



MISSISSIPPI UNIFORM CIVIL COMMITMENT GUIDE

Mississippi Department of Mental Health
Behavioral Health Program Admission Process

STEPS FOR CIVIL COMMITMENT

- 1 File an affidavit for civil commitment in the chancery clerk's office where the person resides or is currently located.

Pay a filing fee up to \$150, including all fees and assessments, to commence the proceeding.*

Under Mississippi state law, no attorney is required for this process.
- 2 A writ is issued for the sheriff to take into custody the person alleged to be in need of mental health treatment and take the person for a Pre-Evaluation Screening and treatment by staff at a local Community Mental Health Center.
- 3 If further examination is recommended, two doctors, or one doctor and one other healthcare professional, appointed by the court will examine the person within 48 hours.

If the appointed examiners find no need for treatment, the case will be dismissed without a need for a hearing.
- 4 A hearing must be within 7-10 days.

The judge will decide based on the examiners certificates' and other evidence presented whether treatment in a state behavioral health program or outpatient program is necessary.
- 5 DMH Behavioral Health Program: If the judge orders civil commitment, the chancery clerk will send a copy of the order to the state hospital's admission office. Admissions are scheduled when a bed is available.

A person can also be referred to a Crisis Stabilization Unit bed in his or her area.
- 6 Transportation to the DMH Behavioral Health Program or Crisis Stabilization Unit will be provided by local law enforcement. Admission involves medical record review, general information questions, and an inventory of the person's possessions.

- 7 When the person is admitted, he or she will be oriented to the environment by staff who review program schedules, activities, rights, and responsibilities.
- 8 A plan for discharge is created upon admission to help the person return to his or her community, and the facilitation to services in his or her community is started.
- 9 A treatment plan is developed that includes goals, activities, and other prescribed treatments.
- 10 The person will be discharged when he or she no longer meets commitment criteria and can return to live in the community with adequate support services.
- 11 Upon discharge, most people continue treatment at a local Community Mental Health Center or local programs with the goal of living independently in their communities.
- 12 The court will maintain jurisdiction over persons committed to both inpatient and outpatient programs for one year after their completion of the treatment program.

**The chancery clerk may charge a total filing 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 which include, but are not limited to, assessments for the Judicial Operation Fund (Section 25-7-9 (3)(b)); the Electronic Court System Fund (Section 25-7-9 (3)(a)); the Civil Legal Assistance Fund (Section 25-7-9 (1)(k)); the Court Education and Training Fund (Section 37-26-3); State Court Constituent's Fund (Section 37-26-9 (4)); and a reasonable court reporter's fee. Costs incidental to court proceedings as set forth in Section 41-21-79 may not be included as assessments.*

The chancery clerk's office can provide specific eligibility requirements and instructions to file a Pauper's Oath if you are unable to pay the filing fee.

A person with a serious mental health condition, through an outpatient commitment order, can be court-mandated to follow a specific treatment plan, usually requiring medication and sometimes directing where the person can live and what his or her daily activities must include.

HOW TO GET HELP

Before filing an affidavit for commitment to a DMH Behavioral Health Program with the chancery clerk's office, we strongly encourage you to contact your local Community Mental Health Center to learn about services, supports, and alternatives to the commitment process such as Mobile Crisis Response Teams, Crisis Stabilization Beds, and more.

FOR MORE INFORMATION OR TO LOCATE YOUR LOCAL COMMUNITY MENTAL HEALTH CENTER:

Mississippi Department of Mental Health

601.359.1288 | dmh.ms.gov | 24-Hour Helpline 1-877-210-8513



Civil Commitment Code Sections.

41-21-61. As used in Sections 41-21-61 through 41-21-107, unless the context otherwise requires, the following terms defined have the meanings ascribed to them:

(a) "Appointed examiner" means a person appointed by the court under Section 41-21-67(2) to conduct a mental and physical examination of a person alleged to be in need of treatment.

(b) "Chancellor" means a chancellor or a special master in chancery.

(c) "Clerk" means the clerk of the chancery court.

(d) "Director" means the chief administrative officer of a treatment facility or other employee designated by him as his deputy.

(e) "Interested person" means an adult, including, but not limited to, a public official, and the legal guardian, spouse, parent, legal counsel, adult child, next of kin, or other person designated by a proposed patient.

(f) "Person with mental illness" means any person who has a substantial psychiatric disorder of thought, mood, perception, orientation, or memory which grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, which (i) is manifested by instances of grossly disturbed behavior or faulty perceptions; and (ii) poses a substantial likelihood of physical harm to himself or others as demonstrated by (A) a recent attempt or threat to physically harm himself or others, or (B) a failure to provide necessary

food, clothing, shelter or medical care for himself, as a result of the impairment. "Person with mental illness" includes a person who, based on treatment history and other applicable psychiatric indicia, is in need of treatment in order to prevent further disability or deterioration which would predictably result in dangerousness to himself or others when his current mental illness limits or negates his ability to make an informed decision to seek or comply with recommended treatment. "Person with mental illness" does not include a person having only one or more of the following conditions: (1) epilepsy, (2) an intellectual disability, (3) brief periods of intoxication caused by alcohol or drugs, (4) dependence upon or addiction to any alcohol or drugs, or (5) senile dementia.

