

By: Representative Holland

To: Public Health and Human Services; Judiciary A

HOUSE BILL NO. 1525  
(As Passed the House)

1 AN ACT TO AMEND SECTION 25-7-9, MISSISSIPPI CODE OF 1972, TO  
2 SET THE FEE THAT CHANCERY CLERKS SHALL CHARGE FOR A COMMITMENT  
3 ACTION; TO AMEND SECTION 41-21-63, MISSISSIPPI CODE OF 1972, TO  
4 ALLOW THE COMMITMENT OF PERSONS WITH MINOR CRIMINAL CHARGES  
5 PENDING AS LONG AS THERE ARE NOT FELONY CHARGES PENDING; TO AMEND  
6 SECTION 41-21-65, MISSISSIPPI CODE OF 1972, TO SIMPLIFY AND MAKE  
7 UNIFORM THE BEGINNING OF THE COMMITMENT PROCESS; TO ALLOW  
8 CHANCELLORS TO DECIDE IF THEY WANT TO HEAR A CASE OF A PERSON WHO  
9 IS FOUND IN THEIR COUNTY, OR TRANSFER THE CASE TO THE COUNTY OF  
10 RESIDENCE; TO SIMPLIFY THE AFFIDAVIT PROCESS BY GENERALIZING THE  
11 INFORMATION REQUIRED FOR THE AFFIDAVIT, REQUIRING THE CHANCERY  
12 CLERK TO PROVIDE THE AFFIANT WITH A SIMPLE, ONE-PAGE FORM  
13 DEVELOPED BY THE DEPARTMENT OF MENTAL HEALTH TO FILL OUT AS AN  
14 AFFIDAVIT, AND PREVENTING CHANCERY CLERKS FROM REQUIRING THE  
15 AFFIANT TO HIRE AN ATTORNEY; TO PREVENT "ADD ON" FEES BEING  
16 CHARGED TO THE AFFIANT AND ALLOW THE FILING FEE TO BE WAIVED AT  
17 THE AFFIANT'S REQUEST; TO REMOVE THE REQUIREMENT OF FILING A BOND;  
18 TO PROVIDE FOR PUNISHMENT WITH CRIMINAL CHARGES AND CONTEMPT FOR  
19 INDIVIDUALS WHO FILE AN INTENTIONALLY FALSE AFFIDAVIT FOR  
20 COMMITMENT; TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972,  
21 TO PROHIBIT PERSONS WAITING FOR COMMITMENT FROM BEING HELD IN  
22 JAIL; TO AMEND SECTION 41-21-71, MISSISSIPPI CODE OF 1972, TO  
23 ALLOW THE JUDGE TO DISMISS THE AFFIDAVIT WITHOUT THE NEED FOR A  
24 HEARING IF THE EXAMINERS DETERMINE A PERSON IS NOT IN NEED OF  
25 TREATMENT; TO AMEND SECTION 41-21-79, MISSISSIPPI CODE OF 1972, TO  
26 SET A CAP ON THE TOTAL AMOUNT THAT MAY BE CHARGED FOR ALL OF THE  
27 COSTS INCIDENTAL TO THE COURT PROCEEDINGS; TO AMEND SECTION  
28 41-31-15, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS  
29 OF THIS ACT; AND FOR RELATED PURPOSES.

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

31 **SECTION 1.** Section 25-7-9, Mississippi Code of 1972, is  
32 amended as follows:

33 25-7-9. (1) The clerks of the chancery courts shall charge  
34 the following fees:

35 (a) For the act of certifying copies of filed  
36 documents, for each complete document.....\$ 1.00

37 (b) (i) Recording each deed, will, lease, amendment,  
38 subordination, lien, release, cancellation, order, decree, oath,



39 etc., per book and page listed where applicable; for the first  
 40 fifteen (15) pages.....\$ 10.00  
 41 Each additional page.....\$ 1.00  
 42 (ii) Sectional index entries per section or  
 43 subdivision lot.....\$ 1.00  
 44 (c) Recording each deed of trust, for the first fifteen  
 45 (15) pages.....\$ 15.00  
 46 Each additional page.....\$ 1.00  
 47 Sectional index entries per section or subdivision  
 48 lot.....\$ 1.00  
 49 (d) (i) Recording oil and gas leases, cancellations,  
 50 etc., including indexing in general indices; for the first fifteen  
 51 (15) pages .....\$ 18.00  
 52 Each additional page.....\$ 1.00  
 53 (ii) Sectional index entries per section or  
 54 subdivision lot.....\$ 1.00  
 55 (iii) Recording each oil and gas assignment  
 56 per assignee.....\$ 18.00  
 57 (e) (i) Furnishing copies of any papers of record or  
 58 on file:  
 59 If performed by the clerk or his employee,  
 60 per page.....\$ .50  
 61 If performed by any other person, per page.....\$ .25  
 62 (ii) Entering marginal notations on  
 63 documents of record.....\$ 1.00  
 64 (f) For each day's attendance on the board of  
 65 supervisors, for himself and one (1) deputy, each.....\$ 20.00  
 66 (g) For other services as clerk of the board of  
 67 supervisors an allowance shall be made to him (payable  
 68 semiannually at the July and January meetings) out of the county  
 69 treasury, an annual sum not exceeding.....\$3,000.00  
 70 (h) For each day's attendance on the chancery court, to  
 71 be approved by the chancellor:



