

Senate Amendments to House Bill No. 1404

TO THE CLERK OF THE HOUSE:

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

AMENDMENT NO. 1

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

25 **SECTION 1.** Section 41-21-67, Mississippi Code of 1972, is
26 amended as follows:
27 41-21-67. (1) (a) Prior to filing an affidavit for
28 commitment of an individual, the relative or interested person
29 shall be connected with the community mental health center in the
30 county of financial responsibility or the county where the
31 proposed patient is present for conduct of preliminary
32 investigation to determine the need to file an affidavit for
33 involuntary commitment. However, a pre-affidavit screening is not
34 required before the relative or interested person files the
35 affidavit for commitment if the individual to be committed is
36 being treated in a licensed hospital with licensed acute
37 psychiatric beds and has already had two (2) qualified
38 professional evaluations, provided that the licensed hospital
39 notifies the community mental health center that the individual is
40 in the hospital at least twenty-four (24) hours before filing the
41 affidavit. 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

68 records of proposed patients currently in treatment facilities,
69 state-operated treatment programs, or community-based treatment
70 programs. Data collected pursuant to this paragraph shall be
71 considered private data on individuals. The pre-affidavit
72 screening report is not admissible as evidence in court except by
73 agreement of counsel or as permitted by the rules of court and is
74 not admissible in any court proceedings unrelated to the
75 commitment proceedings.

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

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

92 (e) If the interested person wishes to proceed with a
93 petition contrary to the recommendation of the pre-affidavit

94 screener, application may be made directly to the chancellor, who
95 shall determine whether or not to proceed with the petition.
96 Notice of the chancellor's determination shall be provided to the
97 interested party.

98 (2) After a pre-affidavit screener has attempted to complete
99 an in-person screening, if a person is actively violent or refuses
100 to participate in the pre-affidavit screening and the screening
101 cannot be completed, then upon recommendation of the community
102 mental health center, the affidavit may be filed and a writ issued
103 for a sheriff to intervene. The pre-affidavit screener shall
104 document why the pre-affidavit screening could not be completed.
105 After completing the pre-affidavit screening required by
106 subsection (1) of this section, receiving the written report from
107 the pre-affidavit screener, and upon filing of an affidavit of
108 commitment, the clerk, upon direction of the chancellor of the
109 court, shall issue a writ directed to the sheriff of the proper
110 county to take into custody the person alleged to be in need of
111 treatment and to take the person for physical and mental
112 examination and treatment by the appropriate community mental
113 health center established under Section 41-19-31. Except as
114 otherwise provided in Section 41-21-63, the community mental
115 health center will be designated as the first point of entry for
116 pre-affidavit screening and treatment. The writ may provide where
117 the person shall be held before being taken for examination and
118 treatment, which shall include any licensed medical facility or
119 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 and take care of other related requirements as otherwise provided by law, at the time of conducting the physical and mental examinations.

(4) The clerk shall ascertain whether the respondent is represented by an attorney, and if it is determined that the respondent does not have an attorney, the clerk shall immediately notify the chancellor of that fact. If the chancellor determines that the respondent for any reason does not have the services of

an attorney, the chancellor shall immediately appoint an attorney 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 confinement and/or 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 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.

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

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

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

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

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

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

271 41-21-65. (1) It is the intention of the Legislature that
272 the filing of an affidavit under this section be a simple,
273 inexpensive, uniform, and streamlined process for the purpose of

274 facilitating and expediting the care of individuals in need of
275 treatment.

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

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

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

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

296 (c) Eligibility requirements and instructions for
297 filing a pauper's affidavit; and

298 (d) A statement on the front cover of the guide
299 advising that persons wishing to pursue a civil commitment under

300 this section are not required to retain an attorney for any
301 portion of the commitment process.

302 (4) Immediately upon availability, but no later than January
303 1, 2020, the Uniform Civil Commitment Guide must be provided by
304 the clerk of the chancery court to any party or affiant seeking a
305 civil commitment under this section and also must be made
306 available to the public on the website of the Mississippi
307 Department of Mental Health.

