

By: Representative Baker

To: Judiciary A

HOUSE BILL NO. 804

1 AN ACT TO REQUIRE THE MISSISSIPPI STATE HOSPITAL AT WHITFIELD
2 TO PUBLISH A LIST OF PSYCHIATRISTS AND PSYCHOLOGISTS APPROVED TO
3 PERFORM MENTAL EXAMINATIONS REQUIRED TO DETERMINE WHETHER A
4 CRIMINAL DEFENDANT IS COMPETENT TO STAND TRIAL; TO AUTHORIZE EACH
5 MISSISSIPPI STATE HOSPITAL TO ENTER INTO CONTRACTS WITH
6 PSYCHIATRISTS AND PSYCHOLOGISTS FOR PURPOSES OF PERFORMING INITIAL
7 MENTAL EXAMINATIONS ON CRIMINAL DEFENDANTS; TO PROVIDE THAT THE
8 SERVICES OF THE CONTRACT SHALL INCLUDE ANY MENTAL EXAMINATIONS
9 PERFORMED BY THE PSYCHIATRIST OR PSYCHOLOGIST, THE REQUIRED REPORT
10 OF THE PSYCHIATRIST OR PSYCHOLOGIST AND THE TESTIMONY OF THE
11 PSYCHIATRIST OR PSYCHOLOGIST; TO AMEND SECTION 99-13-11,
12 MISSISSIPPI CODE OF 1972, TO REQUIRE THAT, IN EACH CASE IN WHICH A
13 MENTAL EXAMINATION IS ORDERED TO DETERMINE COMPETENCY OF A
14 DEFENDANT, BOTH OPTIONS OF EITHER A PSYCHIATRIST OR PSYCHOLOGIST
15 BE OFFERED; TO REQUIRE THAT EACH INITIAL MENTAL EXAMINATION THAT
16 IS PERFORMED BY A PSYCHIATRIST OR PSYCHOLOGIST WHO HAS CONTRACTED
17 WITH A MISSISSIPPI STATE HOSPITAL FOR THE PURPOSES OF DETERMINING
18 COMPETENCY BE CONDUCTED IN THE JAIL OR FACILITY IN WHICH HE OR SHE
19 IS BEING HELD; TO REQUIRE THE COURT TO ORDER CONFINEMENT TO A
20 STATE PSYCHIATRIC HOSPITAL OR INSTITUTION FOR ANY PERSON
21 DETERMINED TO BE INCOMPETENT TO STAND TRIAL; TO AUTHORIZE ANY
22 PERSON CONFINE FOR INCOMPETENCY TO CHALLENGE THE DETERMINATION; TO
23 PROVIDE THAT ANY INDIGENT PERSON SHALL HAVE COUNSEL APPOINTED; TO
24 AMEND SECTION 41-4-7, MISSISSIPPI CODE OF 1972, TO REVISE THE
25 DUTIES OF THE DEPARTMENT OF MENTAL HEALTH BY REQUIRING A LIST OF
26 CERTAIN COUNTY FACILITIES BE PROVIDED TO THE ADMINISTRATIVE OFFICE
27 OF COURTS TO BE PROVIDED TO JUDGES IN THE STATE; TO AMEND SECTION
28 41-21-77, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PERSONS WHO
29 HAVE BEEN ORDERED COMMITTED AND HAVE AWAITED ADMISSION IN A COUNTY
30 FACILITY FOR A PERIOD OF MORE THAN THIRTY DAYS, INCLUDING
31 WEEKENDS, SHALL BE GIVEN TREATMENT IN THE COUNTY FACILITY BY A
32 LICENSED PHYSICIAN OR SHALL BE DELIVERED TO A STATE TREATMENT
33 FACILITY THAT IS CERTIFIED BY THE STATE DEPARTMENT OF MENTAL
34 HEALTH; TO AUTHORIZE THE JUDGE WHO ORDERED THE INITIAL COMMITMENT



35 TO THE COUNTY FACILITY TO RETAIN JURISDICTION UNTIL THE PERSON HAS
36 BEEN RESTORED TO COMPETENCY OR DETERMINED INCOMPETENT; TO AMEND
37 SECTION 41-21-63, MISSISSIPPI CODE OF 1972, EXPAND THE
38 JURISDICTION OF THE CIRCUIT COURT IN RELATION TO PERSONS
39 COMPETENCY TO STAND TRIAL; TO BRING FORWARD SECTIONS 35-5-31,
40 41-17-1, 41-21-83 AND 41-21-61, MISSISSIPPI CODE OF 1972, WHICH
41 PROVIDE FOR DEFINITIONS AND PROVISION REGARDING MENTAL
42 EXAMINATIONS, FOR PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

44 **SECTION 1.** (1) The Mississippi State Hospital at Whitfield
45 shall publish a list of psychiatrists and psychologists approved
46 to perform mental examinations described by Section 99-13-11.

47 (2) Each Mississippi State Hospital as defined in Section
48 41-17-1 may enter into contracts with psychiatrists and
49 psychologists to effectuate the provisions of Section 99-13-11,
50 which shall include any mental examinations performed by the
51 psychiatrist or psychologist, the required report of the
52 psychiatrist or psychologist and the testimony of the psychiatrist
53 or psychologist.

54 **SECTION 2.** Section 99-13-11, Mississippi Code of 1972, is
55 amended as follows:

56 99-13-11. (1) In any criminal action in the circuit court
57 in which the mental condition of a person indicted for a felony is
58 in question, the court or judge in vacation on motion duly made by
59 the defendant, the district attorney or on the motion of the court
60 or judge, may order such person to submit to a mental examination
61 by a competent psychiatrist or psychologist located in that county
62 or an adjacent county selected by the court to determine his
63 ability to make a defense * * *. In each case in which a mental



64 examination is ordered, both options of either a psychiatrist or
65 psychologist shall be offered. Except as otherwise provided in
66 subsection (2) of this section when the mental examination is
67 performed by a psychiatrist or psychologist who is contracted by a
68 Mississippi State Hospital as defined in Section 41-17-1 * * *,
69 any cost or expense in connection with such mental examination
70 shall be paid by the county in which such criminal action is
71 pending.

