

The Senate Health and Human Services Committee offered the following substitute to HB 498:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so  
2 as to change the organization of the mental disability service system; to change certain  
3 definitions; to provide for legislative findings and purposes; to provide for regional offices  
4 within the division and their duties and functions; to create regional behavioral health and  
5 developmental disabilities planning boards and their duties and responsibilities; to provide  
6 for appointments to regional planning boards; to provide for changes in the powers and duties  
7 of community service boards; to provide for appointments to community service boards; to  
8 establish eligibility for appointment to regional planning boards and community service  
9 boards; to provide for reimbursement of actual expenses of regional planning board and  
10 community service board members; to provide for a community ombudsman program; to  
11 provide for community service boards to convert their organizational structures; to amend  
12 the Official Code of Georgia Annotated to make conforming changes; to provide for all  
13 related matters; to provide for effective dates; to repeal conflicting laws; and for other  
14 purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I**  
**SECTION 1-1.**

18 Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to juvenile  
19 proceedings, is amended by striking subparagraph (e)(2)(B) of Code Section 15-11-63,  
20 relating to designated felony acts, definitions, restrictive custody disposition, and notice to  
21 schools, and inserting in its place the following:

22 "(B) While in a youth development center, the child may be permitted to participate in  
23 all youth development center services and programs and shall be eligible to receive  
24 special medical and treatment services, regardless of the time of confinement in the

1 youth development center. After the first six months of confinement in a youth  
 2 development center, a child may be eligible to participate in youth development center  
 3 sponsored programs including community work programs and sheltered workshops  
 4 under the general supervision of a youth development center staff outside of the youth  
 5 development center; and, in cooperation and coordination with the Department of  
 6 Human Resources, the child may be allowed to participate in state sponsored programs  
 7 for evaluation and services under the Division of Rehabilitation Services of the  
 8 Department of Labor and ~~the~~ Division of Mental Health, Mental Retardation, and  
 9 ~~Substance Abuse~~ Behavioral Health and Developmental Disabilities under the  
 10 Department of Human Resources;."

### 11 SECTION 1-2.

12 Said chapter is further amended by striking subsections (c) and (e) of Code Section  
 13 15-11-149, relating to disposition of mentally ill or mentally retarded child, and inserting in  
 14 their places the following:

15 "(c) *Commitment.* If it appears from the study and report undertaken pursuant to  
 16 subsection (a) of this Code section that the child is committable under the laws of this state  
 17 as a mentally retarded or mentally ill child, the court shall order the child detained and shall  
 18 proceed within ten days to commit the child to the Division of ~~Mental Health, Mental~~  
 19 ~~Retardation, and Substance Abuse~~ Behavioral Health and Developmental Disabilities of  
 20 the Department of Human Resources."

21 "(e) *Applicability of Code Section 15-11-62.* The provisions of Code Section 15-11-62  
 22 shall not apply to any child 13 to 15 years of age who is found to be suffering from mental  
 23 illness or mental retardation. Any such child shall not be committed to the Department of  
 24 Corrections but shall be committed to the Division of ~~Mental Health, Mental Retardation,~~  
 25 ~~and Substance Abuse~~ Behavioral Health and Developmental Disabilities of the Department  
 26 of Human Resources as provided in this Code section."

### 27 SECTION 1-3.

28 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by striking  
 29 Code Section 31-3-12.1, relating to contracts between county boards, authorization for, and  
 30 provisions applicable to county board of health serving as community service board, and  
 31 inserting in its place the following:

32 "31-3-12.1.

33 In addition to any other power authorized by law, the county governing authority may  
 34 authorize the county board of health to enter into a contract with ~~a regional~~ the department  
 35 or a community ~~mental health, mental retardation, and substance abuse~~ service board

1 created under Chapter 2 of Title 37 to provide certain mental health, mental retardation,  
 2 and substance abuse services based on the contractual agreement between the parties.  
 3 Further, a county governing authority may authorize a county board of health, wherever  
 4 applicable, to serve as the community ~~mental health, mental retardation, and substance~~  
 5 ~~abuse~~ service board, provided that the county governing authority, the board of health, and  
 6 any other affected county governing authority acts pursuant to subsection (e) of Code  
 7 Section 37-2-6. In the event that the county governing authority exercises the authority  
 8 granted by this Code section, Chapter 2 of Title 37, or Code Section 37-2-6, the county  
 9 board of health shall appoint a director for mental health, mental retardation, and substance  
 10 abuse or a supervisor of the specific service which is being provided by the county board  
 11 of health, whichever is applicable, who shall meet the requirements established by ~~the~~  
 12 ~~regional mental health, mental retardation, and substance abuse service board~~ this Code  
 13 section. The director for mental health, mental retardation, and substance abuse, or the  
 14 service supervisor, shall not be required to be a physician and shall be a person other than  
 15 the director of the county board of health appointed pursuant to Code Section 31-3-11.  
 16 Further, such director for mental health, mental retardation, and substance abuse or such  
 17 supervisor of the specific service shall report directly to the community service board or  
 18 the county board of health, whichever is applicable, and shall have no formal reporting  
 19 relationship with the director of the county board of health. If a county board of health  
 20 exercises the authority granted pursuant to this Code section and Chapter 2 of Title 37 to  
 21 serve as a community service board, the membership of the county board of health shall  
 22 constitute the community service board and, at any time that such members are exercising  
 23 duties and powers related to mental health, mental retardation, and substance abuse, the  
 24 community service board shall be an independent agency and shall operate in accordance  
 25 with the provisions of Title 37 as a community service board. Notwithstanding any  
 26 provisions of law to the contrary, a community service board and a county board of health  
 27 which have the same membership may contract with each other, provided that any such  
 28 contract is approved by the ~~appropriate regional board, as defined in Chapter 2 of Title 37,~~  
 29 department prior to adoption."

#### 30 SECTION 1-4.

31 Said title is further amended by striking paragraph (3) of subsection (f) of Code Section  
 32 31-5A-4, relating to department's powers, duties, functions, and responsibilities, divisions,  
 33 and directors, and inserting in its place the following:

34 "(3) Is authorized to convene at least quarterly a state agency coordinating committee  
 35 comprised of the commissioners, directors, chairpersons, or their designees, of the  
 36 following agencies involved in health related activities: the Department of Human

1 Resources, including the Division of Public Health, the Division of ~~Mental Health,~~  
 2 ~~Mental Retardation, and Substance Abuse~~ Behavioral Health and Developmental  
 3 Disabilities, and the ~~Office~~ Division of Aging Services thereof, the Department of  
 4 Juvenile Justice, the Department of Corrections, the Insurance Department, the State  
 5 Merit System of Personnel Administration, the State Board of Workers' Compensation,  
 6 and the Governor's Office of Planning and Budget. The board of regents may also  
 7 designate a person to serve on the coordinating committee. The committee will convene  
 8 for the purposes of planning and coordinating health issues that have interagency  
 9 considerations. The commissioner of the department will serve as the chairperson of the  
 10 state agency coordinating committee and will report to the Governor the activities,  
 11 findings, and recommendations of the committee;".

### 12 SECTION 1-5.

13 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by  
 14 striking Articles 1 and 2 of Chapter 1, relating to definitions and powers and duties of the  
 15 Department of Human Resources, respectively, and inserting in their respective places the  
 16 following:

#### 17 "ARTICLE 1

18 37-1-1.

19 As used in this title, the term:

- 20 (1) 'Behavioral health' includes mental or emotional illness, substance abuse, and  
 21 addictive disease.
- 22 (2) 'Board' means the Board of Human Resources.
- 23 (3) 'Commissioner' means the commissioner of human resources.
- 24 (4) 'Community service board' means a public board established pursuant to Code  
 25 Section 37-2-6, which board governs the provision of certain disability services not  
 26 provided by other public or private providers under contract with the department.
- 27 (5) 'Consumer' means a natural person who has been or is a recipient of disability  
 28 services as defined in Code Section 37-2-2.
- 29 (6) 'County board of health' means a county board of health established in accordance  
 30 with Chapter 3 of Title 31 and includes its duly authorized agents.
- 31 (7) 'Department' means the Department of Human Resources and includes its duly  
 32 authorized agents and designees.
- 33 (8) 'Division' means the Division of Behavioral Health and Developmental Disabilities.

1 (9) 'Peace officer' means any federal, city, or county police officer, any officer of the  
2 Georgia State Patrol, or any sheriff or deputy sheriff.

3 (10) 'Penal offense' means a violation of a law of the United States, this state, or a  
4 political subdivision thereof for which the offender may be confined in a state prison or  
5 a city or county jail or any other penal institution.

6 (11) 'Physician' means any person duly authorized to practice medicine in this state under  
7 Chapter 34 of Title 43.

8 (12) 'Psychologist' means any person authorized under the laws of this state to practice  
9 as a licensed psychologist as set forth in paragraph (3) of Code Section 43-39-1.

10 (13) 'Regional board' means a regional mental health, mental retardation, and substance  
11 abuse board established in accordance with Code Section 37-2-4.1 as that Code section  
12 existed on June 30, 2002.

13 (14) 'Regional director' means an employee of the department who acts as the  
14 department's agent and designee to manage community and hospital services for  
15 consumers of disability services within a behavioral health and developmental disabilities  
16 region established in accordance with Code Section 37-2-3.

17 (15) 'Regional planning board' means a behavioral health and developmental disabilities  
18 planning board established in accordance with Code Section 37-2-4.1.

19 (16) 'Regional services administrator' means an employee of the department who, under  
20 the supervision of the regional director, manages the purchase or authorization of  
21 services, or both, for consumers of disability services, the assessment and coordination  
22 of services, and ongoing monitoring and evaluation of services provided within a  
23 behavioral health and developmental disabilities region established in accordance with  
24 Code Section 37-2-3.

25 (17) 'Regional state hospital administrator' means the chief administrative officer of a  
26 state owned or state operated hospital and the state owned or operated community  
27 programs in a region. The regional state hospital administrator, under the supervision of  
28 the regional director, has overall management responsibility for the regional state hospital  
29 and manages services provided by employees of the regional state hospital and employees  
30 of state owned or operated community programs within a behavioral health and  
31 developmental disabilities region established in accordance with Code Section 37-2-3.

32 (18) 'Resident' means a person who is a legal resident of the State of Georgia.