308 (5) If any person is alleged to be in need of treatment, any
309 relative of the person, or any interested person, may make
310 affidavit of that fact and shall file the Uniform Civil Commitment
311 Affidavit with the clerk of the chancery court of the county in
312 which the person alleged to be in need of treatment resides, but
313 the chancellor or duly appointed special master may, in his or her
314 discretion, hear the matter in the county in which the person may
315 be found or the circuit judge may hear such matter as provided in
316 Section 41-21-63. Prior to filing an affidavit for commitment of
317 an individual, the relative or interested person shall be
318 connected with the community mental health center for a
319 pre-affidavit screening as set forth in Section 41-21-67. The
320 pre-affidavit screening is mandatory and must be completed before
321 any affidavit for commitment is filed, except as otherwise
322 provided in Section 41-21-67(1) or (2). The affidavit shall set
323 forth the name and address of the proposed patient's nearest
324 relatives and whether the proposed patient resides or has
325 visitation rights with any minor children, if known, and the

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

345 (6) The chancery clerk may charge a total filing fee for all
346 services equal to the amount set out in Section 25-7-9(o), and the
347 appropriate state and county assessments as required by law which
348 include, but are not limited to, assessments for the Judicial
349 Operation Fund (Section 25-7-9(3)(b)); the Electronic Court System
350 Fund (Section 25-7-9(3)(a)); the Civil Legal Assistance Fund
351 (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 41-19-33, 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:

(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 Section 41-4-1(2) that it will provide and also those services that it will not provide. If the department finds deficiencies in the plan of any regional commission or community service provider based on the minimum standards and minimum required services established for certification, the department shall give the regional commission or community service provider a six-month probationary period to bring its standards and services up to the established minimum standards and minimum required services. The regional commission or community service provider shall develop a sustainability business plan within thirty (30) days of being placed on probation, which shall be signed by all commissioners and shall include policies to address one or more of the following: the deficiencies in programmatic services, clinical service staff expectations, timely and appropriate billing, processes to obtain credentialing for staff, monthly reporting processes, third-party financial reporting and any other required documentation as determined by the department. After the six-month probationary period, if the department determines that the regional commission or community service provider still does not meet the minimum standards and minimum required services

established for certification, the department may remove the certification of the commission or provider, and from and after July 1, 2011, the commission or provider shall be ineligible for state funds from Medicaid reimbursement or other funding sources for those services. After the six-month probationary period, the Department of Mental Health may identify an appropriate community service provider to provide any core services in that county that are not provided by a community mental health center. However, the department shall not offer reimbursement or other accommodations to a community service provider of core services that were not offered to the decertified community mental health center for the same or similar services.

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

(c) To promote increased understanding of the problems of mental illness, intellectual disabilities, alcoholism, developmental and learning disabilities, narcotic addiction, drug abuse and drug dependence and other related problems (including the problems of the aging) by the people of the region, and also to promote increased understanding of the purposes and methods of

the rehabilitation of persons suffering from such illnesses, disorders, handicaps or problems as designated and certified by the Department of Mental Health.

(d) To enter into contracts and to make such other arrangements as may be necessary, from time to time, with the 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.

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

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

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

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

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

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

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

532 (m) To acquire, own and dispose of real and personal
533 property. Any real and personal property paid for with state

and/or county appropriated funds must have the written approval of the Department of Mental Health and/or the county board of supervisors, depending on the original source of funding, before being disposed of under this paragraph.

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

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

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

(q) To provide direct or indirect funding, grants, financial support and assistance for any health maintenance organization, preferred provider organization or other managed

care entity or contractor, where such organization, entity or contractor is operated on a nonprofit basis. Any action under this paragraph affecting more than one (1) region must have prior written approval of the Department of Mental Health before being initiated and annually thereafter.

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

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

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

(u) To make purchases and enter into contracts for purchasing in compliance with the public purchasing law, Sections 31-7-12 and 31-7-13, with compliance with the public purchasing 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.

(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.

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

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

650 (viii) The regional commission must ensure that
651 its physician as described in subparagraph (ii) of this paragraph
652 (x) has admitting privileges at one or more local hospitals or has
653 an agreement with a physician who has admitting privileges at one
654 or more local hospitals to ensure continuity of care.

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

661 For the purposes of this paragraph (x), the term "caregiver"
662 means an individual who has the principal and primary

663 responsibility for caring for a child or dependent adult,
664 especially in the home setting.