72 (2) Each initial mental evaluation that is performed by a
73 psychiatrist or psychologist who has contracted with a Mississippi
74 State Hospital as defined in Section 41-17-1, for the purposes of
75 determining competency as described in subsection (1) of this
76 section, shall be conducted in the jail or facility in which he or
77 she is being held; however, if the initial mental examination is
78 inconclusive, the person may be transported to a Mississippi State
79 Hospital as defined in Section 41-17-1. The cost or expense of a
80 mental examination required by this subsection shall be paid by
81 the Mississippi State Hospital that contracted with the
82 psychiatrist or psychologist that performed the mental
83 examination.

84 (3) When any person is determined to be incompetent to stand
85 trial for purposes of this section, the court shall order
86 confinement of the person to a state psychiatric hospital or
87 institution until the person is restored to competency. If the
88 person cannot be restored to competency, the person shall remain



89 confined. The person may challenge any determination of
90 incompetency and shall have a right to counsel for such purpose.
91 If the person is indigent, counsel shall be appointed.

92 **SECTION 3.** Section 41-4-7, Mississippi Code of 1972, is
93 amended as follows:

94 41-4-7. The State Board of Mental Health shall have the
95 following powers and duties:

96 (a) To appoint a full-time Executive Director of the
97 Department of Mental Health, who shall be employed by the board
98 and shall serve as executive secretary to the board. The first
99 director shall be a duly licensed physician with special interest
100 and competence in psychiatry, and shall possess a minimum of three
101 (3) years' experience in clinical and administrative psychiatry.
102 Subsequent directors shall possess at least a master's degree or
103 its equivalent, and shall possess at least ten (10) years'
104 administrative experience in the field of mental health. The
105 salary of the executive director shall be determined by the board;

106 (b) To appoint a Medical Director for the Department of
107 Mental Health. The medical director shall provide clinical
108 oversight in the implementation of evidence-based and best
109 practices; provide clinical leadership in the integration of
110 mental health, intellectual disability and addiction services with
111 community partners in the public and private sectors; and provide
112 oversight regarding standards of care. The medical director shall
113 serve at the will and pleasure of the board, and will undergo an



114 annual review of job performance and future service to the
115 department;

116 (c) To cooperate with the Strategic Planning and Best
117 Practices Committee created in Section 41-4-10, Mississippi Code
118 of 1972, in establishing and implementing its state strategic
119 plan;

120 (d) To develop a strategic plan for the development of
121 services for persons with mental illness, persons with
122 developmental disabilities and other clients of the public mental
123 health system. Such strategic planning program shall require that
124 the board, acting through the Strategic Planning and Best
125 Practices Committee, perform the following functions respecting
126 the delivery of services:

127 (i) Establish measures for determining the
128 efficiency and effectiveness of the services specified in Section
129 41-4-1(2);

130 (ii) Conducting studies of community-based care in
131 other jurisdictions to determine which services offered in these
132 jurisdictions have the potential to provide the citizens of
133 Mississippi with more effective and efficient community-based
134 care;

135 (iii) Evaluating the efficiency and effectiveness
136 of the services specified in Section 41-4-1(2);



137 (iv) Recommending to the Legislature by January 1,
138 2014, any necessary additions, deletions or other changes
139 necessary to the services specified in Section 41-4-1(2);

140 (v) Implementing by July 1, 2012, a system of
141 performance measures for the services specified in Section
142 41-4-1(2);

143 (vi) Recommending to the Legislature any changes
144 that the department believes are necessary to the current laws
145 addressing civil commitment;

146 (vii) Conducting any other activities necessary to
147 the evaluation and study of the services specified in Section
148 41-4-1(2);

149 (viii) Assisting in conducting all necessary
150 strategic planning for the delivery of all other services of the
151 department. Such planning shall be conducted so as to produce a
152 single strategic plan for the services delivered by the public
153 mental health system and shall establish appropriate mission
154 statements, goals, objectives and performance indicators for all
155 programs and services of the public mental health system. For
156 services other than those specified in Section 41-4-1(2), the
157 committee shall recommend to the State Board of Mental Health a
158 strategic plan that the board may adopt or modify;

159 (e) To set up state plans for the purpose of
160 controlling and treating any and all forms of mental and emotional
161 illness, alcoholism, drug misuse and developmental disabilities;



162 (f) To supervise, coordinate and establish standards
163 for all operations and activities of the state related to mental
164 health and providing mental health services. Nothing in this
165 chapter shall preclude the services of a psychiatric/mental health
166 nurse practitioner in accordance with an established nurse
167 practitioner/physician protocol. A physician, licensed
168 psychologist, psychiatric/mental health nurse practitioner in
169 accordance with an established nurse practitioner/physician
170 protocol, physician assistant, licensed professional counselor,
171 licensed marriage and family therapists, or licensed clinical
172 social worker shall certify each client's record annually after
173 seeing the client in person or by telemedicine, and more often if
174 medically indicated by physically visiting the client and
175 certifying same in the record. The board shall have the authority
176 to develop and implement all standards and plans and shall have
177 the authority to establish appropriate actions, including
178 financially punitive actions, to ensure enforcement of these
179 established standards, in accordance with the Administrative
180 Procedures Law (Section 25-43-1.101 et seq.). The regional
181 community mental health/intellectual disability centers shall
182 comply with all of the board's established standards that are
183 applicable to those centers, and the board may withhold any state
184 funds that otherwise would be allocated or paid to any of those
185 centers that does not comply with the board's established