33 (19) 'Service area' means a community service area.

34 37-1-2.

35 (a) The General Assembly finds that the state has a need to continually improve its system  
36 for providing effective, efficient, and quality behavioral health and developmental

1 disability services. The General Assembly also finds that the needs of the publicly funded  
2 behavioral health and developmental disability system and the state can best be met  
3 through reorganizing the regional mental health, mental retardation, and substance abuse  
4 boards and certain functions of the Department of Human Resources. Further, the General  
5 Assembly finds that a comprehensive range of quality services and opportunities is vitally  
6 important to the existence and well-being of individuals with behavioral health or  
7 developmental disability needs and their families. The General Assembly further finds that  
8 the state has an obligation and a responsibility to develop and implement planning and  
9 service delivery systems which focus on a core set of consumer oriented, community based  
10 values and principles which include, but are not limited to, the following:

11 (1) Consumers and families should have choices about services and providers and should  
12 have substantive input into the planning and delivery of all services;

13 (2) A single point of accountability should exist for fiscal, service, and administrative  
14 issues to ensure better coordination of services among all programs and providers and to  
15 promote cost-effective, efficient service delivery and administration;

16 (3) The system should be appropriately comprehensive and adaptive to allow consumers  
17 and their families to access the services they desire and need;

18 (4) Public programs are the foundation of the service planning and delivery system and  
19 they should be valued and nurtured; at the same time, while assuring comparable  
20 standards of quality, private sector involvement should be increased to allow for  
21 expanded consumer choice and improved cost effectiveness;

22 (5) Planning should reside at the local level, with the primary authority vested in local  
23 government, consumers, families, advocates, and other interested local parties;

24 (6) The system should ensure that the needs of consumers who are most in need are met  
25 at the appropriate service levels; at the same time, prevention strategies should be  
26 emphasized for those disabilities which are known to be preventable;

27 (7) The system should be designed to provide the highest quality of services utilizing  
28 flexibility in funding, incentives, and outcome evaluation techniques which reinforce  
29 quality, accountability, efficiency, and consumer satisfaction;

30 (8) The functions of service planning, coordination, contracting, resource allocation, and  
31 consumer assessment should be separated from the actual treatment, habilitation, and  
32 prevention services provided by contractors;

33 (9) Consumers and families should have a single, community based point of entry into  
34 the system;

35 (10) Consumers, staff, providers, and regional planning board and community service  
36 board members should receive ongoing training and education and should have access

1 to key management resources such as information systems and technical and professional  
2 support services; and

3 (11) The department is responsible for ensuring the appropriate use of state, federal, and  
4 other funds to provide quality services for individuals with behavioral health needs or  
5 developmental disabilities who are served by the public system and to protect consumers  
6 of these services from abuse and maltreatment.

7 (b) Local governments, specifically county governing authorities, have provided  
8 outstanding leadership and support for behavioral health and developmental disability  
9 programs, and the General Assembly finds that their investments, both personal and capital,  
10 should be valued and utilized in any improved system. As such, the state and any new  
11 governing structure should take special precautions to ensure that the county governing  
12 authorities have an expanded level of input into decision making and resource allocation  
13 and that any services or programs should continue to use and expand their use of county  
14 facilities and resources wherever appropriate and possible.

15 (c) The purpose of this chapter and Chapter 2 of this title is to provide for a comprehensive  
16 and improved behavioral health and developmental disability services planning and  
17 delivery system in this state which will develop and promote the essential public interests  
18 of the state and its citizens. The provisions of this chapter and Chapter 2 of this title shall  
19 be liberally construed to achieve their purposes.

## 20 ARTICLE 2

21 37-1-20.

22 (a) The Division of Behavioral Health and Developmental Disabilities shall be a division  
23 of the department and shall be managed by a director whose qualifications meet standards  
24 set by the board.

25 (b) The department, through the division, shall:

26 (1) Establish, administer, and supervise the state programs for behavioral health and  
27 developmental disabilities;

28 (2) Direct, supervise, and control the medical and physical care, treatment, and  
29 rehabilitation provided by the institutions and programs under its control, management,  
30 or supervision;

31 (3) Have authority to contract for services with: community service boards, private  
32 agencies, and other public entities for the provision of services within a service area so  
33 as to provide an adequate array of services, choice of providers for consumers, and to  
34 comply with the applicable federal laws, rules and regulations related to public or private  
35 hospitals; hospital authorities; medical schools, and training and educational institutions;  
36 departments and agencies of this state; county or municipal governments; any person,

1 partnership, corporation, or association, whether public or private; the United States  
2 government or the government of any other state;

3 (4) Establish and support programs for the training of professional and technical  
4 personnel as well as regional planning boards and community service boards;

5 (5) Have authority to conduct research into the causes and treatment of disability and  
6 into the means of effectively promoting mental health;

7 (6) Assign specific responsibility to one or more units of the division for the  
8 development of a disability prevention program. The objectives of such program shall  
9 include, but are not limited to, monitoring of completed and ongoing research related to  
10 the prevention of disability, implementation of programs known to be preventive, and  
11 testing, where practical, of those measures having a substantive potential for the  
12 prevention of disability;

13 (7) Establish a system for regional administration of behavioral health and  
14 developmental disability services in institutions and in the community under the  
15 supervision of a regional director;

16 (8) Make and administer budget allocations to regional offices of the division established  
17 by the board pursuant to Code Section 37-2-4.1, to fund the operation of behavioral  
18 health and developmental disability facilities and programs;

19 (9) Coordinate in consultation with providers, professionals, and other experts the  
20 development of appropriate outcome measures for client centered service delivery  
21 systems;

22 (10) Establish, operate, supervise, and staff programs and facilities for the treatment of  
23 disabilities throughout this state; and

24 (11) Disseminate information about available services and the facilities through which  
25 such services may be obtained.

26 (c) The department shall:

27 (1) Establish a unit of the department which shall receive and consider complaints from  
28 individuals receiving services, make recommendations to the director of the division  
29 regarding such complaints, and ensure that the rights of individuals receiving services are  
30 fully protected;

31 (2) Exercise all powers and duties provided for in this title or which may be deemed  
32 necessary to effectuate the purposes of this title; and

33 (3) Assign specific responsibility to one or more units of the division for the  
34 development of programs designed to serve disabled infants, children, and youth. To the  
35 extent practicable, such units shall cooperate with the Georgia Department of Education  
36 and the University System of Georgia in developing such programs.

1 37-1-21.

2 (a) The department is designated and empowered as the agency of this state responsible  
3 for supervision and administrative control of: state facilities for the treatment of mental  
4 illness or the habilitation and treatment of individuals with developmental disabilities; state  
5 hospitals for the treatment of tubercular patients; programs for the care, custody, and  
6 treatment of addictive disease; and other facilities, institutions or programs which now or  
7 hereafter come under the supervision and administrative control of the department. With  
8 respect to all such facilities, institutions, or programs the department shall have the  
9 following powers and duties:

10 (1) To create all necessary offices, appoint and remove all officers of such facilities,  
11 institutions, or programs, prescribe and change the duties of such officers from time to  
12 time, and fix their salaries as provided for by the pay plan covering positions under the  
13 State Merit System of Personnel Administration and in accordance with rules and  
14 regulations of the State Personnel Board, except that the commissioner shall not be  
15 subject to the State Merit System of Personnel Administration or the rules and regulations  
16 of the State Personnel Board. The department shall discharge and cause to be prosecuted  
17 any officer or other person who shall assault any patient in any of such facilities or  
18 institutions or who shall knowingly use toward any such patient any other or greater force  
19 than the occasion may require;

20 (2) To refuse or accept and hold in trust for any such facility, institution, or program any  
21 grant or devise of land or bequest or donation of money or other property for the  
22 particular use specified or, if no use is specified, for the general use of such facility,  
23 institution, or program;

24 (3) To bring suit in its name for any claims which any such facility or institution may  
25 have, however arising;

26 (4) To appoint police of such facilities, institutions or programs who are authorized,  
27 while on the grounds or in the buildings of the respective facilities, institutions, or  
28 programs to make arrests with the same authority, power, privilege, and duties as the  
29 sheriffs of the respective counties in which such facilities, institutions, or programs are  
30 situated. If because of the contagious or infectious nature of the disease of persons  
31 arrested facilities are not available for their detention, such police shall be authorized to  
32 confine such persons within the respective facilities, institutions, or programs pending  
33 trial as provided in other cases. After trial and conviction of any such person, he or she  
34 shall be sentenced to serve his or her term of sentence in the secured ward of the facility,  
35 institution or program; and

36 (5) To have full authority to receive patients ordered admitted to such facilities,  
37 institutions, or programs pursuant to any law, to receive any voluntary patients, to

1 discharge such patients pursuant to law, to contract with patients or other persons acting  
 2 on behalf of patients or legally responsible therefor, and in general to exercise any power  
 3 or function with respect to patients provided by law. It is the intent of the General  
 4 Assembly to provide always the highest quality of diagnosis, treatment, custody, and care  
 5 consistent with medical, therapeutic, and habilitative evidence based practice and  
 6 knowledge. It is the further intent of the General Assembly that the powers and duties of  
 7 the department with respect to patients shall be administered by persons properly trained  
 8 professionally for the exercise of their duties, consistent with the intention expressed in  
 9 this Code section.

10 (b) The board is empowered to prescribe all rules and regulations for the management of  
 11 such facilities, institutions, and programs not conflicting with the law.

12 37-1-22.

13 The board shall adopt and promulgate written rules, regulations, and standards as may be  
 14 deemed necessary to effectuate the purposes of this title and which shall be the basis of  
 15 state financial participation in behavioral health and developmental disability programs.

16 37-1-23.

17 The board is directed to prescribe rules of practice and procedure in order to implement this  
 18 chapter. The department and the division are directed to make the board's and the  
 19 department's rules available for distribution.

20 37-1-24.

21 No provision in this title shall require the department or any facility or private facility or  
 22 any community service board to utilize a physician in lieu of a psychologist or a  
 23 psychologist in lieu of a physician in performing functions under this title even though this  
 24 title authorizes either a physician or a psychologist to perform the function."

#### 25 **SECTION 1-6.**

26 Said title is further amended by striking Article 1 of Chapter 2, relating to general provisions,  
 27 and inserting in its place the following:

#### 28 "ARTICLE 1

29 37-2-1.