(g) "Person with an intellectual disability" means any person (i) who has been diagnosed as having substantial limitations in present functioning, manifested before age eighteen (18), characterized by significantly subaverage intellectual functioning, existing concurrently with related limitations in two (2) or more of the following applicable adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work, and (ii) whose recent conduct is a result of having an intellectual disability and poses a substantial likelihood of physical harm to himself or others in that there has been (A) a recent attempt or threat to physically harm himself or others, or (B) a failure and

inability to provide necessary food, clothing, shelter, safety or medical care for himself.

(h) "Physician" means any person licensed by the State of Mississippi to practice medicine in any of its branches.

(i) "Psychologist" means a licensed psychologist who has been certified by the State Board of Psychological Examiners as qualified to perform examinations for the purpose of civil commitment.

(j) "Treatment facility" means a hospital, community mental health center, or other institution qualified to provide care and treatment for persons with mental illness, persons with an intellectual disability or chemically dependent persons.

(k) "Substantial likelihood of bodily harm" means that:

(i) The person has threatened or attempted suicide or to inflict serious bodily harm to himself; or

(ii) The person has threatened or attempted homicide or other violent behavior; or

(iii) The person has placed others in reasonable fear of violent behavior and serious physical harm to them; or

(iv) The person is unable to avoid severe impairment or injury from specific risks; and

(v) There is substantial likelihood that serious harm will occur unless the person is placed under emergency treatment.

41-21-63. (1) No person, other than persons charged with crime, shall be committed to a public treatment facility except under the provisions of Sections 41-21-61 through 41-21-107 or 43-21-611 or 43-21-315. However, nothing herein shall be construed to repeal, alter or otherwise affect the provisions of Section 35-5-31 or to affect or prevent the commitment of persons to the Veterans Administration or other agency of the United States under the provisions of and in the manner specified in those sections.

(2) (a) The chancery court, or the chancellor in vacation, shall have jurisdiction under Sections 41-21-61 through 41-21-107 except over persons with unresolved felony charges unless paragraph (b) of this subsection applies.

(b) If a circuit court with jurisdiction over unresolved felony charges enters an order concluding that the person is incompetent to stand trial and is not restorable to competency in the foreseeable future, the matter should be referred to the chancery court to be subject to civil commitment procedures under Sections 41-21-61 through 41-21-107. The order of the circuit court shall be in lieu of the affidavit for commitment provided for in Section 41-21-65. The chancery court shall have jurisdiction and shall proceed with civil commitment procedures under Sections 41-21-61 through 41-21-107.

(3) The circuit court shall have jurisdiction under Sections 99-13-7, 99-13-9 and 99-13-11.

(4) Before the release of a person referred for civil commitment under this section and committed under Sections

41-21-61 through 41-21-107, the Department of Mental Health must notify the district attorney of the county where the offense was committed. The district attorney must notify the crime victim or a family member who has requested notification under Section 99-43-35 and the sheriffs of both the county where the offense was committed and the county of the committed person's destination.

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

(3) The Department of Mental Health, in consultation with the Mississippi Chancery Clerks Association, the Mississippi Conference of Chancery Court Judges and the Mississippi Association of Community Mental Health Centers, must develop a written guide setting out the steps in the commitment process no later than January 1, 2020. The guide shall be designated as

the "Uniform Civil Commitment Guide" and must include, but not be limited to, the following:

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

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

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

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

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

(5) If any person is alleged to be in need of treatment, any relative of the person, or any interested person, may make affidavit of that fact and shall file the Uniform Civil Commitment Affidavit with the clerk of the chancery court of the county in which the person alleged to be in need of treatment resides, but the chancellor or duly appointed special master may, in his or her discretion, hear the matter in the county in which the person may be found. 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. 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 section. The affidavit also must state whether the affiant has consulted with a Community Mental Health Center or a physician to determine whether the alleged acts by the proposed respondent warrant civil commitment in lieu of other less-restrictive treatment options. No chancery clerk shall require an affiant to retain an attorney for the filing of an affidavit under this section.

(6) The chancery clerk may charge a total filing 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 which include, but are not limited to, assessments for the Judicial Operation Fund (Section 25-7-9(3)(b)); the Electronic Court System Fund (Section 25-7-9(3)(a)); the Civil Legal Assistance Fund (Section 25-7-9(1)(k)); the Court Education and Training Fund (Section 37-26-3); State Court Constituent's Fund (Section 37-26-9(4)); and reasonable court reporter's fee.

Costs incidental to the court proceedings as set forth in Section 41-21-79 may not be included in the assessments permitted by this subsection. The total of the fees and assessments permitted by this subsection may not exceed One Hundred Fifty Dollars (\$150.00).

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

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

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 take the person for 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 pre-evaluation 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 being taken for pre-evaluation screening and treatment. 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 an affiant who is a guardian or conservator of a person in need of treatment, the court shall determine if either the affiant or the person in need of treatment is a pauper and if * * * the affiant or the person in need of treatment is determined to be a pauper, the county of the residence of the respondent shall bear the costs of commitment, unless funds for those purposes are made available by the state.

