

FREQUENTLY ASKED QUESTIONS – HB 1640

1. **When will the pre-screening training on Relias be updated?** DMH is working to film a new training, and it should be completed and uploaded on Relias by the end of July. In the meantime, if you have new staff, they can complete the current training. We encourage you to review the updated screening form and other components of HB 1640 with your current and new staff.
2. **Do screeners who have already completed the training have to complete a new training?** No, there will not be a requirement for those who have already trained to have to complete the training again. There are only two “new” sections to the screening form. HB 1640 moves the current screening to the first step of the commitment process in order for a person to have the opportunity to see a mental health professional prior to an affidavit being filed. This is to help with diversion strategies and unnecessary admissions to the state hospital. The only change to the actual screening is a requirement to document if less restrictive alternative treatment considerations and document that there are no other appropriate facilities such as your CSU, other CSUs, hospitals, etc. for a person who is “actively violent” and may be held in jail based on an order by the chancellor. There is also a requirement for the screening to be completed within 24 hours of receiving notification.
3. **Will there be additional funding for pre-affidavits to be completed?** No, not at this time. There was not additional funding provided by the legislature for this purpose. However, CMHCs have been awarded last year and this upcoming fiscal year an additional \$100,000 for each Mobile Crisis Response Team which is specifically for additional staff to be able to respond to crisis situations, if you need to hire additional staff due to an increased demand for screenings. CMHCs also received funding for court liaisons who can also complete screenings. While these grants are for \$65,000, you are not limited to that amount for the salary if you are having difficulties hiring someone. That grant amount is what the state is providing towards the salary of the court liaison. We can evaluate in December after six months of the new process to see how many additional screenings are being completed by the CMHCs to determine if a request needs to be made to the legislature.
4. **Who can complete the pre-affidavit screening?** The CMHCs, Mobile Crisis Response Teams, or a Court Liaison can complete the pre-affidavit screening. If the CMHC is unavailable, any reputable licensed physician, psychologist, nurse practitioner or physician assistance may conduct the pre-affidavit screening.
 - a. **How long do CMHCs have to complete the pre-affidavit screening?** HB 1640 states that the pre-affidavit screening must be completed within 24 hours of the CMHC being notified. If there are issues or concerns with the response times, you can reach out directly to the CMHC or contact DMH’s Office of Consumer Support.
5. **Who can transport?** The local Sheriff’s Office is responsible for transportation during the civil commitment process. Sheriffs have the authority to transfer individuals inside or outside the county without a court order at the request of the crisis intervention team or mobile crisis team. The chancery clerk and the sheriff shall be entitled to expenses as provided by the laws of Mississippi for commitment and transportation to state mental institutions, community mental health centers, or other appropriate facilities.
 - a. The local Sheriff’s office should work with the CMHC and the chancery clerk’s office to find available CSU beds, wherever they may be, throughout Mississippi. The bed registry is updated daily, and there is almost always an open CSU bed somewhere in the state. There are now 196 CSU beds across the state, and every CMHC region has at least one CSU.
6. **What is the 24-Hour Jail Hold limitation?** HB 1640 states that a jail or other detention center may not be used for custody, UNLESS: 1) the CMHC has explored and exhausted the availability of all other

appropriate facilities such as CSUs, the local hospital, and any DMH certified location; 2) the chancellor specifically authorizes it; **and** 3) the person is actively violent. These three elements must be met before someone can be held in jail. If the elements are met, the individual may only be held for 24 hours, and the CMHC must provide treatment during that timeframe. The county of residence of the individual shall pay for the cost of such interim treatment. If, after 24 hours, there are still no available CSU beds or local hospital beds and the person has not yet received a commitment order to be admitted to a state hospital, the CMHC can request an additional 24 hours from the chancellor.

- a. **What do we do after the 24 hours, or in the event of a 24-hour extension, have elapsed?** The chancellor will be on notice of the 24-hour hold and/or 24-hour extension, since he/she signed the Jail Authorization Order; therefore, a hearing should be scheduled as soon as possible to issue a commitment order. This ensures that the person can be admitted to a state hospital by utilizing the Memorandum of Understanding between the CMHCs and the state hospitals. State hospitals cannot admit someone to their facility without a commitment order. To reiterate, there is usually always an open CSU bed somewhere in the State, and the Sheriff's Office has the authority to transport that person outside of the county.
- b. **When does the 24-hour jail hold start?** According to DMH's interpretation of the law, the 24-hour timeframe starts when the individual is placed in jail.

