

By: Senator(s) Huggins

To: Public Health and Welfare

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2662

1 AN ACT TO AMEND SECTION 41-4-7, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE MISSISSIPPI DEPARTMENT OF MENTAL HEALTH TO CONDUCT
3 CRIMINAL BACKGROUND CHECKS ON PROSPECTIVE EMPLOYEES AND
4 VOLUNTEERS; TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF MENTAL
5 HEALTH TO DEVELOP A SINGLE POINT OF INTAKE AND REFERRAL SYSTEM;
6 AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 41-4-7, Mississippi Code of 1972, is
9 amended as follows:

10 41-4-7. The State Board of Mental Health shall have the
11 following powers and duties:

12 (a) To appoint a full-time executive director of the
13 Department of Mental Health, who shall be employed by the board
14 and shall serve as executive secretary to the board. The first
15 director shall be a duly licensed physician with special interest
16 and competence in psychiatry, and shall possess a minimum of three
17 (3) years' experience in clinical and administrative psychiatry.
18 Subsequent directors shall possess at least a master's degree or
19 its equivalent, and shall possess at least ten (10) years'
20 administrative experience in the field of mental health. The
21 salary of the executive director shall be determined by the board;

22 (b) To set up state plans for the purpose of
23 controlling and treating any and all forms of mental and emotional
24 illness, alcoholism, drug misuse and developmental disabilities;

25 (c) To supervise, coordinate and establish standards
26 for all operations and activities of the state related to mental
27 health and providing mental health services, including but not
28 limited to: the requirement that no person be approved for
29 treatment which is paid for by funds made available through the



30 department who has not had a treatment plan established as a
31 result of having been seen by a licensed physician or licensed
32 clinical psychologist and that physician or clinical psychologist
33 signing these plans stating that he/she has personally evaluated
34 the client and that the treatment plan is medically necessary. A
35 physician or clinical psychologist shall recertify each client's
36 record at least semiannually (except for persons with a diagnosis
37 of mental retardation/developmental disability which shall be
38 completed annually), and more often if medically indicated by
39 physically visiting the client and certifying same in the record.
40 The board shall have the authority to develop and implement all
41 standards and plans and shall have the authority to establish
42 appropriate actions, including financially punitive actions, to
43 insure enforcement of these established standards, in accordance
44 with the Administrative Procedures Law (Section 25-43-1 et seq.);

45 (d) To enter into contracts with any other state or
46 federal agency, or with any private person, organization or group
47 capable of contracting, if it finds such action to be in the
48 public interest;

49 (e) To collect reasonable fees for its services;
50 provided, however, if it is determined that a person receiving
51 services is unable to pay the total fee, the department shall
52 collect any amount such person is able to pay;

53 (f) To certify, coordinate and establish minimum
54 standards and establish minimum required services for regional
55 mental health and mental retardation commissions and other
56 community service providers for community or regional programs and
57 services in mental health, mental retardation, alcoholism, drug
58 misuse, developmental disabilities, compulsive gambling, addictive
59 disorders and related programs throughout the state. Such
60 regional mental health and mental retardation commissions and
61 other community service providers shall submit an annual
62 operational plan to the State Department of Mental Health for



63 approval or disapproval based on the minimum standards and minimum
64 required services established by the department for certification.
65 If the department finds deficiencies in the plan of any regional
66 commission or community service provider based on the minimum
67 standards and minimum required services established for
68 certification, the department shall give the regional commission
69 or community service provider a six-month probationary period to
70 bring its standards and services up to the established minimum
71 standards and minimum required services. After the six-month
72 probationary period, if the department determines that the
73 regional commission or community service provider still does not
74 meet the minimum standards and minimum required services
75 established for certification, the department may remove the
76 certification of the commission or provider. However, the
77 department shall not mandate a standard or service, or decertify a
78 regional commission or community service provider for not meeting
79 a standard or service, if the standard or service does not have
80 funding appropriated by the Legislature or have a funding source
81 from the State Department of Mental Health or a local funding
82 source. The State Board of Mental Health shall promulgate rules
83 and regulations necessary to implement the provisions of this
84 paragraph (f), in accordance with the Administrative Procedures
85 Law (Section 25-43-1 et seq.).