186 standards. This paragraph (f) shall stand repealed on July 1,
187 2017;

188 (g) To enter into contracts with any other state or
189 federal agency, or with any private person, organization or group
190 capable of contracting, if it finds such action to be in the
191 public interest;

192 (h) To collect reasonable fees for its services;
193 however, if it is determined that a person receiving services is
194 unable to pay the total fee, the department shall collect any
195 amount such person is able to pay;

196 (i) To certify, coordinate and establish minimum
197 standards and establish minimum required services, as specified in
198 Section 41-4-1(2), for regional mental health and intellectual
199 disability commissions and other community service providers for
200 community or regional programs and services in adult mental
201 health, children and youth mental health, intellectual
202 disabilities, alcoholism, drug misuse, developmental disabilities,
203 compulsive gambling, addictive disorders and related programs
204 throughout the state. Such regional mental health and
205 intellectual disability commissions and other community service
206 providers shall, on or before July 1 of each year, submit an
207 annual operational plan to the State Department of Mental Health
208 for approval or disapproval based on the minimum standards and
209 minimum required services established by the department for
210 certification and itemize the services specified in Section



211 41-4-1(2). As part of the annual operation plan required by this
212 paragraph (i) submitted by any regional community mental health
213 center or by any other reasonable certification deemed acceptable
214 by the department, the community mental health center shall state
215 those services specified in Section 41-4-1(2) that it will provide
216 and also those services that it will not provide. If the
217 department finds deficiencies in the plan of any regional
218 commission or community service provider based on the minimum
219 standards and minimum required services established for
220 certification, the department shall give the regional commission
221 or community service provider a six-month probationary period to
222 bring its standards and services up to the established minimum
223 standards and minimum required services. After the six-month
224 probationary period, if the department determines that the
225 regional commission or community service provider still does not
226 meet the minimum standards and minimum required services
227 established for certification, the department may remove the
228 certification of the commission or provider and from and after
229 July 1, 2011, the commission or provider shall be ineligible for
230 state funds from Medicaid reimbursement or other funding sources
231 for those services. However, the department shall not mandate a
232 standard or service, or decertify a regional commission or
233 community service provider for not meeting a standard or service,
234 if the standard or service does not have funding appropriated by
235 the Legislature or have a state, federal or local funding source



236 identified by the department. No county shall be required to levy
237 millage to provide a mandated standard or service above the
238 minimum rate required by Section 41-19-39. After the six-month
239 probationary period, the department may identify an appropriate
240 community service provider to provide any core services in that
241 county that are not provided by a community mental health center.
242 However, the department shall not offer reimbursement or other
243 accommodations to a community service provider of core services
244 that were not offered to the decertified community mental health
245 center for the same or similar services. The State Board of
246 Mental Health shall promulgate rules and regulations necessary to
247 implement the provisions of this paragraph (i), in accordance with
248 the Administrative Procedures Law (Section 25-43-1.101 et seq.);

249 (j) To establish and promulgate reasonable minimum
250 standards for the construction and operation of state and all
251 Department of Mental Health certified facilities, including
252 reasonable minimum standards for the admission, diagnosis, care,
253 treatment, transfer of patients and their records, and also
254 including reasonable minimum standards for providing day care,
255 outpatient care, emergency care, inpatient care and follow-up
256 care, when such care is provided for persons with mental or
257 emotional illness, an intellectual disability, alcoholism, drug
258 misuse and developmental disabilities;

259 (k) To implement best practices for all services
260 specified in Section 41-4-1(2), and to establish and implement all



261 other services delivered by the Department of Mental Health. To
262 carry out this responsibility, the board shall require the
263 department to establish a division responsible for developing best
264 practices based on a comprehensive analysis of the mental health
265 environment to determine what the best practices for each service
266 are. In developing best practices, the board shall consider the
267 cost and benefits associated with each practice with a goal of
268 implementing only those practices that are cost-effective
269 practices for service delivery. Such best practices shall be
270 utilized by the board in establishing performance standards and
271 evaluations of the community mental health centers' services
272 required by paragraph (d) of this section;

273 (l) To assist community or regional programs consistent
274 with the purposes of this chapter by making grants and contracts
275 from available funds;

276 (m) To establish and collect reasonable fees for
277 necessary inspection services incidental to certification or
278 compliance;

279 (n) To accept gifts, trusts, bequests, grants,
280 endowments or transfers of property of any kind;

281 (o) To receive monies coming to it by way of fees for
282 services or by appropriations;

283 (p) To serve as the single state agency in receiving
284 and administering any and all funds available from any source for
285 the purpose of service delivery, training, research and education



286 in regard to all forms of mental illness, intellectual
287 disabilities, alcoholism, drug misuse and developmental
288 disabilities, unless such funds are specifically designated to a
289 particular agency or institution by the federal government, the
290 Mississippi Legislature or any other grantor;

291 (q) To establish mental health holding centers for the
292 purpose of providing short-term emergency mental health treatment,
293 places for holding persons awaiting commitment proceedings or
294 awaiting placement in a state mental health facility following
295 commitment, and for diverting placement in a state mental health
296 facility. These mental health holding facilities shall be readily
297 accessible, available statewide, and be in compliance with
298 emergency services' minimum standards. They shall be
299 comprehensive and available to triage and make appropriate
300 clinical disposition, including the capability to access inpatient
301 services or less restrictive alternatives, as needed, as
302 determined by medical staff. Such facility shall have medical,
303 nursing and behavioral services available on a
304 twenty-four-hour-a-day basis. The board may provide for all or
305 part of the costs of establishing and operating the holding
306 centers in each district from such funds as may be appropriated to
307 the board for such use, and may participate in any plan or
308 agreement with any public or private entity under which the entity
309 will provide all or part of the costs of establishing and
310 operating a holding center in any district;



