

By: Representatives Creekmore IV, Felsher,
Foster

To: Public Health and Human
Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1640

1 AN ACT TO AMEND SECTION 41-19-33, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DUTIES OF REGIONAL MENTAL HEALTH FACILITIES; TO
3 AMEND SECTION 41-21-65, MISSISSIPPI CODE OF 1972, TO REQUIRE
4 COMPLETION OF A PRE-AFFIDAVIT SCREENING BEFORE ANY AFFIDAVIT FOR
5 COMMITMENT IS FILED; TO AMEND SECTION 41-21-67, MISSISSIPPI CODE
6 OF 1972, TO REQUIRE COMMUNITY MENTAL HEALTH CENTERS TO CONDUCT A
7 PRELIMINARY INVESTIGATION BEFORE AN AFFIDAVIT FOR COMMITMENT IS
8 FILED; TO AMEND SECTION 41-21-73, MISSISSIPPI CODE OF 1972, TO
9 REQUIRE CERTAIN PROOF FOR COMMITMENT TO A STATE-OPERATED FACILITY;
10 TO AMEND SECTIONS 41-21-140 AND 41-19-43, MISSISSIPPI CODE OF
11 1972, TO CONFORM TO THE PRECEDING SECTIONS; TO AMEND SECTION
12 41-21-71, MISSISSIPPI CODE OF 1972, TO REVISE HEARING DATES HELD
13 AFTER EXAMINERS' CERTIFICATES; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 41-19-33, Mississippi Code of 1972, is
16 amended as follows:

17 41-19-33. (1) Each region so designated or established
18 under Section 41-19-31 shall establish a regional commission to be
19 composed of members appointed by the boards of supervisors of the
20 various counties in the region. Each regional commission shall
21 employ or contract with an accountant for the purpose of managing
22 the finances of the commission. The accountant shall provide an
23 annual audit to the commission in addition to his or her other



24 duties. It shall be the duty of such regional commission to
25 administer mental health/intellectual disability programs
26 certified and required by the State Board of Mental Health and as
27 specified in Section 41-4-1(2). In addition, once designated and
28 established as provided hereinabove, a regional commission shall
29 have the following authority and shall pursue and promote the
30 following general purposes:

31 (a) To establish, own, lease, acquire, construct,
32 build, operate and maintain mental illness, mental health,
33 intellectual disability, alcoholism and general rehabilitative
34 facilities and services designed to serve the needs of the people
35 of the region so designated, provided that the services supplied
36 by the regional commissions shall include those services
37 determined by the Department of Mental Health to be necessary and
38 may include, in addition to the above, services for persons with
39 developmental and learning disabilities; for persons suffering
40 from narcotic addiction and problems of drug abuse and drug
41 dependence; and for the aging as designated and certified by the
42 Department of Mental Health. Such regional mental health and
43 intellectual disability commissions and other community service
44 providers shall, on or before July 1 of each year, submit an
45 annual operational plan to the Department of Mental Health for
46 approval or disapproval based on the minimum standards and minimum
47 required services established by the department for certification
48 and itemize the services as specified in Section 41-4-1(2),



49 including financial statements. As part of the annual operation
50 plan required by Section 41-4-7(h) submitted by any regional
51 community mental health center or by any other reasonable
52 certification deemed acceptable by the department, the community
53 mental health center shall state those services specified in
54 Section 41-4-1(2) that it will provide and also those services
55 that it will not provide. If the department finds deficiencies in
56 the plan of any regional commission or community service provider
57 based on the minimum standards and minimum required services
58 established for certification, the department shall give the
59 regional commission or community service provider a six-month
60 probationary period to bring its standards and services up to the
61 established minimum standards and minimum required services. The
62 regional commission or community service provider shall develop a
63 sustainability business plan within thirty (30) days of being
64 placed on probation, which shall be signed by all commissioners
65 and shall include policies to address one or more of the
66 following: the deficiencies in programmatic services, clinical
67 service staff expectations, timely and appropriate billing,
68 processes to obtain credentialing for staff, monthly reporting
69 processes, third-party financial reporting and any other required
70 documentation as determined by the department. After the
71 six-month probationary period, if the department determines that
72 the regional commission or community service provider still does
73 not meet the minimum standards and minimum required services



74 established for certification, the department may remove the
75 certification of the commission or provider, and from and after
76 July 1, 2011, the commission or provider shall be ineligible for
77 state funds from Medicaid reimbursement or other funding sources
78 for those services. After the six-month probationary period, the
79 Department of Mental Health may identify an appropriate community
80 service provider to provide any core services in that county that
81 are not provided by a community mental health center. However,
82 the department shall not offer reimbursement or other
83 accommodations to a community service provider of core services
84 that were not offered to the decertified community mental health
85 center for the same or similar services.

86 (b) To provide facilities and services for the
87 prevention of mental illness, mental disorders, developmental and
88 learning disabilities, alcoholism, narcotic addiction, drug abuse,
89 drug dependence and other related handicaps or problems (including
90 the problems of the aging) among the people of the region so
91 designated, and for the rehabilitation of persons suffering from
92 such illnesses, disorders, handicaps or problems as designated and
93 certified by the Department of Mental Health.

