MISSISSIPPI LEGISLATURE
REGULAR SESSION 2024
By: Representatives Creekmore IV, Felsher, Foster
To: Public Health and Human Services

HOUSE BILL NO. 1640

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

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

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

41-19-33. (1) Each region so designated or established under Section 41-19-31 shall establish a regional commission to be composed of members appointed by the boards of supervisors of the various counties in the region. Each regional commission shall employ or contract with an accountant for the purpose of managing the finances of the commission. The accountant shall provide an annual audit to the commission in addition to his or her other
It shall be the duty of such regional commission to administer mental health/intellectual disability programs certified and required by the State Board of Mental Health and as specified in Section 41-4-1(2). In addition, once designated and established as provided hereinabove, a regional commission shall have the following authority and shall pursue and promote the following general purposes:

(a) To establish, own, lease, acquire, construct, build, operate and maintain mental illness, mental health, intellectual disability, alcoholism and general rehabilitative facilities and services designed to serve the needs of the people of the region so designated, provided that the services supplied by the regional commissions shall include those services determined by the Department of Mental Health to be necessary and may include, in addition to the above, services for persons with developmental and learning disabilities; for persons suffering from narcotic addiction and problems of drug abuse and drug dependence; and for the aging as designated and certified by the Department of Mental Health. Such regional mental health and intellectual disability commissions and other community service providers shall, on or before July 1 of each year, submit an annual operational plan to the Department of Mental Health for approval or disapproval based on the minimum standards and minimum required services established by the department for certification and itemize the services as specified in Section 41-4-1(2),
including financial statements. As part of the annual operation plan required by Section 41-4-7(h) submitted by any regional community mental health center or by any other reasonable certification deemed acceptable by the department, the community mental health center shall state those services specified in Section 41-4-1(2) that it will provide and also those services that it will not provide. If the department finds deficiencies in the plan of any regional commission or community service provider based on the minimum standards and minimum required services established for certification, the department shall give the regional commission or community service provider a six-month probationary period to bring its standards and services up to the established minimum standards and minimum required services. The regional commission or community service provider shall develop a sustainability business plan within thirty (30) days of being placed on probation, which shall be signed by all commissioners and shall include policies to address one or more of the following: the deficiencies in programmatic services, clinical service staff expectations, timely and appropriate billing, processes to obtain credentialing for staff, monthly reporting processes, third-party financial reporting and any other required documentation as determined by the department. After the six-month probationary period, if the department determines that the regional commission or community service provider still does not meet the minimum standards and minimum required services
established for certification, the department may remove the certification of the commission or provider, and from and after July 1, 2011, the commission or provider shall be ineligible for state funds from Medicaid reimbursement or other funding sources for those services. After the six-month probationary period, the Department of Mental Health may identify an appropriate community service provider to provide any core services in that county that are not provided by a community mental health center. However, the department shall not offer reimbursement or other accommodations to a community service provider of core services that were not offered to the decertified community mental health center for the same or similar services.

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

(c) To promote increased understanding of the problems of mental illness, intellectual disabilities, alcoholism, developmental and learning disabilities, narcotic addiction, drug abuse and drug dependence and other related problems (including the problems of the aging) by the people of the region, and also
to promote increased understanding of the purposes and methods of
the rehabilitation of persons suffering from such illnesses,
disorders, handicaps or problems as designated and certified by
the Department of Mental Health.

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

(e) To enter into contracts and make such other
arrangements as may be necessary with any and all private
businesses, corporations, partnerships, proprietorships or other
private agencies, whether organized for profit or otherwise, as
may be approved by and acceptable to the regional commission for
the purpose of establishing, funding, constructing, operating and
maintaining facilities and services for the care, treatment and
rehabilitation of persons suffering from mental illness, an
intellectual disability, alcoholism, developmental and learning disabilities, narcotic addiction, drug abuse, drug dependence and other illnesses, disorders, handicaps and problems (including the problems of the aging) relating to minimum services established by the Department of Mental Health.

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

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

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

(i) To acquire whatever hazard, casualty or workers' compensation insurance that may be necessary for any property,
real or personal, owned, leased or rented by the commissions, or
any employees or personnel hired by the commissions.