311 (r) To certify/license case managers, mental health
312 therapists, intellectual disability therapists, mental
313 health/intellectual disability program administrators, addiction
314 counselors and others as deemed appropriate by the board. Persons
315 already professionally licensed by another state board or agency
316 are not required to be certified/licensed under this section by
317 the Department of Mental Health. The department shall not use
318 professional titles in its certification/licensure process for
319 which there is an independent licensing procedure. Such
320 certification/licensure shall be valid only in the state mental
321 health system, in programs funded and/or certified by the
322 Department of Mental Health, and/or in programs certified/licensed
323 by the State Department of Health that are operated by the state
324 mental health system serving persons with mental illness, an
325 intellectual disability, a developmental disability or addictions,
326 and shall not be transferable;

327 (s) To develop formal mental health worker
328 qualifications for regional mental health and intellectual
329 disability commissions and other community service providers. The
330 State Personnel Board shall develop and promulgate a recommended
331 salary scale and career ladder for all regional mental
332 health/intellectual disability center therapists and case managers
333 who work directly with clients. The State Personnel Board shall
334 also develop and promulgate a career ladder for all direct care
335 workers employed by the State Department of Mental Health;



336 (t) The employees of the department shall be governed
337 by personnel merit system rules and regulations, the same as other
338 employees in state services;

339 (u) To establish such rules and regulations as may be
340 necessary in carrying out the provisions of this chapter,
341 including the establishment of a formal grievance procedure to
342 investigate and attempt to resolve consumer complaints;

343 (v) To grant easements for roads, utilities and any
344 other purpose it finds to be in the public interest;

345 (w) To survey statutory designations, building markers
346 and the names given to mental health/intellectual disability
347 facilities and proceedings in order to recommend deletion of
348 obsolete and offensive terminology relative to the mental
349 health/intellectual disability system. Based upon a
350 recommendation of the executive director, the board shall have the
351 authority to name/rename any facility operated under the auspices
352 of the Department of Mental Health for the sole purpose of
353 deleting such terminology;

354 (x) To ensure an effective case management system
355 directed at persons who have been discharged from state and
356 private psychiatric hospitals to ensure their continued well-being
357 in the community;

358 (y) To develop formal service delivery standards
359 designed to measure the quality of services delivered to community
360 clients, as well as the timeliness of services to community



361 clients provided by regional mental health/intellectual disability
362 commissions and other community services providers;

363 (z) To establish regional state offices to provide
364 mental health crisis intervention centers and services available
365 throughout the state to be utilized on a case-by-case emergency
366 basis. The regional services director, other staff and delivery
367 systems shall meet the minimum standards of the Department of
368 Mental Health;

369 (aa) To require performance contracts with community
370 mental health/intellectual disability service providers to contain
371 performance indicators to measure successful outcomes, including
372 diversion of persons from inpatient psychiatric hospitals,
373 rapid/timely response to emergency cases, client satisfaction with
374 services and other relevant performance measures;

375 (bb) To enter into interagency agreements with other
376 state agencies, school districts and other local entities as
377 determined necessary by the department to ensure that local mental
378 health service entities are fulfilling their responsibilities to
379 the overall state plan for behavioral services;

380 (cc) To establish and maintain a toll-free grievance
381 reporting telephone system for the receipt and referral for
382 investigation of all complaints by clients of state and community
383 mental health/intellectual disability facilities;

384 (dd) To establish a peer review/quality assurance
385 evaluation system that assures that appropriate assessment,



386 diagnosis and treatment is provided according to established
387 professional criteria and guidelines;

388 (ee) To develop and implement state plans for the
389 purpose of assisting with the care and treatment of persons with
390 Alzheimer's disease and other dementia. This plan shall include
391 education and training of service providers, caregivers in the
392 home setting and others who deal with persons with Alzheimer's
393 disease and other dementia, and development of adult day care,
394 family respite care and counseling programs to assist families who
395 maintain persons with Alzheimer's disease and other dementia in
396 the home setting. No agency shall be required to provide any
397 services under this section until such time as sufficient funds
398 have been appropriated or otherwise made available by the
399 Legislature specifically for the purposes of the treatment of
400 persons with Alzheimer's and other dementia;

401 (ff) Working with the advice and consent of the
402 administration of Ellisville State School, to enter into
403 negotiations with the Economic Development Authority of Jones
404 County for the purpose of negotiating the possible exchange, lease
405 or sale of lands owned by Ellisville State School to the Economic
406 Development Authority of Jones County. It is the intent of the
407 Mississippi Legislature that such negotiations shall ensure that
408 the financial interest of the persons with an intellectual
409 disability served by Ellisville State School will be held
410 paramount in the course of these negotiations. The Legislature



411 also recognizes the importance of economic development to the
412 citizens of the State of Mississippi and Jones County, and
413 encourages fairness to the Economic Development Authority of Jones
414 County. Any negotiations proposed which would result in the
415 recommendation for exchange, lease or sale of lands owned by
416 Ellisville State School must have the approval of the State Board
417 of Mental Health. The State Board of Mental Health may and has
418 the final authority as to whether or not these negotiations result
419 in the exchange, lease or sale of the properties it currently
420 holds in trust for persons with an intellectual disability served
421 at Ellisville State School.