94 (c) To promote increased understanding of the problems
95 of mental illness, intellectual disabilities, alcoholism,
96 developmental and learning disabilities, narcotic addiction, drug
97 abuse and drug dependence and other related problems (including
98 the problems of the aging) by the people of the region, and also



99 to promote increased understanding of the purposes and methods of
100 the rehabilitation of persons suffering from such illnesses,
101 disorders, handicaps or problems as designated and certified by
102 the Department of Mental Health.

103 (d) To enter into contracts and to make such other
104 arrangements as may be necessary, from time to time, with the
105 United States government, the government of the State of
106 Mississippi and such other agencies or governmental bodies as may
107 be approved by and acceptable to the regional commission for the
108 purpose of establishing, funding, constructing, operating and
109 maintaining facilities and services for the care, treatment and
110 rehabilitation of persons suffering from mental illness, an
111 intellectual disability, alcoholism, developmental and learning
112 disabilities, narcotic addiction, drug abuse, drug dependence and
113 other illnesses, disorders, handicaps and problems (including the
114 problems of the aging) as designated and certified by the
115 Department of Mental Health.

116 (e) To enter into contracts and make such other
117 arrangements as may be necessary with any and all private
118 businesses, corporations, partnerships, proprietorships or other
119 private agencies, whether organized for profit or otherwise, as
120 may be approved by and acceptable to the regional commission for
121 the purpose of establishing, funding, constructing, operating and
122 maintaining facilities and services for the care, treatment and
123 rehabilitation of persons suffering from mental illness, an



124 intellectual disability, alcoholism, developmental and learning
125 disabilities, narcotic addiction, drug abuse, drug dependence and
126 other illnesses, disorders, handicaps and problems (including the
127 problems of the aging) relating to minimum services established by
128 the Department of Mental Health.

129 (f) To promote the general mental health of the people
130 of the region.

131 (g) To pay the administrative costs of the operation of
132 the regional commissions, including per diem for the members of
133 the commission and its employees, attorney's fees, if and when
134 such are required in the opinion of the commission, and such other
135 expenses of the commission as may be necessary. The Department of
136 Mental Health standards and audit rules shall determine what
137 administrative cost figures shall consist of for the purposes of
138 this paragraph. Each regional commission shall submit a cost
139 report annually to the Department of Mental Health in accordance
140 with guidelines promulgated by the department.

141 (h) To employ and compensate any personnel that may be
142 necessary to effectively carry out the programs and services
143 established under the provisions of the aforesaid act, provided
144 such person meets the standards established by the Department of
145 Mental Health.

146 (i) To acquire whatever hazard, casualty or workers'
147 compensation insurance that may be necessary for any property,



148 real or personal, owned, leased or rented by the commissions, or
149 any employees or personnel hired by the commissions.

150 (j) To acquire professional liability insurance on all
151 employees as may be deemed necessary and proper by the commission,
152 and to pay, out of the funds of the commission, all premiums due
153 and payable on account thereof.

154 (k) To provide and finance within their own facilities,
155 or through agreements or contracts with other local, state or
156 federal agencies or institutions, nonprofit corporations, or
157 political subdivisions or representatives thereof, programs and
158 services for persons with mental illness, including treatment for
159 alcoholics, and promulgating and administering of programs to
160 combat drug abuse and programs for services for persons with an
161 intellectual disability.

162 (l) To borrow money from private lending institutions
163 in order to promote any of the foregoing purposes. A commission
164 may pledge collateral, including real estate, to secure the
165 repayment of money borrowed under the authority of this paragraph.
166 Any such borrowing undertaken by a commission shall be on terms
167 and conditions that are prudent in the sound judgment of the
168 members of the commission, and the interest on any such loan shall
169 not exceed the amount specified in Section 75-17-105. Any money
170 borrowed, debts incurred or other obligations undertaken by a
171 commission, regardless of whether borrowed, incurred or undertaken
172 before or after March 15, 1995, shall be valid, binding and



173 enforceable if it or they are borrowed, incurred or undertaken for
174 any purpose specified in this section and otherwise conform to the
175 requirements of this paragraph.

176 (m) To acquire, own and dispose of real and personal
177 property. Any real and personal property paid for with state
178 and/or county appropriated funds must have the written approval of
179 the Department of Mental Health and/or the county board of
180 supervisors, depending on the original source of funding, before
181 being disposed of under this paragraph.

182 (n) To enter into managed care contracts and make such
183 other arrangements as may be deemed necessary or appropriate by
184 the regional commission in order to participate in any managed
185 care program. Any such contract or arrangement affecting more
186 than one (1) region must have prior written approval of the
187 Department of Mental Health before being initiated and annually
188 thereafter.

189 (o) To provide facilities and services on a discounted
190 or capitated basis. Any such action when affecting more than one
191 (1) region must have prior written approval of the Department of
192 Mental Health before being initiated and annually thereafter.

193 (p) To enter into contracts, agreements or other
194 arrangements with any person, payor, provider or other entity,
195 under which the regional commission assumes financial risk for the
196 provision or delivery of any services, when deemed to be necessary
197 or appropriate by the regional commission. Any action under this



198 paragraph affecting more than one (1) region must have prior
199 written approval of the Department of Mental Health before being
200 initiated and annually thereafter.

201 (q) To provide direct or indirect funding, grants,
202 financial support and assistance for any health maintenance
203 organization, preferred provider organization or other managed
204 care entity or contractor, where such organization, entity or
205 contractor is operated on a nonprofit basis. Any action under
206 this paragraph affecting more than one (1) region must have prior
207 written approval of the Department of Mental Health before being
208 initiated and annually thereafter.

