

By: Senator(s) Boyd, England, DeLano,
Wiggins

To: Judiciary, Division A

SENATE BILL NO. 2744

1 AN ACT TO AMEND SECTION 41-4-7, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE STATE DEPARTMENT OF MENTAL HEALTH SHALL
3 PROMULGATE A RATING SCALE WITH PERFORMANCE INDICATORS FOR
4 COMMUNITY MENTAL HEALTH AUTHORITIES; TO REQUIRE THE DEPARTMENT TO
5 PERFORM A PERFORMANCE REVIEW AUDIT AT LEAST ONCE EVERY TWO YEARS;
6 TO PROVIDE THAT THE DEPARTMENT MAY PLACE REGIONAL COMMISSIONS OR
7 COMMUNITY MENTAL HEALTH CENTERS ON PROBATIONARY STATUS; TO PROVIDE
8 THAT IF THE COMMUNITY MENTAL HEALTH CENTER DOES NOT ACHIEVE A
9 PASSING SCORE ON THE PERFORMANCE AUDIT AFTER THE PROBATIONARY
10 PERIOD, THE REGIONAL COMMISSION SHALL REPLACE THE COMMUNITY MENTAL
11 HEALTH CENTER'S EXECUTIVE DIRECTOR AND ANY OTHER OFFICERS
12 IDENTIFIED BY THE DEPARTMENT WITH CONTRACTORS; TO PROVIDE THAT THE
13 CONTRACTOR SHALL REMAIN IN PLACE UNTIL THE DEPARTMENT DETERMINES
14 THAT THE COMMUNITY MENTAL HEALTH CENTERS HAS ATTAINED SUSTAINED
15 COMPLIANCE WITH THE PERFORMANCE STANDARD; TO PROVIDE THAT NO
16 RULES, REGULATIONS, OPERATIONAL STANDARDS, PERFORMANCE STANDARDS,
17 OR OTHER STANDARDS PROMULGATED BY THE STATE BOARD OF MENTAL HEALTH
18 OR THE STATE DEPARTMENT OF MENTAL HEALTH SHALL BE CONSTRUED TO
19 CREATE A CAUSE OF ACTION; TO AMEND SECTION 41-19-33, MISSISSIPPI
20 CODE OF 1972, TO SET CERTAIN REQUIREMENTS OF REGIONAL COMMISSIONS
21 ESTABLISHING COMMUNITY MENTAL HEALTH CENTERS; TO REQUIRE COMMUNITY
22 MENTAL HEALTH CENTERS TO PROVIDE A REPORT TO THE BOARD OF
23 SUPERVISORS OF EACH COUNTY IN ITS REGION; TO REQUIRE COMMUNITY
24 MENTAL HEALTH CENTERS TO PROVIDE CERTAIN MENTAL HEALTH SERVICES;
25 TO ESTABLISH PROCEDURES RELATED TO PRE-AFFIDAVIT SCREENINGS FOR
26 CIVIL COMMITMENTS; TO SET CERTAIN REPORTING REQUIREMENTS OF
27 COMMUNITY MENTAL HEALTH CENTERS TO THE DEPARTMENT OF MENTAL
28 HEALTH, INCLUDING SALARY DATA AND CASH BALANCES; TO PROVIDE THAT
29 THE DEPARTMENT MAY DIRECT CONTROL OF THE COMMUNITY MENTAL HEALTH
30 CENTER'S EXCESS CASH BALANCE IN CERTAIN CIRCUMSTANCES WHERE THE
31 AUTHORITY IS NOT IN COMPLIANCE; TO AMEND SECTION 41-21-65,
32 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN INTERESTED PERSON
33 SHALL BE DIRECTED TO THE COMMUNITY MENTAL HEALTH CENTER FOR A
34 PRE-AFFIDAVIT SCREENING PRIOR TO FILING AN AFFIDAVIT FOR



35 COMMITMENT OF AN INDIVIDUAL; TO REQUIRE AN AFFIDAVIT FOR
36 COMMITMENT OF AN INDIVIDUAL TO STATE THAT LESS RESTRICTIVE
37 ALTERNATIVE TREATMENT WAS CONSIDERED AND SPECIFY WHY TREATMENT
38 LESS RESTRICTIVE THAN INVOLUNTARY COMMITMENT IS NOT APPROPRIATE;
39 TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972, TO ESTABLISH
40 A REQUIRED PRE-AFFIDAVIT SCREENING TO BE CONDUCTED BY THE
41 COMMUNITY MENTAL HEALTH CENTER IN THE COUNTY OF FINANCIAL
42 RESPONSIBILITY; TO REQUIRE THE INVESTIGATION TO INCLUDE CERTAIN
43 COMPONENTS; TO PROVIDE THAT THE SCREENING TEAM SHALL HAVE ACCESS
44 TO ALL RELEVANT MEDICAL RECORDS OF THE PROPOSED PATIENT; TO
45 REQUIRE THE PRE-AFFIDAVIT SCREENER TO PROVIDE WRITTEN NOTICE TO
46 CERTAIN ENTITIES, INCLUDING THE PROPOSED PATIENT; TO AUTHORIZE AN
47 INTERESTED PERSON TO MAKE DIRECT PETITION TO A CHANCELLOR WHERE
48 THE PRE-AFFIDAVIT SCREENER DOES NOT RECOMMEND COMMITMENT; TO
49 PROVIDE THAT A JAIL OR OTHER DETENTION CENTER MAY NOT BE USED FOR
50 CUSTODY UNLESS CERTAIN CONDITIONS ARE MET; TO PROHIBIT LAW
51 ENFORCEMENT OR ANY OTHER PERSON FROM BRINGING CRIMINAL CHARGES
52 AGAINST A PERSON WHO IS MENTALLY ILL AND IN NEED OF TREATMENT
53 PURSUANT TO THIS CHAPTER SOLELY OR PRIMARILY BECAUSE THE PERSON IS
54 MENTALLY ILL OR BECAUSE OF THE UNAVAILABILITY OF A STATE HOSPITAL
55 BED; TO AMEND SECTION 41-21-73, MISSISSIPPI CODE OF 1972, TO LIMIT
56 COMMITMENT IN A STATE-OPERATED FACILITY; TO PROVIDE THAT IF A
57 PERSON IS RECEIVING TREATMENT FOR A MENTAL ILLNESS OR AN
58 INTELLECTUAL DISABILITY IN A TREATMENT FACILITY AT THE TIME OF THE
59 HEARING, THE PERSON MAY NOT BE COMMITTED TO A STATE-OPERATED
60 FACILITY UNLESS CERTAIN FACTS ARE ESTABLISHED BY CLEAR AND
61 CONVINCING EVIDENCE; TO PROHIBIT A PERSON WHO HAS BEEN JUDICIALLY
62 COMMITTED UNDER THIS SECTION FROM BEING HELD IN A JAIL OR OTHER
63 DETENTION FACILITY WHILE AWAITING ADMISSION TO A STATE-OPERATED
64 FACILITY; TO PROVIDE THAT THE COUNTY OF RESIDENCE OF ANY SUCH
65 PERSON SHALL PAY THE COST OF INTERIM TREATMENT; TO AMEND SECTION
66 41-21-68, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS
67 OF THE ACT; TO AMEND SECTION 41-21-77, MISSISSIPPI CODE OF 1972,
68 TO PROVIDE THAT A JAIL OR DETENTION CENTER MAY NOT BE USED FOR
69 PERSONS WHO ARE AWAITING ADMISSION UNLESS THE COMMUNITY MENTAL
70 HEALTH CENTER HAS EXHAUSTED THE AVAILABILITY OF OTHER APPROPRIATE
71 FACILITIES, THE CHANCELLOR SPECIFICALLY AUTHORIZES IT, AND THE
72 RESPONDENT IS ACTIVELY VIOLENT; TO AMEND SECTION 27-104-7,
73 MISSISSIPPI CODE OF 1972, TO SECTION 41-21-68, MISSISSIPPI CODE OF
74 1972, WHICH ALLOWS REGIONAL MENTAL HEALTH COMMISSIONS TO ESTABLISH
75 REGIONAL HOLDING FACILITIES FOR THOSE HELD BY CIVIL COMMITMENT; TO
76 AMEND SECTION 27-104-7, MISSISSIPPI CODE OF 1972, TO EXEMPT FROM
77 THE PUBLIC PROCUREMENT REVIEW BOARD ANY PERSONAL OR PROFESSIONAL
78 SERVICES CONTRACT ENTERED INTO BY THE MISSISSIPPI DEPARTMENT OF
79 MENTAL HEALTH IN CONTRACTING FOR STAFF OF COMMUNITY MENTAL HEALTH
80 CENTERS THAT IT IS REPLACING IN ACCORDANCE WITH THIS ACT; TO
81 REQUIRE PEER AND THE DEPARTMENT OF MENTAL HEALTH TO REPORT CERTAIN
82 INFORMATION TO THE LEGISLATURE EACH YEAR; AND FOR RELATED
83 PURPOSES.

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



85 **SECTION 1.** Section 41-4-7, Mississippi Code of 1972, is
86 amended as follows:

87 41-4-7. The State Board of Mental Health shall have the
88 following powers and duties:

89 (a) To appoint a full-time Executive Director of the
90 Department of Mental Health, who shall be employed by the board
91 and shall serve as executive secretary to the board. The first
92 director shall be a duly licensed physician with special interest
93 and competence in psychiatry, and shall possess a minimum of three
94 (3) years' experience in clinical and administrative psychiatry.
95 Subsequent directors shall possess at least a master's degree or
96 its equivalent, and shall possess at least ten (10) years'
97 administrative experience in the field of mental health. The
98 salary of the executive director shall be determined by the board;

99 (b) To appoint a Medical Director for the Department of
100 Mental Health. The medical director shall provide clinical
101 oversight in the implementation of evidence-based and best
102 practices; provide clinical leadership in the integration of
103 mental health, intellectual disability and addiction services with
104 community partners in the public and private sectors; and provide
105 oversight regarding standards of care. The medical director shall
106 serve at the will and pleasure of the board, and will undergo an
107 annual review of job performance and future service to the
108 department;



109 (c) To establish and implement its state strategic
110 plan;

111 (d) To develop a strategic plan for the development of
112 services for persons with mental illness, persons with
113 developmental disabilities and other clients of the public mental
114 health system. Such strategic planning program shall require that
115 the board, acting through the Strategic Planning and Best
116 Practices Committee, perform the following functions respecting
117 the delivery of services:

118 (i) Establish measures for determining the
119 efficiency and effectiveness of the services specified in Section
120 41-4-1(2);

121 (ii) Conducting studies of community-based care in
122 other jurisdictions to determine which services offered in these
123 jurisdictions have the potential to provide the citizens of
124 Mississippi with more effective and efficient community-based
125 care;

126 (iii) Evaluating the efficiency and effectiveness
127 of the services specified in Section 41-4-1(2);

128 (iv) Recommending to the Legislature by January 1,
129 2014, any necessary additions, deletions or other changes
130 necessary to the services specified in Section 41-4-1(2);

131 (v) Implementing by July 1, 2012, a system of
132 performance measures for the services specified in Section
133 41-4-1(2);



134 (vi) Recommending to the Legislature any changes
135 that the department believes are necessary to the current laws
136 addressing civil commitment;

137 (vii) Conducting any other activities necessary to
138 the evaluation and study of the services specified in Section
139 41-4-1(2);

140 (viii) Assisting in conducting all necessary
141 strategic planning for the delivery of all other services of the
142 department. Such planning shall be conducted so as to produce a
143 single strategic plan for the services delivered by the public
144 mental health system and shall establish appropriate mission
145 statements, goals, objectives and performance indicators for all
146 programs and services of the public mental health system. For
147 services other than those specified in Section 41-4-1(2), the
148 committee shall recommend to the State Board of Mental Health a
149 strategic plan that the board may adopt or modify;

150 (e) To set up state plans for the purpose of
151 controlling and treating any and all forms of mental and emotional
152 illness, alcoholism, drug misuse and developmental disabilities;

153 (f) [Repealed]

154 (g) To enter into contracts with any other state or
155 federal agency, or with any private person, organization or group
156 capable of contracting, if it finds such action to be in the
157 public interest;



158 (h) To collect reasonable fees for its services;
159 however, if it is determined that a person receiving services is
160 unable to pay the total fee, the department shall collect no more
161 than the amount such person is able to pay;

