court authorized by law except when a
898 death sentence or life imprisonment is the maximum penalty which
899 may be imposed or if the defendant has been confined two (2) or
900 more times for the conviction of a felony on a previous occasion
901 in any court or courts of the United States and of any state or
902 territories thereof or has been convicted of a felony involving
903 the use of a deadly weapon.

904 (b) The authority granted in this subsection shall be
905 exercised by the judge who imposed sentence on the defendant, or
906 his successor.



907 (c) The time limit imposed by paragraph (a) of this
908 subsection is not applicable to those defendants sentenced to the
909 custody of the department prior to April 14, 1977. Persons who
910 are convicted of crimes that carry mandatory sentences shall not
911 be eligible for earned probation.

912 (3) When any circuit or county court places an offender on
913 earned probation, the court shall give notice to the Mississippi
914 Department of Corrections within fifteen (15) days of the court's
915 decision to place the offender on earned probation. Notice shall
916 be delivered to the central office of the Mississippi Department
917 of Corrections and to the regional office of the department which
918 will be providing supervision to the offender on earned probation.

919 (4) If the court places any person on probation or earned
920 probation, the court may order the person, as a condition of
921 probation, to a period of confinement and treatment at a private
922 or public agency or institution, either within or without the
923 state, which treats emotional, mental or drug-related problems.
924 Any person who, as a condition of probation, is confined for
925 treatment at an out-of-state facility shall be supervised pursuant
926 to Section 47-7-71, and any person confined at a private agency
927 shall not be confined at public expense. Time served in any such
928 agency or institution may be counted as time required to meet the
929 criteria of subsection (2)(a).

930 (5) If the court places any person on probation or earned
931 probation, the court may order the person to make appropriate



932 restitution to any victim of his crime or to society through the
933 performance of reasonable work for the benefit of the community.

934 (6) If the court places any person on probation or earned
935 probation, the court may order the person, as a condition of
936 probation, to submit, as provided in Section 47-5-601, to any type
937 of breath, saliva or urine chemical analysis test, the purpose of
938 which is to detect the possible presence of alcohol or a substance
939 prohibited or controlled by any law of the State of Mississippi or
940 the United States.

941 **SECTION 11.** Section 99-13-9, Mississippi Code of 1972, is
942 brought forward as follows:

943 99-13-9. When any person is indicted for an offense and
944 acquitted on the ground of having an intellectual disability, the
945 jury rendering the verdict shall state in the verdict that ground
946 and whether the accused constitutes a danger to life or property
947 and to the peace and safety of the community. If the jury
948 certifies that the person with an intellectual disability is
949 dangerous to the peace and safety of the community or to himself
950 or herself, the circuit court shall proceed with the person
951 according to the law provided in the case of persons with an
952 intellectual disability, the person with an intellectual
953 disability himself being remanded to custody to await the further
954 action of the circuit court.

955 **SECTION 12.** This act shall take effect and be in force from
956 and after October 1, 2025.