209 (r) To form, establish, operate, and/or be a member of
210 or participant in, either individually or with one or more other
211 regional commissions, any managed care entity as defined in
212 Section 83-41-403(c). Any action under this paragraph affecting
213 more than one (1) region must have prior written approval of the
214 Department of Mental Health before being initiated and annually
215 thereafter.

216 (s) To meet at least annually with the board of
217 supervisors of each county in its region for the purpose of
218 presenting its total annual budget and total mental
219 health/intellectual disability services system. The commission
220 shall submit an annual report on the adult mental health services,
221 children mental health services and intellectual disability
222 services required by the State Board of Mental Health.



223 (t) To provide alternative living arrangements for
224 persons with serious mental illness, including, but not limited
225 to, group homes for persons with chronic mental illness.

226 (u) To make purchases and enter into contracts for
227 purchasing in compliance with the public purchasing law, Sections
228 31-7-12 and 31-7-13, with compliance with the public purchasing
229 law subject to audit by the State Department of Audit.

230 (v) To ensure that all available funds are used for the
231 benefit of persons with mental illness, persons with an
232 intellectual disability, substance abusers and persons with
233 developmental disabilities with maximum efficiency and minimum
234 administrative cost. At any time a regional commission, and/or
235 other related organization whatever it may be, accumulates surplus
236 funds in excess of one-half (1/2) of its annual operating budget,
237 the entity must submit a plan to the Department of Mental Health
238 stating the capital improvements or other projects that require
239 such surplus accumulation. If the required plan is not submitted
240 within forty-five (45) days of the end of the applicable fiscal
241 year, the Department of Mental Health shall withhold all state
242 appropriated funds from such regional commission until such time
243 as the capital improvement plan is submitted. If the submitted
244 capital improvement plan is not accepted by the department, the
245 surplus funds shall be expended by the regional commission in the
246 local mental health region on group homes for persons with mental
247 illness, persons with an intellectual disability, substance



248 abusers, children or other mental health/intellectual disability
249 services approved by the Department of Mental Health.

250 (w) Notwithstanding any other provision of law, to
251 fingerprint and perform a criminal history record check on every
252 employee or volunteer. Every employee or volunteer shall provide
253 a valid current social security number and/or driver's license
254 number that will be furnished to conduct the criminal history
255 record check. If no disqualifying record is identified at the
256 state level, fingerprints shall be forwarded to the Federal Bureau
257 of Investigation for a national criminal history record check.

258 (x) Notwithstanding any other provisions of law, each
259 regional commission shall have the authority to create and operate
260 a primary care health clinic to treat (i) its patients; and (ii)
261 its patients' family members related within the third degree; and
262 (iii) its patients' household members or caregivers, subject to
263 the following requirements:

264 (i) The regional commission may employ and
265 compensate any personnel necessary and must satisfy applicable
266 state and federal laws and regulations regarding the
267 administration and operation of a primary care health clinic.

268 (ii) A Mississippi licensed physician must be
269 employed or under agreement with the regional commission to
270 provide medical direction and/or to carry out the physician
271 responsibilities as described under applicable state and/or
272 federal law and regulations.



273 (iii) The physician providing medical direction
274 for the primary care clinic shall not be certified solely in
275 psychiatry.

276 (iv) A sliding fee scale may be used by the
277 regional commission when no other payer source is identified.

278 (v) The regional commission must ensure services
279 will be available and accessible promptly and in a manner that
280 preserves human dignity and assures continuity of care.

281 (vi) The regional commission must provide a
282 semiannual report to the Chairmen of the Public Health Committees
283 in both the House of Representatives and Senate. At a minimum,
284 for each reporting period, these reports shall describe the number
285 of patients provided primary care services, the types of services
286 provided, and the payer source for the patients. Except for
287 patient information and any other information that may be exempt
288 from disclosure under the Health Information Portability and
289 Accountability Act (HIPAA) and the Mississippi Public Records Act,
290 the reports shall be considered public records.

291 (vii) The regional commission must employ or
292 contract with a core clinical staff that is multidisciplinary and
293 culturally and linguistically competent.

294 (viii) The regional commission must ensure that
295 its physician as described in subparagraph (ii) of this paragraph
296 (x) has admitting privileges at one or more local hospitals or has



297 an agreement with a physician who has admitting privileges at one
298 or more local hospitals to ensure continuity of care.

299 (ix) The regional commission must provide an
300 independent financial audit report to the State Department of
301 Mental Health and, except for patient information and any other
302 information that may be exempt from disclosure under HIPAA and the
303 Mississippi Public Records Act, the audit report shall be
304 considered a public record.

305 For the purposes of this paragraph (x), the term "caregiver"
306 means an individual who has the principal and primary
307 responsibility for caring for a child or dependent adult,
308 especially in the home setting.

309 (y) In general to take any action which will promote,
310 either directly or indirectly, any and all of the foregoing
311 purposes.

312 (z) All regional commissioners shall receive new
313 orientation training and annual training with continuing education
314 regarding the Mississippi mental health system and services as
315 developed by the State Department of Mental Health. Training
316 shall be provided at the expense of the department except for
317 travel expenses which shall be paid by the regional commission.