162 (i) To certify, coordinate and establish minimum
163 standards and establish minimum required services, as specified in
164 Section 41-4-1(2), for regional mental health and intellectual
165 disability commissions and other community service providers for
166 community or regional programs and services in adult mental
167 health, children and youth mental health, intellectual
168 disabilities, alcoholism, drug misuse, developmental disabilities,
169 compulsive gambling, addictive disorders and related programs
170 throughout the state. Such regional mental health and
171 intellectual disability commissions and other community service
172 providers shall, on or before July 1 of each year, submit an
173 annual operational plan to the State Department of Mental Health
174 for approval or disapproval based on the minimum standards and
175 minimum required services established by the department for
176 certification and itemize the services specified in Section
177 41-4-1(2), including financial statements. As part of the annual
178 operation plan required by this paragraph (i) submitted by any
179 regional community mental health center or by any other reasonable
180 certification deemed acceptable by the department, the community
181 mental health center shall state those services specified in
182 Section 41-4-1(2) that it will provide and also those services



183 that it will not provide. If the department finds deficiencies in
184 the plan of any regional commission or community service provider
185 based on the minimum standards and minimum required services
186 established for certification, the department shall give the
187 regional commission or community service provider a six-month
188 probationary period to bring its standards and services up to the
189 established minimum standards and minimum required services. The
190 regional commission or community service provider shall develop a
191 sustainability business plan within thirty (30) days of being
192 placed on probation, which shall be signed by all commissioners
193 and shall include policies to address one or more of the
194 following: the deficiencies in programmatic services, clinical
195 service staff expectations, timely and appropriate billing,
196 processes to obtain credentialing for staff, monthly reporting
197 processes, third-party financial reporting and any other required
198 documentation as determined by the department. After the
199 six-month probationary period, if the department determines that
200 the regional commission or community service provider still does
201 not meet the minimum standards and minimum required services
202 established for certification, the department may remove the
203 certification of the commission or provider and from and after
204 July 1, 2011, the commission or provider shall be ineligible for
205 state funds from Medicaid reimbursement or other funding sources
206 for those services. However, the department shall not mandate a
207 standard or service, or decertify a regional commission or



208 community service provider for not meeting a standard or service,
209 if the standard or service does not have funding appropriated by
210 the Legislature or have a state, federal or local funding source
211 identified by the department. No county shall be required to levy
212 millage to provide a mandated standard or service above the
213 minimum rate required by Section 41-19-39. After the six-month
214 probationary period, the department may identify an appropriate
215 community service provider to provide any core services in that
216 county that are not provided by a community mental health center.
217 However, the department shall not offer reimbursement or other
218 accommodations to a community service provider of core services
219 that were not offered to the decertified community mental health
220 center for the same or similar services. The State Board of
221 Mental Health shall promulgate rules and regulations necessary to
222 implement the provisions of this paragraph (i), in accordance with
223 the Administrative Procedures Law (Section 25-43-1.101 et seq.);

224 (j) To establish and promulgate reasonable minimum
225 standards for the construction and operation of state and all
226 Department of Mental Health certified facilities, including
227 reasonable minimum standards for the admission, diagnosis, care,
228 treatment, transfer of patients and their records, and also
229 including reasonable minimum standards for providing day care,
230 outpatient care, emergency care, inpatient care and follow-up
231 care, when such care is provided for persons with mental or



232 emotional illness, an intellectual disability, alcoholism, drug
233 misuse and developmental disabilities;

234 (k) To implement best practices for all services
235 specified in Section 41-4-1(2), and to establish and implement all
236 other services delivered by the Department of Mental Health. To
237 carry out this responsibility, the board shall require the
238 department to establish a division responsible for developing best
239 practices based on a comprehensive analysis of the mental health
240 environment to determine what the best practices for each service
241 are. In developing best practices, the board shall consider the
242 cost and benefits associated with each practice with a goal of
243 implementing only those practices that are cost-effective
244 practices for service delivery. Such best practices shall be
245 utilized by the board in establishing performance standards and
246 evaluations of the community mental health centers' services
247 required by paragraph (d) of this section;

248 (l) To assist community or regional programs consistent
249 with the purposes of this chapter by making grants and contracts
250 from available funds;

251 (m) To establish and collect reasonable fees for
252 necessary inspection services incidental to certification or
253 compliance;

254 (n) To accept gifts, trusts, bequests, grants,
255 endowments or transfers of property of any kind;



256 (o) To receive monies coming to it by way of fees for
257 services or by appropriations;

258 (p) To serve as the single state agency in receiving
259 and administering any and all funds available from any source for
260 the purpose of service delivery, training, research and education
261 in regard to all forms of mental illness, intellectual
262 disabilities, alcoholism, drug misuse and developmental
263 disabilities, unless such funds are specifically designated to a
264 particular agency or institution by the federal government, the
265 Mississippi Legislature or any other grantor;

266 (q) To establish mental health holding centers for the
267 purpose of providing short-term emergency mental health treatment,
268 places for holding persons awaiting commitment proceedings or
269 awaiting placement in a state mental health facility following
270 commitment, and for diverting placement in a state mental health
271 facility. These mental health holding facilities shall be readily
272 accessible, available statewide, and be in compliance with
273 emergency services' minimum standards. They shall be
274 comprehensive and available to triage and make appropriate
275 clinical disposition, including the capability to access inpatient
276 services or less restrictive alternatives, as needed, as
277 determined by medical staff. Such facility shall have medical,
278 nursing and behavioral services available on a
279 twenty-four-hour-a-day basis. The board may provide for all or
280 part of the costs of establishing and operating the holding



281 centers in each district from such funds as may be appropriated to
282 the board for such use, and may participate in any plan or
283 agreement with any public or private entity under which the entity
284 will provide all or part of the costs of establishing and
285 operating a holding center in any district;

286 (r) To certify/license case managers, mental health
287 therapists, intellectual disability therapists, mental
288 health/intellectual disability program administrators, addiction
289 counselors and others as deemed appropriate by the board. Persons
290 already professionally licensed by another state board or agency
291 are not required to be certified/licensed under this section by
292 the Department of Mental Health. The department shall not use
293 professional titles in its certification/licensure process for
294 which there is an independent licensing procedure. Such
295 certification/licensure shall be valid only in the state mental
296 health system, in programs funded and/or certified by the
297 Department of Mental Health, and/or in programs certified/licensed
298 by the State Department of Health that are operated by the state
299 mental health system serving persons with mental illness, an
300 intellectual disability, a developmental disability or addictions,
301 and shall not be transferable;

302 (s) To develop formal mental health worker
303 qualifications for regional mental health and intellectual
304 disability commissions and other community service providers. The
305 State Personnel Board shall develop and promulgate a recommended



306 salary scale and career ladder for all regional mental
307 health/intellectual disability center therapists and case managers
308 who work directly with clients. The State Personnel Board shall
309 also develop and promulgate a career ladder for all direct care
310 workers employed by the State Department of Mental Health;

311 (t) The employees of the department shall be governed
312 by personnel merit system rules and regulations, the same as other
313 employees in state services;

314 (u) To establish such rules and regulations as may be
315 necessary in carrying out the provisions of this chapter,
316 including the establishment of a formal grievance procedure to
317 investigate and attempt to resolve consumer complaints;

318 (v) To grant easements for roads, utilities and any
319 other purpose it finds to be in the public interest;

320 (w) To survey statutory designations, building markers
321 and the names given to mental health/intellectual disability
322 facilities and proceedings in order to recommend deletion of
323 obsolete and offensive terminology relative to the mental
324 health/intellectual disability system. Based upon a
325 recommendation of the executive director, the board shall have the
326 authority to name/rename any facility operated under the auspices
327 of the Department of Mental Health for the sole purpose of
328 deleting such terminology;

329 (x) To ensure an effective case management system
330 directed at persons who have been discharged from state and



331 private psychiatric hospitals to ensure their continued well-being
332 in the community;

333 (y) To develop formal service delivery standards
334 designed to measure the quality of services delivered to community
335 clients, as well as the timeliness of services to community
336 clients provided by regional mental health/intellectual disability
337 commissions and other community services providers;

338 (z) To establish regional state offices to provide
339 mental health crisis intervention centers and services available
340 throughout the state to be utilized on a case-by-case emergency
341 basis. The regional services director, other staff and delivery
342 systems shall meet the minimum standards of the Department of
343 Mental Health;

344 (aa) To require performance contracts with community
345 mental health/intellectual disability service providers to contain
346 performance indicators to measure successful outcomes, including
347 diversion of persons from inpatient psychiatric hospitals,
348 rapid/timely response to emergency cases, client satisfaction with
349 services and other relevant performance measures;

350 (bb) To enter into interagency agreements with other
351 state agencies, school districts and other local entities as
352 determined necessary by the department to ensure that local mental
353 health service entities are fulfilling their responsibilities to
354 the overall state plan for behavioral services;



355 (cc) To establish and maintain a toll-free grievance
356 reporting telephone system for the receipt and referral for
357 investigation of all complaints by clients of state and community
358 mental health/intellectual disability facilities;

359 (dd) To establish a peer review/quality assurance
360 evaluation system that assures that appropriate assessment,
361 diagnosis and treatment is provided according to established
362 professional criteria and guidelines;

363 (ee) To develop and implement state plans for the
364 purpose of assisting with the care and treatment of persons with
365 Alzheimer's disease and other dementia. This plan shall include
366 education and training of service providers, caregivers in the
367 home setting and others who deal with persons with Alzheimer's
368 disease and other dementia, and development of adult day care,
369 family respite care and counseling programs to assist families who
370 maintain persons with Alzheimer's disease and other dementia in
371 the home setting. No agency shall be required to provide any
372 services under this section until such time as sufficient funds
373 have been appropriated or otherwise made available by the
374 Legislature specifically for the purposes of the treatment of
375 persons with Alzheimer's and other dementia;

376 (ff) Working with the advice and consent of the
377 administration of Ellisville State School, to enter into
378 negotiations with the Economic Development Authority of Jones
379 County for the purpose of negotiating the possible exchange, lease



380 or sale of lands owned by Ellisville State School to the Economic
381 Development Authority of Jones County. It is the intent of the
382 Mississippi Legislature that such negotiations shall ensure that
383 the financial interest of the persons with an intellectual
384 disability served by Ellisville State School will be held
385 paramount in the course of these negotiations. The Legislature
386 also recognizes the importance of economic development to the
387 citizens of the State of Mississippi and Jones County, and
388 encourages fairness to the Economic Development Authority of Jones
389 County. Any negotiations proposed which would result in the
390 recommendation for exchange, lease or sale of lands owned by
391 Ellisville State School must have the approval of the State Board
392 of Mental Health. The State Board of Mental Health may and has
393 the final authority as to whether or not these negotiations result
394 in the exchange, lease or sale of the properties it currently
395 holds in trust for persons with an intellectual disability served
396 at Ellisville State School.

397 If the State Board of Mental Health authorizes the sale of
398 lands owned by Ellisville State School, as provided for under this
399 paragraph (ff), the monies derived from the sale shall be placed
400 into a special fund that is created in the State Treasury to be
401 known as the "Ellisville State School Client's Trust Fund." The
402 principal of the trust fund shall remain inviolate and shall never
403 be expended. Any interest earned on the principal may be expended
404 solely for the benefits of clients served at Ellisville State



405 School. The State Treasurer shall invest the monies of the trust
406 fund in any of the investments authorized for the Mississippi
407 Prepaid Affordable College Tuition Program under Section 37-155-9,
408 and those investments shall be subject to the limitations
409 prescribed by Section 37-155-9. Unexpended amounts remaining in
410 the trust fund at the end of a fiscal year shall not lapse into
411 the State General Fund, and any interest earned on amounts in the
412 trust fund shall be deposited to the credit of the trust fund.
413 The administration of Ellisville State School may use any interest
414 earned on the principal of the trust fund, upon appropriation by
415 the Legislature, as needed for services or facilities by the
416 clients of Ellisville State School. Ellisville State School shall
417 make known to the Legislature, through the Legislative Budget
418 Committee and the respective Appropriations Committees of the
419 House and Senate, its proposed use of interest earned on the
420 principal of the trust fund for any fiscal year in which it
421 proposes to make expenditures thereof. The State Treasurer shall
422 provide Ellisville State School with an annual report on the
423 Ellisville State School Client's Trust Fund to indicate the total
424 monies in the trust fund, interest earned during the year,
425 expenses paid from the trust fund and such other related
426 information.

427 Nothing in this section shall be construed as applying to or
428 affecting mental health/intellectual disability services provided
429 by hospitals as defined in Section 41-9-3(a), and/or their



430 subsidiaries and divisions, which hospitals, subsidiaries and
431 divisions are licensed and regulated by the Mississippi State
432 Department of Health unless such hospitals, subsidiaries or
433 divisions voluntarily request certification by the Mississippi
434 State Department of Mental Health.