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

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

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

676 (2) The types of services established by the State
677 Department of Mental Health that must be provided by the regional
678 mental health/intellectual disability centers for certification by
679 the department, and the minimum levels and standards for those
680 services established by the department, shall be provided by the
681 regional mental health/intellectual disability centers to children
682 when such services are appropriate for children, in the
683 determination of the department.

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

688 (a) Balance sheet;

689 (b) Statement of operations;
690 (c) Statement of cash flows; and
691 (d) Description of the status of individual community
692 health center's actions taken to increase access to and
693 availability of community mental health services.

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

700 (i) The number of occupancy percentages reported
701 by the crisis stabilization unit in the region;

702 (ii) The number of individuals held in jail after
703 the commitment process has been initiated and the number of
704 individuals the community mental health center provided treatment
705 to while they were in jail, as required by Section 41-21-67;

706 (iii) The number of pre-affidavit screenings
707 conducted;

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

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

712 (vi) Summary report of Medicaid claims, including
713 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 4. Section 41-30-3, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

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

(f) "Alcoholic" shall mean any person who chronically and habitually uses alcoholic beverages to the extent that he has lost the power of self-control with respect to the use of such beverages, or any person who, while chronically under the

influence of alcoholic beverages, endangers public morals, health, safety or welfare.

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

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

(i) "Intoxicated person" shall mean a person whose mental or physical functioning is substantially impaired as a 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 5. 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 6. 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
records of proposed patients currently in treatment facilities,
state-operated treatment programs, or community-based treatment
programs. Data collected pursuant to this paragraph (b) 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 41-31-3(4), specifically certifying that a less restrictive alternative treatment was considered and specifying why treatment less restrictive than inpatient commitment or outpatient treatment 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 inpatient commitment or outpatient treatment. Notice of the pre-affidavit screener's decision shall be provided to the prospective affiant and the court. If an inpatient or outpatient 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.

(f) Notwithstanding the requirements of this section, a pre-affidavit screening shall not be required if the individual to be committed is being treated in a licensed hospital with licensed acute psychiatric beds and has already had two (2) qualified professional evaluations, provided that the licensed hospital notifies the community mental health center that the individual is

894 in the hospital at least twenty-four (24) hours before filing the
895 affidavit.

896 (* * *2) Whenever an affidavit is filed, the chancellor
897 of * * * the court shall, by order, fix a time upon a day certain
898 for the hearing thereof, either in termtime or in vacation, which
899 hearing shall be fixed not less than five (5) days nor more than
900 twenty (20) days from the filing of the affidavit. The person
901 alleged to be an alcoholic or drug addict shall be served with a
902 citation to appear at * * * the hearing not less than three (3)
903 days prior to the day fixed for * * * the hearing, and there shall
904 be served with such citation a true and correct copy of the
905 affidavit.

906 (* * *3) The clerk must ascertain whether the respondent is
907 represented by an attorney, and if it is determined that the
908 respondent does not have an attorney, the clerk immediately must
909 notify the chancellor of that fact. If the chancellor determines
910 that the respondent for any reason does not have the services of
911 an attorney, the chancellor shall appoint an attorney for the
912 respondent before a hearing on the affidavit.

913 (* * *4) At the time fixed, the chancellor shall hear
914 evidence on the affidavit, with or without the presence of the
915 alleged alcoholic or drug addict, and all persons interested shall
916 have the right to appear and present evidence touching upon the
917 truth and correctness of the allegations of the affidavit.

918 The * * * chancellor, in his or her discretion, may require that
919 the alleged alcoholic or drug addict be examined by the county

health officer or by such other competent physician or physicians as the chancellor may select, and may consider the results of such examination in reaching a decision in * * * the matter.

(* * * 5) If the alleged alcoholic or drug addict * * * admits the truth and correctness of the allegations of the affidavit, or if the chancellor * * * finds from the evidence that such person is an alcoholic or drug addict, and is in need of detention, care and treatment in an institution, and that the other material allegations of * * * the petition are true, then * * * the chancellor shall enter an order so finding, and shall order that such person be remanded and committed to and confined in the proper state institution under this chapter or a private treatment facility under the provisions of Title 41, Chapter 32, Mississippi Code of 1972, or, in the case of an alcoholic to an approved public or private treatment facility pursuant to the provisions of Title 41, Chapter 30, Mississippi Code of 1972, for care and treatment for a period of not less than thirty (30) days nor more than ninety (90) days as the necessity of the case may, in his or her discretion, require. However, when such person * * * is so committed, the medical director of the * * * institution shall be vested with full discretion as to the treatment and discharge of such person, and may discharge and release such person at any time when the condition of such person * * * so * * * justifies.