318 (aa) To establish a community mental health center to
319 provide mental health services in its region. From and after the
320 effective date of this act, the community mental health center
321 established by each regional commission before July 1, 2024, shall



322 be a community mental health center. The regional commissions may
323 establish a community mental health center that is not an existing
324 community mental health center as of July 1, 2024, only with the
325 express written permission of the State Board of Mental Health or
326 the Department of Mental Health.

327 (2) The types of services established by the State
328 Department of Mental Health that must be provided by the regional
329 mental health/intellectual disability centers for certification by
330 the department, and the minimum levels and standards for those
331 services established by the department, shall be provided by the
332 regional mental health/intellectual disability centers to children
333 when such services are appropriate for children, in the
334 determination of the department.

335 (3) Each regional commission shall compile quarterly
336 financial statements and status reports from each individual
337 community health center. The compiled reports shall be submitted
338 to the coordinator quarterly. The reports shall contain a:

- 339 (a) Balance sheet;
340 (b) Statement of operations;
341 (c) Statement of cash flows; and
342 (d) Description of the status of individual community
343 health center's actions taken to increase access to and
344 availability of community mental health services.

345 (4) (a) During the first meeting of the board of
346 supervisors each month, the community mental health center shall



347 provide a report to the board of supervisors of each county in its
348 region. The report shall include the following information for
349 the prior month:

350 (i) The number of occupancy percentages reported
351 by the crisis stabilization unit in the region;

352 (ii) The number of individuals held in jail after
353 the commitment process has been initiated and the number of
354 individuals the community mental health center provided treatment
355 to while they were in jail, as required by Section 41-21-67;

356 (iii) The number of pre-affidavit screenings
357 conducted;

358 (iv) The number of individuals diverted to a
359 lesser restrictive alternative from commitment;

360 (v) The number of crisis stabilization unit
361 denials and the reason for denial;

362 (vi) Medicaid billing statement; and

363 (vii) Cash balance as of the date of the report.

364 (b) The board of supervisors shall provide the
365 Department of Mental Health with a summary of the community mental
366 health center's monthly report each quarter.

367 **SECTION 2.** Section 41-21-65, Mississippi Code of 1972, is
368 amended as follows:

369 41-21-65. (1) It is the intention of the Legislature that
370 the filing of an affidavit under this section be a simple,
371 inexpensive, uniform, and streamlined process for the purpose of



372 facilitating and expediting the care of individuals in need of
373 treatment.

374 (2) The Uniform Civil Commitment Affidavit developed by the
375 Department of Mental Health under this section must be provided by
376 the clerk of the chancery court to any party or affiant seeking a
377 civil commitment under this section, and must be utilized in all
378 counties to commence civil commitment proceedings under this
379 section. The affidavit must be made available to the public on
380 the website of the Mississippi Department of Mental Health.

381 (3) The Department of Mental Health, in consultation with
382 the Mississippi Chancery Clerks Association, the Mississippi
383 Conference of Chancery Court Judges and the Mississippi
384 Association of Community Mental Health Centers, must develop a
385 written guide setting out the steps in the commitment process no
386 later than January 1, 2020. The guide shall be designated as the
387 "Uniform Civil Commitment Guide" and must include, but not be
388 limited to, the following:

389 (a) Steps in the civil commitment process from
390 affidavit to commitment, written in easily understandable layman's
391 terms;

392 (b) A schedule of fees and assessments that will be
393 charged to commence a commitment proceeding under this section;

394 (c) Eligibility requirements and instructions for
395 filing a pauper's affidavit; and



396 (d) A statement on the front cover of the guide
397 advising that persons wishing to pursue a civil commitment under
398 this section are not required to retain an attorney for any
399 portion of the commitment process.

400 (4) Immediately upon availability, but no later than January
401 1, 2020, the Uniform Civil Commitment Guide must be provided by
402 the clerk of the chancery court to any party or affiant seeking a
403 civil commitment under this section and also must be made
404 available to the public on the website of the Mississippi
405 Department of Mental Health.

406 (5) If any person is alleged to be in need of treatment, any
407 relative of the person, or any interested person, may make
408 affidavit of that fact and shall file the Uniform Civil Commitment
409 Affidavit with the clerk of the chancery court of the county in
410 which the person alleged to be in need of treatment resides, but
411 the chancellor or duly appointed special master may, in his or her
412 discretion, hear the matter in the county in which the person may
413 be found. Prior to filing an affidavit for commitment of an
414 individual, the relative or interested person shall be directed to
415 the community mental health center for a pre-affidavit screening
416 as set forth in Section 41-21-67. The pre-affidavit screening is
417 mandatory and must be completed before any affidavit for
418 commitment is filed. The affidavit shall set forth the name and
419 address of the proposed patient's nearest relatives and whether
420 the proposed patient resides or has visitation rights with any



421 minor children, if known, and the reasons for the affidavit. The
422 affidavit must contain factual descriptions of the proposed
423 patient's recent behavior, including a description of the
424 behavior, where it occurred, and over what period of time it
425 occurred, if known. The affidavit shall state specifically that a
426 less restrictive alternative treatment was considered and specify
427 why treatment less restrictive than involuntary commitment is not
428 appropriate. Each factual allegation may be supported by
429 observations of witnesses and the pre-affidavit screener named in
430 the affidavit. The Department of Mental Health, in consultation
431 with the Mississippi Chancery Clerks' Association, shall develop a
432 simple, one-page affidavit form for the use of affiants as
433 provided in this section. The affidavit also must state whether
434 the affiant has * * * received notice of the pre-affidavit
435 screening from a community mental health center * * * determining
436 whether the alleged acts by the proposed respondent warrant civil
437 commitment in lieu of other less-restrictive treatment options.
438 No chancery clerk shall require an affiant to retain an attorney
439 for the filing of an affidavit under this section.