435 All new programs authorized under this section shall be
436 subject to the availability of funds appropriated therefor by the
437 Legislature;

438 (gg) Working with the advice and consent of the
439 administration of Boswell Regional Center, to enter into
440 negotiations with the Economic Development Authority of Simpson
441 County for the purpose of negotiating the possible exchange, lease
442 or sale of lands owned by Boswell Regional Center to the Economic
443 Development Authority of Simpson County. It is the intent of the
444 Mississippi Legislature that such negotiations shall ensure that
445 the financial interest of the persons with an intellectual
446 disability served by Boswell Regional Center will be held
447 paramount in the course of these negotiations. The Legislature
448 also recognizes the importance of economic development to the
449 citizens of the State of Mississippi and Simpson County, and
450 encourages fairness to the Economic Development Authority of
451 Simpson County. Any negotiations proposed which would result in
452 the recommendation for exchange, lease or sale of lands owned by
453 Boswell Regional Center must have the approval of the State Board
454 of Mental Health. The State Board of Mental Health may and has



455 the final authority as to whether or not these negotiations result
456 in the exchange, lease or sale of the properties it currently
457 holds in trust for persons with an intellectual disability served
458 at Boswell Regional Center. In any such exchange, lease or sale
459 of such lands owned by Boswell Regional Center, title to all
460 minerals, oil and gas on such lands shall be reserved, together
461 with the right of ingress and egress to remove same, whether such
462 provisions be included in the terms of any such exchange, lease or
463 sale or not.

464 If the State Board of Mental Health authorizes the sale of
465 lands owned by Boswell Regional Center, as provided for under this
466 paragraph (gg), the monies derived from the sale shall be placed
467 into a special fund that is created in the State Treasury to be
468 known as the "Boswell Regional Center Client's Trust Fund." The
469 principal of the trust fund shall remain inviolate and shall never
470 be expended. Any earnings on the principal may be expended solely
471 for the benefits of clients served at Boswell Regional Center.
472 The State Treasurer shall invest the monies of the trust fund in
473 any of the investments authorized for the Mississippi Prepaid
474 Affordable College Tuition Program under Section 37-155-9, and
475 those investments shall be subject to the limitations prescribed
476 by Section 37-155-9. Unexpended amounts remaining in the trust
477 fund at the end of a fiscal year shall not lapse into the State
478 General Fund, and any earnings on amounts in the trust fund shall
479 be deposited to the credit of the trust fund. The administration



480 of Boswell Regional Center may use any earnings on the principal
481 of the trust fund, upon appropriation by the Legislature, as
482 needed for services or facilities by the clients of Boswell
483 Regional Center. Boswell Regional Center shall make known to the
484 Legislature, through the Legislative Budget Committee and the
485 respective Appropriations Committees of the House and Senate, its
486 proposed use of the earnings on the principal of the trust fund
487 for any fiscal year in which it proposes to make expenditures
488 thereof. The State Treasurer shall provide Boswell Regional
489 Center with an annual report on the Boswell Regional Center
490 Client's Trust Fund to indicate the total monies in the trust
491 fund, interest and other income earned during the year, expenses
492 paid from the trust fund and such other related information.

493 Nothing in this section shall be construed as applying to or
494 affecting mental health/intellectual disability services provided
495 by hospitals as defined in Section 41-9-3(a), and/or their
496 subsidiaries and divisions, which hospitals, subsidiaries and
497 divisions are licensed and regulated by the Mississippi State
498 Department of Health unless such hospitals, subsidiaries or
499 divisions voluntarily request certification by the Mississippi
500 State Department of Mental Health.

501 All new programs authorized under this section shall be
502 subject to the availability of funds appropriated therefor by the
503 Legislature;



504 (hh) Notwithstanding any other section of the code, the
505 Board of Mental Health shall be authorized to fingerprint and
506 perform a criminal history record check on every employee or
507 volunteer. Every employee and volunteer shall provide a valid
508 current social security number and/or driver's license number
509 which shall be furnished to conduct the criminal history record
510 check. If no disqualifying record is identified at the state
511 level, fingerprints shall be forwarded to the Federal Bureau of
512 Investigation for a national criminal history record check;

513 (ii) The Department of Mental Health shall have the
514 authority for the development of a consumer friendly single point
515 of intake and referral system within its service areas for persons
516 with mental illness, an intellectual disability, developmental
517 disabilities or alcohol or substance abuse who need assistance
518 identifying or accessing appropriate services. The department
519 will develop and implement a comprehensive evaluation procedure
520 ensuring that, where appropriate, the affected person or their
521 parent or legal guardian will be involved in the assessment and
522 planning process. The department, as the point of intake and as
523 service provider, shall have the authority to determine the
524 appropriate institutional, hospital or community care setting for
525 persons who have been diagnosed with mental illness, an
526 intellectual disability, developmental disabilities and/or alcohol
527 or substance abuse, and may provide for the least restrictive
528 placement if the treating professional believes such a setting is



529 appropriate, if the person affected or their parent or legal
530 guardian wants such services, and if the department can do so with
531 a reasonable modification of the program without creating a
532 fundamental alteration of the program. The least restrictive
533 setting could be an institution, hospital or community setting,
534 based upon the needs of the affected person or their parent or
535 legal guardian;

536 (jj) To have the sole power and discretion to enter
537 into, sign, execute and deliver long-term or multiyear leases of
538 real and personal property owned by the Department of Mental
539 Health to and from other state and federal agencies and private
540 entities deemed to be in the public's best interest. Any monies
541 derived from such leases shall be deposited into the funds of the
542 Department of Mental Health for its exclusive use. Leases to
543 private entities shall be approved by the Department of Finance
544 and Administration and all leases shall be filed with the
545 Secretary of State;

546 (kk) To certify and establish minimum standards and
547 minimum required services for county facilities used for housing,
548 feeding and providing medical treatment for any person who has
549 been involuntarily ordered admitted to a treatment center by a
550 court of competent jurisdiction. The minimum standard for the
551 initial assessment of those persons being housed in county
552 facilities is for the assessment to be performed by a physician,
553 preferably a psychiatrist, or by a nurse practitioner, preferably



554 a psychiatric nurse practitioner. If the department finds
555 deficiencies in any such county facility or its provider based on
556 the minimum standards and minimum required services established
557 for certification, the department shall give the county or its
558 provider a six-month probationary period to bring its standards
559 and services up to the established minimum standards and minimum
560 required services. After the six-month probationary period, if
561 the department determines that the county or its provider still
562 does not meet the minimum standards and minimum required services,
563 the department may remove the certification of the county or
564 provider and require the county to contract with another county
565 having a certified facility to hold those persons for that period
566 of time pending transportation and admission to a state treatment
567 facility. Any cost incurred by a county receiving an
568 involuntarily committed person from a county with a decertified
569 holding facility shall be reimbursed by the home county to the
570 receiving county; * * *

571 (11) To provide orientation training to all new
572 commissioners of regional commissions and annual training for all
573 commissioners with continuing education regarding the Mississippi
574 mental health system and services as developed by the State
575 Department of Mental Health. Training shall be provided at the
576 expense of the department except for travel expenses which shall
577 be paid by the regional commission * * *;



578 (mm) To assess the performance of the community mental
579 health centers, the State Department of Mental Health shall
580 promulgate a rating scale with performance indicators and a
581 scorecard. The performance standards shall identify the data that
582 the community mental health centers must provide to the department
583 to enable the department to assess their performance. The
584 department shall conduct a performance review audit of each
585 community mental health center at least once every two (2) years.
586 If the community mental health center does not achieve a passing
587 score on a performance audit, the department shall give the
588 regional commission or community mental health center a six-month
589 probationary period to achieve a passing score. If the community
590 mental health center does not achieve a passing score on the
591 performance audit after the six-month probationary period, the
592 regional commission shall replace the community mental health
593 center's executive director and any other officers identified by
594 the department with contractors selected by the department to
595 operate the community mental health center. The department shall
596 be the party that contracts with the contractors and the
597 contractors shall report to the department. The department has
598 the authority to override a regional commission, community mental
599 health center, or both, concerning the management and operation of
600 such community mental health center or initiate and make decisions
601 concerning the management and operation of the community mental
602 health center.



603 The contractor(s) selected by the department shall have the
604 full powers and authority possessed by the officer he or she
605 replaces. The contractor(s) shall remain in place until the
606 department determines in its reasonable judgment that the
607 community mental health center has attained sustained compliance
608 with the performance standards; and

609 (nn) No rules, regulations, operational standards,
610 performance standards, or other standards promulgated by the State
611 Board of Mental Health or the State Department of Mental Health
612 shall be construed to create a cause of action.

613 **SECTION 2.** Section 41-19-33, Mississippi Code of 1972, is
614 amended as follows:

615 41-19-33. (1) Each region so designated or established
616 under Section 41-19-31 shall establish a regional commission to be
617 composed of members appointed by the boards of supervisors of the
618 various counties in the region. Each regional commission shall
619 employ or contract with an accountant for the purpose of managing
620 the finances of the commission. The accountant shall provide an
621 annual audit to the commission in addition to his or her other
622 duties. It shall be the duty of such regional commission to
623 administer mental health/intellectual disability programs
624 certified and required by the State Board of Mental Health and as
625 specified in Section 41-4-1(2). In addition, once designated and
626 established as provided hereinabove, a regional commission shall



627 have the following authority and shall pursue and promote the
628 following general purposes:

629 (a) To establish, own, lease, acquire, construct,
630 build, operate and maintain mental illness, mental health,
631 intellectual disability, alcoholism and general rehabilitative
632 facilities and services designed to serve the needs of the people
633 of the region so designated, provided that the services supplied
634 by the regional commissions shall include those services
635 determined by the Department of Mental Health to be necessary and
636 may include, in addition to the above, services for persons with
637 developmental and learning disabilities; for persons suffering
638 from narcotic addiction and problems of drug abuse and drug
639 dependence; and for the aging as designated and certified by the
640 Department of Mental Health. Such regional mental health and
641 intellectual disability commissions and other community service
642 providers shall, on or before July 1 of each year, submit an
643 annual operational plan to the Department of Mental Health for
644 approval or disapproval based on the minimum standards and minimum
645 required services established by the department for certification
646 and itemize the services as specified in Section 41-4-1(2),
647 including financial statements. * * *

648 (b) (i) Each regional commission shall establish a
649 community mental health center to provide mental health services
650 in its region. The regional commissions may establish a community
651 mental health center that did not exist as of July 1, 2024, only



652 with the express written permission of the State Board of Mental
653 Health or the Department of Mental Health.

654 (ii) At a meeting of the board of supervisors each
655 quarter, the community mental health center shall provide a report
656 to the board of supervisors, sheriff and Chancery Court judges of
657 each county in its region. The report shall include the following
658 information for the prior month:

659 1. The occupancy percentage reported by the
660 crisis stabilization unit;

661 2. The number of individuals held in jail
662 after the commitment process has been initiated and the number of
663 individuals who the community mental health center provided
664 treatment to while they were in jail, as required by Section
665 41-21-67(5).

666 3. The number of pre-affidavit screenings
667 conducted;

668 4. The number of individuals diverted to a
669 lesser restrictive alternative from commitment;

670 5. The number of crisis stabilization unit
671 denials and the reason for denial;

672 6. Medicaid billing statement; and

673 7. Cash balance as of the date of the report.

674 (c) If the Department of Mental Health finds
675 deficiencies in the * * * performance audit required by Section
676 41-4-7(i) based on the minimum standards and minimum required



677 services established for certification, the department shall give
678 the regional commission, community mental health center_or
679 community service provider a six-month probationary period to
680 bring its standards and services up to the established minimum
681 standards and minimum required services. The regional commission
682 or community service provider shall develop a sustainability
683 business plan within thirty (30) days of being placed on
684 probation, which shall be signed by all commissioners and shall
685 include policies to address one or more of the following: the
686 deficiencies in programmatic services, clinical service staff
687 expectations, timely and appropriate billing, processes to obtain
688 credentialing for staff, monthly reporting processes, third-party
689 financial reporting and any other required documentation as
690 determined by the department. After the six-month probationary
691 period, if the department determines that the regional commission
692 or community service provider still does not meet the minimum
693 standards and minimum required services established for
694 certification, the department may remove the certification of the
695 commission or provider, and from and after July 1, 2011, the
696 commission or provider shall be ineligible for state funds from
697 Medicaid reimbursement or other funding sources for those
698 services. After the six-month probationary period, the Department
699 of Mental Health may identify an appropriate community service
700 provider to provide any * * * mental health services in * * * the
701 region or county that are not provided by a community mental



702 health center. However, the department shall not offer
703 reimbursement or other accommodations to a community service
704 provider of * * * mental health services that were not offered to
705 the decertified community mental health center for the same or
706 similar services.