72 For the first chancellor sitting only, clerk and two (2)  
73 deputies, each.....\$ 50.00

74 For the second chancellor sitting, clerk only.....\$ 50.00

75 Provided that the fees herein prescribed shall be the total  
76 remuneration for the clerk and his deputies for attending chancery  
77 court.

78 (i) On order of the court, clerks and not more than two  
79 (2) deputies may be allowed five (5) extra days for each term of  
80 court for attendance upon the court to get up records.

81 (j) For public service not otherwise specifically  
82 provided for, the chancery court may by order allow the clerk to  
83 be paid by the county on the order of the board of supervisors, an  
84 annual sum not exceeding.....\$5,000.00

85 (k) For each civil filing, to be deposited into the  
86 Civil Legal Assistance Fund.....\$ 5.00

87 The chancery clerk shall itemize on the original document a  
88 detailed fee bill of all charges due or paid for filing, recording  
89 and abstracting same. No person shall be required to pay such  
90 fees until same have been so itemized, but those fees may be  
91 demanded before the document is recorded.

92 (2) The following fees shall be a total fee for all services  
93 performed by the clerk with respect to a complaint which shall be  
94 payable upon filing and shall accrue to the chancery clerk at the  
95 time of filing. The clerk or his successor in office shall  
96 perform all duties set forth without additional compensation or  
97 fee to wit:

98 (a) Divorce to be contested.....\$75.00

99 (b) Divorce uncontested.....\$30.00

100 (c) Alteration of birth or marriage certificate..\$25.00

101 (d) Removal of minority.....\$25.00

102 (e) Guardianship or conservatorship.....\$75.00

103 (f) Estate of deceased, intestate.....\$75.00

104 (g) Estate of deceased, testate.....\$75.00



105	(h)	Adoption.....	\$75.00
106	(i)	Land dispute.....	\$75.00
107	(j)	Injunction.....	\$75.00
108	(k)	Settlement of small claim.....	\$30.00
109	(l)	Contempt in child support.....	\$75.00
110	(m)	Partition suit.....	\$75.00
111	(n)	Any cross-complaint.....	\$25.00
112	(o)	<u>Commitment</u> .....	<u>\$75.00</u>

113 (3) For every civil case filed, an additional fee to be  
114 deposited to the credit of the Comprehensive Electronic Court  
115 Systems Fund established in Section 9-21-14.....\$10.00

116 (4) Cost of process shall be borne by the issuing party.  
117 Additionally, should the attorney or person filing the pleadings  
118 desire the clerk to pay the cost to the sheriff for serving  
119 process on one (1) person or more, or to pay the cost of  
120 publication, the clerk shall demand the actual charges therefor,  
121 at the time of filing.

122 **SECTION 2.** Section 41-21-63, Mississippi Code of 1972, is  
123 amended as follows:

124 41-21-63. (1) No person, other than persons charged with  
125 crime, shall be committed to a public treatment facility except  
126 under the provisions of Sections 41-21-61 through 41-21-107 or  
127 43-21-611 or 43-21-315. However, nothing herein shall be  
128 construed to repeal, alter or otherwise affect the provisions of  
129 Section 35-5-31 or to affect or prevent the commitment of persons  
130 to the Veterans Administration or other agency of the United  
131 States under the provisions of and in the manner specified in  
132 those sections.

133 (2) The chancery court, or the chancellor in vacation shall  
134 have jurisdiction under Sections 41-21-61 through 41-21-107 except  
135 over persons with unresolved felony charges pending.

136 (3) The circuit court shall have jurisdiction under Sections  
137 99-13-7, 99-13-9 and 99-13-11.



138           **SECTION 3.** Section 41-21-65, Mississippi Code of 1972, is  
139 amended as follows:

140           41-21-65. (1) It is the intention of the Legislature that  
141 the filing of an affidavit under this section be a simple,  
142 inexpensive, uniform, and streamlined process for the purpose of  
143 facilitating and expediting the care of individuals in need of  
144 treatment.