440 (6) The chancery clerk may charge a total filing fee for all
441 services equal to the amount set out in Section 25-7-9(o), and the
442 appropriate state and county assessments as required by law which
443 include, but are not limited to, assessments for the Judicial
444 Operation Fund (Section 25-7-9(3)(b)); the Electronic Court System
445 Fund (Section 25-7-9(3)(a)); the Civil Legal Assistance Fund



446 (Section 25-7-9(1)(k)); the Court Education and Training Fund
447 (Section 37-26-3); State Court Constituent's Fund (Section
448 37-26-9(4)); and reasonable court reporter's fee. Costs
449 incidental to the court proceedings as set forth in Section
450 41-21-79 may not be included in the assessments permitted by this
451 subsection. The total of the fees and assessments permitted by
452 this subsection may not exceed One Hundred Fifty Dollars
453 (\$150.00).

454 (7) The prohibition against charging the affiant other fees,
455 expenses, or costs shall not preclude the imposition of monetary
456 criminal penalties under Section 41-21-107 or any other criminal
457 statute, or the imposition by the chancellor of monetary penalties
458 for contempt if the affiant is found to have filed an
459 intentionally false affidavit or filed the affidavit in bad faith
460 for a malicious purpose.

461 (8) Nothing in this section shall be construed so as to
462 conflict with Section 41-21-63.

463 **SECTION 3.** Section 41-21-67, Mississippi Code of 1972, is
464 amended as follows:

465 41-21-67. (1) (a) Prior to filing an affidavit for
466 commitment of an individual, the relative or interested person
467 shall be directed to the community mental health center in the
468 county of financial responsibility or the county where the
469 proposed patient is present for conduct of preliminary
470 investigation to determine the need to file an affidavit for



471 involuntary commitment. If the community mental health center is
472 unavailable, any reputable licensed physician, psychologist, nurse
473 practitioner or physician assistant, as allowed in the discretion
474 of the court, may conduct the pre-affidavit screening and
475 examination as set forth in Section 41-21-69. The pre-affidavit
476 screening shall be completed within twenty-four (24) hours of the
477 community mental health center being notified. The community
478 mental health center shall appoint a screener to conduct an
479 investigation. The prospective petitioner may not be the
480 pre-affidavit screener. The investigation must include:

481 (i) An interview with the proposed patient and
482 other individuals who appear to have knowledge of the condition of
483 the proposed patient, if practicable. In-person interviews with
484 the proposed patient are preferred. If the proposed patient is
485 not interviewed, specific reasons must be documented;

486 (ii) Identification and investigation of specific
487 alleged conduct that is the basis for application;

488 (iii) Identification, exploration, and listing of
489 the specific reasons for rejecting or recommending alternatives to
490 involuntary commitment; and

491 (iv) In the case of a commitment based on mental
492 illness, information relevant to treatment.

493 (b) In conducting the investigation required by this
494 subsection, the screener shall have access to all relevant medical
495 records of proposed patients currently in treatment facilities,



496 state-operated treatment programs, or community-based treatment
497 programs. The interviewer shall inform the proposed patient that
498 any information provided by the proposed patient may be included
499 in the pre-affidavit screening report and may be considered in the
500 commitment proceedings. Data collected pursuant to this clause
501 shall be considered private data on individuals. The
502 pre-affidavit screening report is not admissible as evidence in
503 court except by agreement of counsel or as permitted by the rules
504 of court and is not admissible in any court proceedings unrelated
505 to the commitment proceedings.

506 (c) The pre-affidavit screener shall provide a notice,
507 written in easily understood language, to the proposed patient,
508 the prospective petitioner, the court, and, with the proposed
509 patient's consent, other interested parties. The pre-affidavit
510 screener shall ask the patient if the patient wants the notice
511 read and shall read the notice to the patient upon request. The
512 notice must contain information regarding the process, purpose,
513 and legal effects of civil commitment. The notice must inform the
514 proposed patient that:

515 (i) If an affidavit for involuntary commitment is
516 filed, the patient has certain rights, including the right to a
517 court-appointed attorney, the right to attend hearings, and the
518 right to oppose the proceeding and to present and contest
519 evidence; and



520 (ii) If the proposed patient is committed to a
521 state-operated program, the patient may be billed for the cost of
522 treatment and the state has a right to make a claim against the
523 patient's estate for this cost.

524 (d) When the pre-affidavit screener recommends
525 commitment, a written report shall be sent to the chancery clerk
526 for the county in which the petition is to be filed. The
527 statement of facts contained in the written report must meet the
528 requirements of Section 41-21-65(5), specifically certifying that
529 a less restrictive alternative treatment was considered and
530 specifying why treatment less restrictive than involuntary
531 commitment is not appropriate.

532 (e) The pre-affidavit screener shall refuse to support
533 the filing of an affidavit if the investigation does not disclose
534 evidence sufficient to support commitment. Notice of the
535 pre-affidavit screener's decision shall be provided to the
536 prospective petitioner, the court, any specific individuals
537 identified in the examiner's statement, and to the proposed
538 patient.