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

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

724 (* * * f) To enter into contracts and to make such
725 other arrangements as may be necessary, from time to time, with
726 the United States government, the government of the State of



727 Mississippi and such other agencies or governmental bodies as may
728 be approved by and acceptable to the regional commission for the
729 purpose of establishing, funding, constructing, operating and
730 maintaining facilities and services for the care, treatment and
731 rehabilitation of persons suffering from mental illness, an
732 intellectual disability, alcoholism, developmental and learning
733 disabilities, narcotic addiction, drug abuse, drug dependence and
734 other illnesses, disorders, handicaps and problems (including the
735 problems of the aging) as designated and certified by the
736 Department of Mental Health.

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

750 (* * *h) To promote the general mental health of the
751 people of the region.



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

762 (* * *j) To employ and compensate any personnel that
763 may be necessary to effectively carry out the programs and
764 services established under the provisions of the aforesaid act,
765 provided such person meets the standards established by the State
766 Board of Mental Health or the Department of Mental Health.

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

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



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

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

798 (* * *o) To acquire, own and dispose of real and
799 personal property. Any real and personal property paid for with
800 state and/or county appropriated funds must have the written



801 approval of the Department of Mental Health and/or the county
802 board of supervisors, depending on the original source of funding,
803 before being disposed of under this paragraph.

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

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

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

824 (* * *s) To provide direct or indirect funding,
825 grants, financial support and assistance for any health



826 maintenance organization, preferred provider organization or other
827 managed care entity or contractor, where such organization, entity
828 or contractor is operated on a nonprofit basis. Any action under
829 this paragraph affecting more than one (1) region must have prior
830 written approval of the Department of Mental Health before being
831 initiated and annually thereafter.

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

839 (* * *u) To meet at least annually with the board of
840 supervisors of each county in its region for the purpose of
841 presenting its total annual budget and total mental
842 health/intellectual disability services system. The commission
843 shall submit an annual report on the adult mental health services,
844 children mental health services and intellectual disability
845 services required by the State Board of Mental Health.

846 (* * *y) To provide alternative living arrangements
847 for persons with serious mental illness, including, but not
848 limited to, group homes for persons with chronic mental illness.

849 (* * *w) To make purchases and enter into contracts
850 for purchasing in compliance with the public purchasing law,



851 Sections 31-7-12 and 31-7-13, with compliance with the public
852 purchasing law subject to audit by the State Department of Audit.

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

873 (* * *y) Notwithstanding any other provision of law,
874 to fingerprint and perform a criminal history record check on
875 every employee or volunteer. Every employee or volunteer shall



876 provide a valid current social security number and/or driver's
877 license number that will be furnished to conduct the criminal
878 history record check. If no disqualifying record is identified at
879 the state level, fingerprints shall be forwarded to the Federal
880 Bureau of Investigation for a national criminal history record
881 check.

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

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

892 (ii) A Mississippi licensed physician must be
893 employed or under agreement with the regional commission to
894 provide medical direction and/or to carry out the physician
895 responsibilities as described under applicable state and/or
896 federal law and regulations.

897 (iii) The physician providing medical
898 direction for the primary care clinic shall not be certified
899 solely in psychiatry.



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

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

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

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

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



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

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

934 (* * *aa) In general to take any action which will
935 promote, either directly or indirectly, any and all of the
936 foregoing purposes.

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

943 (2) The types of services established by the State
944 Department of Mental Health that must be provided by the regional
945 mental health/intellectual disability centers for certification by
946 the department, and the minimum levels and standards for those
947 services established by the department, shall be provided by the
948 regional mental health/intellectual disability centers to children



949 when such services are appropriate for children, in the
950 determination of the department.

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

- 955 (a) Balance sheet;
- 956 (b) Statement of operations;
- 957 (c) Statement of cash flows; and
- 958 (d) Description of the status of individual community
959 health center's actions taken to increase access to and
960 availability of community mental health services.

961 (4) Each community mental health center shall be the entity
962 in its region responsible for delivering mental health services.
963 Each community mental health center shall deliver mental health
964 services in accordance with the rules, regulations, operational
965 standards, performance standards and other standards promulgated
966 by the State Board of Mental Health or the Department of Mental
967 Health.

968 (a) During the pre-affidavit screening process of
969 persons in its region, the community mental health center shall
970 determine, in accordance with the standards promulgated by the
971 State Board of Mental Health or the State Department of Mental
972 Health, whether the person meets the criteria for the intensive
973 community services available in its region and shall make those



974 services available to the persons as appropriate under the
975 standards promulgated by the department. During the pre-affidavit
976 screening process, the community mental health center shall
977 consider all persons who are civilly committed in its region for
978 treatment in a crisis stabilization unit to attempt to divert the
979 person from placement in a state hospital. The community mental
980 health center shall provide temporary care and maintenance, as
981 specified in Section 19-5-43, to persons during the civil
982 commitment process.

983 (b) Prior to a person's discharge from a state
984 hospital, staff of the community mental health center that will be
985 servicing the person upon discharge shall meet with the person,
986 either in person or via videoconference, to conduct assertive
987 engagement and enroll the person in appropriate services.

988 (5) On or before July 1 of each year, each community mental
989 health center shall report the annual salary and fringe benefits
990 of its executive director and any other officer with an annual
991 salary of more than One Hundred Thousand Dollars (\$100,000.00) to
992 the State Department of Mental Health. As of July 1, 2024, no
993 community mental health center's executive director shall be paid
994 an annual salary greater than one hundred twenty percent (120%) of
995 the salary received by the Executive Director of the Department of
996 Mental Health.

997 (6) On or before August 1 of each year, each community
998 mental health center shall report its cash balance as of the



999 preceding June 30 to the State Department of Mental Health and
1000 shall include in its annual operational plan a detailed proposal
1001 for how it intends to utilize its excess cash balance in the
1002 fiscal year commencing on the applicable July 1 of each year. The
1003 proposal shall describe how the community mental health center
1004 will utilize its cash balance to provide treatment to individuals
1005 with a serious mental illness, a serious emotional disturbance, a
1006 substance-use disorder or an intellectual or developmental
1007 disability. If after six (6) months, the community mental health
1008 center is not on course to meet its expenditure goal, the
1009 department shall give the regional commission or community mental
1010 health center a six-week probationary period to come into
1011 compliance with its expenditure goal. If the community mental
1012 health center does not come into compliance with its expenditure
1013 proposal after the six-week probationary period, the department
1014 may direct control of the community mental health center's excess
1015 cash balance to implement the expenditures toward providing
1016 community mental health services. The department shall remain in
1017 control of the community mental health center's cash balance until
1018 it determines in reasonable judgement that the community mental
1019 health center has attained sustained compliance with its
1020 expenditure plan. For the purposes of this subsection, the term
1021 "cash balance" means the amount of cash or cash equivalents that a
1022 community mental health center has in its account(s) in any bank
1023 or other financial institution of any kind or on hand as of June



1024 30 of the applicable year. For the purpose of this subsection,
1025 the term "excess cash" means the cash balance exceeding fifty
1026 percent (50%) of operating revenue for the related year cash is
1027 being reported. No community mental health center shall expend
1028 more than fifty percent (50%) of its excess cash balance in any
1029 fiscal year without the express written permission of the
1030 department. To the fullest extent reasonably feasible, each
1031 community mental health center shall utilize its cash balance to
1032 provide community mental health services.

1033 **SECTION 3.** Section 41-21-65, Mississippi Code of 1972, is
1034 amended as follows:

1035 41-21-65. (1) It is the intention of the Legislature that
1036 the filing of an affidavit under this section be a simple,
1037 inexpensive, uniform, and streamlined process for the purpose of
1038 facilitating and expediting the care of individuals in need of
1039 treatment.

1040 (2) The Uniform Civil Commitment Affidavit developed by the
1041 Department of Mental Health under this section must be provided by
1042 the clerk of the chancery court to any party or affiant seeking a
1043 civil commitment under this section, and must be utilized in all
1044 counties to commence civil commitment proceedings under this
1045 section. The affidavit must be made available to the public on
1046 the website of the Mississippi Department of Mental Health.

1047 (3) The Department of Mental Health, in consultation with
1048 the Mississippi Chancery Clerks Association, the Mississippi



1049 Conference of Chancery Court Judges and the Mississippi
1050 Association of Community Mental Health Centers, must develop a
1051 written guide setting out the steps in the commitment process no
1052 later than January 1, 2020. The guide shall be designated as the
1053 "Uniform Civil Commitment Guide" and must include, but not be
1054 limited to, the following:

1055 (a) Steps in the civil commitment process from
1056 affidavit to commitment, written in easily understandable layman's
1057 terms;

1058 (b) A schedule of fees and assessments that will be
1059 charged to commence a commitment proceeding under this section;

1060 (c) Eligibility requirements and instructions for
1061 filing a pauper's affidavit; and

1062 (d) A statement on the front cover of the guide
1063 advising that persons wishing to pursue a civil commitment under
1064 this section are not required to retain an attorney for any
1065 portion of the commitment process.

1066 (4) Immediately upon availability, but no later than January
1067 1, 2020, the Uniform Civil Commitment Guide must be provided by
1068 the clerk of the chancery court to any party or affiant seeking a
1069 civil commitment under this section and also must be made
1070 available to the public on the website of the Mississippi
1071 Department of Mental Health.

1072 (5) If any person is alleged to be in need of treatment, any
1073 relative of the person, or any interested person, may make



1074 affidavit of that fact and shall file the Uniform Civil Commitment
1075 Affidavit with the clerk of the chancery court of the county in
1076 which the person alleged to be in need of treatment resides, but
1077 the chancellor or duly appointed special master may, in his or her
1078 discretion, hear the matter in the county in which the person may
1079 be found. Prior to filing an affidavit for commitment of an
1080 individual, the interested person shall be directed to the
1081 community mental health center for a pre-affidavit screening as
1082 set forth in Section 41-21-67. Pre-affidavit screening is
1083 mandatory and must be completed before any affidavit for
1084 commencement is filed. The affidavit shall set forth the name and
1085 address of the proposed patient's nearest relatives and whether
1086 the proposed patient resides or has visitation rights with any
1087 minor children, if known, and the reasons for the affidavit. The
1088 affidavit must contain factual descriptions of the proposed
1089 patient's recent behavior, including a description of the
1090 behavior, where it occurred, and over what period of time it
1091 occurred, if known. The affidavit shall state that less
1092 restrictive alternative treatment was considered and specify why
1093 treatment less restrictive than involuntary commitment is not
1094 appropriate. Each factual allegation may be supported by
1095 observations of witnesses and the pre-affidavit certified screener
1096 named in the affidavit. The Department of Mental Health, in
1097 consultation with the Mississippi Chancery Clerks' Association,
1098 shall develop a simple, one-page affidavit form for the use of



1099 affiants as provided in this section. The affidavit also must
1100 state whether the affiant has * * * received notice of the
1101 pre-affidavit screening from the community mental health center
1102 determining whether the alleged acts by the proposed respondent
1103 warrant civil commitment in lieu of other less-restrictive
1104 treatment options. No chancery clerk shall require an affiant to
1105 retain an attorney for the filing of an affidavit under this
1106 section.

1107 (6) The chancery clerk may charge a total filing fee for all
1108 services equal to the amount set out in Section 25-7-9(o), and the
1109 appropriate state and county assessments as required by law which
1110 include, but are not limited to, assessments for the Judicial
1111 Operation Fund (Section 25-7-9(3)(b)); the Electronic Court System
1112 Fund (Section 25-7-9(3)(a)); the Civil Legal Assistance Fund
1113 (Section 25-7-9(1)(k)); the Court Education and Training Fund
1114 (Section 37-26-3); State Court Constituent's Fund (Section
1115 37-26-9(4)); and reasonable court reporter's fee. Costs
1116 incidental to the court proceedings as set forth in Section
1117 41-21-79 may not be included in the assessments permitted by this
1118 subsection. The total of the fees and assessments permitted by
1119 this subsection may not exceed One Hundred Fifty Dollars
1120 (\$150.00).

1121 (7) The prohibition against charging the affiant other fees,
1122 expenses, or costs shall not preclude the imposition of monetary
1123 criminal penalties under Section 41-21-107 or any other criminal



1124 statute, or the imposition by the chancellor or duly appointed
1125 special master of monetary penalties for contempt if the affiant
1126 is found to have filed an intentionally false affidavit or filed
1127 the affidavit in bad faith for a malicious purpose.