422 If the State Board of Mental Health authorizes the sale of
423 lands owned by Ellisville State School, as provided for under this
424 paragraph (ff), the monies derived from the sale shall be placed
425 into a special fund that is created in the State Treasury to be
426 known as the "Ellisville State School Client's Trust Fund." The
427 principal of the trust fund shall remain inviolate and shall never
428 be expended. Any interest earned on the principal may be expended
429 solely for the benefits of clients served at Ellisville State
430 School. The State Treasurer shall invest the monies of the trust
431 fund in any of the investments authorized for the Mississippi
432 Prepaid Affordable College Tuition Program under Section 37-155-9,
433 and those investments shall be subject to the limitations
434 prescribed by Section 37-155-9. Unexpended amounts remaining in
435 the trust fund at the end of a fiscal year shall not lapse into



436 the State General Fund, and any interest earned on amounts in the
437 trust fund shall be deposited to the credit of the trust fund.
438 The administration of Ellisville State School may use any interest
439 earned on the principal of the trust fund, upon appropriation by
440 the Legislature, as needed for services or facilities by the
441 clients of Ellisville State School. Ellisville State School shall
442 make known to the Legislature, through the Legislative Budget
443 Committee and the respective Appropriations Committees of the
444 House and Senate, its proposed use of interest earned on the
445 principal of the trust fund for any fiscal year in which it
446 proposes to make expenditures thereof. The State Treasurer shall
447 provide Ellisville State School with an annual report on the
448 Ellisville State School Client's Trust Fund to indicate the total
449 monies in the trust fund, interest earned during the year,
450 expenses paid from the trust fund and such other related
451 information.

452 Nothing in this section shall be construed as applying to or
453 affecting mental health/intellectual disability services provided
454 by hospitals as defined in Section 41-9-3(a), and/or their
455 subsidiaries and divisions, which hospitals, subsidiaries and
456 divisions are licensed and regulated by the Mississippi State
457 Department of Health unless such hospitals, subsidiaries or
458 divisions voluntarily request certification by the Mississippi
459 State Department of Mental Health.



460 All new programs authorized under this section shall be
461 subject to the availability of funds appropriated therefor by the
462 Legislature;

463 (gg) Working with the advice and consent of the
464 administration of Boswell Regional Center, to enter into
465 negotiations with the Economic Development Authority of Simpson
466 County for the purpose of negotiating the possible exchange, lease
467 or sale of lands owned by Boswell Regional Center to the Economic
468 Development Authority of Simpson County. It is the intent of the
469 Mississippi Legislature that such negotiations shall ensure that
470 the financial interest of the persons with an intellectual
471 disability served by Boswell Regional Center will be held
472 paramount in the course of these negotiations. The Legislature
473 also recognizes the importance of economic development to the
474 citizens of the State of Mississippi and Simpson County, and
475 encourages fairness to the Economic Development Authority of
476 Simpson County. Any negotiations proposed which would result in
477 the recommendation for exchange, lease or sale of lands owned by
478 Boswell Regional Center must have the approval of the State Board
479 of Mental Health. The State Board of Mental Health may and has
480 the final authority as to whether or not these negotiations result
481 in the exchange, lease or sale of the properties it currently
482 holds in trust for persons with an intellectual disability served
483 at Boswell Regional Center. In any such exchange, lease or sale
484 of such lands owned by Boswell Regional Center, title to all



485 minerals, oil and gas on such lands shall be reserved, together
486 with the right of ingress and egress to remove same, whether such
487 provisions be included in the terms of any such exchange, lease or
488 sale or not.

489 If the State Board of Mental Health authorizes the sale of
490 lands owned by Boswell Regional Center, as provided for under this
491 paragraph (gg), the monies derived from the sale shall be placed
492 into a special fund that is created in the State Treasury to be
493 known as the "Boswell Regional Center Client's Trust Fund." The
494 principal of the trust fund shall remain inviolate and shall never
495 be expended. Any earnings on the principal may be expended solely
496 for the benefits of clients served at Boswell Regional Center.
497 The State Treasurer shall invest the monies of the trust fund in
498 any of the investments authorized for the Mississippi Prepaid
499 Affordable College Tuition Program under Section 37-155-9, and
500 those investments shall be subject to the limitations prescribed
501 by Section 37-155-9. Unexpended amounts remaining in the trust
502 fund at the end of a fiscal year shall not lapse into the State
503 General Fund, and any earnings on amounts in the trust fund shall
504 be deposited to the credit of the trust fund. The administration
505 of Boswell Regional Center may use any earnings on the principal
506 of the trust fund, upon appropriation by the Legislature, as
507 needed for services or facilities by the clients of Boswell
508 Regional Center. Boswell Regional Center shall make known to the
509 Legislature, through the Legislative Budget Committee and the



510 respective Appropriations Committees of the House and Senate, its
511 proposed use of the earnings on the principal of the trust fund
512 for any fiscal year in which it proposes to make expenditures
513 thereof. The State Treasurer shall provide Boswell Regional
514 Center with an annual report on the Boswell Regional Center
515 Client's Trust Fund to indicate the total monies in the trust
516 fund, interest and other income earned during the year, expenses
517 paid from the trust fund and such other related information.

518 Nothing in this section shall be construed as applying to or
519 affecting mental health/intellectual disability services provided
520 by hospitals as defined in Section 41-9-3(a), and/or their
521 subsidiaries and divisions, which hospitals, subsidiaries and
522 divisions are licensed and regulated by the Mississippi State
523 Department of Health unless such hospitals, subsidiaries or
524 divisions voluntarily request certification by the Mississippi
525 State Department of Mental Health.

