

By: Representative Smith (39th)

To: Public Health and Human  
Services; Judiciary A

## HOUSE BILL NO. 1085

1 AN ACT TO AMEND SECTION 41-21-77, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT MENTAL HEALTH PATIENTS SHALL NOT BE ADMITTED TO  
3 ANY TREATMENT FACILITY UNLESS THE FACILITY IS LICENSED AND/OR  
4 CERTIFIED TO PROVIDE THE APPROPRIATE LEVEL OF PSYCHIATRIC CARE; TO  
5 AMEND SECTION 41-21-87, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT  
6 THE DIRECTOR OF ANY TREATMENT FACILITY MAY DISCHARGE A PATIENT  
7 ONCE THE PATIENT NO LONGER POSES A SUBSTANTIAL THREAT OF PHYSICAL  
8 HARM TO HIMSELF OR OTHERS; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 41-21-77, Mississippi Code of 1972, is  
11 amended as follows:

12 41-21-77. If commitment is ordered at a treatment facility,  
13 the sheriff, his deputy or any other person appointed or  
14 authorized by the court shall immediately deliver the respondent  
15 to the director of the appropriate treatment facility. Neither  
16 the Board of Mental Health or its members, nor the Department of  
17 Mental Health or its related facilities, nor any employee of the  
18 Department of Mental Health or its related facilities, shall be  
19 appointed, authorized or ordered to deliver the respondent for  
20 treatment, and no person shall be so delivered or admitted until  
21 the director of the treatment facility to which that person is  
22 committed determines that facilities and services are available.  
23 Persons who have been ordered committed and for whom there is no  
24 space in the treatment facility to which that person is committed  
25 may be delivered and admitted as a patient to any other treatment  
26 facility and given any such treatment in any such other treatment  
27 facility by a licensed physician as is indicated by standard  
28 medical practice. No person shall be admitted to any treatment  
29 facility unless the treatment facility is licensed and/or  
30 certified to provide the appropriate level of psychiatric care for

31 the mentally ill. The clerk shall provide the director of each  
32 treatment facility with a certified copy of the court order, a  
33 certified copy of the physicians' and any psychologist's  
34 certificate, a certified copy of the affidavit, and any other  
35 information available concerning the physical and mental condition  
36 of the respondent; however, upon notification from the United  
37 States Veterans Administration or other agency of the United  
38 States government, that facilities are available and the  
39 respondent is eligible for care and treatment therein, the court  
40 may enter an order for delivery of the respondent to or retention  
41 by the Veterans Administration or other agency of the United  
42 States government, and, in those cases the chief officer to whom  
43 the respondent is so delivered or by whom he is retained shall,  
44 with respect to the respondent, be vested with the same powers as  
45 the director of the Mississippi State Hospital at Whitfield, or  
46 the East Mississippi State Hospital at Meridian, with respect to  
47 retention and discharge of the respondent.

48 **SECTION 2.** Section 41-21-87, Mississippi Code of 1972, is  
49 amended as follows:

50 41-21-87. (1) The director of either the treatment facility  
51 where the patient is committed or the treatment facility where the  
52 patient resides while awaiting admission to any other treatment  
53 facility may discharge any civilly committed patient upon filing  
54 his certificate of discharge with the clerk of the committing  
55 court, certifying that the patient, in his judgment, no longer  
56 poses a substantial threat of physical harm to himself or others.

57 (2) A director of a treatment facility specified in  
58 subsection (1) of this section may return any patient to the  
59 custody of the committing court upon providing seven (7) days'  
60 notice and upon filing his certificate of same as follows:

61 (a) When, in the judgment of the director, the patient  
62 may be treated in a less restrictive environment; \* \* \* however,  
63 the treatment in the less restrictive environment shall be

64 implemented within seven (7) days after notification of the court;  
65 or

66 (b) When, in the judgment of the director, adequate  
67 facilities or treatment are not available at the treatment  
68 facility.

69 (3) No committing court shall enjoin or restrain any  
70 director of a treatment facility specified in subsection (1) of  
71 this section from discharging a patient under this section whose  
72 treating professionals have determined that the patient meets one  
73 (1) of the criteria for discharge as outlined in subsection (1) or  
74 (2) of this section. The director of the treatment facility where  
75 the patient is committed may transfer any civilly committed  
76 patient from one (1) facility operated directly by the Department  
77 of Mental Health to another as necessary for the welfare of that  
78 or other patients. Upon receiving the director's certificate of  
79 transfer, the court shall enter an order accordingly.

80 (4) Within twenty-four (24) hours before the release or  
81 discharge of any civilly committed patient, other than a temporary  
82 pass due to sickness or death in the patient's family, the  
83 director shall give or cause to be given notice of the release or  
84 discharge to one (1) member of the patient's immediate family,  
85 provided the member of the patient's immediate family has signed  
86 the consent to release form provided under subsection (5) and has  
87 furnished in writing a current address and telephone number, if  
88 applicable, to the director for that purpose. The notice to the  
89 family member shall include the psychiatric diagnosis of any  
90 chronic mental disorder incurred by the civilly committed patient  
91 and any medications provided or prescribed to the patient for his  
92 or her conditions.

93 (5) All providers of service in a treatment facility,  
94 whether in a community mental health/retardation center, region or  
95 state psychiatric hospital, shall request a consent to release  
96 information from all patients that will allow that entity to

97 involve the family in the patient's treatment. The release form  
98 shall be developed by the Department of Mental Health and provided  
99 to all treatment facilities, community mental health/retardation  
100 centers and state facilities. All such facilities shall  
101 request \* \* \* a release of information upon the date of admission  
102 of the patient to the facility or at least by the time the patient  
103 is discharged.

104         **SECTION 3.** This act shall take effect and be in force from  
105 and after July 1, 2004.