1128 (8) Nothing in this section shall be construed so as to
1129 conflict with Section 41-21-63.

1130 **SECTION 4.** Section 41-21-67, Mississippi Code of 1972, is
1131 amended as follows:

1132 41-21-67. (1) (a) Prior to filing an affidavit for
1133 commitment of an individual, the interested person shall be
1134 directed to the community mental health center in the county of
1135 financial responsibility or the county where the proposed patient
1136 is present for the conduct of a preliminary investigation to
1137 determine the need to file an affidavit of involuntary commitment.
1138 The pre-affidavit screening must be completed within twenty-four
1139 (24) hours of the community mental health center being notified.
1140 The community mental health center shall appoint a pre-affidavit
1141 certified screener to conduct an investigation. Any physician,
1142 psychologist, nurse practitioner or physician assistant conducting
1143 a screening or examination shall immediately report back to the
1144 community mental health center. Once a community mental health
1145 center receives such report, it is responsible for further action.

1146 If the community mental health center is unavailable, any
1147 reputable licensed physician, psychologist, nurse practitioner or
1148 physician assistant, as allowed in the discretion of the court,



1149 may conduct the pre-affidavit screening and examination as set
1150 forth in Section 41-21-69. The prospective petitioner may not
1151 also serve as the screener. The investigation must include:

1152 (i) An interview with the proposed patient and
1153 other individuals who appear to have knowledge of the condition of
1154 the proposed patient, if practicable. In-person interviews with
1155 the proposed patient are preferred. If the proposed patient is
1156 not interviewed, specific reasons why the patient was not
1157 interviewed must be documented;

1158 (ii) Identification and investigation of specific
1159 alleged conduct which is the basis for application;

1160 (iii) Identification, exploration, and listing of
1161 the specific reasons for rejecting or recommending alternatives to
1162 involuntary commitment; and

1163 (iv) In the case of a commitment based on mental
1164 illness, information listed in paragraph (d) of this subsection
1165 for other purposes relevant to treatment.

1166 (b) In conducting the investigation required by this
1167 subsection, the screener shall have access to all relevant medical
1168 records of proposed patients currently in treatment facilities,
1169 state-operated treatment programs, or community-based treatment
1170 programs. The interviewer shall inform the proposed patient that
1171 any information provided by the proposed patient may be included
1172 in the pre-affidavit screening report and may be considered in the
1173 commitment proceedings. Data collected pursuant to this paragraph



1174 shall be considered private data on individuals. The
1175 pre-affidavit screening report is not admissible as evidence
1176 except by agreement of counsel or as permitted by the rules of
1177 court and is not admissible in any court proceedings unrelated to
1178 the commitment proceedings.

1179 (c) The pre-affidavit certified screener shall provide
1180 a notice, written in easily understood language, to the proposed
1181 patient, the prospective petitioner, the court, and, with the
1182 proposed patient's consent, other interested parties. The
1183 screener shall ask the patient if the patient wants the notice
1184 read and shall read the notice to the patient upon request. The
1185 notice must contain information regarding the process, purpose,
1186 and legal effects of civil commitment. The notice must inform the
1187 proposed patient that:

1188 (i) If an affidavit for involuntary commitment is
1189 filed, the patient has certain rights, including the right to a
1190 court-appointed attorney, the right to attend hearings, and the
1191 right to oppose the proceeding and to present and contest
1192 evidence; and

1193 (ii) If the proposed patient is committed to a
1194 state-operated program, the patient may be billed for the cost of
1195 treatment and the state has a right to make a claim against the
1196 patient's estate for this cost.

1197 (d) When the pre-affidavit certified screener
1198 recommends commitment, a written report shall be sent to the



1199 chancery clerk for the county in which the petition is to be
1200 filed. The statement of facts contained in the written report
1201 must meet the requirements of Section 41-21-65(5), including a
1202 certification that less restrictive alternative treatment was
1203 considered and specific enumerated reasons why treatment less
1204 restrictive than involuntary commitment is not appropriate.

1205 (e) The pre-affidavit certified screener shall refuse
1206 to support the filing of an affidavit if the investigation does
1207 not disclose evidence sufficient to support commitment. Notice of
1208 the pre-affidavit certified screener's decision shall be provided
1209 to the prospective petitioner, the court, any specific individuals
1210 identified in the examiner's statement, and to the proposed
1211 patient.

1212 (f) If the interested person wishes to proceed with a
1213 petition contrary to the recommendation of the pre-affidavit
1214 certified screener, application may be made directly to the
1215 chancellor or duly appointed special master, who shall determine
1216 whether or not to proceed with the petition. Notice of the
1217 chancellor's, or duly appointed special master's determination
1218 shall be provided to the interested party.

1219 (* * *2) * * * The authority of the chancellor may be
1220 exercised by a duly appointed special master within the chancery
1221 district. After a pre-affidavit screener has attempted to
1222 complete the screening, if the person is actively violent or
1223 refuses to participate in the pre-affidavit screening and the



1224 screening cannot be completed, then upon recommendation of the
1225 community mental health center, the affidavit can be filed and a
1226 writ issued for a sheriff to intervene. After completing the
1227 pre-affidavit screening required by subsection (1) of this
1228 section, receiving the written report from the pre-affidavit
1229 certified screener, and upon filing of the affidavit provided for
1230 in Section 41-21-65 * * *, the chancery clerk, upon direction of
1231 the chancellor or duly appointed special master of the court,
1232 shall issue a writ directed to the sheriff of the proper county to
1233 take into custody the person alleged to be in need of treatment
1234 and to take the person for * * * mental and physical examination
1235 and treatment by the appropriate community mental health center
1236 established under Section 41-19-31. The community mental health
1237 center will be designated as the first point of entry for * * *
1238 pre-affidavit screening and treatment. * * * The * * * writ may
1239 provide where the person shall be held before being taken
1240 for * * * evaluation and treatment, which can include any licensed
1241 medical facility or crisis stabilization unit. * * *
1242 Reapplication may be made to the chancellor or duly appointed
1243 special master. If a pauper's affidavit is filed by an affiant
1244 who is a guardian or conservator of a person in need of treatment,
1245 the court shall determine if either the affiant or the person in
1246 need of treatment is a pauper and if * * * the affiant or the
1247 person in need of treatment is determined to be a pauper, the
1248 county of the residence of the respondent shall bear the costs of



1249 commitment, unless funds for those purposes are made available by
1250 the state.

1251 In any county in which a Crisis Intervention Team has been
1252 established under the provisions of Sections 41-21-131 through
1253 41-21-143, the clerk, upon the direction of the chancellor or duly
1254 appointed special master, may require that the person be referred
1255 to the Crisis Intervention Team for appropriate psychiatric or
1256 other medical services before the issuance of the writ.

1257 (* * *3) Upon * * * receiving the written report from the
1258 pre-affidavit screening and a filed affidavit of commitment, the
1259 chancellor or duly appointed special master shall immediately
1260 appoint and summon two (2) reputable, licensed physicians or one
1261 (1) reputable, licensed physician and either one (1) psychologist,
1262 nurse practitioner or physician assistant to conduct a physical
1263 and mental examination of the person at a place to be designated
1264 by the clerk * * *, chancellor or duly appointed special master
1265 and to report their findings to the clerk * * *, chancellor or
1266 duly appointed special master. However, if the pre-affidavit
1267 screening recommends against commitment, the chancellor or duly
1268 appointed special master may refuse to appoint two (2) physicians
1269 to conduct a physical and mental examination. However, any nurse
1270 practitioner or physician assistant conducting the examination
1271 shall be independent from, and not under the supervision of, the
1272 other physician conducting the examination. A nurse practitioner
1273 or psychiatric nurse practitioner conducting an examination under



1274 this chapter must be functioning within a collaborative or
1275 consultative relationship with a physician as required under
1276 Section 73-15-20(3). In all counties in which there is a county
1277 health officer, the county health officer, if available, may be
1278 one (1) of the physicians so appointed. If a licensed physician
1279 is not available to conduct the physical and mental examination
1280 within forty-eight (48) hours of the * * * pre-affidavit
1281 screening, the court, in its discretion and upon good cause shown,
1282 may permit the examination to be conducted by the following: (a)
1283 two (2) nurse practitioners, one (1) of whom must be a psychiatric
1284 nurse practitioner; or (b) one (1) psychiatric nurse practitioner
1285 and one (1) psychologist or physician assistant. Neither of the
1286 physicians nor the psychologist, nurse practitioner or physician
1287 assistant selected shall be related to that person in any way, nor
1288 have any direct or indirect interest in the estate of that person
1289 nor shall any full-time staff of residential treatment facilities
1290 operated directly by the State Department of Mental Health serve
1291 as examiner.

1292 (* * *4) The clerk shall ascertain whether the respondent
1293 is represented by an attorney, and if it is determined that the
1294 respondent does not have an attorney, the clerk shall immediately
1295 notify the chancellor or duly appointed special master of that
1296 fact. If the chancellor or duly appointed special master
1297 determines that the respondent for any reason does not have the
1298 services of an attorney, the chancellor or duly appointed special



1299 master shall immediately appoint an attorney for the respondent at
1300 the time the examiners are appointed.

1301 (* * *5) (a) If the chancellor or duly appointed special
1302 master determines that there is probable cause to believe that the
1303 respondent is mentally ill and that there is no reasonable
1304 alternative to detention, the chancellor or duly appointed special
1305 master may order that the respondent be retained as an emergency
1306 patient at any licensed medical facility, crisis stabilization
1307 unit or any other available suitable location for evaluation by a
1308 physician, nurse practitioner or physician assistant and that a
1309 peace officer transport the respondent to the specified facility.
1310 If the community mental health center serving the county has
1311 partnered with Crisis Intervention Teams under the provisions of
1312 Sections 41-21-131 through 41-21-143, the order may specify that
1313 the licensed medical facility be a designated single point of
1314 entry within the county or within an adjacent county served by the
1315 community mental health center. If the person evaluating the
1316 respondent finds that the respondent is mentally ill and in need
1317 of treatment, the chancellor or duly appointed special master may
1318 order that the respondent be retained at the licensed medical
1319 facility, crisis stabilization unit or any other available
1320 suitable location as the court may so designate pending an
1321 admission hearing. If necessary, the chancellor or duly appointed
1322 special master may order a peace officer or other person to
1323 transport the respondent to that facility or suitable location.



1324 Any respondent so retained may be given such treatment as is
1325 indicated by standard medical practice. However, the respondent
1326 shall not be held in a hospital operated directly by the State
1327 Department of Mental Health * * *.

1328 (b) A jail or other detention center may not be used
1329 for custody unless:

1330 (i) The community mental health center has
1331 explored and exhausted the availability of other appropriate
1332 facilities, including local crisis stabilization units and
1333 hospitals, and any Department of Mental Health certified location;

1334 (ii) The chancellor or properly-appointed family
1335 master specifically authorizes it; and

1336 (iii) The respondent is actively violent.

1337 (c) The community mental health center shall provide
1338 documentation of the person's violent behavior and that no other
1339 appropriate facilities are available to the chancellor or duly
1340 appointed special master. The county of residence of any such
1341 person shall pay the cost of such interim treatment. No person
1342 may remain in a jail for longer than twenty-four (24) hours under
1343 the authority of this paragraph. The responsible community mental
1344 health center shall provide treatment during this timeframe
1345 pending placement at an appropriate facility.

1346 (d) No law enforcement officer or any other person
1347 shall bring criminal charges against a person who is mentally ill
1348 and in need of treatment pursuant to this chapter solely or



1349 primarily because the person is mentally ill or because of the
1350 unavailability of a state hospital bed.

1351 (e) For the purposes of this subsection (5), "actively
1352 violent" means that the behavior presents an immediate and serious
1353 danger to the safety of the individual or another, the individual
1354 has inflicted or attempted to inflict serious bodily harm on
1355 another, or has acted in such a way as to create a substantial
1356 risk of serious bodily harm to another, or has engaged in extreme
1357 destruction of property; and that there is a reasonable
1358 probability that this conduct will be repeated.