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

(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. A nurse practitioner or psychiatric nurse practitioner conducting an examination under this chapter must be functioning within a collaborative or consultative relationship with a physician as required under Section 73-15-20(3). 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. If a licensed physician is not available to conduct the physical and mental examination within forty-eight (48) hours of the issuance of the writ, the court, in its discretion and upon good cause shown, may permit the examination to be conducted by the following: (a) two (2) nurse practitioners, one (1) of whom must be a psychiatric nurse practitioner; or (b) one (1) psychiatric nurse practitioner and one (1) psychologist or physician assistant. 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 Child Protection Services prior to discharge if the threat of harm continues to exist, as is required under Section 43-21-353.

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

41-21-68. (1) Regional commissions established under Section 41-19-31 et seq. are authorized to establish regional holding facilities for the treatment and holding of any person eighteen (18) years of age or older being held for the purpose of civil commitment.

(2) For the purpose of establishing regional holding facilities, each regional commission is authorized to create a

holding facility fund and enter into holding facility cooperative agreements with counties both inside and outside the regional commission's designated region. Each county electing to use a regional holding facility may contribute to the regional commission's holding facility fund. The State of Mississippi may match the county's contribution by paying not more than Two Dollars (\$2.00) into the holding facility fund for each One Dollar (\$1.00) received from the counties, if sufficient funds are available.

(3) Crisis stabilization units operating and receiving state funds from the Department of Mental Health as of January 1, 2015, shall not be eligible for the holding facility state matching contributions provided for in this section. The matching funds provided for in this section shall only be allocated to holding facilities established under this section. Regional commissions requesting decertification of any such crisis stabilization unit to reestablish the unit as a regional holding facility under this section in order to be eligible for state matching contributions may do so only with the approval of the Department of Mental Health.

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

made a contribution to a regional commission holding facility fund.

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

(6) Holding facilities and committing courts shall not remove persons from the holding facility unless the removal is for clinical purposes. Persons taken to a holding facility established under this section and any treatment professionals called as witnesses shall not be required to appear at the court's location for commitment proceedings, except when extraordinary circumstances are found and determined as reflected by a written order of the chancellor. For the purpose of civil commitment hearings, persons being committed and treatment professionals may participate through videoconferencing. Holding facilities established under this section shall have the capacity and ability to provide videoconferencing between the person being held, the committing court, and treatment professionals. Any attorney for the person being held shall be present at the location of the person during videoconferenced hearings and shall have the ability to consult in private with the person.

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

(8) For purposes of public participation, jurisdiction and venue, the location of the commitment actions for persons being held at holding facilities established under this section shall be deemed to be the county of the committing court, even though the individual being committed and treatment professionals may be physically located in other jurisdictions when participating in any hearing through videoconference. The jurisdiction of the committing court and law enforcement officials transporting persons to holding facilities shall extend to other jurisdictions for the purpose of conducting hearings held by videoconferencing, and for the purpose of holding and transporting individuals to holding facilities established under this section.

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

41-21-69. (1) (a) The appointed examiners shall immediately make a full inquiry into the condition of the person alleged to be in need of treatment and shall make a mental examination and physical evaluation of the person, and each

examiner must make a report and certificate of the findings of all mental and acute physical problems to the clerk of the court. Each report and certificate must set forth the facts as found by the appointed examiner and must state whether the examiner is of the opinion that the proposed patient is suffering a disability defined in Sections 41-21-61 through 41-21-107 and should be committed to a treatment facility. The statement shall include the reasons for that opinion. The examination may be based upon a history provided by the patient and the report and certificate of findings shall include an identification of all mental and physical problems identified by the examination.

(b) If the appointed examiner finds: (i) the respondent has mental illness; (ii) the respondent is capable of surviving safely in the community with available supervision from family, friends or others; (iii) based on the respondent's treatment history and other applicable medical or psychiatric indicia, the respondent is in need of treatment in order to prevent further disability or deterioration that would result in significant deterioration in the ability to carry out activities of daily living; and (iv) his or her current mental status or the nature of his or her illness limits or negates his or her ability to make an informed decision to seek voluntarily or comply with recommended treatment; the appointed examiners shall so show on the examination report and certification and shall recommend outpatient commitment. The appointed examiners shall

also show the name, address and telephone number of the proposed outpatient treatment physician or facility.

(2) The examinations shall be conducted and concluded within forty-eight (48) hours after the order for examination and appointment of attorney, and the certificates of the appointed examiners shall be filed with the clerk of the court within that time, unless the running of that period extends into nonbusiness hours, in which event the certificates must be filed at the beginning of the next business day. However, if the appointed examiners are of the opinion that additional time to complete the examination is necessary, and this fact is communicated to the chancery clerk or chancellor, the clerk or chancellor shall have authority to extend the time for completion of the examination and the filing of the certificate, the extension to be not more than eight (8) hours.

(3) At the beginning of the examination, the respondent shall be told in plain language of the purpose of the examination, the possible consequences of the examination, of his or her right to refuse to answer any questions, and his or her right to have his or her attorney present.

41-21-70. The Department of Mental Health shall develop standards for the training of psychiatrists and psychologists to perform mental examinations ordered under Section 99-13-11 and Rule 12 of the Rules of Criminal Procedure. The department shall provide training on the standards and maintain and publish a list of psychiatrists and psychologists who have completed training to perform such evaluations.