86 (g) To establish and promulgate reasonable minimum
87 standards for the construction and operation of state and all
88 Department of Mental Health certified facilities, including
89 reasonable minimum standards for the admission, diagnosis, care,
90 treatment, transfer of patients and their records, and also
91 including reasonable minimum standards for providing day care,
92 outpatient care, emergency care, inpatient care and follow-up
93 care, when such care is provided for persons with mental or
94 emotional illness, mental retardation, alcoholism, drug misuse and
95 developmental disabilities;



96 (h) To assist community or regional programs consistent
97 with the purposes of this chapter by making grants and contracts
98 from available funds;

99 (i) To establish and collect reasonable fees for
100 necessary inspection services incidental to certification or
101 compliance;

102 (j) To accept gifts, trusts, bequests, grants,
103 endowments or transfers of property of any kind;

104 (k) To receive monies coming to it by way of fees for
105 services or by appropriations;

106 (l) To serve as the single state agency in receiving
107 and administering any and all funds available from any source for
108 the purpose of service delivery, training, research and education
109 in regard to all forms of mental illness, mental retardation,
110 alcoholism, drug misuse and developmental disabilities, unless
111 such funds are specifically designated to a particular agency or
112 institution by the federal government, the Mississippi Legislature
113 or any other grantor;

114 (m) To establish mental health holding centers for the
115 purpose of providing short-term emergency mental health treatment,
116 places for holding persons awaiting commitment proceedings or
117 awaiting placement in a state mental health facility following
118 commitment, and for diverting placement in a state mental health
119 facility. These mental health holding facilities shall be readily
120 accessible, available statewide, and be in compliance with
121 emergency services' minimum standards. They shall be
122 comprehensive and available to triage and make appropriate
123 clinical disposition including the capability to access inpatient
124 services or less restrictive alternatives, as needed, as
125 determined by medical staff. Such facility shall have medical,
126 nursing and behavioral services available on a 24-hour-a-day
127 basis. The board may provide for all or part of the costs of
128 establishing and operating the holding centers in each district



129 from such funds as may be appropriated to the board for such use,
130 and may participate in any plan or agreement with any public or
131 private entity under which the entity will provide all or part of
132 the costs of establishing and operating a holding center in any
133 district;

134 (n) To certify/license case managers, mental health
135 therapists, mental retardation therapists, mental
136 health/retardation program administrators, addiction counselors
137 and others as deemed appropriate by the board. Persons already
138 professionally licensed by another state board or agency are not
139 required to be certified/licensed under this section by the
140 Department of Mental Health. The department shall not use
141 professional titles in its certification/licensure process for
142 which there is an independent licensing procedure. Such
143 certification/licensure shall be valid only in the state mental
144 health system, in programs funded and/or certified by the
145 Department of Mental Health, and/or in programs certified/licensed
146 by the State Department of Health that are operated by the state
147 mental health system serving the mentally ill, mentally retarded,
148 developmental disabled or persons with addictions, and shall not
149 be transferable;

150 (o) To develop formal mental health worker
151 qualifications for regional mental health and mental retardation
152 commissions and other community service providers. The State
153 Personnel Board shall develop and promulgate a recommended salary
154 scale and career ladder for all regional mental health/retardation
155 center therapists and case managers who work directly with
156 clients. The State Personnel Board shall also develop and
157 promulgate a career ladder for all direct care workers employed by
158 the State Department of Mental Health;

159 (p) The employees of the department shall be governed
160 by personnel merit system rules and regulations, the same as other
161 employees in state services;



162 (q) To establish such rules and regulations as may be
163 necessary in carrying out the provisions of this chapter,
164 including the establishment of a formal grievance procedure to
165 investigate and attempt to resolve consumer complaints;

166 (r) To grant easements for roads, utilities and any
167 other purpose it finds to be in the public interest;

168 (s) To survey statutory designations, building markers
169 and the names given to mental health/retardation facilities and
170 proceedings in order to recommend deletion of obsolete and
171 offensive terminology relative to the mental health/retardation
172 system;

173 (t) To ensure an effective case management system
174 directed at persons who have been discharged from state and
175 private psychiatric hospitals to ensure their continued well-being
176 in the community;

177 (u) To develop formal service delivery standards
178 designed to measure the quality of services delivered to community
179 clients, as well as the timeliness of services to community
180 clients provided by regional mental health/retardation commissions
181 and other community services providers;

182 (v) To establish regional state offices to provide
183 mental health crisis intervention centers and services available
184 throughout the state to be utilized on a case-by-case emergency
185 basis. The regional services director, other staff and delivery
186 systems shall meet the minimum standards of the Department of
187 Mental Health;

188 (w) To require performance contracts with community
189 mental health/mental retardation service providers to contain
190 performance indicators to measure successful outcomes, including
191 diversion of persons from inpatient psychiatric hospitals,
192 rapid/timely response to emergency cases, client satisfaction with
193 services and other relevant performance measures;



194 (x) To enter into interagency agreements with other
195 state agencies, school districts and other local entities as
196 determined necessary by the department to ensure that local mental
197 health service entities are fulfilling their responsibilities to
198 the overall state plan for behavioral services;