539 (f) If the interested person wishes to proceed with a
540 petition contrary to the recommendation of the pre-affidavit
541 screener, application may be made directly to the chancellor, who
542 shall determine whether or not to proceed with the petition.
543 Notice of the chancellor's determination shall be provided to the
544 interested party.



545 (* * *2) * * * After a pre-affidavit screener has attempted
546 to complete an in-person screening, if a person is actively
547 violent or refuses to participate in the pre-affidavit screening
548 and the screening cannot be completed, then upon recommendation of
549 the community mental health center, the affidavit may be filed and
550 a writ issued for a sheriff to intervene. After completing the
551 pre-affidavit screening required by subsection (1) of this
552 section, receiving the written report from the pre-affidavit
553 screener, and upon filing of an affidavit of commitment, the
554 clerk, upon direction of the chancellor of the court, shall issue
555 a writ directed to the sheriff of the proper county to take into
556 custody the person alleged to be in need of treatment and to take
557 the person for * * * physical and mental examination and treatment
558 by the appropriate community mental health center established
559 under Section 41-19-31. The community mental health center will
560 be designated as the first point of entry for * * * pre-affidavit
561 screening and treatment. * * * The * * * writ may provide where
562 the person shall be held before being taken for * * * examination
563 and treatment, which shall include any licensed medical facility
564 or crisis stabilization unit. * * * Reapplication may be made to
565 the chancellor. If a pauper's affidavit is filed by an affiant
566 who is a guardian or conservator of a person in need of treatment,
567 the court shall determine if either the affiant or the person in
568 need of treatment is a pauper and if * * * the affiant or the
569 person in need of treatment is determined to be a pauper, the



570 county of the residence of the respondent shall bear the costs of
571 commitment, unless funds for those purposes are made available by
572 the state.

573 In any county in which a Crisis Intervention Team has been
574 established under the provisions of Sections 41-21-131 through
575 41-21-143, the clerk, upon the direction of the chancellor, may
576 require that the person be referred to the Crisis Intervention
577 Team for appropriate psychiatric or other medical services before
578 the issuance of the writ.

579 (* * *3) Upon * * * receiving the pre-affidavit screening
580 and filing of an affidavit of commitment, the chancellor shall
581 immediately appoint and summon two (2) reputable, licensed
582 physicians or one (1) reputable, licensed physician and either one
583 (1) psychologist, nurse practitioner or physician assistant to
584 conduct a physical and mental examination of the person at a place
585 to be designated by the clerk or chancellor and to report their
586 findings to the clerk or chancellor. However, if the
587 pre-affidavit screening recommends against commitment, the
588 chancellor may refuse to appoint two (2) physicians to conduct a
589 physical and mental examination. However, any nurse practitioner
590 or physician assistant conducting the examination shall be
591 independent from, and not under the supervision of, the other
592 physician conducting the examination. A nurse practitioner or
593 psychiatric nurse practitioner conducting an examination under
594 this chapter must be functioning within a collaborative or



595 consultative relationship with a physician as required under
596 Section 73-15-20(3). In all counties in which there is a county
597 health officer, the county health officer, if available, may be
598 one (1) of the physicians so appointed. If a licensed physician
599 is not available to conduct the physical and mental examination
600 within forty-eight (48) hours of the * * * pre-affidavit
601 screening, the court, in its discretion and upon good cause shown,
602 may permit the examination to be conducted by the following: (a)
603 two (2) nurse practitioners, one (1) of whom must be a psychiatric
604 nurse practitioner; or (b) one (1) psychiatric nurse practitioner
605 and one (1) psychologist or physician assistant. Neither of the
606 physicians nor the psychologist, nurse practitioner or physician
607 assistant selected shall be related to that person in any way, nor
608 have any direct or indirect interest in the estate of that person
609 nor shall any full-time staff of residential treatment facilities
610 operated directly by the State Department of Mental Health serve
611 as examiner.

612 (* * *4) The clerk shall ascertain whether the respondent
613 is represented by an attorney, and if it is determined that the
614 respondent does not have an attorney, the clerk shall immediately
615 notify the chancellor of that fact. If the chancellor determines
616 that the respondent for any reason does not have the services of
617 an attorney, the chancellor shall immediately appoint an attorney
618 for the respondent at the time the examiners are appointed.



619 (* * * 5) (a) If the chancellor determines that there is
620 probable cause to believe that the respondent * * * has a mental
621 illness and that there is no reasonable alternative to detention,
622 the chancellor may order that the respondent be retained as an
623 emergency patient at any licensed medical facility, crisis
624 stabilization unit, or any other available suitable location for
625 evaluation by a physician, nurse practitioner or physician
626 assistant and that a peace officer transport the respondent to the
627 specified facility, unit or location. If the community mental
628 health center serving the county has partnered with Crisis
629 Intervention Teams under the provisions of Sections 41-21-131
630 through 41-21-143, the order may specify that the licensed medical
631 facility be a designated single point of entry within the county
632 or within an adjacent county served by the community mental health
633 center. If the person evaluating the respondent finds that the
634 respondent * * * has a mental illness and in need of treatment,
635 the chancellor may order that the respondent be retained at the
636 licensed medical facility, crisis stabilization unit, or any other
637 available suitable location as the court may so designate pending
638 an admission hearing. If necessary, the chancellor may order a
639 peace officer or other person to transport the respondent to that
640 facility, or unit or suitable location. Any respondent so
641 retained may be given such treatment as is indicated by standard
642 medical practice. However, the respondent shall not be held in a



643 hospital operated directly by the State Department of Mental
644 Health * * *.