145           (2) If any person is alleged to be in need of treatment, any  
146 relative of the person, or any interested person, may make  
147 affidavit of that fact and shall file the affidavit with the clerk  
148 of the chancery court of the county in which the person alleged to  
149 be in need of treatment resides; provided, however, that a  
150 chancellor or duly appointed special master may, in his or her  
151 discretion, hear the matter in the county in which the person may  
152 be found. The chancellor is authorized to immediately transfer  
153 the cause of a person alleged to be in need of treatment from the  
154 county where the person was found to the person's county of  
155 residence. \* \* \* The affidavit shall set forth the name and  
156 address of the proposed patient's nearest relatives, if known, and  
157 the reasons for the affidavit. The affidavit must contain factual  
158 descriptions of the proposed patient's recent behavior, including  
159 a description of the behavior, where it occurred, and over what  
160 period of time it occurred, if known. Each factual allegation may  
161 be supported by observations of witnesses named in the affidavit.  
162 Because of the emergency nature of those affidavits, at the  
163 affiant's request the chancery clerk shall provide the affiant  
164 with the one-page affidavit form developed by the Department of  
165 Mental Health, which the affiant may complete and file without the  
166 need for consulting or retaining an attorney. The Department of  
167 Mental Health, in consultation with the Mississippi Chancery  
168 Clerks' Association, shall develop a simple, one-page affidavit  
169 form for the use of affiants as provided in this subsection, which  
170 shall be used in all counties in the state. No chancery clerk



171 shall require an affiant to retain an attorney for the filing of  
172 an affidavit under this section.

173 (3) The chancery clerk may charge the affiant a total fee  
174 for all services equal to the amount set out in Section 25-7-9(o),  
175 and the appropriate state and county assessments as required by  
176 law.

177 (4) The prohibition against charging the affiant other fees,  
178 expenses, or costs shall not preclude the imposition of monetary  
179 criminal penalties under Section 41-21-107 or any other criminal  
180 statute, or the imposition by the chancellor of monetary penalties  
181 for contempt if the affiant is found to have filed an  
182 intentionally false affidavit or filed the affidavit in bad faith  
183 for a malicious purpose.

184 **SECTION 4.** Section 41-21-67, Mississippi Code of 1972, is  
185 amended as follows:

186 41-21-67. (1) Whenever the affidavit provided for in  
187 Section 41-21-65 is filed with the chancery clerk, the clerk, upon  
188 direction of the chancellor of the court, shall issue a writ  
189 directed to the sheriff of the proper county to take into his or  
190 her custody the person alleged to be in need of treatment and to  
191 bring the person before the clerk or chancellor, who shall order  
192 pre-evaluation screening and treatment by the appropriate  
193 community mental health center established under Section 41-19-31  
194 and for examination as set forth in Section 41-21-69. However,  
195 when the affidavit fails to set forth factual allegations and  
196 witnesses sufficient to support the need for treatment, the  
197 chancellor shall refuse to direct issuance of the writ.  
198 Reapplication may be made to the chancellor. *If a pauper's*  
199 *affidavit is filed by a guardian for commitment of the ward of the*  
200 *guardian, the court shall determine if the ward is a pauper and if*  
201 *the ward is determined to be a pauper, the county of the residence*  
202 *of the respondent shall bear the costs of commitment, unless funds*  
203 *for those purposes are made available by the state.*



204           (2) Upon issuance of the writ, the chancellor shall  
205 immediately appoint and summon two (2) reputable, licensed  
206 physicians or one (1) reputable, licensed physician and either one  
207 (1) psychologist, nurse practitioner or physician assistant to  
208 conduct a physical and mental examination of the person at a place  
209 to be designated by the clerk or chancellor and to report their  
210 findings to the clerk or chancellor. \* \* \* However, \* \* \* any  
211 nurse practitioner or physician assistant conducting the  
212 examination shall be independent from, and not under the  
213 supervision of, the other physician conducting the examination.  
214 In all counties in which there is a county health officer, the  
215 county health officer, if available, may be one (1) of the  
216 physicians so appointed. Neither of the physicians nor the  
217 psychologist, nurse practitioner or physician assistant selected  
218 shall be related to that person in any way, nor have any direct or  
219 indirect interest in the estate of that person nor shall any  
220 full-time staff of residential treatment facilities operated  
221 directly by the Department of Mental Health serve as examiner.

222           (3) The clerk shall ascertain whether the respondent is  
223 represented by an attorney, and if it is determined that  
224 respondent does not have an attorney, the clerk shall immediately  
225 notify the chancellor of that fact. If the chancellor determines  
226 that respondent for any reason does not have the services of an  
227 attorney, the chancellor shall immediately appoint an attorney for  
228 the respondent at the time the examiners are appointed.

