

By: Carlton

To: Public Health and  
Welfare; Judiciary

SENATE BILL NO. 2523  
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE A LICENSED PHYSICIAN OR PSYCHOLOGIST TO TAKE INTO  
3 CUSTODY ANY INDIVIDUAL BELIEVED TO BE MENTALLY ILL AND POSING AN  
4 IMMEDIATE SUBSTANTIAL LIKELIHOOD OF PHYSICAL HARM TO HIMSELF OR TO  
5 OTHERS AS AN EMERGENCY PATIENT AND TO PROVIDE CIVIL AND CRIMINAL  
6 IMMUNITY FOR ANY SUCH PHYSICIAN OR PSYCHOLOGIST ACTING IN GOOD  
7 FAITH; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 41-21-67, Mississippi Code of 1972, is  
10 amended as follows:[CRG1]

11 41-21-67. (1) Whenever such affidavit as is provided for  
12 in Section 41-21-65 shall be filed with the chancery clerk, the  
13 clerk, upon direction of the chancellor of said court, shall issue  
14 a writ directed to the sheriff of the proper county to take into  
15 his custody the person alleged to be in need of treatment and to  
16 bring such person before said clerk or chancellor who shall order  
17 pre-evaluation screening and treatment by the appropriate  
18 community mental health center established pursuant to Section  
19 41-19-31 and for examination as set forth in Section 41-21-69.  
20 Provided, however, that when such affidavit fails to set forth  
21 factual allegations and witnesses sufficient to support the need  
22 for treatment, the chancellor shall refuse to direct issuance of  
23 the writ. Reapplication may be made to the chancellor. If a  
24 pauper's affidavit is filed by a guardian for commitment of the  
25 ward of the guardian, the court shall determine if the ward is a  
26 pauper and if such ward is determined to be a pauper, the county  
27 of the residence of the respondent shall bear the costs of  
28 commitment, unless funds for such purposes are made available by

29 the state.

30 (2) Upon issuance of the writ the chancellor shall forthwith  
31 appoint and summon two (2) reputable, licensed physicians or one  
32 (1) such physician and a psychologist to conduct a physical and  
33 mental examination of such person at a place to be designated by  
34 said clerk or chancellor and to report their findings to said  
35 clerk or chancellor. In all counties wherein there is a county  
36 health officer, such county health officer, if available, may be  
37 one (1) of the physicians so appointed. Neither of the physicians  
38 or any psychologist selected shall be related to such person in  
39 any way, nor have any direct or indirect interest in the estate of  
40 such person nor shall any full-time staff of residential treatment  
41 facilities operated directly by the Department of Mental Health  
42 serve as examiner.

43 (3) The clerk shall ascertain whether the respondent is  
44 represented by an attorney, and if it is determined that  
45 respondent does not have an attorney the clerk shall immediately  
46 notify the chancellor of such fact, and if the chancellor  
47 determines that respondent for any reason does not have the  
48 services of an attorney, the chancellor shall forthwith appoint an  
49 attorney for the respondent at the time the examiners are  
50 appointed.

51 (4) If the chancellor determines that there is probable  
52 cause to believe that the respondent is mentally ill and that  
53 there is no reasonable alternative to detention, the chancellor  
54 may order that the respondent be retained as an emergency patient  
55 at any available regional mental health facility or any other  
56 available suitable location as the court may so designate pending  
57 an admission hearing and may, if necessary, order a peace officer  
58 or other person to transport the respondent to such mental health  
59 facility or suitable location. Any respondent so retained may be  
60 given such treatment by a licensed physician as is indicated by  
61 standard medical practice. Provided, however, the respondent  
62 shall not be held in a hospital operated directly by the  
63 Department of Mental Health; and shall not be held in jail unless  
64 the court finds that there is no reasonable alternative.

65 (5) Whenever a licensed, board certified physician or

66 psychologist certified to complete examinations for the purpose of  
67 commitment has reason to believe that a person poses an immediate  
68 substantial likelihood of physical harm to himself or others or is  
69 gravely disabled and unable to care for himself by virtue of  
70 mental illness, as defined in Section 41-21-61(e), Mississippi  
71 Code of 1972, then the physician/psychologist may hold and/or  
72 admit and treat the person to a licensed medical facility without  
73 a civil order or warrant for a period not to exceed seventy-two  
74 (72) hours or the end of the next business day of the chancery  
75 clerk's office. Such person may be held and treated as an  
76 emergency patient at any licensed medical facility, available  
77 regional mental health facility, or crisis intervention center.  
78 The physician/psychologist who holds the person shall certify in  
79 writing the reasons for the need for holding. Any respondent so  
80 held may be given such treatment by a licensed physician as  
81 indicated by standard medical practice. Persons acting in good  
82 faith in connection with the detention of a person believed to be  
83 mentally ill shall incur no liability, civil or criminal, for such  
84 acts.

85 SECTION 2. This act shall take effect and be in force from  
86 and after July 1, 2000.