30 (a) The State of Georgia recognizes its responsibility for its citizens who are mentally ill  
 31 or developmentally disabled including individuals with epilepsy, cerebral palsy, autism,

1 and other neurologically disabling conditions or who abuse alcohol, narcotics, or other  
2 drugs and recognizes an obligation to such citizens to meet their needs through a  
3 coordinated system of community facilities, programs, and services.

4 (b) It is the policy of this state to provide adequate mental health, developmental disability,  
5 addictive disease, and other disability services to all its citizens. It is further the policy of  
6 this state to provide such services through a unified system which encourages cooperation  
7 and sharing of resources among all providers of such services, both governmental and  
8 private.

9 (c) It is the purpose of this chapter to enable and encourage the development of  
10 comprehensive, preventive, early detection, habilitative, rehabilitative, and treatment  
11 disability services; to improve and expand community programs for the disabled; to  
12 provide continuity of care through integration of county, area, regional, and state services  
13 and facilities for the disabled; to provide for joint disability services and the sharing of  
14 manpower and other resources; and to monitor and restructure the system of providing  
15 disability services in the State of Georgia to make better use of the combined public and  
16 private resources of the state and local communities.

17 (d) The provisions of this chapter shall be liberally construed to achieve the objectives set  
18 forth in this Code section.

19 37-2-2.

20 As used in this chapter, the term:

21 (1) 'Addictive disease' means the abuse of, addiction to, or dependence upon alcohol or  
22 other drugs and includes substance abuse.

23 (2) 'Community service board' means a public board established pursuant to Code  
24 Section 37-2-6, which board governs the provision of certain disability services not  
25 provided by other public or private providers under contract with the department.

26 (3) 'Consumer' means a natural person who has been or is a recipient of disability  
27 services as defined in this Code section.

28 (4) 'Developmental disability' includes mental retardation and other neurologically  
29 disabling conditions, including epilepsy, cerebral palsy, and autism, which require  
30 treatment similar to that for individuals with mental retardation.

31 (5) 'Director' means the director of the Division of Behavioral Health and Developmental  
32 Disabilities.

33 (6) 'Disability' means:

- 34 (A) Mental or emotional illness;
- 35 (B) Developmental disability; or
- 36 (C) Addictive disease.

1 (7) 'Disability services' means services to the disabled or services which are designed to  
2 prevent or ameliorate the effect of a disability.

3 (8) 'Disabled' means any person or persons who have a disability.

4 (9) 'Division' means the Division of Behavioral Health and Developmental Disabilities  
5 of the Department of Human Resources.

6 (10) 'Hospital' means a state owned or state operated facility providing services which  
7 include, but are not limited to, inpatient care and the diagnosis, care, and treatment or  
8 habilitation of the disabled. Such hospital may also provide or manage state owned or  
9 operated programs in the community.

10 (11) 'Regional board' means a regional mental health, mental retardation, and substance  
11 abuse board established in accordance with Code Section 37-2-4.1 as that Code section  
12 existed on June 30, 2002.

13 (12) 'Regional office' means a regional behavioral health and developmental disabilities  
14 office created pursuant to Code Section 37-2-4.1 as an office of the division which shall  
15 serve as the entity for the administration of disability services in a region.

16 (13) 'Regional planning board' means a regional behavioral health and developmental  
17 disabilities board established in accordance with Code Section 37-2-4.1.

18 37-2-2.1.

19 The Department of Human Resources shall have a Division of Behavioral Health and  
20 Developmental Disabilities.

21 37-2-3.

22 (a) The board shall designate boundaries for behavioral health and developmental  
23 disabilities regions and may modify the boundaries of such regions from time to time as  
24 deemed necessary by the board.

25 (b) The division, with the approval of the commissioner, shall designate community  
26 service areas, which shall serve as boundaries for the establishment and operation of  
27 community service boards within this state for the purpose of delivering disability services.  
28 The division shall be authorized to initiate the redesignation of such community service  
29 area boundaries and may consider requests from a county or group of counties for  
30 recommended changes to the boundaries of the community service areas.

31 (c) To the extent practicable, the boundaries for regional planning boards and offices and  
32 community service areas shall not subdivide any county unit or conflict with any districts  
33 established by the department and the state relating to the planning for, or delivery of,  
34 health services. In dividing the state into areas, the board, the department, and the division  
35 shall take into consideration such factors as geographic boundaries, roads and other means

1 of transportation, population concentrations, city and county lines, other relevant  
2 community services, and community economic and social relationships. Consideration  
3 shall also be given to the existence of facilities and personnel available in the areas for the  
4 delivery of disability services.

5 37-2-4.

6 (a) The Governor shall appoint, fund, and provide staff assistance to a Governor's  
7 Advisory Council for Mental Health, Mental Retardation, and Substance Abuse, referred  
8 to in this chapter as the 'Governor's council.' The Governor's council shall consist of no  
9 more than 30 and no less than 15 members, who shall be representative of professional and  
10 lay individuals, organizations, and state agencies associated or involved with services for  
11 the disabled. Such members shall be fairly representative of all disability groups. The term  
12 of each member of the Governor's council shall be for three years, provided that of the  
13 members first appointed, ten shall be appointed for a term of one year, five for a term of  
14 two years, and the remainder, if any, for a term of three years. Vacancies shall be filled by  
15 similar appointment for unexpired terms. The director shall be an ex officio, nonvoting  
16 member.

17 (b) The Governor's council shall advise the Governor, the board, the department, and the  
18 division as to the efficacy of the state disability services programs, the need for legislation  
19 relating to the disabled, the need for expansion or reduction of specific disability services  
20 programs, and the need for specific changes in the state disability services programs. The  
21 Governor's council shall review and prepare written comments on proposed state plans and  
22 on standards, rules, and regulations promulgated by the division. Such comments shall be  
23 submitted to the director, the board, the commissioner, and to any other individual or  
24 agency deemed appropriate. The Governor's council shall further receive and consider  
25 complaints and grievances submitted in writing by individuals, associations, or agencies  
26 involved with the delivery or receipt of disability services and, if deemed appropriate, shall  
27 make recommendations to the Governor, the board, the department, or the division with  
28 respect to such complaints or grievances. The Governor's council shall also provide  
29 guidance and assistance to the regional planning boards, hospitals, community service  
30 boards, and other private or public providers in the performance of their duties.

31 37-2-4.1.

32 (a) The division shall create regional behavioral health and developmental disability  
33 offices. The number of these offices may be modified from time to time as deemed  
34 necessary by the division.

1 (b) The division shall create a separate regional behavioral health and developmental  
2 disabilities planning board for each regional office established under subsection (a) of this  
3 Code section. Each board shall provide and facilitate coordinated and comprehensive  
4 planning for its region in conformity with minimum standards and procedures established  
5 by the division. Each board shall be designated with such identifying words before the  
6 term 'regional behavioral health and developmental disabilities planning board' as that  
7 regional planning board may, from time to time, choose and designate by official action.

8 (c) The powers, functions, obligations, and duties of the regional mental health, mental  
9 retardation, and substance abuse boards as they existed on June 30, 2002, are transferred  
10 to the department. The department shall succeed to all rights, privileges, entitlements,  
11 contracts, leases, agreements, and other transactions of the regional boards which were in  
12 effect on June 30, 2002, and none of those rights, privileges, entitlements, contracts, leases,  
13 agreements, and other transactions shall be impaired or diminished by reason of such  
14 transfer. In all such instances, the department shall be substituted for such regional board  
15 and the department shall succeed to the rights and duties under such contracts, leases,  
16 agreements, and other transactions.

17 37-2-5.

18 (a) Each regional planning board shall engage in disability services planning within its  
19 region and shall perform such other functions as may be provided or authorized by law.

20 (b) Membership on the regional planning board within an established region shall be  
21 determined as follows:

22 (1) Each county with a population of 50,000 or less according to the United States  
23 decennial census of 1990 or any future such census shall appoint one member to the  
24 board;

25 (2) Each county with a population of more than 50,000 according to the United States  
26 decennial census of 1990 or any future such census shall appoint one member for each  
27 population increment of 50,000 or any portion thereof;

28 (3) The appointment or appointments for each county shall be made by the county  
29 governing authority; and

30 (4) The county governing authority shall appoint a consumer of disability services, a  
31 family member of a consumer, an advocate for disability services, or a local leader or  
32 business person with an interest behavioral health and developmental disabilities;  
33 provided, however, that for counties with more than one appointment, the county  
34 governing authority shall seek to ensure that such appointments represent various groups  
35 and disability services.

1 (b.1) A county governing authority may appoint the school superintendent, a member of  
2 the board of health, a member of the board of education, or any other elected or appointed  
3 official to serve on the regional planning board, provided that such person meets the  
4 qualifications of paragraph (4) of subsection (b) of this Code section, such person does not  
5 serve on a community service board, and such appointment does not violate the provisions  
6 of Chapter 10 of Title 45.

7 (b.2)(1) A person shall not be eligible to be appointed to or serve on a community service  
8 board if such person is:

9 (A) A member of the regional planning board which serves the region in which that  
10 community service board is included; or

11 (B) An employee of that community service board or employee or board member of  
12 any private or public group, organization, or service provider which contracts with or  
13 receives funds from that community service board.

14 (2) A person shall not be eligible to be appointed to or serve on a community service  
15 board if such person's spouse, parent, child, or sibling is a member of that community  
16 service board or a member, employee, or board member specified in subparagraph (A)  
17 or (B) of paragraph (1) of this subsection. With respect to appointments by the same  
18 county governing authority, no person who has served a full term or more on a  
19 community service board may be appointed to a regional planning board until a period  
20 of at least two years has passed since the time such person served on the community  
21 service board, and no person who has served a full term or more on a regional mental  
22 health, mental retardation, and substance abuse board or a regional planning board may  
23 be appointed to a community service board until a period of at least two years has passed  
24 since the time such person has served on a regional planning board or a regional mental  
25 health, mental retardation, and substance abuse board. A person who has served on a  
26 regional mental health, mental retardation, and substance abuse board and who becomes  
27 a member of a regional planning board on June 30, 2002, may not be appointed to a  
28 community service board until a period of at least two years has passed since the time  
29 such person has served on the regional planning board.

