

By: Representative Calvert

To: Judiciary B

HOUSE BILL NO. 1018

1 AN ACT TO AMEND SECTIONS 41-30-19, 41-30-27 AND 41-32-5,
 2 MISSISSIPPI CODE OF 1972, TO REQUIRE A THIRTY-DAY MINIMUM FOR DRUG
 3 AND ALCOHOL TREATMENT; TO BRING FORWARD SECTION 41-31-5,
 4 MISSISSIPPI CODE OF 1972, WHICH REGULATES INVOLUNTARY COMMITMENT
 5 OF ALCOHOLICS, FOR PURPOSES OF AMENDMENT; AND FOR RELATED
 6 PURPOSES.

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

8 **SECTION 1.** Section 41-30-19, Mississippi Code of 1972, is
 9 amended as follows:

10 41-30-19. The judge of any court, before whom appears an
 11 individual charged with a second or subsequent offense of public
 12 intoxication, may, upon a plea of guilty or conviction suspend
 13 execution of sentence and require the offender to participate in
 14 and complete a prescribed course of alcohol abuse treatment and
 15 rehabilitation. The judge shall consult with the division to
 16 determine the course of treatment best suited to the needs of the
 17 convicted person. The convicted person while participating in the
 18 course of treatment shall not be considered committed, civilly or
 19 criminally, as otherwise provided by law for commitment to any
 20 institution; provided that no judge may require in-patient care



21 for a period of not less than thirty (30) days and not in excess
22 of ninety (90) days. Upon completion of the course of treatment
23 prescribed by the judge, the sentence shall not be executed. The
24 convicted person, if financially able, shall be responsible for
25 defraying any cost of the prescribed course of treatment.

26 **SECTION 2.** Section 41-30-27, Mississippi Code of 1972, is
27 amended as follows:

28 41-30-27. (1) (a) A person may be admitted to an approved
29 public or private treatment facility for emergency care and
30 treatment upon a decree of the chancery court accepting an
31 application for admission thereto accompanied by the certificate
32 of two (2) licensed physicians. The application shall be to the
33 chancery court of the county of such person's residence and may be
34 made by any one (1) of the following: Either certifying
35 physician, the patient's spouse or guardian, any relative of the
36 patient, or any other person responsible for health, safety or
37 welfare of all or part of the citizens within said chancery
38 court's territorial jurisdiction. The application shall state
39 facts to support the need for immediate commitment, including
40 factual allegations showing that the person to be committed has
41 threatened, attempted or actually inflicted physical harm upon
42 himself or another. The physicians' certificates shall state that
43 they examined the person within two (2) days of the certificate
44 date and shall set out the facts to support the physicians'
45 conclusion that the person is an alcoholic or drug addict who has



46 lost the power of self-control with respect to the use of
47 alcoholic beverages or habit-forming drugs and that unless
48 immediately committed he is likely to inflict physical harm upon
49 himself or others. A hearing on such applications shall be heard
50 by the chancery court in term time or in vacation, and the hearing
51 shall be held in the presence of the person sought to be admitted
52 unless he fail or refuse to attend. Notice of the hearing shall
53 be given to the person sought to be admitted, as soon as
54 practicable after the examination by the certifying physicians,
55 and the person sought to be admitted shall have an opportunity to
56 be represented by counsel, and shall be entitled to have
57 compulsory process for the attendance of witnesses.

58 (b) For the purpose of this section, the term "drug
59 addict" shall have the meaning ascribed to it by Section
60 41-31-1(d).

61 (2) The chancery judge may refuse an application if in his
62 opinion the application and certificate fail to sustain the
63 grounds for commitment. Upon acceptance of the application after
64 hearing thereon and decree sustaining the application by the
65 judge, the person shall be transported to the facility by a peace
66 officer, health officer, the applicant for commitment, the
67 patient's spouse or the patient's guardian. The person shall be
68 retained at the facility that admitted him, or be transferred to
69 any other appropriate treatment resource, until discharged
70 pursuant to subsection (3).



