

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.

