



JUDICIAL COMMITMENT IN CIRCUIT COURT:

**BALANCING RIGHTS,
RESPONSIBILITIES, AND
REFORM**

KEY LEGAL CHANGES UNDER HB 1088 (EFFECTIVE JULY 1, 2024)

Circuit courts may retain jurisdiction and proceed with civil commitment when a person with unresolved felony charges is found incompetent to stand trial and not restorable to competency in the foreseeable future.



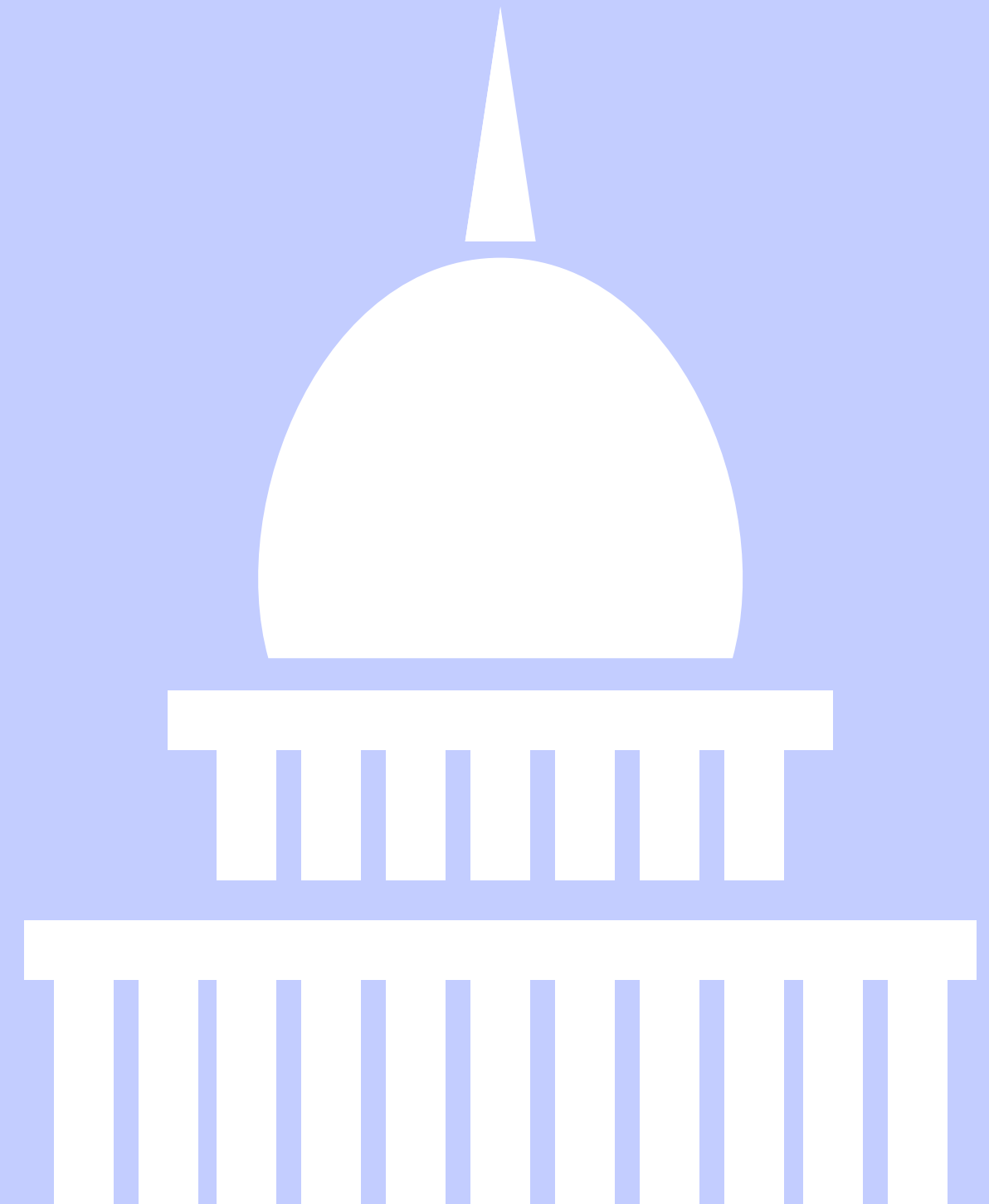
KEY LEGAL CHANGES UNDER HB 1088 (EFFECTIVE JULY 1, 2024)

That finding (incompetent + not restorable) replaces the usual affidavit used in civil commitment proceedings under Section 41-21-65.