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

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

(l) To borrow money from private lending institutions
in order to promote any of the foregoing purposes. A commission
may pledge collateral, including real estate, to secure the
repayment of money borrowed under the authority of this paragraph.
Any such borrowing undertaken by a commission shall be on terms
and conditions that are prudent in the sound judgment of the
members of the commission, and the interest on any such loan shall
not exceed the amount specified in Section 75-17-105. Any money
borrowed, debts incurred or other obligations undertaken by a
commission, regardless of whether borrowed, incurred or undertaken
before or after March 15, 1995, shall be valid, binding and
enforceable if it or they are borrowed, incurred or undertaken for any purpose specified in this section and otherwise conform to the requirements of this paragraph.

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

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

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

(p) To enter into contracts, agreements or other arrangements with any person, payor, provider or other entity, under which the regional commission assumes financial risk for the provision or delivery of any services, when deemed to be necessary or appropriate by the regional commission. Any action under this
paragraph affecting more than one (1) region must have prior
written approval of the Department of Mental Health before being
initiated and annually thereafter.

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

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

(s) To meet at least annually with the board of
supervisors of each county in its region for the purpose of
presenting its total annual budget and total mental
health/intellectual disability services system. The commission
shall submit an annual report on the adult mental health services,
children mental health services and intellectual disability
services required by the State Board of Mental Health.
(t) To provide alternative living arrangements for persons with serious mental illness, including, but not limited to, group homes for persons with chronic mental illness.

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

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

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

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

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

(ii) A Mississippi licensed physician must be
employed or under agreement with the regional commission to
provide medical direction and/or to carry out the physician
responsibilities as described under applicable state and/or
federal law and regulations.
(iii) The physician providing medical direction for the primary care clinic shall not be certified solely in psychiatry.

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

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

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

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

(viii) The regional commission must ensure that its physician as described in subparagraph (ii) of this paragraph (x) has admitting privileges at one or more local hospitals or has
an agreement with a physician who has admitting privileges at one
or more local hospitals to ensure continuity of care.

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

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

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

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

(aa) To establish a community mental health center to
provide mental health services in its region. From and after the
effective date of this act, the community mental health center
established by each regional commission shall be a community
mental health center. The regional commissions may establish a community mental health center that is not an existing community mental health center as of July 1, 2024, only with the express written permission of the State Board of Mental Health or the Department of Mental Health.

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

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

(a) Balance sheet;

(b) Statement of operations;

(c) Statement of cash flows; and

(d) Description of the status of individual community health center's actions taken to increase access to and availability of community mental health services.

(4) (a) During the first meeting of the Board of Supervisors each month, the community mental health center shall
provide a report to the board of supervisors of each county in its region. The report shall include the following information for the prior month:

   (i) The number of occupancy percentages reported by the crisis stabilization unit;
   (ii) The number of individuals held in jail after the commitment process has been initiated and the number of individuals the community mental health center provided treatment to while they were in jail, as required by Section 41-21-67;
   (iii) The number of pre-affidavit screenings conducted;
   (iv) The number of individuals diverted to a lesser restrictive alternative from commitment;
   (v) The number of crisis stabilization unit denials and the reason for denial;
   (vi) Medicaid billing statement; and
   (vii) Cash balance as of the date of the report.

(b) The Board of Supervisors shall provide the Department of Mental Health with a summary of the community mental health centers' monthly report each quarter.

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

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

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

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

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

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

(c) Eligibility requirements and instructions for filing a pauper's affidavit; and
(d) A statement on the front cover of the guide advising that persons wishing to pursue a civil commitment under this section are not required to retain an attorney for any portion of the commitment process.

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

(5) If any person is alleged to be in need of treatment, any relative of the person, or any interested person, may make affidavit of that fact and shall file the Uniform Civil Commitment Affidavit with the clerk of the chancery court of the county in which the person alleged to be in need of treatment resides, but the chancellor or duly appointed special master may, in his or her discretion, hear the matter in the county in which the person may be found. Prior to filing an affidavit for commitment of an individual, the interested person shall be directed to the community mental health center for a pre-affidavit screening as set forth in Section 41-21-67. The pre-affidavit screening is mandatory and must be completed before any affidavit for commitment is filed. The affidavit shall set forth the name and address of the proposed patient's nearest relatives and whether the proposed patient resides or has visitation rights with any
minor children, if known, and the reasons for the affidavit. The affidavit must contain factual descriptions of the proposed patient's recent behavior, including a description of the behavior, where it occurred, and over what period of time it occurred, if known. The affidavit shall state specifically that less restrictive alternative treatment was considered and specify why treatment less restrictive than involuntary commitment is not appropriate. Each factual allegation may be supported by observations of witnesses and the pre-affidavit screener named in the affidavit. The Department of Mental Health, in consultation with the Mississippi Chancery Clerks' Association, shall develop a simple, one-page affidavit form for the use of affiants as provided in this section. The affidavit also must state whether the affiant has received notice of the pre-affidavit screening from a community mental health center determining whether the alleged acts by the proposed respondent warrant civil commitment in lieu of other less-restrictive treatment options. No chancery clerk shall require an affiant to retain an attorney for the filing of an affidavit under this section.