30 (c) In making appointments to the regional planning board, the various county governing  
31 authorities shall ensure that appointments are reflective of the cultural and social  
32 characteristics, including gender, race, ethnic, and age characteristics, of the regional and  
33 county populations. The county governing authorities are further encouraged to ensure that  
34 each disability group is viably represented on the regional planning board, and in so doing  
35 the county governing authority may consider suggestions for appointments from clinical  
36 professional associations as well as advocacy groups, including but not limited to the  
37 Georgia Mental Health Consumer Network, People First of Georgia, the Georgia Parent

1 Support Network, National Alliance for the Mentally Ill Georgia, the American Association  
2 for Retired Persons, Georgians for Children, the National Mental Health Association of  
3 Georgia, Georgia ARC Network, and the Georgia Council on Substance Abuse and their  
4 local chapters and affiliates.

5 (d)(1) In addition, members of the regional mental health, mental retardation, and  
6 substance abuse boards in office on June 30, 2002, shall become members of the regional  
7 planning board for the area in which they reside on July 1, 2002, and shall serve out the  
8 balance of their terms.

9 (2) The initial term of a new member of a regional planning board shall be determined  
10 by the commissioner in order to establish staggered terms on the board. At such time as  
11 the terms of the members of the board are equally staggered, the term of a member of the  
12 regional planning board shall be for a period of three years and until the member's  
13 successor is appointed and qualified. A member may serve no more than two consecutive  
14 terms. The term of a regional planning board member shall terminate upon resignation,  
15 death, or inability to serve due to medical infirmity or other incapacity or such other  
16 reasonable condition as the regional planning board may impose under its bylaws.  
17 Vacancies on the regional planning board shall be filled in the same manner as the  
18 original appointment.

19 (e) Prior to December 31, 2002, each regional planning board shall adopt bylaws  
20 governing its operation and management. At a minimum, the bylaws shall provide for  
21 staggered terms of the board, requirements for an annual meeting to elect officers, a  
22 mechanism for ensuring that consumers of disability services and family members of  
23 consumers constitute a majority of the appointments to the board, and a mechanism for  
24 ensuring that each disability service is equitably represented by appointments to the board.  
25 Any board member who serves an initial term of less than three years may be eligible to  
26 be reappointed for two full consecutive three-year terms. The chairperson and vice  
27 chairperson of the regional planning board shall be elected from among the members of the  
28 board to serve a term of one year with the option of reelection for an additional one-year  
29 term. The bylaws shall provide for any other officers and their means of selection, as well  
30 as any necessary committees or subcommittees of the board. Prior to their adoption by the  
31 regional planning board, the bylaws shall be submitted to the division for review and  
32 approval. The regional planning board must have the written approval of the director of the  
33 division prior to the adoption of bylaws.

34 (f) The regional planning board shall meet not less than once every two months, beginning  
35 on July 1 and continuing through the next June 30, which time frame shall be the fiscal  
36 year for each regional planning board.

1 (g) Each member of the regional planning board may, upon approval of the regional  
2 director, receive reimbursement for actual expenses incurred in carrying out the duties of  
3 such office in conformance with rates and allowances set for state employees by the Office  
4 of Planning and Budget and the same mileage allowance for use of a personal car as that  
5 received by all other state officials and employees or a travel allowance of actual  
6 transportation cost if traveling by public carrier.

7 (h) Each regional planning board which is composed of members who are appointed  
8 thereto by the governing authority of only one county shall have a minimum of six  
9 members, notwithstanding the provisions of subsection (b) of this Code section, which  
10 members shall in all other respects be appointed as provided in this Code section.

11 37-2-5.1.

12 (a) Each region shall be served by a regional director, who shall be duly qualified and  
13 appointed by the director of the division. The regional director shall serve as the director  
14 of the regional office, which shall be a unit of the division. The regional director shall  
15 serve at the pleasure of the division director. The director of the division shall be  
16 authorized to appoint an interim regional director at any time that the position of regional  
17 director is vacant and prior to the appointment of a duly qualified and approved successor.

18 (b) The regional director may appoint such other staff including a regional services  
19 administrator and a regional state hospital administrator and personnel to work for the  
20 regional office as that regional director deems necessary and appropriate. The regional  
21 director and such staff and personnel shall be employees of the division. Expenses for the  
22 regional office and planning board, the employment of the regional director, other staff and  
23 personnel, and the operation of the regional office shall be charged against the funding  
24 allocated to the region for service delivery within the established region. The department  
25 and the division may impose limits on the administrative and operating expenditures of the  
26 regional office and planning board.

27 (c)(1) State, federal, and other funds appropriated to the department, the division, or  
28 both, and available for the purpose of funding the planning and delivery of disability  
29 services shall be distributed in accordance with this subsection. All funds associated with  
30 services to clients residing within a given region shall be managed through the  
31 appropriate regional office; the term 'all funds' shall include funding for hospitals,  
32 community service boards, private and public contracts, and any contracts relating to  
33 service delivery for clients within the given region. The division shall establish a funding  
34 amount for regions conditioned upon the amount of funds appropriated. The funding  
35 amount shall be determined, in part, based on consumer service needs, service and  
36 program history, population based funding needs, infrastructure mandates, program

1 efficiency and effectiveness, geographic distances, and other factors affecting the cost  
2 and level of service needs within each region.

3 (2) The division shall establish guidelines to ensure that regional offices receive such  
4 funding based on client population, past and future service delivery needs and  
5 capabilities, and in consideration of special needs populations, such as homeless and  
6 transient populations. The division shall ensure that funds are managed based primarily  
7 on services to clients and in compliance with all federal, state, and regulatory  
8 requirements.

9 (3) The division, in compliance with the provisions of the General Appropriations Act  
10 and other applicable laws, is authorized to move funds to and between community and  
11 institutional programs based on need, and the division shall ensure that the regional  
12 offices develop appropriate allocation and accounting mechanisms to move funds in a  
13 planned and rational manner between hospitals, community service boards, and other  
14 providers based on client needs and utilization.

15 37-2-5.2.

16 (a) Each regional office shall have the following duties and functions:

17 (1) To prepare, in consultation with consumers and families, community programs,  
18 hospitals, other public and private providers, its regional planning board, and appropriate  
19 advisory and advocacy groups, an annual plan and mechanism for the funding and  
20 provision of all disability services in the region. The plan shall be submitted to the  
21 division at a time and in the manner specified by the division so as to ensure that the plan  
22 is a basis for the annual appropriations request;

23 (2) To provide, as funds become available, for consumer assessment and service  
24 authorization and coordination for each consumer receiving services within the region;

25 (3) To exercise responsibility and authority within the region in all matters relating to the  
26 funding and delivery of disability services;

27 (4) To receive and administer grants, gifts, moneys, and donations for purposes  
28 pertaining to behavioral health and developmental disability services;

29 (5) To make contracts with any hospital, community service board, or other public or  
30 private providers without regard to regional or state boundaries for the provision of  
31 disability services, and to make and enter into all contracts necessary or incidental to the  
32 performance of duties and functions of the division and regional office;

33 (6) To encourage the development, in cooperation with the division, of private and public  
34 providers of programs and disability services which respond to the needs of consumers  
35 and families of consumers within the region;

1 (7) To submit annual reports to the division, the Governor's council, and such other  
2 agencies or individuals deemed appropriate, which reports shall evaluate the efficiency  
3 and effectiveness of disability services in the region;

4 (8) To serve as the representative of the citizens of the area in regard to disability  
5 services;

6 (9) To receive and consider complaints and grievances submitted by individuals,  
7 associations, or agencies involved with the delivery or receipt of disability services and,  
8 if deemed appropriate, to seek resolution, through processes which may include impartial  
9 mediation and alternate dispute resolution, of such complaints and grievances with the  
10 appropriate hospital, community service board, or other private or public provider of  
11 service;

12 (10) To assure the highest achievable level of public awareness and understanding of  
13 both available and needed disability services;

14 (11) To visit regularly disability services facilities and programs which serve the region  
15 in order to evaluate the effectiveness and appropriateness of the facilities and programs  
16 in delivering services; and

17 (12) To participate with other regional offices and planning boards, the division, the  
18 department, local, state, or federal government agencies, educational institutions, and  
19 public and private organizations in the coordination of planning, research, service  
20 development, and evaluation activities:

21 (A) To work cooperatively with all units of county and local government, including the  
22 county boards of health, within the region;

23 (B) To establish goals and objectives, not inconsistent with those established by the  
24 division and the department, for its region; and

25 (C) To participate in the establishment and operation of a data base and network,  
26 coordinated by the division, to serve as a comprehensive management information  
27 system for disability services and programs.

28 (b) It is the express intent of this chapter to confer upon the regional offices as the  
29 administrative entities of the division the flexibility and authority necessary to contract  
30 with a wide range of public and private providers to ensure that consumers are afforded  
31 cost-effective, locally based, and quality disability services. Regional offices are  
32 specifically authorized to contract directly with any county governing authority, any  
33 disability services organization created or designated by such county governing authority,  
34 any county board of health, any private or public provider, or any hospital for the provision  
35 of disability services. Such contracts may be made directly between the regional offices  
36 and the contractors.

1 (c) Each regional office shall account for all funds received, expended, and administered  
2 and shall make reports to the division. The audit of such activity shall be part of the annual  
3 audit of the department.

4 37-2-6.

5 (a) There shall be created community mental health, mental retardation, and substance  
6 abuse service boards, in conformity with the areas established pursuant to subsection (b)  
7 of Code Section 37-2-3, which shall govern the provision of certain disability services not  
8 provided by other public or private providers under contract with the department.  
9 Community mental health, mental retardation, and substance abuse service boards shall be  
10 established as public agencies.