41-21-71. If, as a result of the examination, the appointed examiners certify that the person is not in need of treatment, the chancellor or clerk shall dismiss the affidavit without the need for a further hearing. If the chancellor or chancery clerk finds, based upon the appointed examiners' certificates and any other relevant evidence, that the respondent is in need of treatment and the certificates are filed with the chancery clerk within forty-eight (48) hours after the order for examination, or extension of that time as provided in Section 41-21-69, the clerk shall immediately set the matter for a hearing. The hearing shall be set within seven (7) days of the filing of the certificates unless an extension is requested by the respondent's attorney. In no event shall the hearing be more than ten (10) days after the filing of the certificates.

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

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

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

(4) If the court finds by clear and convincing evidence that the proposed patient is a person with mental illness or a person with an intellectual disability and, if after careful consideration of reasonable alternative dispositions, including, but not limited to, dismissal of the proceedings, the court finds that there is no suitable alternative to judicial commitment, the court shall commit the patient for treatment in the least restrictive treatment facility that can meet the patient's treatment needs. Treatment before admission to a state-operated facility shall be located as closely as possible

to the patient's county of residence and the county of residence shall be responsible for that cost. Admissions to state-operated facilities shall be in compliance with the catchment areas established by the State Department of Mental Health. A nonresident of the state may be committed for treatment or confinement in the county where the person was found.

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

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

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

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

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

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

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

41-21-74. (1) If the commitment order directs outpatient treatment, the outpatient treatment physician may prescribe or administer to the respondent treatment consistent with accepted medical standards.

(2) If the respondent fails or clearly refuses to comply with outpatient treatment, the director of the treatment facility, his designee or an interested person shall make all reasonable efforts to solicit the respondent's compliance. These efforts shall be documented and, if the respondent fails or clearly refuses to comply with outpatient treatment after such efforts are made, such efforts shall be documented with the court by affidavit. Upon the filing of the affidavit, the sheriff of the proper county is authorized to take the respondent into his custody.

(3) The respondent may be returned to the treatment facility as soon thereafter as facilities are available. The respondent may request a hearing within ten (10) days of his return to the treatment facility. Such hearing shall be held pursuant to the requirements set forth in Section 41-21-81.

(4) The chancery court of the county where the public facility is located or the committing court shall have jurisdiction over matters concerning outpatient commitments when such an order is sought subsequent to an inpatient course of treatment pursuant to Sections 41-21-61 through 41-21-107, 43-21-611, 99-13-7 and 99-13-9. An outpatient shall not have or be charged for a recommitment process within a period of twelve (12) months of the initial outpatient order.

41-21-76. The respondent in any involuntary commitment proceeding held pursuant to the provisions of Sections 41-21-61 through 41-21-107 may make a knowing and intelligent waiver of his rights in such proceeding, provided that the waiver is made by his attorney with the informed consent of the respondent and with the approval of the court. The reasons for the waiver shall be made a part of the record.

41-21-77. (1) If admission is ordered at a treatment facility, the sheriff, his or her deputy or any other person appointed or authorized by the court shall immediately deliver the respondent to the director of the appropriate facility. Neither the Board of Mental Health or its members, nor the Department of Mental Health or its related facilities, nor any employee of the Department of Mental Health or its related

facilities, shall be appointed, authorized or ordered to deliver the respondent for treatment, and no person shall be so delivered or admitted until the director of the admitting institution determines that facilities and services are available. Persons who have been ordered committed and are awaiting admission may be given any such treatment in the facility by a licensed physician as is indicated by standard medical practice. Any county facility used for providing housing, maintenance and medical treatment for involuntarily committed persons pending their transportation and admission to a state treatment facility shall be certified by the State Department of Mental Health under the provisions of Section 41-4-7(kk). No person shall be delivered or admitted to any non-Department of Mental Health treatment facility unless the treatment facility is licensed and/or certified to provide the appropriate level of psychiatric care for persons with mental illness. It is the intent of this Legislature that county-owned hospitals work with regional community mental health/intellectual disability centers in providing care to local patients. The clerk shall provide the director of the admitting institution with a certified copy of the court order, a certified copy of the appointed examiners' certificates, a certified copy of the affidavit, and any other information available concerning the physical and mental condition of the respondent. Upon notification from the United States Veterans Administration or other agency of the United States government, that facilities are available and the respondent is eligible for

care and treatment in those facilities, the court may enter an order for delivery of the respondent to or retention by the Veterans Administration or other agency of the United States government, and, in those cases the chief officer to whom the respondent is so delivered or by whom he is retained shall, with respect to the respondent, be vested with the same powers as the director of the Mississippi State Hospital at Whitfield, or the East Mississippi State Hospital at Meridian, with respect to retention and discharge of the respondent.

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

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

(c) Each chancery clerk shall provide the records required by paragraphs (a) and (b) of this subsection (2) to the Department of Mental Health within thirty (30) days of the end of each calendar quarter. Within sixty (60) days of receipt of the chancery clerk records, the Department of Mental Health

shall provide a summary to the Chairpersons of the Appropriations, Public Health and Judiciary A and B Committees for the Mississippi House of Representatives and the Mississippi Senate, the Coordinator of Mental Health and the President of the Mississippi Association of Community Mental Health Centers.

41-21-77.1. Subject to appropriation by the Legislature, the Department of Mental Health shall provide funding to each community mental health center to allow the center to designate court liaisons for the counties in its service area.

