

By: Representative Felsher

To: Judiciary A

HOUSE BILL NO. 415

1 AN ACT TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT A RESPONDENT IN A CIVIL COMMITMENT PROCEEDING
 3 SHALL NOT BE PLACED IN A JAIL OR OTHER CORRECTIONAL FACILITY
 4 EXCEPT FOR PROTECTIVE CUSTODY PURPOSES AND ONLY WHILE AWAITING
 5 TRANSPORTATION TO A LICENSED MEDICAL FACILITY, CRISIS
 6 STABILIZATION UNIT, EVALUATION FACILITY OR TREATMENT FACILITY; TO
 7 PROVIDE THAT IN NO CASE SHALL THE RESPONDENT BE HELD IN A JAIL OR
 8 OTHER CORRECTIONAL FACILITY FOR MORE THAN 72 HOURS; TO PROVIDE
 9 THAT THE BOARDS OF SUPERVISORS AND SHERIFFS OF THE COUNTIES SHALL
 10 MAKE EVERY EFFORT NECESSARY TO PROVIDE CARE AND MAINTENANCE OF THE
 11 RESPONDENT AND EXPLORE AND EXHAUST ALL OTHER POTENTIAL FACILITIES
 12 TO PREVENT THE DETENTION OF THE RESPONDENT IN JAIL; TO BRING
 13 FORWARD SECTION 19-5-43, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE
 14 OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** Section 41-21-67, Mississippi Code of 1972, is
 17 amended as follows:

18 41-21-67. (1) Whenever the affidavit provided for in
 19 Section 41-21-65 is filed with the chancery clerk, the clerk, upon
 20 direction of the chancellor of the court, shall issue a writ
 21 directed to the sheriff of the proper county to take into custody
 22 the person alleged to be in need of treatment and to take the
 23 person for pre-evaluation screening and treatment by the
 24 appropriate community mental health center established under



25 Section 41-19-31. The community mental health center will be
26 designated as the first point of entry for pre-evaluation
27 screening and treatment. If the community mental health center is
28 unavailable, any reputable licensed physician, psychologist, nurse
29 practitioner or physician assistant, as allowed in the discretion
30 of the court, may conduct the pre-evaluation screening and
31 examination as set forth in Section 41-21-69. The order may
32 provide where the person shall be held before being taken for
33 pre-evaluation screening and treatment. However, when the
34 affidavit fails to set forth factual allegations and witnesses
35 sufficient to support the need for treatment, the chancellor shall
36 refuse to direct issuance of the writ. Reapplication may be made
37 to the chancellor. If a pauper's affidavit is filed by an affiant
38 who is a guardian or conservator of a person in need of treatment,
39 the court shall determine if either the affiant or the person in
40 need of treatment is a pauper and if * * * the affiant or the
41 person in need of treatment is determined to be a pauper, the
42 county of the residence of the respondent shall bear the costs of
43 commitment, unless funds for those purposes are made available by
44 the state.

45 In any county in which a Crisis Intervention Team has been
46 established under the provisions of Sections 41-21-131 through
47 41-21-143, the clerk, upon the direction of the chancellor, may
48 require that the person be referred to the Crisis Intervention



49 Team for appropriate psychiatric or other medical services before
50 the issuance of the writ.

51 (2) Upon issuance of the writ, the chancellor shall
52 immediately appoint and summon two (2) reputable, licensed
53 physicians or one (1) reputable, licensed physician and either one
54 (1) psychologist, nurse practitioner or physician assistant to
55 conduct a physical and mental examination of the person at a place
56 to be designated by the clerk or chancellor and to report their
57 findings to the clerk or chancellor. However, any nurse
58 practitioner or physician assistant conducting the examination
59 shall be independent from, and not under the supervision of, the
60 other physician conducting the examination. A nurse practitioner
61 or psychiatric nurse practitioner conducting an examination under
62 this chapter must be functioning within a collaborative or
63 consultative relationship with a physician as required under
64 Section 73-15-20(3). In all counties in which there is a county
65 health officer, the county health officer, if available, may be
66 one (1) of the physicians so appointed. If a licensed physician
67 is not available to conduct the physical and mental examination
68 within forty-eight (48) hours of the issuance of the writ, the
69 court, in its discretion and upon good cause shown, may permit the
70 examination to be conducted by the following: (a) two (2) nurse
71 practitioners, one (1) of whom must be a psychiatric nurse
72 practitioner; or (b) one (1) psychiatric nurse practitioner and
73 one (1) psychologist or physician assistant. Neither of the



74 physicians nor the psychologist, nurse practitioner or physician
75 assistant selected shall be related to that person in any way, nor
76 have any direct or indirect interest in the estate of that person
77 nor shall any full-time staff of residential treatment facilities
78 operated directly by the State Department of Mental Health serve
79 as examiner.

80 (3) The clerk shall ascertain whether the respondent is
81 represented by an attorney, and if it is determined that the
82 respondent does not have an attorney, the clerk shall immediately
83 notify the chancellor of that fact. If the chancellor determines
84 that the respondent for any reason does not have the services of
85 an attorney, the chancellor shall immediately appoint an attorney
86 for the respondent at the time the examiners are appointed.