229           (4) If the chancellor determines that there is probable  
230 cause to believe that the respondent is mentally ill and that  
231 there is no reasonable alternative to detention, the chancellor  
232 may order that the respondent be retained as an emergency patient  
233 at any available regional mental health facility or any other  
234 available suitable location as the court may so designate pending  
235 an admission hearing and may, if necessary, order a peace officer  
236 or other person to transport the respondent to that mental health



237 facility or suitable location. Any respondent so retained may be  
238 given such treatment \* \* \* as is indicated by standard medical  
239 practice. However, the respondent shall not be held in a hospital  
240 operated directly by the Department of Mental Health, and shall  
241 not be held in jail, *unless the court finds that there is no*  
242 *reasonable alternative.*

243 (5) Whenever a licensed physician, psychologist, nurse  
244 practitioner or physician assistant certified to complete  
245 examinations for the purpose of commitment has reason to believe  
246 that a person poses an immediate substantial likelihood of  
247 physical harm to himself or others or is gravely disabled and  
248 unable to care for himself by virtue of mental illness, as defined  
249 in Section 41-21-61(e), then the physician, psychologist, nurse  
250 practitioner or physician assistant may hold the person or \* \* \*  
251 may admit the person to and treat the person in a licensed medical  
252 facility, without a civil order or warrant for a period not to  
253 exceed seventy-two (72) hours or the end of the next business day  
254 of the chancery clerk's office. The person may be held and  
255 treated as an emergency patient at any licensed medical facility,  
256 available regional mental health facility, or crisis intervention  
257 center. The physician, psychologist, nurse practitioner or  
258 physician assistant who holds the person shall certify in writing  
259 the reasons for the need for holding. Any respondent so held may  
260 be given such treatment \* \* \* as indicated by standard medical  
261 practice. Persons acting in good faith in connection with the  
262 detention of a person believed to be mentally ill shall incur no  
263 liability, civil or criminal, for those acts.

264 **SECTION 5.** Section 41-21-71, Mississippi Code of 1972, is  
265 amended as follows:

266 41-21-71. If, as a result of the examination, the examiners  
267 certify that the person is not in need of treatment, the  
268 chancellor or clerk shall dismiss the affidavit without the need  
269 for a further hearing. If the chancellor or chancery clerk finds,





270 based upon the physicians' or the physician and a psychologist's,  
271 nurse practitioner's or physician assistant's certificate and any  
272 other relevant evidence, that the respondent is in need of  
273 treatment and that certificate is filed with the chancery clerk  
274 within forty-eight (48) hours after the order for examination, or  
275 extension of that time as provided in Section 41-21-69, the clerk  
276 shall immediately set the matter for a hearing. The hearing shall  
277 be set within seven (7) days of the filing of the certificate  
278 unless an extension is requested by the respondent's attorney. In  
279 no event shall the hearing be more than ten (10) days after the  
280 filing of the certificate.

281 **SECTION 6.** Section 41-21-79, Mississippi Code of 1972, is  
282 amended as follows:

283 41-21-79. The costs incidental to the court proceedings  
284 including, but not limited to, court costs, prehearing  
285 hospitalization costs, cost of transportation, reasonable  
286 physician's, psychologist's, nurse practitioner's or physician  
287 assistant's fees set by the court, and reasonable attorney's fees  
288 set by the court, shall be paid out of the funds of the county of  
289 residence of the respondent in those instances where the patient  
290 is indigent unless funds for those purposes are made available by  
291 the state. However, if the respondent is not indigent, those  
292 costs shall be taxed against the respondent or his or her estate.  
293 The total amount that may be charged for all of the costs  
294 incidental to the court proceedings shall not exceed Four Hundred  
295 Dollars (\$400.00).

296 **SECTION 7.** Section 41-31-15, Mississippi Code of 1972, is  
297 amended as follows:

298 41-31-15. The provisions of the law with respect to the  
299 costs of commitment and the cost of support, including the  
300 prohibition in Section 41-21-65 regarding the charging of extra  
301 fees and expenses to persons initiating commitment proceedings,  
302 methods of determination of persons liable therefor, and methods



303 of determination of financial ability, and all provisions of law  
304 enabling the state to secure reimbursement of any such items of  
305 cost, applicable to the commitment to and support of the mentally  
306 ill persons in state hospitals, shall apply with equal force in  
307 respect to each item of expense incurred by the state in  
308 connection with the commitment, care, custody, treatment, and  
309 rehabilitation of any person committed to the state hospitals and  
310 maintained in any institution or hospital operated by the State of  
311 Mississippi under the provisions of this chapter.

312         **SECTION 8.** This act shall take effect and be in force from  
313 and after July 1, 2010.