(6) The chancery clerk may charge a total filing fee for all services equal to the amount set out in Section 25-7-9(o), and the appropriate state and county assessments as required by law which include, but are not limited to, assessments for the Judicial Operation Fund (Section 25-7-9(3)(b)); the Electronic Court System Fund (Section 25-7-9(3)(a)); the Civil Legal Assistance Fund
(Section 25-7-9(1)(k)); the Court Education and Training Fund (Section 37-26-3); State Court Constituent's Fund (Section 37-26-9(4)); and reasonable court reporter's fee. Costs incidental to the court proceedings as set forth in Section 41-21-79 may not be included in the assessments permitted by this subsection. The total of the fees and assessments permitted by this subsection may not exceed One Hundred Fifty Dollars ($150.00).

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

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

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

41-21-67. (1) (a) Prior to filing an affidavit for commitment of an individual, the interested person shall be directed to the community mental health center in the county of financial responsibility or the county where the proposed patient is present for conduct of preliminary investigation to determine the need to file an affidavit of involuntary commitment. If the
community mental health center is unavailable, any reputable licensed physician, psychologist, nurse practitioner or physician assistant, as allowed in the discretion of the court, may conduct the pre-affidavit screening and examination as set forth in Section 41-21-69. The pre-affidavit screening shall be completed within twenty-four (24) hours of the community mental health center being notified. The community mental health center shall appoint a screener to conduct an investigation. The prospective petitioner may not be the pre-affidavit screener. The investigation must include:

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

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

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

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

(b) In conducting the investigation required by this subsection, the screener shall have access to all relevant medical records of proposed patients currently in treatment facilities,
state-operated treatment programs, or community-based treatment programs. The interviewer shall inform the proposed patient that any information provided by the proposed patient may be included in the pre-affidavit screening report and may be considered in the commitment proceedings. Data collected pursuant to this clause shall be considered private data on individuals. The pre-affidavit screening report is not admissible as evidence except by agreement of counsel or as permitted by the rules of court and is not admissible in any court proceedings unrelated to the commitment proceedings.

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

(i) If an affidavit for involuntary commitment is filed, the patient has certain rights, including the right to a court-appointed attorney, the right to attend hearings, and the right to oppose the proceeding and to present and contest evidence; and
(ii) If the proposed patient is committed to a
state-operated program, the patient may be billed for the cost of
treatment and the state has a right to make a claim against the
patient's estate for this cost.

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

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

(f) If the interested person wishes to proceed with a
petition contrary to the recommendation of the pre-affidavit
screener, application may be made directly to the chancellor, who
shall determine whether or not to proceed with the petition.
Notice of the chancellor's determination shall be provided to the
interested party.
After a pre-affidavit screener has attempted
to complete the screening, if a person is actively violent or
refuses to participate in the pre-affidavit screening and the
screening cannot be completed, then upon recommendation of the
community mental health center, the affidavit can be filed and a
writ issued for a sheriff to intervene. After completing the
pre-affidavit screening required by 41-21-67(1), receiving the
written report from the pre-affidavit screener, and upon filing of
an affidavit of commitment, the clerk, upon direction of the
chancellor of the court, shall issue a writ directed to the
sheriff of the proper county to take into custody the person
alleged to be in need of treatment and to take the person
for physical and mental examination and treatment by the
appropriate community mental health center established under
Section 41-19-31. The community mental health center will be
designated as the first point of entry for pre-affidavit
screening and treatment. The writ may provide where
the person shall be held before being taken for examination
and treatment, which shall include any licensed medical facility
or crisis stabilization unit. Reaplication may be made to
the chancellor. If a pauper's affidavit is filed by an affiant
who is a guardian or conservator of a person in need of treatment,
the court shall determine if either the affiant or the person in
need of treatment is a pauper and if the affiant or the
person in need of treatment is determined to be a pauper, the
county of the residence of the respondent shall bear the costs of commitment, unless funds for those purposes are made available by the state.