645 (b) A jail or other detention center may not be used
646 for custody unless the community mental health center has explored
647 and exhausted the availability of other appropriate facilities,
648 such as the crisis stabilization unit, the local hospital and any
649 Department of Mental Health certified location; the chancellor
650 specifically authorizes it; and the respondent is actively
651 violent. The county of residence of any such person shall pay the
652 cost of such interim treatment. The community mental health
653 center shall provide documentation of the person's violent
654 behavior and that no other appropriate facilities are available to
655 the chancellor. Under these circumstances, no person may remain
656 in a jail for longer than twenty-four (24) hours unless the
657 community mental health center requests an additional twenty-four
658 (24) hours from the chancellor. The community mental health
659 center shall provide treatment during this timeframe pending
660 placement at an appropriate facility. No peace officer or any
661 other person shall place criminal charges against a person who has
662 a mental illness and in need of treatment pursuant to this chapter
663 solely or primarily because the person has a mental illness or
664 because of the unavailability of a state hospital bed.

665 For the purposes of this subsection (5), "actively violent"
666 means that the behavior presents an immediate and serious danger
667 to the safety of the individual or another, the individual has



668 inflicted or attempted to inflict serious bodily harm on another,
669 or has acted in such a way as to create a substantial risk of
670 serious bodily harm to another, or has engaged in extreme
671 destruction of property; and that there is a reasonable
672 probability that this conduct will be repeated.

673 The provisions of this paragraph (b) shall not be construed
674 to include jails that are designated as holding facilities under
675 the requirement provided by Section 41-21-77.

676 (* * *6) (a) Whenever a licensed psychologist, nurse
677 practitioner or physician assistant who is certified to complete
678 examinations for the purpose of commitment or a licensed physician
679 has reason to believe that a person poses an immediate substantial
680 likelihood of physical harm to himself or others or is gravely
681 disabled and unable to care for himself by virtue of mental
682 illness, as defined in Section 41-21-61(e), then the physician,
683 psychologist, nurse practitioner or physician assistant may hold
684 the person or may admit the person to and treat the person in a
685 licensed medical facility, without a civil order or warrant for a
686 period not to exceed seventy-two (72) hours. However, if the
687 seventy-two-hour period begins or ends when the chancery clerk's
688 office is closed, or within three (3) hours of closing, and the
689 chancery clerk's office will be continuously closed for a time
690 that exceeds seventy-two (72) hours, then the seventy-two-hour
691 period is extended until the end of the next business day that the
692 chancery clerk's office is open. The person may be held and



693 treated as an emergency patient at any licensed medical facility,
694 available regional mental health facility, or crisis * * *
695 stabilization unit. The physician or psychologist, nurse
696 practitioner or physician assistant who holds the person shall
697 certify in writing the reasons for the need for holding.

698 If a person is being held and treated in a licensed medical
699 facility, and that person decides to continue treatment by
700 voluntarily signing consent for admission and treatment, the
701 seventy-two-hour hold may be discontinued without filing an
702 affidavit for commitment. Any respondent so held may be given
703 such treatment as indicated by standard medical practice. Persons
704 acting in good faith in connection with the detention and
705 reporting of a person believed to * * * have a mental illness
706 shall incur no liability, civil or criminal, for those acts.

707 (b) Whenever an individual is held for purposes of
708 receiving treatment as prescribed under paragraph (a) of this
709 subsection, and it is communicated to the mental health
710 professional holding the individual that the individual resides or
711 has visitation rights with a minor child, and if the individual is
712 considered to be a danger to the minor child, the mental health
713 professional shall notify the Department of Child Protection
714 Services prior to discharge if the threat of harm continues to
715 exist, as is required under Section 43-21-353.

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



718 **SECTION 4.** Section 41-21-73, Mississippi Code of 1972, is
719 amended as follows:

720 41-21-73. (1) The hearing shall be conducted before the
721 chancellor. However, the hearing may be held at the location
722 where the respondent is being held. Within a reasonable period of
723 time before the hearing, notice of same shall be provided the
724 respondent and his attorney, which shall include: (a) notice of
725 the date, time and place of the hearing; (b) a clear statement of
726 the purpose of the hearing; (c) the possible consequences or
727 outcome of the hearing; (d) the facts that have been alleged in
728 support of the need for commitment; (e) the names, addresses and
729 telephone numbers of the examiner(s); and (f) other witnesses
730 expected to testify.

731 (2) The respondent must be present at the hearing unless the
732 chancellor determines that the respondent is unable to attend and
733 makes that determination and the reasons therefor part of the
734 record. At the time of the hearing, the respondent shall not be
735 so under the influence or suffering from the effects of drugs,
736 medication or other treatment so as to be hampered in
737 participating in the proceedings. The court, at the time of the
738 hearing, shall be presented a record of all drugs, medication or
739 other treatment that the respondent has received pending the
740 hearing, unless the court determines that such a record would be
741 impractical and documents the reasons for that determination.



