

By: Representatives Creekmore IV, Felsher,  
Foster

To: Public Health and Human  
Services

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1640

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

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

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

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



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

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



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



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

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

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



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

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

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



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

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

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

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

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



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

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

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

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



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

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

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

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

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





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

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

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

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



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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

362 (vi) Medicaid billing statement; and

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

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

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

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



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

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

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

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

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

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





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

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

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



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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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



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

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

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

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



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



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

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

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





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

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



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



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

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

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



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

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

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



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

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

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

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



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

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

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



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

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

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



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

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

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





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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