71 (3) The attending physician shall discharge any person
72 committed pursuant to this section when he determines that the
73 grounds for commitment no longer exist, but no person committed
74 pursuant to this section shall be retained in any facility
75 for * * * less than thirty (30) days, unless otherwise required by
76 the court.

77 (4) The application filed pursuant to subsection (1) of this
78 section shall also contain an affidavit for involuntary commitment
79 pursuant to Title 41, Chapter 31, Mississippi Code of 1972. If
80 the application for emergency involuntary commitment is accepted
81 under subsection (2) of this section, the chancery judge shall
82 order a hearing on the affidavit for commitment pursuant to Title
83 41, Chapter 31, Mississippi Code of 1972, to be held on the fifth
84 day of such involuntary emergency commitment, the provisions of
85 Section 41-31-5 regarding the time of hearing to the contrary
86 notwithstanding; provided, however, that at the time of such
87 involuntary commitment the alleged alcoholic or drug addict shall
88 be served with a citation to appear at said hearing and shall have
89 an opportunity to be represented by counsel.

90 **SECTION 3.** Section 41-32-5, Mississippi Code of 1972, is
91 amended as follows:

92 41-32-5. (1) The chancellor shall schedule with the affiant
93 a time on a day certain for the hearing thereof, not less than
94 five (5) days nor more than twenty (20) days from the filing of
95 the affidavit. The case shall be triable upon three (3) days'



96 service of process and service of notice of the time for the
97 hearing. At the time fixed, the chancellor shall hear the
98 evidence in the presence of the defendant if he will appear, and
99 without the presence of the defendant if he will not appear, and
100 all persons interested shall have the right to appear and present
101 evidence touching upon the truth and correctness of the
102 allegations of the affidavit.

103 (2) The clerk must ascertain whether the respondent is
104 represented by an attorney, and if it is determined that the
105 respondent does not have an attorney, the clerk immediately must
106 notify the chancellor of that fact. If the chancellor determines
107 that the respondent for any reason does not have the services of
108 an attorney, the chancellor must appoint an attorney for the
109 respondent before a hearing on the affidavit.

110 (3) If the defendant admits the truth and correctness of the
111 allegations of the affidavit, or if the chancellor shall find from
112 the evidence that the defendant is an alcoholic or drug addict, or
113 both, and is in need of detention, care and treatment in a private
114 treatment facility, and that the other material allegations of the
115 affidavit are true, then the chancellor shall enter a judgment so
116 finding, and shall order that such person be committed to and
117 confined in a chemical dependency unit, alcohol and drug unit,
118 outpatient house or any other private treatment facility, within
119 or outside the state, for the treatment of chemically dependent
120 persons, as the chancellor, in his discretion, deems to be in the



121 best interest of the defendant. Any such order for the commitment
122 of the defendant shall require that the defendant be committed for
123 such period of time as the chancellor shall determine, in his
124 discretion but not less than thirty (30) days, as is necessary to
125 provide for the care and treatment of the defendant or for such
126 other period of time as may be established by authorized personnel
127 at the designated facility or facilities; however, in no event
128 shall such period of confinement extend beyond a period of eight
129 (8) months. The chancellor may require treatment at a combination
130 of facilities or may designate commitment at an inpatient facility
131 for not more than two (2) months and an outpatient facility for
132 not more than six (6) months, subject to institutional earlier
133 release.

134 **SECTION 4.** Section 41-31-5, Mississippi Code of 1972, is
135 brought forward as follows:

136 41-31-5. (1) Whenever an affidavit is filed, the chancellor
137 of said court shall, by order, fix a time upon a day certain for
138 the hearing thereof, either in termtime or in vacation, which
139 hearing shall be fixed not less than five (5) days nor more than
140 twenty (20) days from the filing of the affidavit. The person
141 alleged to be an alcoholic or drug addict shall be served with a
142 citation to appear at said hearing not less than three (3) days
143 prior to the day fixed for said hearing, and there shall be served
144 with such citation a true and correct copy of the affidavit.