1359 (* * *6) (a) Whenever a licensed psychologist, nurse
1360 practitioner or physician assistant who is certified to complete
1361 examinations for the purpose of commitment or a licensed physician
1362 has reason to believe that a person poses an immediate substantial
1363 likelihood of physical harm to himself or others or is gravely
1364 disabled and unable to care for himself by virtue of mental
1365 illness, as defined in Section 41-21-61(e), then the physician,
1366 psychologist, nurse practitioner or physician assistant may hold
1367 the person or may admit the person to and treat the person in a
1368 licensed medical facility, without a civil order or warrant for a
1369 period not to exceed seventy-two (72) hours. However, if the
1370 seventy-two-hour period begins or ends when the chancery clerk's
1371 office is closed, or within three (3) hours of closing, and the
1372 chancery clerk's office will be continuously closed for a time
1373 that exceeds seventy-two (72) hours, then the seventy-two-hour



1374 period is extended until the end of the next business day that the
1375 chancery clerk's office is open. The person may be held and
1376 treated as an emergency patient at any licensed medical facility,
1377 available regional mental health facility, or crisis * * *
1378 stabilization unit. The physician or psychologist, nurse
1379 practitioner or physician assistant who holds the person shall
1380 certify in writing the reasons for the need for holding.

1381 If a person is being held and treated in a licensed medical
1382 facility, and that person decides to continue treatment by
1383 voluntarily signing consent for admission and treatment, the
1384 seventy-two-hour hold may be discontinued without filing an
1385 affidavit for commitment. Any respondent so held may be given
1386 such treatment as indicated by standard medical practice. Persons
1387 acting in good faith in connection with the detention and
1388 reporting of a person believed to be mentally ill shall incur no
1389 liability, civil or criminal, for those acts.

1390 (b) Whenever an individual is held for purposes of
1391 receiving treatment as prescribed under paragraph (a) of this
1392 subsection, and it is communicated to the mental health
1393 professional holding the individual that the individual resides or
1394 has visitation rights with a minor child, and if the individual is
1395 considered to be a danger to the minor child, the mental health
1396 professional shall notify the Department of Child Protection
1397 Services prior to discharge if the threat of harm continues to
1398 exist, as is required under Section 43-21-353.



1399 This paragraph (b) shall be known and may be cited as the
1400 "Andrew Lloyd Law."

1401 **SECTION 5.** Section 41-21-68, Mississippi Code of 1972, is
1402 amended as follows:

1403 41-21-68. (1) Regional commissions established under
1404 Section 41-19-31 et seq. are authorized to establish regional
1405 holding facilities for the treatment and holding of any person
1406 eighteen (18) years of age or older being held for the purpose of
1407 civil commitment. If a regional commission has not established a
1408 regional holding facility in accordance with this section, the
1409 regional commission shall otherwise comply with the provisions of
1410 this chapter regarding treatment facilities.

1411 (2) For the purpose of establishing regional holding
1412 facilities, each regional commission is authorized to create a
1413 holding facility fund and enter into holding facility cooperative
1414 agreements with counties both inside and outside the regional
1415 commission's designated region. Each county electing to use a
1416 regional holding facility may contribute to the regional
1417 commission's holding facility fund. The State of Mississippi may
1418 match the county's contribution by paying not more than Two
1419 Dollars (\$2.00) into the holding facility fund for each One Dollar
1420 (\$1.00) received from the counties, if sufficient funds are
1421 available.

1422 (3) Crisis stabilization units operating and receiving state
1423 funds from the Department of Mental Health as of January 1, 2015,



1424 shall not be eligible for the holding facility state matching
1425 contributions provided for in this section. The matching funds
1426 provided for in this section shall only be allocated to holding
1427 facilities established under this section. Regional commissions
1428 requesting decertification of any such crisis stabilization unit
1429 to reestablish the unit as a regional holding facility under this
1430 section in order to be eligible for state matching contributions
1431 may do so only with the approval of the Department of Mental
1432 Health.

1433 (4) Counties not contributing to a regional commission
1434 holding facility fund shall not be entitled to use of a holding
1435 facility. No patient shall be ordered by any court to a holding
1436 facility established under this section if the county in which the
1437 commitment action is pending has not entered into a cooperative
1438 agreement with a regional commission and has not made a
1439 contribution to a regional commission holding facility fund.

1440 (5) Holding facilities established under this section shall
1441 at a minimum comply with the operational standards for holding
1442 facilities established by the Department of Mental Health.
1443 Holding facilities may also seek designation and certification as
1444 a crisis stabilization unit, single point of entry, and other type
1445 of treatment facility so that they may receive reimbursement from
1446 the Division of Medicaid for eligible patients.

1447 (6) Holding facilities and committing courts shall not
1448 remove persons from the holding facility unless the removal is for



1449 clinical purposes. Persons taken to a holding facility
1450 established under this section and any treatment professionals
1451 called as witnesses shall not be required to appear at the court's
1452 location for commitment proceedings, except when extraordinary
1453 circumstances are found and determined as reflected by a written
1454 order of the chancellor or duly appointed special master. For the
1455 purpose of civil commitment hearings, persons being committed and
1456 treatment professionals may participate through videoconferencing.
1457 Holding facilities established under this section shall have the
1458 capacity and ability to provide videoconferencing between the
1459 person being held, the committing court, and treatment
1460 professionals. Any attorney for the person being held shall be
1461 present at the location of the person during videoconferenced
1462 hearings and shall have the ability to consult in private with the
1463 person.

1464 (7) Holding facilities are authorized to provide any
1465 necessary treatment in person or through the use of
1466 videoconferencing between the person and the treatment
1467 professional.

1468 (8) For purposes of public participation, jurisdiction and
1469 venue, the location of the commitment actions for persons being
1470 held at holding facilities established under this section shall be
1471 deemed to be the county of the committing court, even though the
1472 individual being committed and treatment professionals may be
1473 physically located in other jurisdictions when participating in



1474 any hearing through videoconference. The jurisdiction of the
1475 committing court and law enforcement officials transporting
1476 persons to holding facilities shall extend to other jurisdictions
1477 for the purpose of conducting hearings held by videoconferencing,
1478 and for the purpose of holding and transporting individuals to
1479 holding facilities established under this section.

1480 (9) Persons being held or detained for the purpose of civil
1481 commitment shall not have a jail photograph or "mug shot"
1482 published, except as permitted under Section 41-21-97. Persons
1483 and businesses who publish those photographs shall immediately
1484 remove the photographs from publication, and destroy any and all
1485 copies of those photographs in their possession.

1486 **SECTION 6.** Section 41-21-73, Mississippi Code of 1972, is
1487 amended as follows:

1488 41-21-73. (1) The hearing shall be conducted before the
1489 chancellor or duly appointed special master. However, the hearing
1490 may be held at the location where the respondent is being held.
1491 Within a reasonable period of time before the hearing, notice of
1492 same shall be provided the respondent and his attorney, which
1493 shall include: (a) notice of the date, time and place of the
1494 hearing; (b) a clear statement of the purpose of the hearing; (c)
1495 the possible consequences or outcome of the hearing; (d) the facts
1496 that have been alleged in support of the need for commitment; (e)
1497 the names, addresses and telephone numbers of the examiner(s); and
1498 (f) other witnesses expected to testify.



1499 (2) The respondent must be present at the hearing unless the
1500 chancellor or duly appointed special master determines that the
1501 respondent is unable to attend and makes that determination and
1502 the reasons therefor part of the record. At the time of the
1503 hearing, the respondent shall not be so under the influence or
1504 suffering from the effects of drugs, medication or other treatment
1505 so as to be hampered in participating in the proceedings. The
1506 court, at the time of the hearing, shall be presented a record of
1507 all drugs, medication or other treatment that the respondent has
1508 received pending the hearing, unless the court determines that
1509 such a record would be impractical and documents the reasons for
1510 that determination.

1511 (3) The respondent shall have the right to offer evidence,
1512 to be confronted with the witnesses against him and to
1513 cross-examine them and shall have the privilege against
1514 self-incrimination. The rules of evidence applicable in other
1515 judicial proceedings in this state shall be followed.

1516 (4) If the court finds by clear and convincing evidence that
1517 the proposed patient is a person with mental illness or a person
1518 with an intellectual disability and, if after careful
1519 consideration of reasonable alternative dispositions, including,
1520 but not limited to, dismissal of the proceedings, the court finds
1521 that there is no suitable alternative to judicial commitment, the
1522 court shall commit the patient for treatment in the least
1523 restrictive treatment facility that can meet the patient's



1524 treatment needs. However, if the person is receiving acute
1525 psychiatric treatment for a mental illness or an intellectual
1526 disability in a treatment facility at the time of the hearing, the
1527 person may not be committed to a state-operated facility unless,
1528 in addition to all other requirements of this subsection, the
1529 affiant for commitment shows by clear and convincing evidence that
1530 the treatment the person requires is not available in the facility
1531 the person is being treated in at the time of the hearing, and
1532 that the treatment the person requires is available only in the
1533 state-operated facility whose catchment area includes the person's
1534 county of residence. If treatment is only available at a
1535 state-operated facility, the patient shall be discharged from the
1536 treating facility. For the purposes of this subsection (4),
1537 transfers of inpatients from any treatment facility are considered
1538 discharges for documentation and statistical purposes. Treatment
1539 before admission to a state-operated facility shall be located as
1540 closely as possible to the patient's county of residence and the
1541 county of residence shall be responsible for that cost.
1542 Admissions to state-operated facilities shall be in compliance
1543 with the catchment areas established by the State Department of
1544 Mental Health. A nonresident of the state may be committed for
1545 treatment or confinement in the county where the person was found.
1546 A person who has been judicially committed under this section
1547 shall not be held in a jail or other detention facility while that
1548 person is awaiting admission to a state-operated facility. In all



1549 instances where admission to a state-operated facility is not
1550 available at the time a person is judicially committed under this
1551 section, the community mental health center whose catchment area
1552 includes the county from which the commitment order was issued
1553 must place the person in a treatment facility to receive interim
1554 treatment until admission to a state-operated facility is
1555 available. The county of residence of any such person shall pay
1556 the cost of such interim treatment.

1557 Alternatives to commitment to inpatient care may include, but
1558 shall not be limited to: voluntary or court-ordered outpatient
1559 commitment for treatment with specific reference to a treatment
1560 regimen, day treatment in a hospital, night treatment in a
1561 hospital, placement in the custody of a friend or relative, or the
1562 provision of home health services.

1563 For persons committed as having mental illness or having an
1564 intellectual disability, the initial commitment shall not exceed
1565 three (3) months.

1566 (5) No person shall be committed to a treatment facility
1567 whose primary problems are the physical disabilities associated
1568 with old age or birth defects of infancy.

1569 (6) The court shall state the findings of fact and
1570 conclusions of law that constitute the basis for the order of
1571 commitment. The findings shall include a listing of less
1572 restrictive alternatives considered by the court and the reasons
1573 that each was found not suitable.



1574 (7) A stenographic transcription shall be recorded by a
1575 stenographer or electronic recording device and retained by the
1576 court.

1577 (8) Notwithstanding any other provision of law to the
1578 contrary, neither the State Board of Mental Health or its members,
1579 nor the State Department of Mental Health or its related
1580 facilities, nor any employee of the State Department of Mental
1581 Health or its related facilities, unless related to the respondent
1582 by blood or marriage, shall be assigned or adjudicated custody,
1583 guardianship, or conservatorship of the respondent.

1584 (9) The county where a person in need of treatment is found
1585 is authorized to charge the county of the person's residence for
1586 the costs incurred while the person is confined in the county
1587 where such person was found.