KEY LEGAL CHANGES UNDER HB 1088 (EFFECTIVE JULY 1, 2024)

If the finding is based on prior examination by a physician or psychologist, then Section 41-21-67's psychiatric examination requirements may not apply.



STEP 1 TO CRIMINAL COMMITMENT PROCESS (POST-JULY 1, 2024)

step	Action / Trigger	Decision Point(s)	Responsible Party / Court	Outcome Pathways
1. Criminal Case & Competency Concern	Person is charged with a felony and during proceedings is found to be incompetent to stand trial.	Is there evidence / report that the person is not restorable to competency in the foreseeable future?	circuit court	If yes → go to step 2. If no → follow standard competency restoration procedures (medical treatment, etc.)



STEP 2 TO CRIMINAL COMMITMENT PROCESS (POST-JULY 1, 2024)

step	Action / Trigger	Decision Point(s)	Responsible Party / Court	Outcome Pathways
2. Circuit Court Finding	Court formally determines (based on reports, testimony, etc.) that the defendant is incompetent and not restorable.		circuit court	This triggers the civil commitment process under Sections 41-21-61 through 41-21-107. It means the circuit court retains jurisdiction rather than the case being dismissed or stalled.



STEP 3 TO CRIMINAL COMMITMENT PROCESS (POST-JULY 1, 2024)

step	Action / Trigger	Decision Point(s)	Responsible Party / Court	Outcome Pathways
3. Bypassing Affidavit & Psychiatric Exam Requirements	Because of that order, the usual civil commitment affidavit under Section 41-21-65 is not required. Also, if the order is based on examination by physician/psychologist, then the psychiatric examinations required under Section 41-21-67 are not required.		circuit court	This speeds up the process and reduces redundancy.



STEP 4 TO CRIMINAL COMMITMENT PROCESS (POST-JULY 1, 2024)

step	Action / Trigger	Decision Point(s)	Responsible Party / Court	Outcome Pathways
4. Commitment Hearing / Process Under Civil Commitment Statutes	Court proceeds “in the same manner as described in Sections 41-21-61 through 41-21-107.” This includes considering whether less-restrictive alternatives exist, setting treatment, etc.	What treatment facility is least restrictive and appropriate? Is involuntary commitment needed? Are there alternatives?	Circuit Court, mental health professionals, possibly Community Mental Health Center involvement	Outcome: commitment (inpatient or outpatient), less restrictive order, or possibly dismissal if criteria not met.



STEP 5 TO CRIMINAL COMMITMENT PROCESS (POST-JULY 1, 2024)

step	Action / Trigger	Decision Point(s)	Responsible Party / Court	Outcome Pathways
5. Notice Requirements	Before release of committed person, certain notifications must happen.		Department of Mental Health must notify the district attorney in county of offense; DA must notify crime victim or family member who requested notification; also sheriffs of both origin and destination counties.	Ensures victims/family have information, oversight.

STEP 6 TO CRIMINAL COMMITMENT PROCESS (POST-JULY 1, 2024)

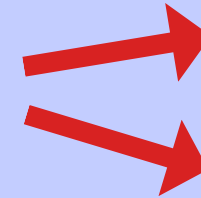
step	Action / Trigger	Decision Point(s)	Responsible Party / Court	Outcome Pathways
6. Post-Commitment Oversight & Review	Once committed, regular reviews / hearings per statutes for continued need, least restrictive treatment, etc.	Does person continue to meet criteria? Is there a less restrictive alternative?	The same circuit court / relevant treatment facility / evaluation professionals	Commitment may continue, may be modified, or terminated depending on evaluations.

MISSISSIPPI COMMITMENT

concerning behavior
observed



Pre-Affidavit screening
(Local Mental Health
Authority)



*Diversion/ voluntary care
community services*

*If not appropriate/ safety
concern, affidavit filed or
criminal case finding*

psychiatric/ psychological
evaluation + probable
cause screening



Law enforcement/
emergency detention (only
if violent; Max48 hours)



Commitment Hearing
(chancery/ circuit court) or
circuit court civil
commitment for incompetent
defendants



court order commitment/ involuntary treatment
placement (state hospital/ forensic facility)

court denies commitment= release, commitment
plan, return to criminal process

2025 Fall OSPD & MPDA Public Defender Conference

Session Four:
Judicial Commitments in Circuit Court:
Balancing Rights, Responsibilities, and
Reform

Thursday, October 23, 2025

8:30- 9:30 a.m.

Tameika Bennett