11 (b) Each community service board shall consist of members appointed by the county  
12 governing authorities from nominations by the boards of health of the counties within the  
13 boundaries of the community service board. Membership on such community service  
14 board shall be determined as follows:

15 (1) Each county with a population of 50,000 or less according to the United States  
16 decennial census of 1990 or any future such census shall appoint one member to the  
17 board;

18 (2) Each county with a population of more than 50,000 according to the United States  
19 decennial census of 1990 or any future such census shall appoint one member for each  
20 population increment of 50,000 or any portion thereof;

21 (3) The appointment or appointments for each county shall be made by the county  
22 governing authority;

23 (4) The county governing authority shall appoint a consumer of disability services, a  
24 family member of a consumer, an advocate for disability services, or a local leader or  
25 businessperson with an interest in mental health, mental retardation, and substance abuse;  
26 provided, however, that for counties with more than one appointment, the county  
27 governing authority shall seek to ensure that such appointments represent various groups  
28 and disability services;

29 (5) The chief executive or a designee of the chief executive of each county governing  
30 authority or municipal governing authority which contributes funding or resources which  
31 equal or exceed one-half of 1 percent of the budget allocation from the division for  
32 disability services within the area governed by the community service board shall serve  
33 as an ex officio, voting member of the community service board; and

34 (6)(A) A person shall not be eligible to be appointed to or serve on a regional planning  
35 board if such person is:

36 (i) A member of the community service board which serves that region; or

1 (ii) An employee of such regional office or employee or board member of any private  
2 or public group, organization, or service provider which contracts with or receives  
3 funds from such regional office.

4 (B) A person shall not be eligible to be appointed to or serve on a regional planning  
5 board if such person's spouse, parent, child, or sibling is a member of such regional  
6 planning board or a member, employee, or board member specified in division (i) or (ii)  
7 of subparagraph (A) of this paragraph. No person who has served a full term or more  
8 on a regional board or regional planning board may be appointed to a community  
9 service board until a period of at least two years has passed since the time such person  
10 served on regional board or the regional planning board. No person who has served on  
11 a regional board and who becomes a member of a regional planning board on June 30,  
12 2002, may be appointed to a community service board until a period of at least two  
13 years has passed since the time such person has served on the regional planning board.

14 (b.1) A county governing authority may appoint the school superintendent, a member of  
15 the board of health, a member of the board of education, or any other elected or appointed  
16 official to serve on the community service board provided that such person meets the  
17 qualifications of paragraph (4) of subsection (b) of this Code section and such appointment  
18 does not violate the provisions of Chapter 10 of Title 45. For terms of office which begin  
19 July 1, 1994, or later, an employee of the Department of Human Resources or an employee  
20 of a county board of health may not serve on a community service board.

21 (c) In making appointments to the community service board, the various county governing  
22 authorities shall ensure that appointments are reflective of the cultural and social  
23 characteristics, including gender, race, ethnic, and age characteristics, of the regional and  
24 county populations. The county governing authorities are further encouraged to ensure that  
25 each disability group is viably and capably represented on the community service board,  
26 and in making nominations for such appointments the board of health shall consider  
27 suggestions from clinical professional associations as well as advocacy groups, including  
28 but not limited to the Georgia Mental Health Consumer Network, People First of Georgia,  
29 the Georgia Parent Support Network, National Alliance for the Mentally Ill Georgia, the  
30 American Association for Retired Persons, Georgians for Children, the National Mental  
31 Health Association of Georgia, Georgia ARC Network, and the Georgia Council on  
32 Substance Abuse and their local chapters and affiliates.

33 (d) Each county within the boundaries established for the community service board shall  
34 be required to participate with the board in the operation of the program through the  
35 community service board. Each community mental health, mental retardation, and  
36 substance abuse service area in existence on June 30, 1994, shall automatically be  
37 succeeded by the community service board for the same region as of July 1, 1994, and each

1 such community service board shall be governed, from and after July 1, 1994, by this  
2 chapter. All contractual obligations, including but not limited to real estate leases, rentals,  
3 and other property agreements, other duties, rights, and benefits of such service area, or the  
4 county board of health involved in administering programs in such area, unless continued  
5 by the current service providers, shall automatically become duties, obligations, rights, and  
6 benefits of its respective successor community service board or other successor entity.

7 (e) Notwithstanding any other provision of this chapter, a community service board may  
8 be constituted in a method other than that outlined in subsection (b) of this Code section  
9 if:

10 (1) A board of health of a county desiring to be the lead county board of health for that  
11 county submits a written agreement to the division before July 1, 1993, to serve as the  
12 community service board and to continue providing disability services in that county after  
13 July 1, 1994, and the governing authority for that county adopts a resolution stating its  
14 desire to continue the provision of disability services through its board of health after July  
15 1, 1994, and submits a copy of such resolution to the division before July 1, 1993;

16 (2)(A) The lead county board of health for a community mental health, mental  
17 retardation, and substance abuse service area, as designated by the division on July 15,  
18 1993, but which area excludes any county which meets the requirements of paragraph  
19 (1) of this subsection, submits a written agreement to the division and to all counties  
20 within such service area to serve as the community service board for that area and to  
21 continue providing disability services after July 1, 1994, which agreement shall be  
22 submitted between July 31, 1993, and December 31, 1993; and

23 (B) Each county governing authority which is within the service area of a lead county  
24 board of health which has submitted an agreement pursuant to subparagraph (A) of this  
25 paragraph adopts a resolution stating its desire to continue the provision of disability  
26 services through such lead county board of health after July 1, 1994, and submits a copy  
27 of that resolution to the division, the regional board, and the lead county board of health  
28 between July 31, 1993, and December 31, 1993; and

29 (3) The lead county board of health qualifying as such under paragraph (1) or (2) of this  
30 subsection agrees in writing to appoint a director for mental health, mental retardation,  
31 and substance abuse other than the director of the county board of health as stipulated in  
32 Code Section 31-3-12.1, to appoint an advisory council on mental health, mental  
33 retardation, and substance abuse consisting of consumers, families of consumers, and  
34 representatives from each of the counties within the boundaries of the community service  
35 board, and to comply with all other provisions relating to the delivery of disability  
36 services pursuant to this chapter.

1 (f) If the conditions enumerated in subsection (e) of this Code section are not met prior to  
2 or on December 31, 1993, a community service board as provided in subsection (b) shall  
3 be established and appointed by January 31, 1994, to govern the provision of disability  
4 services within the boundaries of the community service board. Such community service  
5 board shall have the authority to adopt bylaws and undertake organizational and contractual  
6 activities after January 31, 1994; provided, however, that the community service board  
7 established pursuant to this Code section may not begin providing services to clients until  
8 July 1, 1994.

9 (g) If a community service board is established pursuant to paragraph (2) of subsection (e)  
10 of this Code section, such community service board must operate as established at least  
11 until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996,  
12 the counties included under the jurisdiction of such a community service board may vote  
13 to reconstitute the community service board pursuant to the provisions of subsection (b)  
14 of this Code section by passage of a resolution by a majority of the county governing  
15 authorities within the jurisdiction of the community service board prior to January 1, 1997,  
16 or each year thereafter.

17 (h) Each community service board shall be responsible for adopting bylaws and  
18 operational policies and guidelines in conformity with procedures established by the  
19 division. Those bylaws shall address board appointment procedures, initial terms of board  
20 members, the staggering of terms, a mechanism for ensuring that consumers of disability  
21 services and family members of consumers constitute a majority of the appointed board  
22 members, and a mechanism for ensuring equitable representation of the various disability  
23 groups. The regular term of office for each community service board member shall be two  
24 years. Vacancies on such board shall be filled in the same manner as the original  
25 appointment.

26 (i) Each community service board which is composed of members who are appointed  
27 thereto by the governing authority of only one county shall have a minimum of six  
28 members, not including ex officio members, notwithstanding the provisions of subsection  
29 (b) of this Code section, which members in all other respects shall be appointed as provided  
30 in this Code section.

31 (j) No officer or employee of such board who has authority to take, direct others to take,  
32 recommend, or approve any personnel action shall take or threaten action against any  
33 employee of a community service board as a reprisal for making a complaint or disclosing  
34 information concerning the possible existence of any activity constituting fraud, waste, or  
35 abuse in or relating to the programs, operations, or client services of the board to the board  
36 or to a member of the General Assembly unless the complaint was made or the information

1 was disclosed with the knowledge that it was false or with willful disregard for its truth or  
2 falsity. Any action taken in violation of this subsection shall give the public employee a  
3 right to have such action set aside in a proceeding instituted in the superior court.

4 37-2-6.1.

5 (a) Each community service board shall be responsible for employing a program director,  
6 and other necessary staff, adopting an annual budget, and securing appropriate facilities,  
7 sites, and professionals necessary for the provision of disability services. The program  
8 director of the community service board may appoint such other staff and personnel as that  
9 program director and board deem necessary and appropriate. The community service board  
10 may delegate any power, authority, duty, or function to its program director or other staff.  
11 The program director or other staff is authorized to exercise any power, authority, duty, or  
12 function on behalf of the community service board.

13 (b) Each community service board, under the jurisdiction of its board, shall perform duties,  
14 responsibilities, and functions and may exercise power and authority described in this  
15 subsection. Each program may exercise the following power and authority:

16 (1) Each community service board may adopt bylaws for the conduct of its affairs;  
17 provided, however, that the community service board shall meet at least quarterly, and  
18 that all such meetings and any bylaws shall be open to the public, as otherwise required  
19 under Georgia law;

20 (2) Each community service board may make and enter into all contracts necessary and  
21 incidental to the performance of its duties and functions;

22 (3) Each community service board may acquire and dispose of real and personal  
23 property;

24 (4) Each community service board may contract to utilize the services of the Department  
25 of Administrative Services, the State Merit System of Personnel Administration, the state  
26 auditor, or any other agency of state, local, or federal government;

27 (5) Each community service board may provide, either independently or through contract  
28 with appropriate state or local governmental entities, the following benefits to its  
29 employees, their dependents, and survivors, in addition to any compensation or other  
30 benefits provided to such persons:

31 (A) Retirement, pension, disability, medical, and hospitalization benefits, through the  
32 purchase of insurance or otherwise, but medical and hospitalization benefits may only  
33 be provided through the Department of Community Health under the same conditions  
34 as provided for such benefits to state employees, and the Department of Community  
35 Health shall so provide if requested;

1 (B) Life insurance coverage and coverage under federal old age and survivors'  
2 insurance programs;

3 (C) Sick leave, annual leave, and holiday leave; and

4 (D) Any other similar benefits including, but not limited to, death benefits;

5 (6) Each community service board may cooperate with all units of local government  
6 within the boundaries of the community service board as well as neighboring regions and  
7 with the programs of other departments, agencies, and regional commissions and regional  
8 planning boards;

9 (7) Each community service board shall comply with the provisions of Chapter 20 of  
10 Title 45, relating to state personnel administration, and each employee of such board shall  
11 be a covered employee as defined in Code Section 45-20-2, subject to the rules and  
12 regulations of the state merit system;

13 (8) Each community service board may receive and administer grants, gifts, contracts,  
14 moneys, and donations for purposes pertaining to the delivery of disability services;

15 (9) Each community service board may make contracts and establish fees for the  
16 provision of disability services; provided, however, that such contract and fees shall be  
17 in compliance with guidelines established by the division and the regional office;

18 (10) Each community service board may accept appropriations or loans of funds,  
19 facilities, equipment, and supplies from the local governmental entities within their  
20 program boundaries; and

21 (11) Each member of the community service board may, upon approval of the executive  
22 director, receive reimbursement for actual expenses incurred in carrying out the duties  
23 of such office in conformance with rates and allowances set for state employees by the  
24 Office of Planning and Budget and the same milage allowance for use of a personal car  
25 as that received by all other state officials and employees or a travel allowance of actual  
26 transportation cost if traveling by public carrier.