(* * * 6) (a) If the chancellor determines under this section that the alleged alcoholic or drug addict is in need of

946 care and treatment but also affirmatively finds that the alleged
947 alcoholic or drug addict would benefit from the less restrictive
948 option of an outpatient treatment program, the chancellor, in his
949 or her discretion and upon agreement of both the affiant and the
950 person in need of treatment, may order the alleged alcoholic or
951 drug addict into an outpatient treatment program.

952 (b) If the order directs outpatient treatment, the
953 outpatient treatment provider may prescribe or administer to the
954 respondent treatment consistent with accepted alcohol and drug
955 abuse treatment standards. If the respondent fails or clearly
956 refuses to comply with outpatient treatment, the director of the
957 treatment program, his or her designee or an interested person
958 must make all reasonable efforts to solicit the respondent's
959 compliance. These efforts must be documented and, if the
960 respondent fails or clearly refuses to comply with outpatient
961 treatment after the efforts are made, the efforts must be
962 documented with the court by affidavit. Upon the filing of the
963 affidavit, the sheriff of the proper county may take the
964 respondent into custody. The chancellor thereafter may order the
965 respondent to inpatient treatment as soon as a treatment facility
966 is available.

967 (c) The respondent may request a hearing within ten
968 (10) days of commitment to inpatient treatment by filing a written
969 request with the chancery clerk of the committing court, or the
970 respondent may request such a hearing in writing to any member of
971 the professional staff of the treatment facility, which must be

972 forwarded to the director and promptly filed with the chancery
973 clerk of the committing court. The respondent must be advised of
974 the right to request such a hearing and of the right to consult a
975 lawyer.

976 **SECTION 7.** This act shall take effect and be in force from
977 and after July 1, 2025.

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

1 AN ACT TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972,
2 TO 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 A LICENSED HOSPITAL WITH LICENSED ACUTE
6 PSYCHIATRIC BEDS AND HAS ALREADY HAD TWO QUALIFIED PROFESSIONAL
7 EVALUATIONS, PROVIDED THAT THE LICENSED HOSPITAL NOTIFIES THE
8 COMMUNITY MENTAL HEALTH CENTER THAT THE INDIVIDUAL IS IN THE
9 HOSPITAL AT LEAST 24 HOURS BEFORE FILING THE AFFIDAVIT; TO AMEND
10 SECTION 41-21-65, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE
11 PRECEDING PROVISION; TO AMEND SECTION 41-19-33, MISSISSIPPI CODE
12 OF 1972, TO PROVIDE THAT THE COMMUNITY MENTAL HEALTH CENTERS SHALL
13 SUBMIT CERTAIN WRITTEN QUARTERLY REPORTS TO THE BOARDS OF
14 SUPERVISORS OF EACH COUNTY IN THEIR REGION ON A STANDARD FORM
15 DEVELOPED AND PROVIDED TO THE COMMUNITY MENTAL HEALTH CENTERS BY
16 THE STATE DEPARTMENT OF MENTAL HEALTH; TO AMEND SECTION 41-30-3,
17 MISSISSIPPI CODE OF 1972, TO ADD A DEFINITION TO THE COMPREHENSIVE
18 ALCOHOLISM AND ALCOHOL ABUSE PREVENTION, CONTROL AND TREATMENT
19 ACT; TO AMEND SECTIONS 41-30-27 AND 41-31-5, MISSISSIPPI CODE OF
20 1972, TO PROVIDE THAT A PRE-AFFIDAVIT SCREENING MUST BE CONDUCTED
21 BEFORE AN AFFIDAVIT FOR EMERGENCY INVOLUNTARY COMMITMENT OF A
22 PERSON FOR ALCOHOL OR DRUG USE MAY BE FILED unless the ; AND FOR
23 RELATED PURPOSES.

SS36\HB1404PS.J

Amanda White
Secretary of the Senate