87 (4) If the chancellor determines that there is probable
88 cause to believe that the respondent is mentally ill and that
89 there is no reasonable alternative to detention, the chancellor
90 may order that the respondent be retained as an emergency patient
91 at any licensed medical facility for evaluation by a physician,
92 nurse practitioner or physician assistant and that a peace officer
93 transport the respondent to the specified facility. If the
94 community mental health center serving the county has partnered
95 with Crisis Intervention Teams under the provisions of Sections
96 41-21-131 through 41-21-143, the order may specify that the
97 licensed medical facility be a designated single point of entry
98 within the county or within an adjacent county served by the



99 community mental health center. If the person evaluating the
100 respondent finds that the respondent is mentally ill and in need
101 of treatment, the chancellor may order that the respondent be
102 retained at the licensed medical facility or any other available
103 suitable location as the court may so designate pending an
104 admission hearing. If necessary, the chancellor may order a peace
105 officer or other person to transport the respondent to that
106 facility or suitable location. Any respondent so retained may be
107 given such treatment as is indicated by standard medical practice.
108 However, the respondent shall not be held in a hospital operated
109 directly by the State Department of Mental Health, and shall not
110 be * * * placed in a jail or other correctional facility except
111 for protective custody purposes and only while awaiting
112 transportation to a licensed medical facility, crisis
113 stabilization unit, evaluation facility or treatment facility;
114 however, in no case shall the respondent be held in a jail or
115 other correctional facility for more than seventy-two (72) hours.
116 Protective custody under this subsection shall not include
117 placement of a minor in a jail or secure facility. As required by
118 Section 19-5-43, the boards of supervisors and sheriffs of the
119 counties shall make every effort necessary to provide care and
120 maintenance of the respondent and explore and exhaust all other
121 potential facilities to prevent the detention of the respondent in
122 jail.



123 (5) (a) Whenever a licensed psychologist, nurse
124 practitioner or physician assistant who is certified to complete
125 examinations for the purpose of commitment or a licensed physician
126 has reason to believe that a person poses an immediate substantial
127 likelihood of physical harm to himself or others or is gravely
128 disabled and unable to care for himself by virtue of mental
129 illness, as defined in Section 41-21-61(e), then the physician,
130 psychologist, nurse practitioner or physician assistant may hold
131 the person or may admit the person to and treat the person in a
132 licensed medical facility, without a civil order or warrant for a
133 period not to exceed seventy-two (72) hours. However, if the
134 seventy-two-hour period begins or ends when the chancery clerk's
135 office is closed, or within three (3) hours of closing, and the
136 chancery clerk's office will be continuously closed for a time
137 that exceeds seventy-two (72) hours, then the seventy-two-hour
138 period is extended until the end of the next business day that the
139 chancery clerk's office is open. The person may be held and
140 treated as an emergency patient at any licensed medical facility,
141 available regional mental health facility, or crisis intervention
142 center. The physician or psychologist, nurse practitioner or
143 physician assistant who holds the person shall certify in writing
144 the reasons for the need for holding.

145 If a person is being held and treated in a licensed medical
146 facility, and that person decides to continue treatment by
147 voluntarily signing consent for admission and treatment, the



148 seventy-two-hour hold may be discontinued without filing an
149 affidavit for commitment. Any respondent so held may be given
150 such treatment as indicated by standard medical practice. Persons
151 acting in good faith in connection with the detention and
152 reporting of a person believed to be mentally ill shall incur no
153 liability, civil or criminal, for those acts.

154 (b) Whenever an individual is held for purposes of
155 receiving treatment as prescribed under paragraph (a) of this
156 subsection, and it is communicated to the mental health
157 professional holding the individual that the individual resides or
158 has visitation rights with a minor child, and if the individual is
159 considered to be a danger to the minor child, the mental health
160 professional shall notify the Department of Child Protection
161 Services prior to discharge if the threat of harm continues to
162 exist, as is required under Section 43-21-353.

163 This paragraph (b) shall be known and may be cited as the
164 "Andrew Lloyd Law."

165 **SECTION 2.** Section 19-5-43, Mississippi Code of 1972, is
166 brought forward as follows:

167 19-5-43. The boards of supervisors in their respective
168 counties shall temporarily provide for the care and maintenance of
169 any person alleged to have mental illness when the person has no
170 means of paying that expense, pending an investigation into the
171 mental status of the person alleged to have mental illness before
172 the chancery clerk of the county, and provide for the care and



173 maintenance of those persons by the sheriff of their respective
174 counties after being adjudged as a person with mental illness by
175 the properly constituted authority, when there is no room in one
176 (1) of the state psychiatric hospitals or institutions for the
177 person with mental illness. The boards shall cause all reasonable
178 and proper allowance for that care and maintenance to be paid out
179 of the county treasury.

180 **SECTION 3.** This act shall take effect and be in force from
181 and after July 1, 2024.