199 (y) To establish and maintain a toll-free grievance
200 reporting telephone system for the receipt and referral for
201 investigation of all complaints by clients of state and community
202 mental health/retardation facilities;

203 (z) To establish a peer review/quality assurance
204 evaluation system that assures that appropriate assessment,
205 diagnosis and treatment is provided according to established
206 professional criteria and guidelines;

207 (aa) To develop and implement state plans for the
208 purpose of assisting with the care and treatment of persons with
209 Alzheimer's disease and other dementia. This plan shall include
210 education and training of service providers, care-givers in the
211 home setting and others who deal with persons with Alzheimer's
212 disease and other dementia, and development of adult day care,
213 family respite care and counseling programs to assist families who
214 maintain persons with Alzheimer's disease and other dementia in
215 the home setting. No agency shall be required to provide any
216 services under this section until such time as sufficient funds
217 have been appropriated or otherwise made available by the
218 Legislature specifically for the purposes of the treatment of
219 persons with Alzheimer's and other dementia; and

220 (bb) Working with the advice and consent of the
221 administration of Ellisville State School, to enter into
222 negotiations with the Economic Development Authority of Jones
223 County for the purpose of negotiating the possible exchange, lease
224 or sale of lands owned by Ellisville State School to the Economic
225 Development Authority of Jones County. It is the intent of the
226 Mississippi Legislature that such negotiations shall ensure that



227 the financial interest of the persons with mental retardation
228 served by Ellisville State School will be held paramount in the
229 course of these negotiations. The Legislature also recognizes the
230 importance of economic development to the citizens of the State of
231 Mississippi and Jones County, and encourages fairness to the
232 Economic Development Authority of Jones County. Any negotiations
233 proposed which would result in the recommendation for exchange,
234 lease or sale of lands owned by Ellisville State School must have
235 the approval of the State Board of Mental Health. The State Board
236 of Mental Health may and has the final authority as to whether or
237 not these negotiations result in the exchange, lease or sale of
238 the properties it currently holds in trust for citizens with
239 mental retardation served at Ellisville State School.

240 If the State Board of Mental Health authorizes the sale of
241 lands owned by Ellisville State School, as provided for under this
242 paragraph (bb), the monies derived from the sale shall be placed
243 into a special fund that is created in the State Treasury to be
244 known as the "Ellisville State School Client's Trust Fund." The
245 principal of the trust fund shall remain inviolate and shall never
246 be expended. Any interest earned on the principal may be expended
247 solely for the benefits of clients served at Ellisville State
248 School. The State Treasurer shall invest the monies of the trust
249 fund in any of the investments authorized for the Mississippi
250 Prepaid Affordable College Tuition Program under Section 37-155-9,
251 and those investments shall be subject to the limitations
252 prescribed by Section 37-155-9. Unexpended amounts remaining in
253 the trust fund at the end of a fiscal year shall not lapse into
254 the State General Fund, and any interest earned on amounts in the
255 trust fund shall be deposited to the credit of the trust fund.
256 The administration of Ellisville State School may use any interest
257 earned on the principal of the trust fund, upon appropriation by
258 the Legislature, as needed for services or facilities by the
259 clients of Ellisville State School. Ellisville State School shall



260 make known to the Legislature, through the Legislative Budget
261 Committee and the respective Appropriations Committees of the
262 House and Senate, its proposed use of interest earned on the
263 principal of the trust fund for any fiscal year in which it
264 proposes to make expenditures thereof. The State Treasurer shall
265 provide Ellisville State School with an annual report on the
266 Ellisville State School Client's Trust Fund to indicate the total
267 monies in the trust fund, interest earned during the year,
268 expenses paid from the trust fund and such other related
269 information.

270 Nothing in this section shall be construed as applying to or
271 affecting mental health/retardation services provided by hospitals
272 as defined in Section 41-9-3(a), and/or their subsidiaries and
273 divisions, which hospitals, subsidiaries and divisions are
274 licensed and regulated by the Mississippi State Department of
275 Health unless such hospitals, subsidiaries or divisions
276 voluntarily request certification by the Mississippi State
277 Department of Mental Health.

278 All new programs authorized under this section shall be
279 subject to the availability of funds appropriated therefor by the
280 Legislature.