27 (c) Nothing shall prohibit a community service board from contracting with any county  
28 governing authority, private or other public provider, or hospital for the provision of  
29 disability services.

30 (d) Each community service board exists for nonprofit and public purposes, and it is found  
31 and declared that the carrying out of the purposes of each community service board is  
32 exclusively for public benefit and its property is public property. Thus, no community  
33 service board shall be required to pay any state or local ad valorem, sales, use, or income  
34 taxes.

35 37-2-6.2.

1 (a)(1) Those employees whose job descriptions, duties, or functions as of June 30, 1994,  
2 included the performance of employment duties or functions which will become  
3 employment duties or functions of the personnel of a community service board on July  
4 1, 1994, shall become employees of the applicable community service boards on and after  
5 July 1, 1994. Such employees shall be subject to the employment practices and policies  
6 of the applicable community service board on and after July 1, 1994. Employees who are  
7 subject to the State Merit System of Personnel Administration and who are transferred  
8 to a community service board shall retain all existing rights under the State Merit System  
9 of Personnel Administration. Retirement rights of such transferred employees existing  
10 under the Employees' Retirement System of Georgia or other public retirement systems  
11 on June 30, 1994, shall not be impaired or interrupted by the transfer of such employees  
12 and membership in any such retirement system shall continue in the same status  
13 possessed by the transferred employees on June 30, 1994, without any interruption in  
14 membership service and without the loss of any creditable service. For purposes of  
15 coverage under the Employees' Retirement System of Georgia, such employees  
16 transferred to the community service boards on July 1, 1994, shall be deemed to be state  
17 employees. Accrued annual and sick leave possessed by said employees on June 30,  
18 1994, shall be retained by said employees as employees of the community service board.  
19 Any person who is granted employment rights and benefits as a member of a community  
20 service board pursuant to this subsection and who later becomes employed, without any  
21 break in service, by the division, a hospital thereof, another community service board, a  
22 county board of health for which such person provides services pursuant to this title, or  
23 a regional board shall retain, in that later employment position, all such rights and  
24 benefits. Such rights and benefits shall also be retained by any person who is employed  
25 on June 30, 1994, by the division, a hospital thereof, a county board of health for which  
26 such person provides services pursuant to this title, or a regional board and who later  
27 becomes employed, without any break in service, by a community service board.

28 (2) Classified employees of a community service board under this chapter shall in all  
29 instances be employed and dismissed in accordance with rules and regulations of the  
30 State Merit System of Personnel Administration.

31 (3) All rights, credits, and funds in the Employees' Retirement System of Georgia which  
32 are possessed by personnel transferred by provisions of this Code section to the  
33 community service boards are continued and preserved, it being the intention of the  
34 General Assembly that such persons shall not lose any rights, credits, or funds to which  
35 they may be entitled prior to becoming employees of the community service boards.

1 (b) As to those persons employed by the division, a hospital thereof, or a regional board  
2 on June 30, 1994, any termination from state employment after that date of any such person  
3 who is a member of the classified service shall not result from the anticipated or actual  
4 employment or utilization by:

5 (1) The department;

6 (2) A regional board;

7 (3) A community service board;

8 (4) A hospital; or

9 (5) Any private provider of disability services of any person who is not an employee of  
10 the state or a political subdivision thereof to perform the duties and functions of such  
11 terminated state personnel unless such termination and utilization is the result of a  
12 reduction in appropriations for such duties or functions or is the result of a reduction in  
13 force caused by any other state department or agency which has ceased to contract with  
14 the department for the services which had been provided by the terminated state  
15 personnel.

16 37-2-7.

17 (a) The division shall formulate and publish biennially a state plan for disability services  
18 which shall take into account the disability services plans submitted by the regional offices  
19 as required by Code Section 37-2-5.2. The state disability services plan shall be  
20 comprehensive and shall include public and private institutional and community services  
21 to the disabled. In developing the state plan, the division shall request input from the  
22 regional offices and planning boards, the community service boards, hospitals, and other  
23 public and private providers. The plan shall include an overview of current services and  
24 programs and shall also present information on future program, service, educational, and  
25 training needs.

26 (b) The plan shall address ways of eliminating, to the extent possible, detrimental delays  
27 and interruptions in the administration of disability services when moving an individual  
28 from one element of service to another in order to ensure continuity of care and treatment  
29 for persons receiving such services.

30 (c) The plan shall further set forth the proposed annual budget of the division and the  
31 regions.

32 (d) The plan shall be submitted to the department, the Governor, the General Assembly,  
33 the Governor's council, the regional planning boards, the hospitals, the community service  
34 boards, and any other public or private provider requesting a copy of the plan.

1 (e) At such time as the state plan is submitted, the division shall further submit an analysis  
2 of services provided, programs instituted, progress made, and the extent of implementation  
3 of the previous biennial plan. Such analysis shall measure the effectiveness and the  
4 efficiency of the methods of delivering services which ameliorate or prevent disability and  
5 restore health. This analysis shall further address the efforts of the division in coordinating  
6 services in accordance with Code Section 37-2-9.

7 37-2-8.

8 Reserved.

9 37-2-9.

10 To the maximum extent possible, disability services provided by the division and the  
11 regional offices, hospitals, community service boards, and other public and private  
12 providers shall be coordinated with related activities of the department and judicial,  
13 correctional, educational, social, and other health service agencies and organizations, both  
14 private and public.

15 37-2-9.1.

16 (a) Each regional planning board and community service board shall comply with the  
17 provisions of Chapter 14 of Title 50, relating to open and public meetings, and Article 4  
18 of Chapter 18 of Title 50, relating to inspection of public records, except where records or  
19 proceedings are expressly made confidential pursuant to other provisions of law.

20 (b) Each regional office and community service board and other public and private  
21 providers are authorized to establish one or more advisory boards for the purpose of  
22 ensuring coordination with various agencies and organizations and providing professional  
23 and other expert guidance.

24 37-2-10.

25 (a) Notwithstanding any other provisions of the law, the director with the concurrence of  
26 the commissioner and the Governor is authorized to establish and administer community  
27 programs on an emergency basis in the event one or more community service boards fail  
28 to assume responsibility for the establishment and implementation of an adequate range of  
29 disability services or to provide appropriate disability services as determined by the  
30 division.

1 (b) Upon notification by a community service board of an inability to provide an adequate  
2 range of disability services or to provide appropriate services, the director, with  
3 concurrence of the commissioner and the Governor, may:

4 (1) Assume responsibility for the administration and operation of all of the community  
5 programs operated by or through such board and, in which case, the programs shall  
6 become department programs; the department shall acquire the assets of the community  
7 service board; and the community service board employees shall become employees of  
8 the department; or

9 (2) Assume responsibility for the administration and operation of one or more of the  
10 community programs operated by or through such board, in which case, such program  
11 or programs shall become a department program or programs; the department shall  
12 acquire those assets of the community service board assigned to such program or  
13 programs; and the employees of such program or programs shall become employees of  
14 the department. Any community service board programs not transferred to the  
15 department shall continue to be operated by the community service board and the  
16 employees for such programs shall remain community service board employees.

17 37-2-11.

18 (a) It is the goal of the State of Georgia that every citizen be provided an adequate level  
19 of disability care through a unified system of disability services. To this end, the  
20 department through the division shall, to the maximum extent possible, allocate funds  
21 available for services so as to provide an adequate disability services program available to  
22 all citizens of this state. In funding and providing disability services, the division and the  
23 regional offices shall ensure that all providers, public or private, meet minimum standards  
24 of quality and competency as established by the department and the division.

25 (b) Fees generated, if any, by hospitals, community service boards, and other private and  
26 public providers, providing services under contract or purview of the regional offices, shall  
27 be reported to the regional offices and applied wherever appropriate against the cost of  
28 providing, and increasing the quantity and quality of, disability services. The division shall  
29 be responsible for developing procedures to properly account for the collection, remittance,  
30 and reporting of generated fees. The regional offices shall work with the community  
31 service boards and other public or private providers to develop an appropriate mechanism  
32 for accounting for the funds and resources contributed to local disability services by  
33 counties and municipalities within the area. Such contributions are not required to be  
34 submitted to either the community service boards or the regional offices; however,  
35 appropriate documentation and accounting entries shall make certain that the county or

1 municipality is credited, and if necessary compensated, appropriately for such contribution  
2 of funds or resources.

3 (c) No person shall be denied disability services provided by the state as defined in this  
4 chapter based on age, gender, race, ethnic origin, or inability to pay.

5 37-2-11.1.

6 (a) Venue for the purpose of any action against a community service board shall be the  
7 county in which the principal office of the community service board is located. For  
8 purposes of this Code section, 'principal office' shall be defined as the facility which houses  
9 the executive director or other such top administrator for the community service board.

10 (b) In any legal proceeding, a regional planning board or the regional office shall be  
11 considered a unit of the division and shall be afforded the assistance of legal counsel from  
12 the Attorney General.

13 (c)(1) The community service boards shall be public bodies but shall not be considered  
14 agencies of the state or any specific county or municipality. Such community service  
15 boards are public agencies in their own right and shall have the same immunity as  
16 provided for counties. No county shall be liable for any action, error, or omission of a  
17 community service board. Notwithstanding any provisions of law to the contrary, and  
18 regardless of any provisions of law which grant employees of the community service  
19 boards benefits under programs operated by the state or which deem them to be state  
20 employees only for purposes of those benefits, employees of the community service  
21 boards shall not be employees of the state but shall be employees of the community  
22 service boards and, further, the state shall not be liable for any action, error, or omission  
23 of such employees.