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

(* * * 3) Upon * * * receiving the pre-affidavit screening and filing of an affidavit of commitment, the chancellor shall immediately appoint and summon two (2) reputable, licensed physicians or one (1) reputable, licensed physician and either one (1) psychologist, nurse practitioner or physician assistant to conduct a physical and mental examination of the person at a place to be designated by the clerk or chancellor and to report their findings to the clerk or chancellor. **However, if the pre-affidavit screening recommends against commitment, the chancellor may refuse to appoint two (2) physicians to conduct a physical and mental examination. However, any nurse practitioner or physician assistant conducting the examination shall be independent from, and not under the supervision of, the other physician conducting the examination. A nurse practitioner or psychiatric nurse practitioner conducting an examination under this chapter must be functioning within a collaborative or**
consultative relationship with a physician as required under Section 73-15-20(3). In all counties in which there is a county health officer, the county health officer, if available, may be one (1) of the physicians so appointed. If a licensed physician is not available to conduct the physical and mental examination within forty-eight (48) hours of the pre-affidavit screening, the court, in its discretion and upon good cause shown, may permit the examination to be conducted by the following: (a) two (2) nurse practitioners, one (1) of whom must be a psychiatric nurse practitioner; or (b) one (1) psychiatric nurse practitioner and one (1) psychologist or physician assistant. Neither of the physicians nor the psychologist, nurse practitioner or physician assistant selected shall be related to that person in any way, nor have any direct or indirect interest in the estate of that person nor shall any full-time staff of residential treatment facilities operated directly by the State Department of Mental Health serve as examiner.

(* * *4) The clerk shall ascertain whether the respondent is represented by an attorney, and if it is determined that the respondent does not have an attorney, the clerk shall immediately notify the chancellor of that fact. If the chancellor determines that the respondent for any reason does not have the services of an attorney, the chancellor shall immediately appoint an attorney for the respondent at the time the examiners are appointed.
If the chancellor determines that there is probable cause to believe that the respondent is mentally ill and that there is no reasonable alternative to detention, the chancellor may order that the respondent be retained as an emergency patient at any licensed medical facility, crisis stabilization unit, or any other available suitable location for evaluation by a physician, nurse practitioner or physician assistant and that a peace officer transport the respondent to the specified facility. If the community mental health center serving the county has partnered with Crisis Intervention Teams under the provisions of Sections 41-21-131 through 41-21-143, the order may specify that the licensed medical facility be a designated single point of entry within the county or within an adjacent county served by the community mental health center. If the person evaluating the respondent finds that the respondent is mentally ill and in need of treatment, the chancellor may order that the respondent be retained at the licensed medical facility, crisis stabilization unit, or any other available suitable location as the court may so designate pending an admission hearing. If necessary, the chancellor may order a peace officer or other person to transport the respondent to that facility or suitable location. Any respondent so retained may be given such treatment as is indicated by standard medical practice. However, the respondent shall not be held in a hospital operated directly by the State Department of Mental Health * * *. A jail or other
detention center may not be used for custody unless the community mental health center has explored and exhausted the availability of other appropriate facilities, such as the crisis stabilization unit, the local hospital and any Department of Mental Health certified location; the chancellor specifically authorizes it; and the respondent is actively violent. The county of residence of any such person shall pay the cost of such interim treatment. The community mental health center shall provide documentation of the person's violent behavior and that no other appropriate facilities are available to the chancellor. Under these circumstances, no person may remain in a jail for longer than twenty-four (24) hours, and the community mental health center shall provide treatment during this timeframe pending placement at an appropriate facility. No peace officer or any other person shall place criminal charges against a person who is mentally ill and in need of treatment pursuant to this chapter solely or primarily because the person is mentally ill or because of the unavailability of a state hospital bed. For the purposes of this paragraph (5), "actively violent" means that the behavior presents an immediate and serious danger to the safety of the individual or another, the individual has inflicted or attempted to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that this conduct will be repeated.
Whenever a licensed psychologist, nurse practitioner or physician assistant who is certified to complete examinations for the purpose of commitment or a licensed physician has reason to believe that a person poses an immediate substantial likelihood of physical harm to himself or others or is gravely disabled and unable to care for himself by virtue of mental illness, as defined in Section 41-21-61(e), then the physician, psychologist, nurse practitioner or physician assistant may hold the person or may admit the person to and treat the person in a licensed medical facility, without a civil order or warrant for a period not to exceed seventy-two (72) hours. However, if the seventy-two-hour period begins or ends when the chancery clerk's office is closed, or within three (3) hours of closing, and the chancery clerk's office will be continuously closed for a time that exceeds seventy-two (72) hours, then the seventy-two-hour period is extended until the end of the next business day that the chancery clerk's office is open. The person may be held and treated as an emergency patient at any licensed medical facility, available regional mental health facility, or crisis stabilization unit. The physician or psychologist, nurse practitioner or physician assistant who holds the person shall certify in writing the reasons for the need for holding.