526 All new programs authorized under this section shall be
527 subject to the availability of funds appropriated therefor by the
528 Legislature;

529 (hh) Notwithstanding any other section of the code, the
530 Board of Mental Health shall be authorized to fingerprint and
531 perform a criminal history record check on every employee or
532 volunteer. Every employee and volunteer shall provide a valid
533 current social security number and/or driver's license number
534 which shall be furnished to conduct the criminal history record



535 check. If no disqualifying record is identified at the state
536 level, fingerprints shall be forwarded to the Federal Bureau of
537 Investigation for a national criminal history record check;

538 (ii) The Department of Mental Health shall have the
539 authority for the development of a consumer friendly single point
540 of intake and referral system within its service areas for persons
541 with mental illness, an intellectual disability, developmental
542 disabilities or alcohol or substance abuse who need assistance
543 identifying or accessing appropriate services. The department
544 will develop and implement a comprehensive evaluation procedure
545 ensuring that, where appropriate, the affected person or their
546 parent or legal guardian will be involved in the assessment and
547 planning process. The department, as the point of intake and as
548 service provider, shall have the authority to determine the
549 appropriate institutional, hospital or community care setting for
550 persons who have been diagnosed with mental illness, an
551 intellectual disability, developmental disabilities and/or alcohol
552 or substance abuse, and may provide for the least restrictive
553 placement if the treating professional believes such a setting is
554 appropriate, if the person affected or their parent or legal
555 guardian wants such services, and if the department can do so with
556 a reasonable modification of the program without creating a
557 fundamental alteration of the program. The least restrictive
558 setting could be an institution, hospital or community setting,



559 based upon the needs of the affected person or their parent or
560 legal guardian;

561 (jj) To have the sole power and discretion to enter
562 into, sign, execute and deliver long-term or multiyear leases of
563 real and personal property owned by the Department of Mental
564 Health to and from other state and federal agencies and private
565 entities deemed to be in the public's best interest. Any monies
566 derived from such leases shall be deposited into the funds of the
567 Department of Mental Health for its exclusive use. Leases to
568 private entities shall be approved by the Department of Finance
569 and Administration and all leases shall be filed with the
570 Secretary of State;

571 (kk) To certify and establish minimum standards and
572 minimum required services for county facilities used for housing,
573 feeding and providing medical treatment for any person who has
574 been involuntarily ordered admitted to a treatment center by a
575 court of competent jurisdiction, which minimum standards shall
576 include the ability for county facilities, including county jails,
577 to separate incompetent defendants from the general county jail
578 population and properly protect and monitor such defendants. The
579 minimum standard for the initial assessment of those persons being
580 housed in county facilities is for the assessment to be performed
581 by a physician, preferably a psychiatrist, or by a nurse
582 practitioner, preferably a psychiatric nurse practitioner. If the
583 department finds deficiencies in any such county facility or its



584 provider based on the minimum standards and minimum required
585 services established for certification, the department shall give
586 the county or its provider a six-month probationary period to
587 bring its standards and services up to the established minimum
588 standards and minimum required services. After the six-month
589 probationary period, if the department determines that the county
590 or its provider still does not meet the minimum standards and
591 minimum required services, the department may remove the
592 certification of the county or provider and require the county to
593 contract with another county having a certified facility to hold
594 those persons for that period of time pending transportation and
595 admission to a state treatment facility. Any cost incurred by a
596 county receiving an involuntarily committed person from a county
597 with a decertified holding facility shall be reimbursed by the
598 home county to the receiving county. The list of facilities
599 described in this section shall be provided to the Administrative
600 Office of Courts for the purpose of providing such information to
601 all judges in the state.

602 **SECTION 4.** Section 41-21-77, Mississippi Code of 1972, is
603 amended as follows:

604 41-21-77. If admission is ordered at a treatment facility,
605 the sheriff, his or her deputy or any other person appointed or
606 authorized by the court shall immediately deliver the respondent
607 to the director of the appropriate facility. Neither the Board of
608 Mental Health or its members, nor the Department of Mental Health



609 or its related facilities, nor any employee of the Department of
610 Mental Health or its related facilities, shall be appointed,
611 authorized or ordered to deliver the respondent for treatment, and
612 no person shall be so delivered or admitted until the director of
613 the admitting institution determines that facilities and services
614 are available. Persons who have been ordered committed and are
615 awaiting admission may be given any such treatment in the facility
616 by a licensed physician as is indicated by standard medical
617 practice; however, persons who have been ordered committed and
618 have awaited for admission for a period of more than thirty (30)
619 days, including weekends, shall be given treatment in the facility
620 by a licensed physician or shall be delivered to a state treatment
621 facility that is certified by the State Department of Mental
622 Health. The committing judge shall have the authority to assess
623 the thirty-day status of any person awaiting admission in a county
624 facility. Any county facility used for providing housing,
625 maintenance and medical treatment for involuntarily committed
626 persons pending their transportation and admission to a state
627 treatment facility shall be certified by the State Department of
628 Mental Health under the provisions of Section 41-4-7(kk). No
629 person shall be delivered or admitted to any non-Department of
630 Mental Health treatment facility unless the treatment facility is
631 licensed and/or certified to provide the appropriate level of
632 psychiatric care for persons with mental illness. It is the
633 intent of this Legislature that county-owned hospitals work with



634 regional community mental health/intellectual disability centers
635 in providing care to local patients. The clerk shall provide the
636 director of the admitting institution with a certified copy of the
637 court order, a certified copy of the physicians' or the
638 physician's and psychologist's, nurse practitioner's or physician
639 assistant's certificate, a certified copy of the affidavit, and
640 any other information available concerning the physical and mental
641 condition of the respondent. Upon notification from the United
642 States Veterans Administration or other agency of the United
643 States government, that facilities are available and the
644 respondent is eligible for care and treatment in those facilities,
645 the court may enter an order for delivery of the respondent to or
646 retention by the Veterans Administration or other agency of the
647 United States government, and, in those cases the chief officer to
648 whom the respondent is so delivered or by whom he is retained
649 shall, with respect to the respondent, be vested with the same
650 powers as the director of the Mississippi State Hospital at
651 Whitfield, or the East Mississippi State Hospital at Meridian,
652 with respect to retention and discharge of the respondent.