41-21-79. The costs incidental to the court proceedings including, but not limited to, court costs, prehearing hospitalization costs, cost of transportation, reasonable physician's, psychologist's, nurse practitioner's or physician assistant's fees set by the court, and reasonable attorney's fees set by the court, shall be paid out of the funds of the county of residence of the respondent in those instances where the patient is indigent unless funds for those purposes are made available by the state. However, if the respondent is not indigent, those costs shall be taxed against the respondent or his or her estate. The total amount that may be charged for all of the costs incidental to the court proceedings shall not exceed Four Hundred Dollars (\$400.00). Costs incidental to the court proceedings permitted under this section may not be charged to the affiant nor included in the fees and assessments permitted under Section 41-21-65(6).

41-21-81. If at any time within twenty (20) days after admission of a patient to a treatment facility the director

determines that the patient is in need of continued hospitalization, he shall give written notice of his findings, together with his reasons for such findings, to the respondent, the patient's attorney, the clerk of the admitting court and the two (2) nearest relatives or guardian of the patient, if the addresses of such relatives or guardian are known. The patient, or any aggrieved relative or friend or guardian shall have sixty (60) days from the date of such notice to request a hearing on the question of the patient's commitment for further treatment. The patient, or any aggrieved relative or guardian or friend, may request a hearing by filing a written notice of request within such sixty (60) days with the clerk of the county within which the facility is located; provided, however, that the patient may request such a hearing in writing to any member of the professional staff, which shall be forwarded to the director and promptly filed with the clerk of the county within which the facility is located and provided further that if the patient is confined at the Mississippi State Hospital, Whitfield, Mississippi, said notice of request shall be filed with the Chancery Clerk of the First Judicial District of Hinds County, Mississippi. A copy of the notice of request must be filed by the patient or on his behalf with the director and the chancery clerk of the admitting court. The notice of the need for continued hospitalization shall be explained to the patient by a member of the professional staff and the explanation documented in the clinical record. At the same time the patient shall be advised of his right to request a hearing and of his right to

consult a lawyer prior to deciding whether to request the hearing, and the fact that the patient has been so advised shall be documented in the clinical record. Hearings held pursuant to this section shall be held in the chancery court of the county where the facility is located; provided, however, that if the patient is confined at the Mississippi State Hospital at Whitfield, Mississippi, the hearing shall be conducted by the Chancery Court of the First Judicial District of Hinds County, Mississippi.

41-21-82. Prior to the termination of the initial commitment order, the director of the facility shall cause an impartial evaluation of the patient to be made in order to assess the extent to which the grounds for initial commitment persist, the patient continues to have mental illness, and alternatives to involuntary commitment are available. If the results of this impartial evaluation do not support the need for continued commitment, the patient shall be discharged.

The director shall file a written report with the committing court setting forth in detail the results of this evaluation and other facts indicating that the patient satisfies the statutory requirement for continued commitment and the findings of the examiner to support this conclusion. If, after reviewing the director's report, the court finds that the patient continues to have mental illness and that there is no alternative to involuntary commitment, the commitment may be continued.

Nothing in this section shall preclude the patient, his counsel or another person acting in his behalf from requesting a hearing under Section 41-21-81 or 41-21-99.

41-21-83. If a hearing is requested as provided in Section 41-21-74, 41-21-81 or 41-21-99, the court shall not make a determination of the need for continued commitment unless a hearing is held and the court finds by clear and convincing evidence that (a) the person continues to have mental illness or have an intellectual disability; and (b) involuntary commitment is necessary for the protection of the patient or others; and (c) there is no alternative to involuntary commitment. Hearings held under this section shall be held in the chancery court of the county where the facility is located; however, if the patient is confined at the Mississippi State Hospital at Whitfield, Mississippi, the hearing shall be conducted by the Chancery Court of the First Judicial District of Hinds County, Mississippi.

The hearing shall be held within fourteen (14) days after receipt by the court of the request for a hearing. The court may continue the hearing for good cause shown. The clerk shall ascertain whether the patient is represented by counsel, and, if the patient is not represented, shall notify the chancellor who shall appoint counsel for him if the chancellor determines that the patient for any reason does not have the services of an attorney; however, the patient may waive the appointment of counsel subject to the approval of the court. Notice of the time and place of the hearing shall be served at least

seventy-two (72) hours before the time of the hearing upon the patient, his attorney, the director, and the person requesting the hearing, if other than the patient, and any witnesses requested by the patient or his attorney, or any witnesses the court may deem necessary or desirable.

The patient must be present at the hearing unless the chancellor determines that the patient is unable to attend and makes that determination and the reasons therefor part of the record.

The court shall put its findings and the reasons supporting its findings in writing and shall have copies delivered to the patient, his attorney, and the director of the treatment facility. An appeal from the final commitment order by either party may be had on the terms prescribed for appeals in civil cases; however, such appeal shall be without supersedeas. The record on appeal shall include the transcript of the commitment hearing.

41-21-85. All costs of the hearing or appeal under Section 41-21-83, including, but not limited to, costs of all writs, notices, petitions, appeals, and attorney's fees and transportation of the patient to and from the place of the hearing shall be borne by the treatment facility in those instances where the patient is indigent, provided that if the patient is not indigent, all costs shall be taxed to the patient.

41-21-87. (1) The director of either the treatment facility where the patient is committed or the treatment

facility where the patient resides while awaiting admission to any other treatment facility may discharge any civilly committed patient upon filing his certificate of discharge with the clerk of the committing court, certifying that the patient, in his judgment, no longer poses a substantial threat of physical harm to himself or others.