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

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

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

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

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

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

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

(4) If the court finds by clear and convincing evidence that the proposed patient is a person with mental illness or a person with an intellectual disability and, if after careful consideration of reasonable alternative dispositions, including,
but not limited to, dismissal of the proceedings, the court finds
that there is no suitable alternative to judicial commitment, the
court shall commit the patient for treatment in the least
restrictive treatment facility that can meet the patient's
treatment needs. However, if the person is receiving acute
psychiatric treatment for a mental illness or an intellectual
disability in a treatment facility at the time of the hearing, the
person may not be committed to a state-operated facility unless,
in addition to all other requirements of Section 41-21-73(4), the
affiant for commitment shows by clear and convincing evidence that
the treatment the person requires is not available in the facility
the person is being treated in at the time of the hearing, and
that the treatment the person requires is available only in the
state-operated facility whose catchment area includes the person's
county of residence. If treatment is only available at a
state-operated facility, the patient shall be discharged from the
treating facility. For the purposes of this paragraph (4),
transfers of inpatients from any treatment facility are considered
discharges for documentation and statistical purposes. Treatment
before admission to a state-operated facility shall be located as
closely as possible to the patient's county of residence and the
county of residence shall be responsible for that cost.
Admissions to state-operated facilities shall be in compliance
with the catchment areas established by the State Department of
Mental Health. A nonresident of the state may be committed for
treatment or confinement in the county where the person was found.

Alternatives to commitment to inpatient care may include, but
shall not be limited to: voluntary or court-ordered outpatient
commitment for treatment with specific reference to a treatment
regimen, day treatment in a hospital, night treatment in a
hospital, placement in the custody of a friend or relative, or the
provision of home health services. A person who has been
judicially committed under this section shall not be held in a
jail or other detention facility while that person is awaiting
admission to a state-operated facility. In all instances where
admission to a state-operated facility is not available at the
time a person is judicially committed under this section, the
community mental health center whose catchment area includes the
county from which the commitment order was issued must place the
person in a treatment facility to receive interim treatment until
admission to a state-operated facility is available. The county
of residence of any such person shall pay the cost of such interim
treatment.

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

(5) No person shall be committed to a treatment facility
whose primary problems are the physical disabilities associated
with old age or birth defects of infancy.
(6) The court shall state the findings of fact and conclusions of law that constitute the basis for the order of commitment. The findings shall include a listing of less restrictive alternatives considered by the court and the reasons that each was found not suitable.

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

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

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

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

41-21-140. A law enforcement officer shall transport the * * * person who is in crisis to the appropriate health care facility in the county or outside of the county at the request of the crisis intervention team or mobile crisis response team.
SECTION 6. Section 41-19-43, Mississippi Code of 1972, is amended as follows:

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

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

41-21-71. If, as a result of the examination, the appointed examiners certify that the person is not in need of treatment, the chancellor or clerk shall dismiss the affidavit without the need for a further hearing. If the chancellor or chancery clerk finds, based upon the appointed examiners' certificates and any other relevant evidence, that the respondent is in need of treatment and the certificates are filed with the chancery clerk within forty-eight (48) hours after the order for examination, or extension of that time as provided in Section 41-21-69, the clerk shall immediately set the matter for a hearing. The hearing shall be set within **three (3) days** of the filing of the certificates unless an extension is requested by the respondent's
attorney. In no event shall the hearing be more than five (5) days after the filing of the certificates.

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