145 (2) The clerk must ascertain whether the respondent is
146 represented by an attorney, and if it is determined that the
147 respondent does not have an attorney, the clerk immediately must
148 notify the chancellor of that fact. If the chancellor determines
149 that the respondent for any reason does not have the services of
150 an attorney, the chancellor shall appoint an attorney for the
151 respondent before a hearing on the affidavit.

152 (3) At the time fixed, the chancellor shall hear evidence on
153 the affidavit, with or without the presence of the alleged
154 alcoholic or drug addict, and all persons interested shall have
155 the right to appear and present evidence touching upon the truth
156 and correctness of the allegations of the affidavit. The said
157 chancellor, in his discretion, may require that the alleged
158 alcoholic or drug addict be examined by the county health officer
159 or by such other competent physician or physicians as the
160 chancellor may select, and may consider the results of such
161 examination in reaching a decision in said matter.

162 (4) If the alleged alcoholic or drug addict shall admit the
163 truth and correctness of the allegations of the affidavit, or if
164 the chancellor should find from the evidence that such person is
165 an alcoholic or drug addict, and is in need of detention, care and
166 treatment in an institution, and that the other material
167 allegations of said petition are true, then he shall enter an
168 order so finding, and shall order that such person be remanded and
169 committed to and confined in the proper state institution under



170 this chapter or a private treatment facility under the provisions
171 of Title 41, Chapter 32, Mississippi Code of 1972, or, in the case
172 of an alcoholic to an approved public or private treatment
173 facility pursuant to the provisions of Title 41, Chapter 30,
174 Mississippi Code of 1972, for care and treatment for a period of
175 not less than thirty (30) days nor more than ninety (90) days as
176 the necessity of the case may, in his discretion, require.
177 However, when such person shall be so committed, the medical
178 director of the said institution shall be vested with full
179 discretion as to the treatment and discharge of such person, and
180 may discharge and release such person at any time when the
181 condition of such person shall so justify.

182 (5) (a) If the chancellor determines under this section
183 that the alleged alcoholic or drug addict is in need of care and
184 treatment but also affirmatively finds that the alleged alcoholic
185 or drug addict would benefit from the less restrictive option of
186 an outpatient treatment program, the chancellor, in his discretion
187 and upon agreement of both the affiant and the person in need of
188 treatment, may order the alleged alcoholic or drug addict into an
189 outpatient treatment program.

190 (b) If the order directs outpatient treatment, the
191 outpatient treatment provider may prescribe or administer to the
192 respondent treatment consistent with accepted alcohol and drug
193 abuse treatment standards. If the respondent fails or clearly
194 refuses to comply with outpatient treatment, the director of the



195 treatment program, his designee or an interested person must make
196 all reasonable efforts to solicit the respondent's compliance.
197 These efforts must be documented and, if the respondent fails or
198 clearly refuses to comply with outpatient treatment after the
199 efforts are made, the efforts must be documented with the court by
200 affidavit. Upon the filing of the affidavit, the sheriff of the
201 proper county may take the respondent into custody. The
202 chancellor thereafter may order the respondent to inpatient
203 treatment as soon as a treatment facility is available.

204 (c) The respondent may request a hearing within ten
205 (10) days of commitment to inpatient treatment by filing a written
206 request with the chancery clerk of the committing court, or the
207 respondent may request such a hearing in writing to any member of
208 the professional staff of the treatment facility, which must be
209 forwarded to the director and promptly filed with the chancery
210 clerk of the committing court. The respondent must be advised of
211 the right to request such a hearing and of the right to consult a
212 lawyer.

213 **SECTION 5.** This act shall take effect and be in force from
214 and after July 1, 2024.