(2) A director of a treatment facility specified in subsection (1) above may return any patient to the custody of the committing court upon providing seven (7) days' notice and upon filing his certificate of same as follows:

(a) When, in the judgment of the director, the patient may be treated in a less restrictive environment; however, treatment in such less restrictive environment shall be implemented within seven (7) days after notification of the court; or

(b) When, in the judgment of the director, adequate facilities or treatment are not available at the treatment facility.

(3) Except as provided in Section 41-21-88, no committing court shall enjoin or restrain any director of a treatment facility specified in subsection (1) above from discharging a patient under this section whose treating professionals have determined that the patient meets one (1) of the criteria for discharge as outlined in subsection (1) or (2) of this section. The director of the treatment facility where the patient is committed may transfer any civilly committed patient from one (1) facility operated directly by the Department of Mental

Health to another as necessary for the welfare of that or other patients. Upon receiving the director's certificate of transfer, the court shall enter an order accordingly.

(4) Within twenty-four (24) hours prior to the release or discharge of any civilly committed patient, other than a temporary pass due to sickness or death in the patient's family, the director shall give or cause to be given notice of such release or discharge to one (1) member of the patient's immediate family, provided the member of the patient's immediate family has signed the consent to release form provided under subsection (5) and has furnished in writing a current address and telephone number, if applicable, to the director for such purpose. The notice of release shall also be provided to any victim of such person and/or to any person to whom a restraining order has been entered to protect from such person. The notice to the family member shall include the psychiatric diagnosis of any chronic mental disorder incurred by the civilly committed patient and any medications provided or prescribed to the patient for such conditions.

(5) All providers of service in a treatment facility, whether in a community mental health/intellectual disability center, region or state psychiatric hospital, are authorized and directed to request a consent to release information from all patients which will allow that entity to involve the family in the patient's treatment. Such release form shall be developed by the Department of Mental Health and provided to all treatment facilities, community mental health/intellectual disability

centers and state facilities. All such facilities shall request such a release of information upon the date of admission of the patient to the facility or at least by the time the patient is discharged.

(6) Each month the Department of Mental Health-operated facilities shall provide the directors of community mental health centers the names of all individuals who were discharged to their catchment area with referral for community-based services. The department shall require community mental health care providers to report monthly the date that service(s) were initiated and type of service(s) initiated.

41-21-88. A person committed pursuant to Section 99-13-7 shall not be released for any reason without order of the court having confined the person. Prior to release, the sheriff of the county where the offense was committed, the sheriff of the county of the committed person's destination and the crime victim or an immediate family member shall be notified of the release.

41-21-89. Nothing in Sections 41-21-61 through 41-21-107 shall preclude any patient, his attorney, or relative or guardian from seeking a patient's release from a treatment facility by application for writ of habeas corpus; provided that the application shall be made to the chancellor of the county in which the patient is hospitalized. Provided, further, that if the patient is hospitalized at the Mississippi State Hospital at Whitfield, Mississippi, the said application shall be made to a

Chancellor of the First Judicial District of Hinds County, Mississippi.

41-21-91. The director of the treatment facility may transport any person who is now or may hereafter become a patient at a treatment facility and who is a legal resident of another state to the state of the residence of such patient, but only if arrangements to receive the patient have been made in the state to which he is to be returned.

41-21-93. If any such patient admitted or committed by a court to a treatment facility leaves without authorization, the director may immediately issue a warrant to any officer authorized to make arrests, commanding the arrest and return of said patient to the hospital from which he is departed.

41-21-95. Costs of returning a patient who has left without authorization may be borne by the treatment facility from which the patient has been discharged or from which he has left without authorization.

41-21-97. (1) The hospital records of and information pertaining to patients at treatment facilities or patients being treated by physicians, psychologists (as defined in Section 73-31-3(e)), licensed master social workers or licensed professional counselors shall be confidential and shall be released only: (a) upon written authorization of the patient; (b) upon order of a court of competent jurisdiction; (c) when necessary for the continued treatment of a patient; (d) when, in the opinion of the director, release is necessary for the determination of eligibility for benefits, compliance with

statutory reporting requirements, or other lawful purpose; or (e) when the patient has communicated to the treating physician, psychologist (as defined in Section 73-31-3(e)), master social worker or licensed professional counselor an actual threat of physical violence against a clearly identified or reasonably identifiable potential victim or victims, and then the treating physician, psychologist (as defined in Section 73-31-3(e)), master social worker or licensed professional counselor may communicate the threat only to the potential victim or victims, a law enforcement agency, or the parent or guardian of a minor who is identified as a potential victim.

(2) The Mississippi State Asylum Records shall not be considered confidential for purposes of this section, provided that any Mississippi State Asylum Record relating to any person who has not been deceased for at least fifty (50) years shall still be considered confidential in accordance with subsection (1) of this section.

41-21-99. The director shall obtain all the available facts relative to the illness of each patient admitted to said treatment facility. The director or a physician on the staff of said treatment facility shall, as often as practicable but not less frequently than every six (6) months, examine the patient and review the records as to the need for continued treatment of each patient and make the results of such examination a part of the patient's clinical record. The patient shall have the right to request a hearing at least annually, pursuant to Section 41-21-83. The patient shall be advised of his right to request a

hearing and of his right to consult an attorney prior to his decision concerning whether or not to request such hearing, and the fact that the patient has been so advised shall be documented in the clinical record.