1588 **SECTION 7.** Section 41-21-77, Mississippi Code of 1972, is
1589 amended as follows:

1590 41-21-77. (1) If admission is ordered at a treatment
1591 facility, the sheriff, his or her deputy or any other person
1592 appointed or authorized by the court shall immediately deliver the
1593 respondent to the director of the appropriate facility. Neither
1594 the Board of Mental Health or its members, nor the Department of
1595 Mental Health or its related facilities, nor any employee of the
1596 Department of Mental Health or its related facilities, shall be
1597 appointed, authorized or ordered to deliver the respondent for
1598 treatment, and no person shall be so delivered or admitted until



1599 the director of the admitting institution determines that
1600 facilities and services are available. Persons who have been
1601 ordered committed and are awaiting admission may be given any such
1602 treatment in the facility by a licensed physician as is indicated
1603 by standard medical practice. * * * However, a jail or detention
1604 center may not be used for persons who are awaiting admission
1605 unless the community mental health center has explored and
1606 exhausted the availability of other appropriate facilities, such
1607 as the crisis stabilization unit and the local hospital; the
1608 chancellor or duly appointed special master specifically
1609 authorizes it; and the respondent is actively violent. The
1610 community mental health center shall provide documentation of the
1611 person's violent behavior and that no other appropriate facilities
1612 are available to the chancellor or duly appointed special master.
1613 Under these circumstances, no person may remain in a jail for
1614 longer than twenty-four (24) hours, and the community mental
1615 health center shall provide treatment during this timeframe
1616 pending placement at an appropriate facility. No peace officer or
1617 any other person shall place criminal charges against a person who
1618 is mentally ill and in need of treatment pursuant to this chapter
1619 solely or primarily because the person is mentally ill or because
1620 of the unavailability of a state hospital bed. For the purposes
1621 of this subsection, "actively violent" means that the behavior
1622 presents an immediate and serious danger to the safety of the
1623 individual or another, the individual has inflicted or attempted



1624 to inflict serious bodily harm on another, or has acted in such a
1625 way as to create a substantial risk of serious bodily harm to
1626 another, or has engaged in extreme destruction of property; and
1627 there is a reasonable probability that this conduct will be
1628 repeated. No person shall be delivered or admitted to any
1629 non-Department of Mental Health treatment facility unless the
1630 treatment facility is licensed and/or certified to provide the
1631 appropriate level of psychiatric care for persons with mental
1632 illness. It is the intent of this Legislature that county-owned
1633 hospitals work with regional community mental health/intellectual
1634 disability centers in providing care to local patients. The clerk
1635 shall provide the director of the admitting institution with a
1636 certified copy of the court order, a certified copy of the
1637 appointed examiners' certificates, a certified copy of the
1638 affidavit, and any other information available concerning the
1639 physical and mental condition of the respondent. Upon
1640 notification from the United States Veterans Administration or
1641 other agency of the United States government, that facilities are
1642 available and the respondent is eligible for care and treatment in
1643 those facilities, the court may enter an order for delivery of the
1644 respondent to or retention by the Veterans Administration or other
1645 agency of the United States government, and, in those cases the
1646 chief officer to whom the respondent is so delivered or by whom he
1647 is retained shall, with respect to the respondent, be vested with
1648 the same powers as the director of the Mississippi State Hospital



1649 at Whitfield, or the East Mississippi State Hospital at Meridian,
1650 with respect to retention and discharge of the respondent.

1651 (2) (a) When admission to a treatment facility is ordered
1652 by the court, the chancery clerk shall make record of the
1653 admission. Each chancery clerk shall maintain a record of the
1654 number of persons ordered by the court to be admitted to a
1655 treatment facility, the number of hearings held by the court to
1656 determine whether a person should be admitted to a treatment
1657 facility and the number of affidavits filed to admit a person to a
1658 treatment facility under Section 41-21-61 * * * et seq.

1659 (b) The chancery clerk shall maintain a record each
1660 time such clerk receives a denial for admission to a community
1661 mental health center crisis stabilization bed, the reason provided
1662 to the clerk for such denial, and the subsequent action taken by
1663 the clerk upon receiving the denial.

1664 (c) Each chancery clerk shall provide the records
1665 required by paragraphs (a) and (b) of this subsection (2) to the
1666 Department of Mental Health within thirty (30) days of the end of
1667 each calendar quarter. Within sixty (60) days of receipt of the
1668 chancery clerk records, the Department of Mental Health shall
1669 provide a summary to the Chairpersons of the Appropriations,
1670 Public Health and Judiciary A and B Committees for the Mississippi
1671 House of Representatives and the Mississippi Senate, the
1672 Coordinator of Mental Health and the President of the Mississippi
1673 Association of Community Mental Health Centers.



1674 **SECTION 8.** Section 27-104-7, Mississippi Code of 1972, is
1675 amended as follows:

1676 27-104-7. (1) (a) There is created the Public Procurement
1677 Review Board, which shall be reconstituted on January 1, 2018, and
1678 shall be composed of the following members:

1679 (i) Three (3) individuals appointed by the
1680 Governor with the advice and consent of the Senate;

1681 (ii) Two (2) individuals appointed by the
1682 Lieutenant Governor with the advice and consent of the Senate; and

1683 (iii) The Executive Director of the Department of
1684 Finance and Administration, serving as an ex officio and nonvoting
1685 member.

1686 (b) The initial terms of each appointee shall be as
1687 follows:

1688 (i) One (1) member appointed by the Governor to
1689 serve for a term ending on June 30, 2019;

1690 (ii) One (1) member appointed by the Governor to
1691 serve for a term ending on June 30, 2020;

1692 (iii) One (1) member appointed by the Governor to
1693 serve for a term ending on June 30, 2021;

1694 (iv) One (1) member appointed by the Lieutenant
1695 Governor to serve for a term ending on June 30, 2019; and

1696 (v) One (1) member appointed by the Lieutenant
1697 Governor to serve for a term ending on June 30, 2020.



1698 After the expiration of the initial terms, all appointed
1699 members' terms shall be for a period of four (4) years from the
1700 expiration date of the previous term, and until such time as the
1701 member's successor is duly appointed and qualified.

1702 (c) When appointing members to the Public Procurement
1703 Review Board, the Governor and Lieutenant Governor shall take into
1704 consideration persons who possess at least five (5) years of
1705 management experience in general business, health care or finance
1706 for an organization, corporation or other public or private
1707 entity. Any person, or any employee or owner of a company, who
1708 receives any grants, procurements or contracts that are subject to
1709 approval under this section shall not be appointed to the Public
1710 Procurement Review Board. Any person, or any employee or owner of
1711 a company, who is a principal of the source providing a personal
1712 or professional service shall not be appointed to the Public
1713 Procurement Review Board if the principal owns or controls a
1714 greater than five percent (5%) interest or has an ownership value
1715 of One Million Dollars (\$1,000,000.00) in the source's business,
1716 whichever is smaller. No member shall be an officer or employee
1717 of the State of Mississippi while serving as a voting member on
1718 the Public Procurement Review Board.

1719 (d) Members of the Public Procurement Review Board
1720 shall be entitled to per diem as authorized by Section 25-3-69 and
1721 travel reimbursement as authorized by Section 25-3-41.



1722 (e) The members of the Public Procurement Review Board
1723 shall elect a chair from among the membership, and he or she shall
1724 preside over the meetings of the board. The board shall annually
1725 elect a vice chair, who shall serve in the absence of the chair.
1726 No business shall be transacted, including adoption of rules of
1727 procedure, without the presence of a quorum of the board. Three
1728 (3) members shall be a quorum. No action shall be valid unless
1729 approved by a majority of the members present and voting, entered
1730 upon the minutes of the board and signed by the chair. Necessary
1731 clerical and administrative support for the board shall be
1732 provided by the Department of Finance and Administration. Minutes
1733 shall be kept of the proceedings of each meeting, copies of which
1734 shall be filed on a monthly basis with the chairs of the
1735 Accountability, Efficiency and Transparency Committees of the
1736 Senate and House of Representatives and the chairs of the
1737 Appropriations Committees of the Senate and House of
1738 Representatives.

1739 (2) The Public Procurement Review Board shall have the
1740 following powers and responsibilities:

1741 (a) Approve all purchasing regulations governing the
1742 purchase or lease by any agency, as defined in Section 31-7-1, of
1743 commodities and equipment, except computer equipment acquired
1744 pursuant to Sections 25-53-1 through 25-53-29;

1745 (b) Adopt regulations governing the approval of
1746 contracts let for the construction and maintenance of state



1747 buildings and other state facilities as well as related contracts
1748 for architectural and engineering services.

1749 The provisions of this paragraph (b) shall not apply to such
1750 contracts involving buildings and other facilities of state
1751 institutions of higher learning which are self-administered as
1752 provided under this paragraph (b) or Section 37-101-15(m);

1753 (c) Adopt regulations governing any lease or rental
1754 agreement by any state agency or department, including any state
1755 agency financed entirely by federal funds, for space outside the
1756 buildings under the jurisdiction of the Department of Finance and
1757 Administration. These regulations shall require each agency
1758 requesting to lease such space to provide the following
1759 information that shall be published by the Department of Finance
1760 and Administration on its website: the agency to lease the space;
1761 the terms of the lease; the approximate square feet to be leased;
1762 the use for the space; a description of a suitable space; the
1763 general location desired for the leased space; the contact
1764 information for a person from the agency; the deadline date for
1765 the agency to have received a lease proposal; any other specific
1766 terms or conditions of the agency; and any other information
1767 deemed appropriate by the Division of Real Property Management of
1768 the Department of Finance and Administration or the Public
1769 Procurement Review Board. The information shall be provided
1770 sufficiently in advance of the time the space is needed to allow
1771 the Division of Real Property Management of the Department of



1772 Finance and Administration to review and preapprove the lease
1773 before the time for advertisement begins;

1774 (d) Adopt, in its discretion, regulations to set aside
1775 at least five percent (5%) of anticipated annual expenditures for
1776 the purchase of commodities from minority businesses; however, all
1777 such set-aside purchases shall comply with all purchasing
1778 regulations promulgated by the department and shall be subject to
1779 all bid requirements. Set-aside purchases for which competitive
1780 bids are required shall be made from the lowest and best minority
1781 business bidder; however, if no minority bid is available or if
1782 the minority bid is more than two percent (2%) higher than the
1783 lowest bid, then bids shall be accepted and awarded to the lowest
1784 and best bidder. However, the provisions in this paragraph shall
1785 not be construed to prohibit the rejection of a bid when only one
1786 (1) bid is received. Such rejection shall be placed in the
1787 minutes. For the purposes of this paragraph, the term "minority
1788 business" means a business which is owned by a person who is a
1789 citizen or lawful permanent resident of the United States and who
1790 is:

1791 (i) Black: having origins in any of the black
1792 racial groups of Africa;

1793 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
1794 Central or South American, or other Spanish or Portuguese culture
1795 or origin regardless of race;



1796 (iii) Asian-American: having origins in any of
1797 the original people of the Far East, Southeast Asia, the Indian
1798 subcontinent, or the Pacific Islands;

1799 (iv) American Indian or Alaskan Native: having
1800 origins in any of the original people of North America; or

1801 (v) Female;

1802 (e) In consultation with and approval by the Chairs of
1803 the Senate and House Public Property Committees, approve leases,
1804 for a term not to exceed eighteen (18) months, entered into by
1805 state agencies for the purpose of providing parking arrangements
1806 for state employees who work in the Woolfolk Building, the Carroll
1807 Gartin Justice Building or the Walter Sillers Office Building;

1808 (f) (i) Except as otherwise provided in subparagraph
1809 (ii) of this paragraph, promulgate rules and regulations governing
1810 the solicitation and selection of contractual services personnel,
1811 including personal and professional services contracts for any
1812 form of consulting, policy analysis, public relations, marketing,
1813 public affairs, legislative advocacy services or any other
1814 contract that the board deems appropriate for oversight, with the
1815 exception of:

1816 1. Any personal service contracts entered
1817 into by any agency that employs only nonstate service employees as
1818 defined in Section 25-9-107(c);

1819 2. Any personal service contracts entered
1820 into for computer or information technology-related services



1821 governed by the Mississippi Department of Information Technology
1822 Services;

1823 3. Any personal service contracts entered
1824 into by the individual state institutions of higher learning;

1825 4. Any personal service contracts entered
1826 into by the Mississippi Department of Transportation;

1827 5. Any personal service contracts entered
1828 into by the Department of Human Services through June 30, 2019,
1829 which the Executive Director of the Department of Human Services
1830 determines would be useful in establishing and operating the
1831 Department of Child Protection Services;

1832 6. Any personal service contracts entered
1833 into by the Department of Child Protection Services through June
1834 30, 2019;

1835 7. Any contracts for entertainers and/or
1836 performers at the Mississippi State Fairgrounds entered into by
1837 the Mississippi Fair Commission;

1838 8. Any contracts entered into by the
1839 Department of Finance and Administration when procuring aircraft
1840 maintenance, parts, equipment and/or services;

1841 9. Any contract entered into by the
1842 Department of Public Safety for service on specialized equipment
1843 and/or software required for the operation of such specialized
1844 equipment for use by the Office of Forensics Laboratories;



1845 10. Any personal or professional service
1846 contract entered into by the Mississippi Department of Health or
1847 the Department of Revenue solely in connection with their
1848 respective responsibilities under the Mississippi Medical Cannabis
1849 Act from February 2, 2022, through June 30, 2026;

1850 11. Any contract for attorney, accountant,
1851 actuary auditor, architect, engineer, anatomical pathologist, or
1852 utility rate expert services;

1853 12. Any personal service contracts approved
1854 by the Executive Director of the Department of Finance and
1855 Administration and entered into by the Coordinator of Mental
1856 Health Accessibility through June 30, 2022;

1857 13. Any personal or professional services
1858 contract entered into by the State Department of Health in
1859 carrying out its responsibilities under the ARPA Rural Water
1860 Associations Infrastructure Grant Program through June 30, 2026;

1861 14. * * * Any personal or professional
1862 services contract entered into by the Mississippi Department of
1863 Environmental Quality in carrying out its responsibilities under
1864 the Mississippi Municipality and County Water Infrastructure Grant
1865 Program Act of 2022, through June 30, 2026 * * *; and

1866 15. Any personal or professional services
1867 contract entered into by the Mississippi Department of Mental
1868 Health in carrying out its responsibilities under Section
1869 41-4-7(11).



