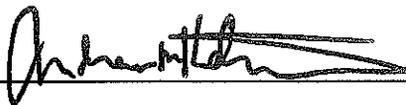


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Chapter No. 448
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HOUSE BILL NO. 810

Originated in House  Clerk

HOUSE BILL NO. 810

AN ACT TO CREATE THE ANDREW LLOYD LAW; TO AMEND SECTION 41-21-65, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT AN AFFIDAVIT FOR COMMITMENT SHALL CONTAIN INFORMATION REGARDING WHETHER THE PROPOSED PATIENT HAS A CHILD OR VISITATION RIGHTS TO A CHILD; TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972, TO REQUIRE THE DEPARTMENT OF HUMAN SERVICES TO BE NOTIFIED BY A MENTAL HEALTH PROFESSIONAL IF THE PATIENT WHO RESIDES OR HAS VISITATION RIGHTS WITH A CHILD, MAY BE A POSSIBLE DANGER TO SUCH CHILD; TO REVISE THE PRESCREENING PROCESS IN MENTAL COMMITMENT CASES; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 41-21-65, Mississippi Code of 1972, is amended as follows:

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

(2) If any person is alleged to be in need of treatment, any relative of the person, or any interested person, may make affidavit of that fact and shall file the affidavit with the clerk

of the chancery court of the county in which the person alleged to be in need of treatment resides; provided, however, that a chancellor or duly appointed special master may, in his or her discretion, hear the matter in the county in which the person may be found. The chancellor is authorized to immediately transfer the cause of a person alleged to be in need of treatment from the county where the person was found to the person's county of residence. The affidavit shall set forth the name and address of the proposed patient's nearest relatives and whether the proposed patient resides or has visitation rights with any minor children, if known, and the reasons for the affidavit. The affidavit must contain factual descriptions of the proposed patient's recent behavior, including a description of the behavior, where it occurred, and over what period of time it occurred, if known. Each factual allegation may be supported by observations of witnesses named in the affidavit. Because of the emergency nature of those affidavits, at the affiant's request the chancery clerk shall provide the affiant with the one-page affidavit form developed by the Department of Mental Health, which the affiant may complete and file without the need for consulting or retaining an attorney. The Department of Mental Health, in consultation with the Mississippi Chancery Clerks' Association, shall develop a simple, one-page affidavit form for the use of affiants as provided in this subsection, which shall be used in all counties in the state. No chancery clerk shall require an affiant to

retain an attorney for the filing of an affidavit under this section.

(3) The chancery clerk may charge the affiant a total fee for all services equal to the amount set out in Section 25-7-9(o), and the appropriate state and county assessments as required by law.

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

SECTION 2. Section 41-21-67, Mississippi Code of 1972, is amended as follows:

41-21-67. (1) Whenever the affidavit provided for in Section 41-21-65 is filed with the chancery clerk, the clerk, upon direction of the chancellor of the court, shall issue a writ directed to the sheriff of the proper county to take into * * * custody the person alleged to be in need of treatment and to bring the person before the clerk or chancellor, who shall order pre-evaluation screening and treatment by the appropriate community mental health center established under Section 41-19-31. The community mental health center will be designated as the first point of entry for screening and treatment. If the community

mental health center is unavailable, any reputable licensed physician, psychologist, nurse practitioner or physician assistant, as allowed in the discretion of the court, may conduct the pre-evaluation screening and * * * examination as set forth in Section 41-21-69. The order may provide where the person shall be held * * * before the appearance before the clerk or chancellor. However, when the affidavit fails to set forth factual allegations and witnesses sufficient to support the need for treatment, the chancellor shall refuse to direct issuance of the writ.

Reapplication may be made to the chancellor. If a pauper's affidavit is filed by a guardian for commitment of the ward of the guardian, the court shall determine if the ward is a pauper and if the ward is determined to be a pauper, the county of the residence of the respondent shall bear the costs of commitment, unless funds for those purposes are made available by the state.

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

(2) Upon issuance of the writ, the chancellor shall immediately appoint and summon two (2) reputable, licensed physicians or one (1) reputable, licensed physician and either one (1) psychologist, nurse practitioner or physician assistant to

conduct a physical and mental examination of the person at a place to be designated by the clerk or chancellor and to report their findings to the clerk or chancellor. However, any nurse practitioner or physician assistant conducting the examination shall be independent from, and not under the supervision of, the other physician conducting the examination. In all counties in which there is a county health officer, the county health officer, if available, may be one (1) of the physicians so appointed.

Neither of the physicians nor the psychologist, nurse practitioner or physician assistant selected shall be related to that person in any way, nor have any direct or indirect interest in the estate of that person nor shall any full-time staff of residential treatment facilities operated directly by the State Department of Mental Health serve as examiner.

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

(4) If the chancellor determines that there is probable cause to believe that the respondent is mentally ill and that there is no reasonable alternative to detention, the chancellor may order that the respondent be retained as an emergency patient

at any licensed medical facility for evaluation by a physician, nurse practitioner or physician assistant and that a peace officer transport the respondent to the specified facility. If the community mental health center serving the county has partnered with Crisis Intervention Teams under the provisions of Sections 41-21-131 through 41-21-143, the order may specify that the licensed medical facility be a designated single point of entry within the county or within an adjacent county served by the community mental health center. If the person evaluating the respondent finds that the respondent is mentally ill and in need of treatment, the chancellor may order that the respondent be retained at the licensed medical facility or any other available suitable location as the court may so designate pending an admission hearing. If necessary, the chancellor may order a peace officer or other person to transport the respondent to that facility or suitable location. Any respondent so retained may be given such treatment as is indicated by standard medical practice. However, the respondent shall not be held in a hospital operated directly by the State Department of Mental Health, and shall not be held in jail unless the court finds that there is no reasonable alternative.

(5) (a) Whenever a licensed psychologist, nurse practitioner or physician assistant who is certified to complete examinations for the purpose of commitment or a licensed physician has reason to believe that a person poses an immediate substantial

likelihood of physical harm to himself or others or is gravely disabled and unable to care for himself by virtue of mental illness, as defined in Section 41-21-61(e), then the physician, psychologist, nurse practitioner or physician assistant may hold the person or may admit the person to and treat the person in a licensed medical facility, without a civil order or warrant for a period not to exceed seventy-two (72) hours. However, if the seventy-two-hour period begins or ends when the chancery clerk's office is closed, or within three (3) hours of closing, and the chancery clerk's office will be continuously closed for a time that exceeds seventy-two (72) hours, then the seventy-two-hour period is extended until the end of the next business day that the chancery clerk's office is open. The person may be held and treated as an emergency patient at any licensed medical facility, available regional mental health facility, or crisis intervention center. The physician or psychologist, nurse practitioner or physician assistant who holds the person shall certify in writing the reasons for the need for holding.

If a person is being held and treated in a licensed medical facility, and that person decides to continue treatment by voluntarily signing consent for admission and treatment, the seventy-two-hour hold may be discontinued without filing an affidavit for commitment. Any respondent so held may be given such treatment as indicated by standard medical practice. Persons acting in good faith in connection with the detention and

reporting of a person believed to be mentally ill shall incur no liability, civil or criminal, for those acts.

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

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

SECTION 3. This act shall take effect and be in force from and after July 1, 2014.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 12, 2014

Philip Gunn
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 5, 2014

Jato Reeve
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

Lee Bryant
GOVERNOR

3/27/14

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