41-21-101. No admission or commitment to a treatment facility under Sections 41-21-61 through 41-21-107 or any finding of need for treatment, or any authorization of continued treatment under said sections: (a) is an adjudication of legal incompetency, or (b) * * * except as provided in Sections 45-9-101 and 45-9-103, deprives the person of his right to exercise his civil rights, including, but not limited to, civil service status, the right to vote, rights relating to the granting renewal, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law, or the right to enter into contractual relationships and to manage his property; nor does an admission, hospitalization, finding or authorization of continued hospitalization create any presumption that the person is incompetent.

41-21-102. (1) A patient has the right to be free from restraints. Restraints shall not be applied to a patient unless the director of the treatment facility or a member of the medical staff determines that they are necessary for the safety of the patient or others. Each use of a restraint and reason for such use shall be made part of the clinical record of the patient under the signature of the director of the treatment facility.

(2) A patient has the right to correspond freely without censorship. The director of the treatment facility may restrict receipt of correspondence if he determines that the medical welfare of the patient requires it. Any limitation imposed on the exercise of a patient's correspondence rights and the reason for it shall be made a part of the clinical record of the patient. Any communication which is not delivered to a patient shall be immediately returned to the sender. No restriction shall be placed upon correspondence between a patient and his attorney or any court of competent jurisdiction.

(3) Subject to the general rules of the treatment facility, a patient has the right to receive visitors and make phone calls. The director of the treatment facility may restrict visits and phone calls if he determines that the medical welfare of the patient requires it. Any limitation imposed on the exercise of the patient's visitation and phone call rights and the reason for it shall be made a part of the clinical record of the patient. No restriction shall be placed upon a patient's visitation at the treatment facility with or upon calls to or from his attorney.

(4) A patient has the right to meet with or call his personal physician, spiritual advisor, and counsel at all reasonable times. The patient has the right to reasonable accommodation of religious practice.

(5) A patient has the right to periodic medical assessment. The director of a treatment facility shall have the physical and mental condition of every patient assessed as

frequently as necessary, but not less often than every six (6) months.

(6) A person receiving services under Sections 41-21-61 through 41-21-107 has the right to receive proper care and treatment, best adapted, according to contemporary professional standards, to rendering further custody, institutionalization, or other services unnecessary. The treatment facility shall devise a written program plan for each person which describes in behavioral terms the case problems, the precise goals, and to modify the program plan as necessary. The program plan shall be reviewed with the patient.

(7) Unless disclosure is determined to be detrimental to the physical or mental health of the patient, and unless notation to that effect is made in the patient's record, a patient has the right of access to his medical records.

(8) A patient has the right to be represented by counsel at any proceeding under Sections 41-21-61 through 41-21-107. The court shall appoint counsel to represent the proposed patient if neither the proposed patient nor others provide counsel. In all proceedings under Section 41-21-61 through 41-21-107, counsel shall: (a) consult with the person prior to any hearing; (b) be given adequate time to prepare for all hearings; (c) continue to represent the person throughout any proceedings under this charge unless released as counsel by the court; and (d) be a vigorous advocate on behalf of his client.

(9) All persons admitted or committed to a treatment facility shall be notified in writing of their rights under Sections 41-21-61 through 41-21-107 at the time of admission.

41-21-103. (1) Unless he or she has a legal guardian or conservator, a married person or a person eighteen (18) years of age or older may be admitted to a treatment facility as a voluntary admittee for treatment, provided that the director deems the person suitable for admission, upon the filing of an application with the director, accompanied by certificates of two (2) physicians or by one (1) physician and one (1) psychologist, one (1) nurse practitioner or one (1) physician assistant who certify that they examined the person within the last five (5) days and that the person is in need of observation, diagnosis and treatment. The director may accept applications from the person seeking admission or any interested person with the applicant's written consent.

(2) A person with an intellectual disability who is under the age of eighteen (18) years and who is not married may be admitted to a treatment facility upon application of his or her parent or legal guardian if the following has occurred:

(a) An investigation by the director that carefully probes the person's social, psychological and developmental background; and

(b) A determination by the director that the person will benefit from care and treatment of his or her disorder at the facility and that services and facilities are available. The reasons for the determination shall be recorded in writing.

(3) A person with an intellectual disability or with mental illness who is married or eighteen (18) years of age or older and who has a legal guardian or conservator may be admitted to a treatment facility upon application of his or her legal guardian or conservator if authorization to make the application has been received from the court having jurisdiction of the guardianship or conservatorship and the following has occurred:

(a) An investigation by the director that carefully probes the person's social, psychological and developmental background; and

(b) A determination by the director that the person will benefit from care and treatment of his or her disorder at the facility and that services and facilities are available. The reasons for the determination shall be recorded in writing.

(4) A person with mental illness who is under the age of fourteen (14) years may be admitted to a treatment facility upon the application of his or her parent or legal guardian if the following has occurred:

(a) An investigation by the director that carefully probes the person's social, psychological and developmental background; and

(b) A determination by the director that the person will benefit from care and treatment of his or her disorder at the facility and that services and facilities are available. The reasons for the determination shall be recorded in writing.