7. **What is a DMH Certified Designated Mental Health Holding Facility?** Designated Mental Health Holding Facilities are facilities utilized to hold people who have been involuntarily civilly committed and are awaiting transportation and admission to a treatment facility. Designated Mental Health Holding Facilities provide housing, maintenance, and medical treatment to people. The facilities must be comprehensive and available to triage and make appropriate clinical dispositions, including the capability to access inpatient services or less restrictive alternatives, as needed, as determined by medical staff. The holding facility can be a county facility or a facility with which the county contracts. If a county uses a facility (other than a DMH-certified Crisis Stabilization Unit or a hospital licensed by the Mississippi Department of Health) as a holding facility, then the facility must be certified by DMH as a Designated Mental Health Holding Facility.

8. **What is a 72-hour emergency hold?** Commonly known as a 72-hour hold, a psychiatric hold, or a 72-hour psychiatric hold, this practice is defined in Mississippi Code Section 41-21-67(6). It allows for someone who has been examined as part of the commitment process to be held in a licensed medical facility **without a civil order or warrant** for a period not to exceed 72 hours. Whenever a **licensed psychologist, nurse practitioner or physician assistant who is certified to complete physical and mental 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, they may hold the person or admit the person to and treat the person in a 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 to hold.

- a. **What if the chancery clerk's office is closed?** If the 72-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 72 hours, then the 72-hour period is extended until the end of the next business day that the chancery clerk's office is open.
- b. **What is "substantial likelihood of physical harm?"**
 1. The person has threatened or attempted suicide or to inflict serious bodily harm to himself; or
 2. The person has threatened or attempted homicide or other violent behavior; or

3. The person has placed others in reasonable fear of violent behavior and serious physical harm to them; or
 4. The person is unable to avoid severe impairment from specific risks; **AND**
 5. There is a substantial likelihood that serious harm will occur unless the person is placed under emergency treatment.
- c. **Who can initiate a hold?** Only a licensed psychologist, nurse practitioner or physician assistant certified to complete examinations for the purposes of commitment, or a licensed physician can initiate the hold. Law enforcement is not permitted under Mississippi law to initiate a 72-hour hold.
 - d. **Where can someone be held?** The law requires someone held under this statute to be treated as an emergency patient at any licensed medical facility, available regional mental health facility, or any crisis stabilization unit. A jail or detention center may not be used for this hold.
 - e. **What if the jail is a certified designated holding facility?** The 24-hour jail hold language does not apply to jails that are certified as a Designated Mental Health Holding Facility.
9. **Can the chancellor order someone to be held as an emergency patient pending an admission hearing?** Yes. If the chancellor determines that there is probable cause to believe that the respondent has a mental illness and that there is no reasonable alternative to detention, the chancellor may order that the person be retained as an emergency patient at any licensed medical facility, crisis stabilization unit, or any other available suitable location for evaluation by a physician, nurse practitioner or physician assistant and that a peace officer transport the respondent to the specified facility, unit or location. 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 has a mental illness and in need of treatment, the chancellor may order that the respondent be retained at the licensed medical facility, crisis stabilization unit, 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 unit 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.
10. **Are virtual commitment hearings allowed?** Section 41-21-68 states that for the purpose of civil commitment hearings, persons being committed and treatment professionals may participate through videoconferencing. Section 41-21-73 states that a hearing shall be conducted before the chancellor but may be held at the location where the person is being held. It also says that 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.
- a. **Holding Facilities:** These 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. Holding facilities are authorized to provide any necessary treatment in person or through the use of videoconferencing

between the person and the treatment professional. 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.

- b. 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.