653 **SECTION 5.** Section 41-17-1, Mississippi Code of 1972, is
654 brought forward as follows:

655 41-17-1. Mississippi State Hospital at Whitfield, East
656 Mississippi State Hospital at Meridian, North Mississippi State
657 Hospital at Tupelo, South Mississippi State Hospital at Purvis,
658 the Specialized Treatment Facility for the Emotionally Disturbed



659 in Harrison County, and the Central Mississippi Residential Center
660 at Newton are established for the care and treatment of persons
661 with mental illness, free of charge, except as otherwise provided.

662 **SECTION 6.** Section 41-21-83, Mississippi Code of 1972, is
663 brought forward as follows:

664 41-21-83. If a hearing is requested as provided in Section
665 41-21-74, 41-21-81 or 41-21-99, the court shall not make a
666 determination of the need for continued commitment unless a
667 hearing is held and the court finds by clear and convincing
668 evidence that (a) the person continues to have mental illness or
669 have an intellectual disability; and (b) involuntary commitment is
670 necessary for the protection of the patient or others; and (c)
671 there is no alternative to involuntary commitment. Hearings held
672 under this section shall be held in the chancery court of the
673 county where the facility is located; however, if the patient is
674 confined at the Mississippi State Hospital at Whitfield,
675 Mississippi, the hearing shall be conducted by the Chancery Court
676 of the First Judicial District of Hinds County, Mississippi.

677 The hearing shall be held within fourteen (14) days after
678 receipt by the court of the request for a hearing. The court may
679 continue the hearing for good cause shown. The clerk shall
680 ascertain whether the patient is represented by counsel, and, if
681 the patient is not represented, shall notify the chancellor who
682 shall appoint counsel for him if the chancellor determines that
683 the patient for any reason does not have the services of an



684 attorney; however, the patient may waive the appointment of
685 counsel subject to the approval of the court. Notice of the time
686 and place of the hearing shall be served at least seventy-two (72)
687 hours before the time of the hearing upon the patient, his
688 attorney, the director, and the person requesting the hearing, if
689 other than the patient, and any witnesses requested by the patient
690 or his attorney, or any witnesses the court may deem necessary or
691 desirable.

692 The patient must be present at the hearing unless the
693 chancellor determines that the patient is unable to attend and
694 makes that determination and the reasons therefor part of the
695 record.

696 The court shall put its findings and the reasons supporting
697 its findings in writing and shall have copies delivered to the
698 patient, his attorney, and the director of the treatment facility.
699 An appeal from the final commitment order by either party may be
700 had on the terms prescribed for appeals in civil cases; however,
701 such appeal shall be without supersedeas. The record on appeal
702 shall include the transcript of the commitment hearing.

703 **SECTION 7.** Section 41-21-63, Mississippi Code of 1972, is
704 amended as follows:

705 41-21-63. (1) No person, other than persons charged with
706 crime, shall be committed to a public treatment facility except
707 under the provisions of Sections 41-21-61 through 41-21-107 or
708 43-21-611 or 43-21-315. However, nothing herein shall be



709 construed to repeal, alter or otherwise affect the provisions of
710 Section 35-5-31 or to affect or prevent the commitment of persons
711 to the Veterans Administration or other agency of the United
712 States under the provisions of and in the manner specified in
713 those sections.

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

717 (3) The circuit court shall have jurisdiction under Sections
718 99-13-7, 99-13-9 and 99-13-11 and over persons who require mental
719 examinations for purposes of determining competency or restoring
720 competency under the applicable provisions of Sections 41-21-61
721 through 41-21-107.

722 **SECTION 8.** Section 41-21-61, Mississippi Code of 1972, is
723 brought forward as follows:

724 41-21-61. As used in Sections 41-21-61 through 41-21-107,
725 unless the context otherwise requires, the following terms defined
726 have the meanings ascribed to them:

727 (a) "Chancellor" means a chancellor or a special master
728 in chancery.

729 (b) "Clerk" means the clerk of the chancery court.

730 (c) "Director" means the chief administrative officer
731 of a treatment facility or other employee designated by him as his
732 deputy.



733 (d) "Interested person" means an adult, including, but
734 not limited to, a public official, and the legal guardian, spouse,
735 parent, legal counsel, adult, child next of kin, or other person
736 designated by a proposed patient.

737 (e) "Person with mental illness" means any person who
738 has a substantial psychiatric disorder of thought, mood,
739 perception, orientation, or memory which grossly impairs judgment,
740 behavior, capacity to recognize reality, or to reason or
741 understand, which (i) is manifested by instances of grossly
742 disturbed behavior or faulty perceptions; and (ii) poses a
743 substantial likelihood of physical harm to himself or others as
744 demonstrated by (A) a recent attempt or threat to physically harm
745 himself or others, or (B) a failure to provide necessary food,
746 clothing, shelter or medical care for himself, as a result of the
747 impairment. "Person with mental illness" includes a person who,
748 based on treatment history and other applicable psychiatric
749 indicia, is in need of treatment in order to prevent further
750 disability or deterioration which would predictably result in
751 dangerousness to himself or others when his current mental illness
752 limits or negates his ability to make an informed decision to seek
753 or comply with recommended treatment. "Person with mental
754 illness" does not include a person having only one or more of the
755 following conditions: (1) epilepsy, (2) an intellectual
756 disability, (3) brief periods of intoxication caused by alcohol or



757 drugs, (4) dependence upon or addiction to any alcohol or drugs,
758 or (5) senile dementia.