1870 Any such rules and regulations shall provide for maintaining
1871 continuous internal audit covering the activities of such agency
1872 affecting its revenue and expenditures as required under Section
1873 7-7-3(6) (d). Any rules and regulation changes related to personal
1874 and professional services contracts that the Public Procurement
1875 Review Board may propose shall be submitted to the Chairs of the
1876 Accountability, Efficiency and Transparency Committees of the
1877 Senate and House of Representatives and the Chairs of the
1878 Appropriation Committees of the Senate and House of
1879 Representatives at least fifteen (15) days before the board votes
1880 on the proposed changes, and those rules and regulation changes,
1881 if adopted, shall be promulgated in accordance with the
1882 Mississippi Administrative Procedures Act.

1883 (ii) From and after July 1, 2024, the Public
1884 Procurement Review Board shall promulgate rules and regulations
1885 that require the Department of Finance and Administration to
1886 conduct personal and professional services solicitations as
1887 provided in subparagraph (i) of this paragraph for those services
1888 in excess of Seventy-five Thousand Dollars (\$75,000.00) for the
1889 Department of Marine Resources, the Department of Wildlife,
1890 Fisheries and Parks, the Mississippi Emergency Management Agency
1891 and the Mississippi Development Authority, with assistance to be
1892 provided from these entities. Any powers that have been conferred
1893 upon agencies in order to comply with the provisions of this
1894 section for personal and professional services solicitations shall



1895 be conferred upon the Department of Finance and Administration to
1896 conduct personal and professional services solicitations for the
1897 Department of Marine Resources, the Department of Wildlife,
1898 Fisheries and Parks, the Mississippi Emergency Management Agency
1899 and the Mississippi Development Authority for those services in
1900 excess of Seventy-five Thousand Dollars (\$75,000.00). The
1901 Department of Finance and Administration shall make any
1902 submissions that are required to be made by other agencies to the
1903 Public Procurement Review Board for the Department of Marine
1904 Resources, the Department of Wildlife, Fisheries and Parks, the
1905 Mississippi Emergency Management Agency and the Mississippi
1906 Development Authority.

1907 The provisions of this subparagraph (ii) shall stand repealed
1908 on June 30, 2027;

1909 (g) Approve all personal and professional services
1910 contracts involving the expenditures of funds in excess of
1911 Seventy-five Thousand Dollars (\$75,000.00), except as provided in
1912 paragraph (f) of this subsection (2) and in subsection (8);

1913 (h) Develop mandatory standards with respect to
1914 contractual services personnel that require invitations for public
1915 bid, requests for proposals, record keeping and financial
1916 responsibility of contractors. The Public Procurement Review
1917 Board shall, unless exempted under this paragraph (h) or under
1918 paragraph (i) or (o) of this subsection (2), require the agency
1919 involved to submit the procurement to a competitive procurement



1920 process, and may reserve the right to reject any or all resulting
1921 procurements;

1922 (i) Prescribe certain circumstances by which agency
1923 heads may enter into contracts for personal and professional
1924 services without receiving prior approval from the Public
1925 Procurement Review Board. The Public Procurement Review Board may
1926 establish a preapproved list of providers of various personal and
1927 professional services for set prices with which state agencies may
1928 contract without bidding or prior approval from the board;

1929 (i) Agency requirements may be fulfilled by
1930 procuring services performed incident to the state's own programs.
1931 The agency head shall determine in writing whether the price
1932 represents a fair market value for the services. When the
1933 procurements are made from other governmental entities, the
1934 private sector need not be solicited; however, these contracts
1935 shall still be submitted for approval to the Public Procurement
1936 Review Board.

1937 (ii) Contracts between two (2) state agencies,
1938 both under Public Procurement Review Board purview, shall not
1939 require Public Procurement Review Board approval. However, the
1940 contracts shall still be entered into the enterprise resource
1941 planning system;

1942 (j) Provide standards for the issuance of requests for
1943 proposals, the evaluation of proposals received, consideration of
1944 costs and quality of services proposed, contract negotiations, the



1945 administrative monitoring of contract performance by the agency
1946 and successful steps in terminating a contract;

1947 (k) Present recommendations for governmental
1948 privatization and to evaluate privatization proposals submitted by
1949 any state agency;

1950 (l) Authorize personal and professional service
1951 contracts to be effective for more than one (1) year provided a
1952 funding condition is included in any such multiple year contract,
1953 except the State Board of Education, which shall have the
1954 authority to enter into contractual agreements for student
1955 assessment for a period up to ten (10) years. The State Board of
1956 Education shall procure these services in accordance with the
1957 Public Procurement Review Board procurement regulations;

1958 (m) Request the State Auditor to conduct a performance
1959 audit on any personal or professional service contract;

1960 (n) Prepare an annual report to the Legislature
1961 concerning the issuance of personal and professional services
1962 contracts during the previous year, collecting any necessary
1963 information from state agencies in making such report;

1964 (o) Develop and implement the following standards and
1965 procedures for the approval of any sole source contract for
1966 personal and professional services regardless of the value of the
1967 procurement:



1968 (i) For the purposes of this paragraph (o), the
1969 term "sole source" means only one (1) source is available that can
1970 provide the required personal or professional service.

1971 (ii) An agency that has been issued a binding,
1972 valid court order mandating that a particular source or provider
1973 must be used for the required service must include a copy of the
1974 applicable court order in all future sole source contract reviews
1975 for the particular personal or professional service referenced in
1976 the court order.

1977 (iii) Any agency alleging to have a sole source
1978 for any personal or professional service, other than those
1979 exempted under paragraph (f) of this subsection (2) and subsection
1980 (8), shall publish on the procurement portal website established
1981 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)
1982 days, the terms of the proposed contract for those services. In
1983 addition, the publication shall include, but is not limited to,
1984 the following information:

1985 1. The personal or professional service
1986 offered in the contract;

1987 2. An explanation of why the personal or
1988 professional service is the only one that can meet the needs of
1989 the agency;

1990 3. An explanation of why the source is the
1991 only person or entity that can provide the required personal or
1992 professional service;



1993 4. An explanation of why the amount to be
1994 expended for the personal or professional service is reasonable;
1995 and

1996 5. The efforts that the agency went through
1997 to obtain the best possible price for the personal or professional
1998 service.

1999 (iv) If any person or entity objects and proposes
2000 that the personal or professional service published under
2001 subparagraph (iii) of this paragraph (o) is not a sole source
2002 service and can be provided by another person or entity, then the
2003 objecting person or entity shall notify the Public Procurement
2004 Review Board and the agency that published the proposed sole
2005 source contract with a detailed explanation of why the personal or
2006 professional service is not a sole source service.

2007 (v) 1. If the agency determines after review that
2008 the personal or professional service in the proposed sole source
2009 contract can be provided by another person or entity, then the
2010 agency must withdraw the sole source contract publication from the
2011 procurement portal website and submit the procurement of the
2012 personal or professional service to an advertised competitive bid
2013 or selection process.

2014 2. If the agency determines after review that
2015 there is only one (1) source for the required personal or
2016 professional service, then the agency may appeal to the Public
2017 Procurement Review Board. The agency has the burden of proving



2018 that the personal or professional service is only provided by one
2019 (1) source.

2020 3. If the Public Procurement Review Board has
2021 any reasonable doubt as to whether the personal or professional
2022 service can only be provided by one (1) source, then the agency
2023 must submit the procurement of the personal or professional
2024 service to an advertised competitive bid or selection process. No
2025 action taken by the Public Procurement Review Board in this appeal
2026 process shall be valid unless approved by a majority of the
2027 members of the Public Procurement Review Board present and voting.

2028 (vi) The Public Procurement Review Board shall
2029 prepare and submit a quarterly report to the House of
2030 Representatives and Senate Accountability, Efficiency and
2031 Transparency Committees that details the sole source contracts
2032 presented to the Public Procurement Review Board and the reasons
2033 that the Public Procurement Review Board approved or rejected each
2034 contract. These quarterly reports shall also include the
2035 documentation and memoranda required in subsection (4) of this
2036 section. An agency that submitted a sole source contract shall be
2037 prepared to explain the sole source contract to each committee by
2038 December 15 of each year upon request by the committee;

2039 (p) Assess any fines and administrative penalties
2040 provided for in Sections 31-7-401 through 31-7-423.

2041 (3) All submissions shall be made sufficiently in advance of
2042 each monthly meeting of the Public Procurement Review Board as



2043 prescribed by the Public Procurement Review Board. If the Public
2044 Procurement Review Board rejects any contract submitted for review
2045 or approval, the Public Procurement Review Board shall clearly set
2046 out the reasons for its action, including, but not limited to, the
2047 policy that the agency has violated in its submitted contract and
2048 any corrective actions that the agency may take to amend the
2049 contract to comply with the rules and regulations of the Public
2050 Procurement Review Board.

2051 (4) All sole source contracts for personal and professional
2052 services awarded by state agencies, other than those exempted
2053 under Section 27-104-7(2)(f) and (8), whether approved by an
2054 agency head or the Public Procurement Review Board, shall contain
2055 in the procurement file a written determination for the approval,
2056 using a request form furnished by the Public Procurement Review
2057 Board. The written determination shall document the basis for the
2058 determination, including any market analysis conducted in order to
2059 ensure that the service required was practicably available from
2060 only one (1) source. A memorandum shall accompany the request
2061 form and address the following four (4) points:

2062 (a) Explanation of why this service is the only service
2063 that can meet the needs of the purchasing agency;

2064 (b) Explanation of why this vendor is the only
2065 practicably available source from which to obtain this service;

2066 (c) Explanation of why the price is considered
2067 reasonable; and



2068 (d) Description of the efforts that were made to
2069 conduct a noncompetitive negotiation to get the best possible
2070 price for the taxpayers.

2071 (5) In conjunction with the State Personnel Board, the
2072 Public Procurement Review Board shall develop and promulgate rules
2073 and regulations to define the allowable legal relationship between
2074 contract employees and the contracting departments, agencies and
2075 institutions of state government under the jurisdiction of the
2076 State Personnel Board, in compliance with the applicable rules and
2077 regulations of the federal Internal Revenue Service (IRS) for
2078 federal employment tax purposes. Under these regulations, the
2079 usual common law rules are applicable to determine and require
2080 that such worker is an independent contractor and not an employee,
2081 requiring evidence of lawful behavioral control, lawful financial
2082 control and lawful relationship of the parties. Any state
2083 department, agency or institution shall only be authorized to
2084 contract for personnel services in compliance with those
2085 regulations.

2086 (6) No member of the Public Procurement Review Board shall
2087 use his or her official authority or influence to coerce, by
2088 threat of discharge from employment, or otherwise, the purchase of
2089 commodities, the contracting for personal or professional
2090 services, or the contracting for public construction under this
2091 chapter.



2092 (7) Notwithstanding any other laws or rules to the contrary,
2093 the provisions of subsection (2) of this section shall not be
2094 applicable to the Mississippi State Port Authority at Gulfport.

2095 (8) Nothing in this section shall impair or limit the
2096 authority of the Board of Trustees of the Public Employees'
2097 Retirement System to enter into any personal or professional
2098 services contracts directly related to their constitutional
2099 obligation to manage the trust funds, including, but not limited
2100 to, actuarial, custodial banks, cash management, investment
2101 consultant and investment management contracts. Nothing in this
2102 section shall impair or limit the authority of the State Treasurer
2103 to enter into any personal or professional services contracts
2104 involving the management of trust funds, including, but not
2105 limited to, actuarial, custodial banks, cash management,
2106 investment consultant and investment management contracts.

2107 (9) Through December 31, 2024, the provisions of this
2108 section related to rental agreements or leasing of real property
2109 for the purpose of conducting agency business shall not apply to
2110 the Office of Workforce Development created in Section 37-153-7.

2111 **SECTION 9.** By December 2024 and every year thereafter, PEER
2112 and the Department of Mental Health shall provide a report to the
2113 House and Senate Public Health Committees on information related
2114 to this act.

2115 **SECTION 10.** This act shall take effect and be in force from
2116 and after July 1, 2024.