24 (2) A community service board may employ or contract for legal counsel to assist in  
25 performing its duties and shall be authorized to appoint legal counsel to represent the  
26 community service board and its employees. The community service board may exercise  
27 any authority granted in Article 2 of Chapter 9 of Title 45, relating to the indemnification,  
28 defense, and insuring of members and employees of public bodies.

29 37-2-11.2.

30 (a) Notwithstanding any other law to the contrary, to ensure the quality and integrity of  
31 patient and client care, any program receiving any public funds from, or subject to  
32 licensing, certification, or facility approval by, the Department of Human Resources or a  
33 regional office shall be required to provide the department or the appropriate regional  
34 office or both, upon request, complete access to, including but not limited to authorization

1 to examine and reproduce, any records required to be maintained in accordance with  
2 contracts, standards, or rules and regulations of the Department of Human Resources or  
3 pursuant to the provisions of this title.

4 (b) Records obtained pursuant to subsection (a) of this Code section shall not be  
5 considered public records and shall not be released by the department or any regional office  
6 unless otherwise specifically authorized by law."

7 **SECTION 1-7.**

8 Said title is further amended by striking Article 2 of Chapter 2, relating to administration of  
9 mental disability services, and inserting in its place the following:

10 "ARTICLE 2

11 37-2-30.

12 As used in this article, the term:

13 (1) 'Community ombudsman' means a person certified as a community ombudsman  
14 pursuant to Code Section 37-2-32.

15 (2) 'Nonprofit corporation' means a nonprofit corporation which is exempt from taxation  
16 under Section 501(c)(3) of the Internal Revenue Code of 1986 and which is not a services  
17 provider.

18 (3) 'Program' means the community ombudsman program operated pursuant to Code  
19 Section 37-2-32.

20 (4) 'Service recipient' means a person with a disability who receives or is eligible to  
21 receive disability services from a services provider.

22 (5) 'Services provider' means a community service board or state or local governmental  
23 entity which provides disability services to service recipients or any person, corporation,  
24 or business which provides disability services to service recipients.

25 (6) 'State ombudsman' means the state ombudsman for mental health, mental retardation,  
26 and substance abuse created under Code Section 37-2-31.

27 37-2-31.

28 There is created the state ombudsman for behavioral health and developmental disabilities  
29 who shall be a full-time state employee under the supervision and direction of the  
30 consumers' insurance advocate in the Governor's Office of Consumer Affairs under Code  
31 Section 33-57-3. The state ombudsman shall have the powers and duties set forth in this  
32 article. The state ombudsman shall be a person qualified by training and experience in the

1 field of disability services, have experience advocating for the rights of people with  
2 disabilities, and have the skills to perform the duties set forth in this article. The state  
3 ombudsman shall be free of a conflict of interest. The state ombudsman shall promote the  
4 well-being and quality of life of service recipients and encourage the development of  
5 community ombudsman activities at the local level.

6 37-2-32.

7 The state ombudsman shall contract with one or more nonprofit corporations to operate a  
8 community ombudsman program in one or more behavioral health and developmental  
9 disabilities regions in this state. A nonprofit corporation shall not be eligible for such  
10 contract unless that corporation has experience in complaint resolution for service  
11 recipients and secures as community ombudsmen only such persons as are certified as such  
12 by the state ombudsman. The state ombudsman may certify community ombudsmen and  
13 such certified ombudsmen shall have the powers and duties set forth in this article. The  
14 state ombudsman shall require such community ombudsmen to receive appropriate training  
15 as determined and approved by the state ombudsman prior to certification.

16 37-2-33.

17 The state ombudsman shall:

- 18 (1) Establish policies and procedures for receiving, investigating, referring, and  
19 attempting to resolve complaints made by or on behalf of service recipients concerning  
20 any act, omission to act, practice, policy, or procedure of a services provider that may  
21 adversely affect the health, safety, or welfare of any service recipient or the delivery of  
22 disability services to such service recipient;
- 23 (2) Investigate and make reports and recommendations to the department and other  
24 appropriate agencies concerning any act or failure to act by any services provider with  
25 respect to its responsibilities and duties in connection with service recipients receiving  
26 or eligible to receive disability services from such provider;
- 27 (3) Establish a uniform state-wide reporting system to record data about complaints and  
28 conditions with regard to services providers and collect and analyze such data in order  
29 to identify significant problems affecting service recipients receiving or eligible to  
30 receive disability services from such providers;
- 31 (4) Promote the development of community ombudsmen activities and provide technical  
32 assistance as necessary;

1 (5) Promote the interests of service recipients before governmental agencies and seek  
2 administrative and other remedies to protect the health, safety, welfare, and rights of the  
3 service recipients and:

4 (A) Analyze, comment on, and monitor the development and implementation of  
5 federal, state, and local laws, regulations, and other governmental policies and actions  
6 that pertain to the health, safety, welfare, and rights of the service recipients with  
7 respect to the adequacy of disability services in the state;

8 (B) Recommend any changes in such laws, regulations, policies, and actions as the  
9 state ombudsman determines to be appropriate; and

10 (C) Facilitate public comment on the laws, regulations, policies, and actions; and

11 (6) Make an annual written report, documenting the types of complaints and problems  
12 reported by service recipients and others on their behalf and include recommendations  
13 concerning needed policy, regulatory, and legislative changes. The annual report shall be  
14 submitted to the Governor and General Assembly and other appropriate agencies and  
15 organizations and made available to the public.

16 37-2-34.

17 Pursuant to policies and procedures established by the state ombudsman, each community  
18 ombudsman shall:

19 (1) Learn about the general conditions affecting service recipients and work for the best  
20 interest of these service recipients;

21 (2) Receive, investigate, and attempt to resolve complaints made by or on behalf of  
22 service recipients;

23 (3) Collect data about the number and types of complaints handled; and

24 (4) Report regularly to the state ombudsman about the data collected and the activities  
25 of the community ombudsmen.

26 37-2-35.

27 (a) The state ombudsman or a community ombudsman, on his or her initiative or in  
28 response to complaints made by or on behalf of service recipients, may conduct  
29 investigations in matters within his or her powers and duties as provided by this article.

30 (b) The state ombudsman or a community ombudsman shall have the authority to enter any  
31 facility, premises, or property where disability services are provided and shall use his or  
32 her best efforts to enter such facility, premises, or property during normal business hours.  
33 Upon entering such facility, premises, or property, the ombudsman shall notify the  
34 administrator or, in the absence of the administrator, the person in charge of such facility,

1 premises, or property before speaking to any service recipient. After notifying the  
 2 administrator or the person in charge of such facility, premises, or property, the  
 3 ombudsman may communicate privately and confidentially with service recipients in such  
 4 facility, premises, or property individually or in groups. The ombudsman shall have access  
 5 to the medical, social, and disability records of any service recipient if:

6 (1) The ombudsman has the permission of the service recipient or the legal representative  
 7 or guardian of the service recipient;

8 (2) The service recipient is unable to consent to the review and has no legal  
 9 representative or guardian; or

10 (3) There is a guardian of the person of the service recipient and that guardian refuses  
 11 to permit access to the records necessary to investigate a complaint, and:

12 (A) There is reasonable cause to believe that the guardian is not acting in the best  
 13 interest of the service recipient; and

14 (B) A community ombudsman obtains the approval of the state ombudsman.

15 As used in this Code section, the term 'legal representative' means an agent under a valid  
 16 power of attorney, provided that the agent is acting within the scope of his or her agency;  
 17 an agent under a durable power of attorney for health care; or an executor, executrix,  
 18 administrator, or administratrix of the estate of a deceased service recipient. The  
 19 ombudsman shall have the authority to inspect the physical plant and have access to the  
 20 administrative records, policies, and documents of the facility, premises, or property to  
 21 which the service recipients have or the general public has access. Entry and investigation  
 22 as provided by this Code section shall be conducted in a manner which will not  
 23 significantly disrupt the provision of disability services to service recipients.

24 (c) The state ombudsman or community ombudsman shall identify himself or herself as  
 25 such to the service recipient, and the service recipient shall have the right to communicate  
 26 or refuse to communicate with the ombudsman.

27 (d) The service recipient or the service recipient's legal representative shall have the right  
 28 to participate in planning any course of action to be taken on the service recipient's behalf  
 29 by the state ombudsman or community ombudsman, and the service recipient or such  
 30 representative shall have the right to approve or disapprove any proposed action to be taken  
 31 on the service recipient's behalf by such ombudsman.

32 (e) The state ombudsman or community ombudsman shall have the authority to obtain  
 33 from any governmental agency or services provider which receives state funds for  
 34 disability services, and such agency or provider shall provide cooperation and assistance,  
 35 services, data, and access to, such files and records as will enable the ombudsman properly

1 to perform his or her duties and exercise his or her powers, provided that such information  
2 is not privileged under any law.

3 (f) Where the subject of the investigation involves suspected abuse, neglect, or exploitation  
4 of a service recipient by his or her guardian, the state ombudsman or community  
5 ombudsman shall have the authority to communicate with the service recipient in a private  
6 and confidential setting notwithstanding any objection by the guardian to such meeting and  
7 communication.

8 (g) The state ombudsman shall advise the service recipient of the need for adequate legal  
9 counsel as well as consultation needed to protect the health, safety, welfare, and rights of  
10 the service recipient.

11 37-2-36.

12 (a) Following an investigation, the state ombudsman or community ombudsman may  
13 report his or her opinions or recommendations to the party or parties affected thereby and  
14 shall attempt to resolve the complaint using, whenever possible, informal techniques of  
15 mediation, conciliation, and persuasion. With respect to a complaint against the services  
16 provider, the ombudsman may first notify the administrator or person in charge of that  
17 provider in writing and give such person a reasonable opportunity to correct any alleged  
18 defect. If so notified and the administrator or person in charge fails to take corrective action  
19 after a reasonable amount of time or if the defect seriously threatens the safety or  
20 well-being of any service recipient, the state ombudsman or community ombudsman may  
21 refer the complaint to the appropriate regional office and any other appropriate agency.

22 (b) Complaints or conditions adversely affecting service recipients which cannot be  
23 resolved in the manner described in subsection (a) of this Code section shall, whenever  
24 possible, be referred by the state ombudsman or community ombudsman to the appropriate  
25 regional office and any other appropriate agency.