(5) A person with mental illness who is fourteen (14) years of age or older but less than eighteen (18) years of age may be admitted to a treatment facility in the same manner as an adult may be involuntarily committed.

(6) Any voluntary admittee may leave a treatment facility after five (5) days, excluding Saturdays, Sundays and holidays, after he or she gives any member of the treatment facility staff written notice of his or her desire to leave, unless before leaving, the patient withdraws the notice by written withdrawal or unless within those five (5) days a petition and the certificates of two (2) examining physicians, or one (1) examining physician and one (1) psychologist, nurse practitioner or physician assistant, stating that the patient is in need of treatment, are filed with the chancery clerk in the county of the patient's residence or the county in which the treatment facility is located; however, if the admittee is at Mississippi State Hospital at Whitfield, the petition and certificate shall be filed with the chancery clerk in the county of patient's residence or with the Chancery Clerk for the First Judicial District of Hinds County, and the chancellor or clerk shall order a hearing under Sections 41-21-61 through 41-21-107. The patient may continue to be hospitalized pending a final order of the court in the court proceedings.

(7) The written application form for voluntary admission shall contain in large, bold-face type a statement in simple, nontechnical terms that the admittee may not leave for five (5) days, excluding Saturdays, Sundays and holidays, after giving

written notice of his or her desire to leave. This right to leave must also be communicated orally to the admittee at the time of his or her admission, and a copy of the application form given to the admittee and to any parent, guardian, relative, attorney or friend who accompanied the patient to the treatment facility.

41-21-104. The court shall have continuing jurisdiction over a person committed to an inpatient or outpatient treatment program under this chapter for one (1) year after completion of the treatment program. During that time, the court, upon affidavit in the same cause of action, may conduct a hearing consistent with this chapter or Title 41, Chapter 31, Mississippi Code of 1972, to determine whether the person needs to be recommitted for further mental health treatment or to determine whether the person is in need of alcohol and drug treatment. Upon a finding by the court that the person is in need of further treatment, the court may commit the person to an appropriate treatment facility. The person subject to commitment must be afforded the due process to which he or she is entitled under Chapters 21 and 31 of Title 41, Mississippi Code of 1972. This section may not be construed so as to conflict with the provisions of Section 41-21-87.

41-21-105. (1) All persons acting in good faith in connection with the preparation or execution of applications, affidavits, certificates or other documents; apprehension; findings; determinations; opinions of physicians and psychologists; transportation; examination; treatment; emergency

treatment; detention or discharge of an individual, under the provisions of Sections 41-21-61 through 41-21-107, shall incur no liability, civil or criminal, for such acts.

(2) No civil suit of any kind whatsoever shall be brought or prosecuted against the board, any member thereof, any director or employee for acts committed within the scope of their employment, except for * * * willful or malicious acts or acts of gross negligence.

41-21-107. Any person who conspires unlawfully to cause, or unlawfully causes, any person to be adjudicated in need of treatment or as incompetent or to be detained at, or admitted to, or hospitalized in a treatment facility, or any person who receives or detains any person in need of treatment, contrary to Sections 41-21-61 through 41-21-107, or any person who maltreats any person in need of treatment, or any person who knowingly aids, abets or assists and encourages any person in need of treatment, to be absent without permission from any treatment facility or custodian in which or by whom such person is lawfully detained, or any person who violates any provision contained in Sections 41-21-61 through 41-21-107 shall be guilty of a misdemeanor and upon conviction be fined not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), or imprisoned in the county jail not exceeding one (1) year, or both.

41-21-109. (1) The purpose of this section is to provide modern and efficient rehabilitation facilities for adolescents with mental illness or with an intellectual disability who have

been committed for treatment by a court of competent jurisdiction under Section 41-21-61 et seq.

(2) The Department of Finance and Administration, acting through the Bureau of Building, Grounds and Real Property Management, using funds from bonds, monies appropriated by the Legislature for those purposes, federal matching or other federal funds, federal grants or other available funds from whatever source, shall provide for by construction, lease, lease-purchase or otherwise and equip the following juvenile rehabilitation facilities under the jurisdiction and responsibility of the Mississippi Department of Mental Health: Construction and equipping of two (2) separate facilities each of which could serve up to fifty (50) adolescents, and each of which will be located at sites approved by the Department of Mental Health that would be specifically designed to serve adolescents who meet commitment criteria as defined by Section 41-21-61. One (1) fifty-bed facility shall house adolescent offenders with mental illness, and the other facility shall house adolescent offenders with an intellectual disability. Priority admission to these facilities shall be those adolescents who have some involvement in the judicial system. These facilities shall be self-contained and offer a secure but therapeutic environment allowing persons to be habilitated apart from persons who are more vulnerable and who have disabilities that are more disabling. The number of persons admitted to these facilities shall not exceed the number of beds authorized

under this section or the number of beds licensed or authorized by the licensure and certification agency, whichever is less.

Those facilities shall be on property owned by the Department of Mental Health, or its successor, at one or more sites selected by the Department of Mental Health on land that is either donated to the state or purchased by the state specifically for the location of those facilities.

(3) The facility located in Harrison County shall be known as the Specialized Treatment Facility for the Emotionally Disturbed, and the facility located in Brookhaven shall be known as the Mississippi Adolescent Center.

