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Chapter No. 351
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SENATE BILL NO. 2483

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2483

AN ACT TO AMEND SECTION 41-21-67, MISSISSIPPI CODE OF 1972, 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 41-21-67, 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) 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 of a person believed to be mentally ill shall incur no liability, civil or criminal, for those acts.

SECTION 2. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
February 5, 2014

Tate Reeves

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 4, 2014

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

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