759 (f) "Person with an intellectual disability" means any
760 person (i) who has been diagnosed as having substantial
761 limitations in present functioning, manifested before age eighteen
762 (18), characterized by significantly subaverage intellectual
763 functioning, existing concurrently with related limitations in two
764 (2) or more of the following applicable adaptive skill areas:
765 communication, self-care, home living, social skills, community
766 use, self-direction, health and safety, functional academics,
767 leisure and work, and (ii) whose recent conduct is a result of
768 having an intellectual disability and poses a substantial
769 likelihood of physical harm to himself or others in that there has
770 been (A) a recent attempt or threat to physically harm himself or
771 others, or (B) a failure and inability to provide necessary food,
772 clothing, shelter, safety or medical care for himself.

773 (g) "Physician" means any person licensed by the State
774 of Mississippi to practice medicine in any of its branches.

775 (h) "Psychologist" when used in Sections 41-21-61
776 through 41-21-107, means a licensed psychologist who has been
777 certified by the State Board of Psychological Examiners as
778 qualified to perform examinations for the purpose of civil
779 commitment.

780 (i) "Treatment facility" means a hospital, community
781 mental health center, or other institution qualified to provide



782 care and treatment for persons with mental illness, persons with
783 an intellectual disability or chemically dependent persons.

784 (j) "Substantial likelihood of bodily harm" means that:

785 (i) The person has threatened or attempted suicide
786 or to inflict serious bodily harm to himself; or

787 (ii) The person has threatened or attempted
788 homicide or other violent behavior; or

789 (iii) The person has placed others in reasonable
790 fear of violent behavior and serious physical harm to them; or

791 (iv) The person is unable to avoid severe
792 impairment or injury from specific risks; and

793 (v) There is substantial likelihood that serious
794 harm will occur unless the person is placed under emergency
795 treatment.

796 **SECTION 9.** Section 35-5-31, Mississippi Code of 1972, is
797 brought forward as follows:

798 35-5-31. (1) Whenever, in any proceeding under the laws of
799 this state for the commitment of a person alleged to be a person
800 with mental illness, person with an intellectual disability, or
801 otherwise of unsound mind, or otherwise in need of confinement in
802 a hospital or other institution for his proper care, it is
803 determined after the adjudication of the status of the person as
804 may be required by law that commitment to a state psychiatric
805 hospital or institution or other institution is necessary for
806 safe-keeping or treatment, and it appears that the person is



807 eligible for care or treatment by the Veterans Administration or
808 other agency of the United States government, the court, upon
809 receipt of a certificate from the Veterans Administration or such
810 other agency showing that facilities are available and that the
811 person is eligible for care or treatment in those facilities, may
812 commit the person to the Veterans Administration or other agency.
813 The person whose commitment is sought shall be personally served
814 with notice of the pending commitment proceeding in the manner
815 provided by the law of this state; and nothing in this section
816 shall affect his right to appear and be heard in the proceedings.
817 Upon commitment, the person, when admitted to any facility
818 operated by the Veterans Administration or other agency within or
819 without this state shall be subject to the rules and regulations
820 of the Veterans Administration or other agency. The chief officer
821 of any facility of the Veterans Administration or institution
822 operated by any other agency of the United States to which the
823 person is so committed shall, with respect to the person, be
824 vested with the same powers as superintendents of state
825 psychiatric hospitals or institutions within this state with
826 respect to retention of custody, transfer, parole or discharge.
827 Jurisdiction is retained in the committing or other appropriate
828 court of this state at any time to inquire into the mental
829 condition of the person so committed, and to determine the
830 necessity for continuance of his restraint, and all commitments
831 under this section are so conditioned.



832 (2) The judgment or order of commitment by a court of
833 competent jurisdiction of another state or of the District of
834 Columbia, committing a person to the Veterans Administration or
835 other agency of the United States government for care or
836 treatment, shall have the same force and effect as to the
837 committed person while in this state as in the jurisdiction in
838 which is situated the court entering the judgment or making the
839 order, and the courts of the committing state or of the District
840 of Columbia shall be deemed to have retained jurisdiction of the
841 person so committed for the purpose of inquiring into the mental
842 condition of the person and of determining the necessity for
843 continuance of his restraint, as is provided in subsection (1) of
844 this section with respect to persons committed by the courts of
845 this state. Consent is given to the application of the law of the
846 committing state or District of Columbia in respect to the
847 authority of the chief officer of any facility of the Veterans
848 Administration or of any institution operated in this state by any
849 other agency of the United States to retain custody, or transfer,
850 parole or discharge the committed person.

851 (3) Upon receipt of a certificate of the Veterans
852 Administration or such other agency of the United States that
853 facilities are available for the care or treatment of any person
854 committed to a state psychiatric hospital or institution or for
855 the care or treatment of persons similarly afflicted, and that the
856 person is eligible for care or treatment, the superintendent of



857 the state psychiatric hospital or institution may cause the
858 transfer of the person to the Veterans Administration or other
859 agency of the United States for care or treatment. Upon effecting
860 any such transfer, the committing court or proper officer of the
861 court shall be notified of the transfer by the transferring
862 agency. No person shall be transferred to the Veterans
863 Administration or other agency of the United States if he is
864 confined because of conviction of any felony or misdemeanor or if
865 he has been acquitted of the charge solely on the ground of
866 insanity, unless before transfer, the court or other authority
867 originally committing the person enters an order for the transfer
868 after appropriate motion and hearing.

869 Any person transferred as provided in this section shall be
870 deemed to be committed to the Veterans Administration or other
871 agency of the United States under the original commitment.

872 **SECTION 10.** This act shall take effect and be in force from
873 and after July 1, 2017.

