

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



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





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



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 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



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 in the region;

(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 center's 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



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





(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 relative or 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



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



(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 relative or 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 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.



( \* \* \*2) \* \* \* After a pre-affidavit screener has attempted to complete an in-person 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 may be filed and a writ issued for a sheriff to intervene. After completing the pre-affidavit screening required by subsection (1) of this section, 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. \* \* \* Reapplication 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





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



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

(b) 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 unless the  
community mental health center requests an additional twenty-four  
(24) hours from the chancellor. 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 has  
a mental illness and in need of treatment pursuant to this chapter  
solely or primarily because the person has a mental illness or  
because of the unavailability of a state hospital bed.

For the purposes of this subsection (5), "actively violent"  
means that the behavior presents an immediate and serious danger  
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





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



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.