11. **What does “continuing jurisdiction” over a person committed to inpatient or outpatient treatment mean?** The committing court shall have continuing jurisdiction over a person committed to an inpatient or outpatient treatment program for one (1) year after completion of the treatment program. Section 41-21-104 accordingly provides that *upon the filing of an affidavit and a hearing, in the original cause of action*, at which it is determined that a covered person is in need of further or additional treatment, the court *may commit that person to an appropriate treatment facility*. During this time, the court may conduct a hearing upon affidavit in the same cause of action to determine if further treatment is necessary, and if so, to recommit the individual to an appropriate treatment facility. This means that after one year after completion of treatment, a new affidavit can be filed in the original cause of action.
12. **Who pays?** 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.
 - a. 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).
13. **What about commitments on Fridays, over the weekend, or on holidays?** The county, chancery clerk's office, local CMHC, and local law enforcement should establish a process to handle commitments outside of business hours. The timelines set forth in HB 1640 refer to actual days and not business days.
14. **Who has the authority/ability to treat people held in jail pending a commitment hearing or admission to a state hospital?** HB 1640 states that CMHCs *shall* provide treatment while the person is in jail pending placement at an appropriate facility.
15. **What happens if the pre-affidavit screening cannot be performed or the person refuses to participate?** HB 1640 has a caveat for this scenario. After the CMHC or mobile crisis team attempts to complete an in-person screening, if the person is actively violent or refuses to participate, an affidavit may be filed and a writ will be issued for the sheriff to intervene. In this scenario, the process is reverted back to the original statutory language prior to July 1, 2024. The CMHC will be required to document why the pre-affidavit screening could not be done.

- a. **In this scenario, where does the sheriff take the individual?**
 1. Any available CSU bed in the state.
 2. The chancellor may order that the person be retained as an emergency patient at any licensed medical facility, crisis stabilization unit, or any other available suitable location.
 3. If the CMHC has explored and exhausted the availability of other appropriate facilities, the person is actively violent, and the chancellor specifically authorizes it, they person may be held in jail for up to 24 hours.
 4. Once a commitment order is issued, the CMHC can utilize the MOU, and the person will be admitted to the next available state hospital bed.
16. **What if we can't get a physical and mental examination done within the timeframe i.e. they won't do it over the weekend?** The chancery court and local CMHC should establish a relationship with local physicians to ensure the physical and mental examinations are done within the timeframe set forth in Mississippi law.
17. **What is the relationship between Crisis Intervention Teams (CIT), CMHCs and hospitals?** CMHCs have oversight of Crisis Intervention Teams operating within their service areas. Proposals for Crisis Intervention Teams shall include the necessary collaborative agreements, or MOU, among the CMHC, law enforcement agency, and a hospital that will serve as the single point of entry for the CIT catchment area. The collaborative agreements shall specify that the hospital acting as a single point of entry shall accept all persons who are in custody of a CIT officer operating within the catchment area, when custody has been taken because of substantial likelihood of bodily harm, and shall accept all persons with mental illness and persons with impairment cause by drugs or alcohol who are referred by the CMHC serving the catchment area, when a qualified staff member of the CMHC has evaluated the person and determined that the person needs acute psychiatric emergency services that are beyond the capability of the CMHC. If there is no reasonable, less restrictive alternative, the person may be held at the single point of entry until the impairment has resolved and the person is no longer with substantial likelihood of bodily harm.
18. **What is a Court Liaison?** The primary objective of the CMHC Court Liaisons is the coordination of services for people with behavioral health needs who have come to the attention of the justice system through law enforcement, courts, and/or jail personnel. DMH has worked with several CMHCs to pilot court liaison programs to connect people with community-based services to decrease the number of commitments to inpatient acute psychiatric care. The court liaison program is part of a person-centered integration team and is designed to intervene early in the commitment process ideally before an affidavit is filed by working with the person that is to be committed and/or loved ones who are seeking a commitment to ensure people receive appropriate evaluations and needed mental health services. The liaison is responsible for facilitating communication and collaboration between judicial, law enforcement and behavioral health systems. DMH has funded 33 liaisons statewide based on the number of commitments in each county.
 - a. **Goals of the Court Liaison program are:**
 1. Reduce number of involuntary commitments to state hospitals.
 2. Reduce time and exposure people have with law enforcement and the criminal justice system.
 3. Increase law enforcement and court personnel's knowledge and usage of community-based services.
 4. Increase collaboration with families, courts, law enforcement, and hospitals on behalf of CMHCs and the people they serve.
 - b. **Who can be a Court Liaison?** Court Liaisons must hold either (1) a professional license or (2) a DMH credential as a Mental Health Therapist. Court Liaisons must also be trained in assessment

and crisis intervention; be knowledgeable about their local systems of care; be knowledgeable about mental health and co-occurring disorders; and, be certified to conduct Pre-affidavit Screenings.