742 (3) The respondent shall have the right to offer evidence,
743 to be confronted with the witnesses against him and to
744 cross-examine them and shall have the privilege against
745 self-incrimination. The rules of evidence applicable in other
746 judicial proceedings in this state shall be followed.

747 (4) If the court finds by clear and convincing evidence that
748 the proposed patient is a person with mental illness or a person
749 with an intellectual disability and, if after careful
750 consideration of reasonable alternative dispositions, including,
751 but not limited to, dismissal of the proceedings, the court finds
752 that there is no suitable alternative to judicial commitment, the
753 court shall commit the patient for treatment in the least
754 restrictive treatment facility that can meet the patient's
755 treatment needs.

756 However, if the person is receiving acute psychiatric
757 treatment for a mental illness or an intellectual disability in a
758 treatment facility at the time of the hearing, the person may not
759 be committed to a state-operated facility unless, in addition to
760 all other requirements of this subsection (4), the affiant for
761 commitment shows by clear and convincing evidence that the
762 treatment the person requires is not available in the facility the
763 person is being treated in at the time of the hearing, and that
764 the treatment the person requires is available only in the
765 state-operated facility whose catchment area includes the person's
766 county of residence. If treatment is only available at a



767 state-operated facility, the patient shall be discharged from the
768 treating facility. For the purposes of this subsection (4),
769 transfers of inpatients from any treatment facility are considered
770 discharges for documentation and statistical purposes.

771 Treatment before admission to a state-operated facility shall
772 be located as closely as possible to the patient's county of
773 residence and the county of residence shall be responsible for
774 that cost. Admissions to state-operated facilities shall be in
775 compliance with the catchment areas established by the State
776 Department of Mental Health. A nonresident of the state may be
777 committed for treatment or confinement in the county where the
778 person was found.

779 Alternatives to commitment to inpatient care may include, but
780 shall not be limited to: voluntary or court-ordered outpatient
781 commitment for treatment with specific reference to a treatment
782 regimen, day treatment in a hospital, night treatment in a
783 hospital, placement in the custody of a friend or relative, or the
784 provision of home health services. A person who has been
785 judicially committed under this section shall not be held in a
786 jail or other detention facility while that person is awaiting
787 admission to a state-operated facility. In all instances where
788 admission to a state-operated facility is not available at the
789 time a person is judicially committed under this section, the
790 community mental health center whose catchment area includes the
791 county from which the commitment order was issued must place the



792 person in a treatment facility to receive interim treatment until
793 admission to a state-operated facility is available. The county
794 of residence of any such person shall pay the cost of such interim
795 treatment.

796 For persons committed as having mental illness or having an
797 intellectual disability, the initial commitment shall not exceed
798 three (3) months.

799 (5) No person shall be committed to a treatment facility
800 whose primary problems are the physical disabilities associated
801 with old age or birth defects of infancy.

802 (6) The court shall state the findings of fact and
803 conclusions of law that constitute the basis for the order of
804 commitment. The findings shall include a listing of less
805 restrictive alternatives considered by the court and the reasons
806 that each was found not suitable.

807 (7) A stenographic transcription shall be recorded by a
808 stenographer or electronic recording device and retained by the
809 court.

810 (8) Notwithstanding any other provision of law to the
811 contrary, neither the State Board of Mental Health or its members,
812 nor the State Department of Mental Health or its related
813 facilities, nor any employee of the State Department of Mental
814 Health or its related facilities, unless related to the respondent
815 by blood or marriage, shall be assigned or adjudicated custody,
816 guardianship, or conservatorship of the respondent.



817 (9) The county where a person in need of treatment is found
818 is authorized to charge the county of the person's residence for
819 the costs incurred while the person is confined in the county
820 where such person was found.

821 **SECTION 5.** Section 41-21-140, Mississippi Code of 1972, is
822 amended as follows:

823 41-21-140. A law enforcement officer shall transport
824 the * * * person who is in crisis to the appropriate health care
825 facility in the county or outside of the county at the request of
826 the crisis intervention team or mobile crisis response team.

827 **SECTION 6.** Section 41-19-43, Mississippi Code of 1972, is
828 amended as follows:

829 41-19-43. Whenever it is necessary to commit and transport
830 any eligible patient to a regional mental health or intellectual
831 disability facility for treatment or care, the chancery clerk and
832 sheriff shall be entitled to expenses as provided for by the laws
833 of Mississippi for commitment and transportation to state mental
834 institutions and transportation in the county or outside of the
835 county to a community mental health center or other appropriate
836 facility.

837 **SECTION 7.** Section 41-21-71, Mississippi Code of 1972, is
838 amended as follows:

839 41-21-71. If, as a result of the examination, the appointed
840 examiners certify that the person is not in need of treatment, the
841 chancellor or clerk shall dismiss the affidavit without the need



842 for a further hearing. If the chancellor or chancery clerk finds,
843 based upon the appointed examiners' certificates and any other
844 relevant evidence, that the respondent is in need of treatment and
845 the certificates are filed with the chancery clerk within
846 forty-eight (48) hours after the order for examination, or
847 extension of that time as provided in Section 41-21-69, the clerk
848 shall immediately set the matter for a hearing. The hearing shall
849 be set within * * * three (3) days of the filing of the
850 certificates unless an extension is requested by the respondent's
851 attorney. In no event shall the hearing be more than * * * five
852 (5) days after the filing of the certificates.

853 **SECTION 8.** This act shall take effect and be in force from
854 and after its passage.