281 (cc) Working with the advice and consent of the
282 administration of Boswell Regional Center, to enter into
283 negotiations with the Economic Development Authority of Simpson
284 County for the purpose of negotiating the possible exchange, lease
285 or sale of lands owned by Boswell Regional Center to the Economic
286 Development Authority of Simpson County. It is the intent of the
287 Mississippi Legislature that such negotiations shall ensure that
288 the financial interest of the persons with mental retardation
289 served by Boswell Regional Center will be held paramount in the
290 course of these negotiations. The Legislature also recognizes the
291 importance of economic development to the citizens of the State of
292 Mississippi and Simpson County, and encourages fairness to the



293 Economic Development Authority of Simpson County. Any
294 negotiations proposed which would result in the recommendation for
295 exchange, lease or sale of lands owned by Boswell Regional Center
296 must have the approval of the State Board of Mental Health. The
297 State Board of Mental Health may and has the final authority as to
298 whether or not these negotiations result in the exchange, lease or
299 sale of the properties it currently holds in trust for citizens
300 with mental retardation served at Boswell Regional Center. In any
301 such exchange, lease or sale of such lands owned by Boswell
302 Regional Center, title to all minerals, oil and gas on such lands
303 shall be reserved, together with the right of ingress and egress
304 to remove same, whether such provisions be included in the terms
305 of any such exchange, lease or sale or not.

306 If the State Board of Mental Health authorizes the sale of
307 lands owned by Boswell Regional Center, as provided for under this
308 paragraph (cc), the monies derived from the sale shall be placed
309 into a special fund that is created in the State Treasury to be
310 known as the "Boswell Regional Center Client's Trust Fund." The
311 principal of the trust fund shall remain inviolate and shall never
312 be expended. Any earnings on the principal may be expended solely
313 for the benefits of clients served at Boswell Regional Center.
314 The State Treasurer shall invest the monies of the trust fund in
315 any of the investments authorized for the Mississippi Prepaid
316 Affordable College Tuition Program under Section 37-155-9, and
317 those investments shall be subject to the limitations prescribed
318 by Section 37-155-9. Unexpended amounts remaining in the trust
319 fund at the end of a fiscal year shall not lapse into the State
320 General Fund, and any earnings on amounts in the trust fund shall
321 be deposited to the credit of the trust fund. The administration
322 of Boswell Regional Center may use any earnings on the principal
323 of the trust fund, upon appropriation by the Legislature, as
324 needed for services or facilities by the clients of Boswell
325 Regional Center. Boswell Regional Center shall make known to the



326 Legislature, through the Legislative Budget Committee and the
327 respective Appropriations Committees of the House and Senate, its
328 proposed use of the earnings on the principal of the trust fund
329 for any fiscal year in which it proposes to make expenditures
330 thereof. The State Treasurer shall provide Boswell Regional
331 Center with an annual report on the Boswell Regional Center
332 Client's Trust Fund to indicate the total monies in the trust
333 fund, interest and other income earned during the year, expenses
334 paid from the trust fund and such other related information.

335 Nothing in this section shall be construed as applying to or
336 affecting mental health/retardation services provided by hospitals
337 as defined in Section 41-9-3(a), and/or their subsidiaries and
338 divisions, which hospitals, subsidiaries and divisions are
339 licensed and regulated by the Mississippi State Department of
340 Health unless such hospitals, subsidiaries or divisions
341 voluntarily request certification by the Mississippi State
342 Department of Mental Health.

343 All new programs authorized under this section shall be
344 subject to the availability of funds appropriated therefor by the
345 Legislature.

346 (dd) Notwithstanding any other section of the code, the
347 Board of Mental Health shall be authorized to fingerprint and
348 perform a criminal history record check on every new employee or
349 volunteer. Every new employee and volunteer shall provide a valid
350 current social security number and/or driver's license number
351 which shall be furnished to conduct the criminal history record
352 check. If no disqualifying record is identified at the state
353 level, fingerprints shall be forwarded to the Federal Bureau of
354 Investigation for a national criminal history record check.

355 (ee) The Department of Mental Health shall have the
356 authority for the development of a consumer friendly single point
357 of intake and referral system within its service areas for persons
358 with mental illness, mental retardation, developmental



359 disabilities or alcohol or substance abuse who need assistance
360 identifying or accessing appropriate services. The department
361 will develop and implement a comprehensive evaluation procedure
362 ensuring that, where appropriate, the affected person or their
363 parent or legal guardian will be involved in the assessment and
364 planning process. The department, as the point of intake and as
365 service provider, shall have the authority to determine the
366 appropriate institutional, hospital or community care setting for
367 persons who have been diagnosed with mental illness, mental
368 retardation, developmental disabilities and/or alcohol or
369 substance abuse, and may provide for the least restrictive
370 placement if the treating professional believes such a setting is
371 appropriate, if the person affected or their parent or legal
372 guardian wants such services, and if the department can do so with
373 a reasonable modification of the program without creating a
374 fundamental alteration or the program. The least restrictive
375 setting could be an institution, hospital or community setting,
376 based upon the needs of the affected person or their parent or
377 legal guardian.

378 **SECTION 2.** This act shall take effect and be in force from
379 and after July 1, 2002.