26 (c) A community ombudsman shall not disclose to the public, either directly or indirectly,  
27 the identity of any services provider which is the subject of an investigation unless and  
28 until the matter has been reviewed by the office of the state ombudsman and the matter has  
29 been referred to the appropriate regional office and any other appropriate governmental  
30 agency for action.

31 37-2-37.

32 Any person who has reasonable cause to believe that a service recipient is being or has  
33 been abused, neglected, exploited, or abandoned, is in a condition which is the result of  
34 abuse, neglect, exploitation, or abandonment, or is being denied disability services for

1 which such service recipient is eligible may report such information or cause a report to be  
2 made in any reasonable manner to the state ombudsman or community ombudsman, if any.

3 37-2-38.

4 The identity of any complainant, service recipient on whose behalf a complaint is made,  
5 or individual providing information on behalf of the service recipient or complainant  
6 relevant to the investigation of a complaint shall be confidential and may be disclosed only  
7 with the express permission of such person. The information produced by an investigation  
8 may be disclosed by the state ombudsman or community ombudsman only if the identity  
9 of any such person is not disclosed by name or inference. If the identity of any such person  
10 is disclosed by name or inference in such information, the information may be disclosed  
11 only with his or her express permission. If the complaint becomes the subject of a judicial  
12 proceeding, such investigative information may be disclosed for the purpose of the  
13 proceeding.

14 37-2-39.

15 The state ombudsman shall prepare and distribute to each services provider in the state and  
16 regional office in which the program is operated a written notice describing the program  
17 and the procedure to follow in making a complaint, including the address and telephone  
18 number of the state ombudsman and community ombudsman. The administrator or person  
19 in charge of such provider shall give the written notice required by this Code section to  
20 each service recipient who receives disability services from such provider and his or her  
21 legally appointed guardian, if any, upon first providing such services. The administrator  
22 or person in charge shall also post such written notice in conspicuous public places in the  
23 facility, premises, or property in which disability services are provided in accordance with  
24 procedures provided by the state ombudsman and shall give such notice to any service  
25 recipient and his or her legally appointed guardian, if any, who did not receive it upon the  
26 service recipient's first receiving disability services. The failure to provide the notices  
27 required by this Code section shall be a ground upon which the director of the division may  
28 impose the civil penalty authorized by paragraph (2) of subsection (c) of Code Section  
29 37-2-40 under the conditions specified in subsection (d) of Code Section 37-2-40.

30 37-2-40.

31 (a) No person shall discriminate or retaliate in any manner against any service recipient  
32 or relative or guardian of a service recipient, any employee of a services provider, or any  
33 other person because of the making of a complaint or the providing of information in good

1 faith to the state ombudsman or community ombudsman. No person shall willfully interfere  
2 with the state ombudsman or community ombudsman in the performance of his or her  
3 official duties.

4 (b) A member of a regional planning board or community service board who violates  
5 subsection (a) of this Code section shall be subject to permanent removal from such board  
6 by the director of the division.

7 (c) A services provider which violates subsection (a) of this Code section shall be subject  
8 to one or more of the following sanctions which may be imposed by the director of the  
9 division:

10 (1) The termination of any contract for which state funds are received for the provision  
11 of disability services if such contract was executed on or after July 1, 2002;

12 (2) The payment of a civil penalty not to exceed \$5,000.00 for each violation; or

13 (3) Having to suspend without pay for a period of at least two months or terminate any  
14 employee of such provider determined to have committed the violation.

15 (d) An action against a member of a regional planning board, community service board,  
16 or services provider under this Code section shall be a contested case within Article 1 of  
17 Chapter 13 of Title 50, relating to administrative procedure.

18 37-2-41.

19 Notwithstanding any other provision of law, no person providing information, including  
20 but not limited to service recipient records, to the state ombudsman or community  
21 ombudsman shall be held, by reason of having provided such information, to have violated  
22 any criminal law or to be civilly liable under any law unless such information is false and  
23 the person providing such information knew or had reason to believe that it was false.

24 37-2-42.

25 Any person who, in good faith, makes a complaint or provides information as authorized  
26 in this article shall incur no civil or criminal liability therefor. Any state or community  
27 ombudsman who, in good faith, performs his or her official duties, including but not  
28 limited to making a statement or communication relevant to a complaint received or an  
29 investigative activity conducted pursuant to this article, shall incur no civil or criminal  
30 liability therefor.

31 37-2-43.

32 Nothing in this article shall be construed to limit the power of the department to investigate  
33 complaints where otherwise authorized by law.

1 37-2-44.

2 The state ombudsman shall promulgate rules and regulations to implement this article."

3 **SECTION 1-8.**

4 Said title is further amended by adding following paragraph (14.1) of Code Section 37-3-1,  
5 relating to definitions, a new paragraph (14.2) to read as follows:

6 "(14.2) 'Regional state hospital administrator' means the chief administrative officer of  
7 a state owned or state operated hospital and the state owned or operated community  
8 programs in a region. The regional state hospital administrator, under the supervision of  
9 the regional director, has overall management responsibility for the regional state hospital  
10 and manages services provided by employees of the regional state hospital and employees  
11 of state owned or operated community programs within a behavioral health and  
12 developmental disabilities region established in accordance with Code Section 37-2-3."

13 **SECTION 1-9.**

14 Said title is further amended by striking paragraph (16) of Code Section 37-3-1, relating to  
15 definitions, and inserting in its place the following:

16 "(16) 'Superintendent' means the chief administrative officer who has overall  
17 management responsibility at any facility receiving patients under this chapter, other than  
18 a regional state hospital or state owned or operated community program, or an individual  
19 appointed as the designee of such superintendent."

20 **SECTION 1-10.**

21 Said title is further amended by striking Code Section 37-3-149, relating to establishment of  
22 procedures for receiving patients and staff complaints, making of final decisions,  
23 establishment of rules and regulations implementing procedures, and complaint procedures  
24 as alternative to legal remedies, and inserting in its place the following:

25 "37-3-149.

26 Each facility shall establish procedures whereby complaints of the patient or complaints  
27 of the staff concerning treatment of the patient can be speedily heard, with final decisions  
28 to be made by the superintendent, the regional state hospital administrator, or an advisory  
29 committee, whichever is appropriate. The board shall establish reasonable rules and  
30 regulations for the implementation of such procedures. However, the patient shall not be  
31 required to utilize these procedures in lieu of other available legal remedies."

32 **SECTION 1-11.**

1 Said title is further amended by striking paragraphs (14) through (16) of Code Section  
2 37-4-2, relating to definitions, and inserting in their place the following:

3 "(14) 'Person in charge of a client's habilitation' means a superintendent or regional state  
4 hospital administrator of a facility, a case manager, or any other service provider  
5 designated by the department to have overall responsibility for implementation of a  
6 client's individualized program plan. The department shall designate such a person for  
7 each individual ordered to receive services from the department under this chapter.

8 (14.1) 'Regional state hospital administrator' means the chief administrative officer of a  
9 state owned or state operated hospital and the state owned or operated community  
10 programs in a region. The regional state hospital administrator, under the supervision of  
11 the regional director, has overall management responsibility for the regional state hospital  
12 and manages services provided by employees of the regional state hospital and employees  
13 of state owned or operated community programs within a behavioral health and  
14 developmental disabilities region established in accordance with Code Section 37-2-3.

15 (15) 'Representatives' means the persons appointed as provided in Code Section  
16 37-4-107 to receive any notice under this chapter.

17 (16) 'Superintendent' means the chief administrative officer who has overall management  
18 responsibility at any facility, other than a regional state hospital or state owned or  
19 operated community program, receiving mentally retarded persons under this chapter or  
20 an individual appointed as the designee of such superintendent."

#### 21 SECTION 1-12.

22 Said title is further amended by striking subsection (b) of Code Section 37-4-108, relating  
23 to right of clients or representatives to petition for writ of habeas corpus and for judicial  
24 protection of rights and privileges granted by chapter, and inserting in its place the following:

25 "(b) A client or his or her representatives may file a petition in the appropriate court  
26 alleging that the client is being unjustly denied a right or privilege granted by this chapter  
27 or that a procedure authorized by this chapter is being abused. An oral statement by a client  
28 or his or her representatives to any staff member or other service provider alleging that the  
29 client's rights or privileges under this chapter are being violated shall be immediately  
30 transmitted to the superintendent, the regional state hospital administrator, or the  
31 administrative head of the facility responsible for the client's treatment or the other person  
32 in charge of the client's habilitation plan, who shall assist the client in preparing his or her  
33 petition under this Code section. Upon the filing of such a petition, the court shall have the  
34 authority to conduct a judicial inquiry and to issue appropriate orders to correct any abuse  
35 under this chapter."

**SECTION 1-13.**

Said title is further amended by striking Code Section 37-4-109, relating to establishment of patients and staff complaint procedures, final decisionmakers, right of administrative appeal, and complaint procedures as alternative to legal remedies, and inserting in its place the following:

"37-4-109.

The department shall establish procedures whereby complaints of the client or complaints of the staff concerning admission, treatment, or habilitation can be speedily heard. Clients shall receive reasonable notice of such procedures. Final decisions shall be made by the superintendent, the regional state hospital administrator, or an advisory committee, whichever is appropriate, with the right of appeal to the director of the Division of ~~Mental Health, Mental Retardation, and Substance Abuse~~ Behavioral Health and Developmental Disabilities or his or her designee. The board shall establish rules and regulations for the implementation of such procedures. However, the client shall not be required to utilize these procedures in lieu of other available legal remedies."

**SECTION 1-14.**

Said title is further amended by striking paragraphs (17.1) through (19) of Code Section 37-7-1, relating to definitions, and inserting in their respective places the following:

"(17.1) 'Psychologist' means a licensed psychologist who meets the criteria of training and experience as a health service provider psychologist as provided in Code Section 31-7-162.

(17.2) 'Regional state hospital administrator' means the chief administrative officer of a state owned or state operated hospital and the state owned or operated community programs in a region. The regional state hospital administrator, under the supervision of the regional director, has overall management responsibility for the regional state hospital and manages services provided by employees of the regional state hospital and employees of state owned or operated community programs within a behavioral health and developmental disabilities region established in accordance with Code Section 37-2-3.

(18) 'Representatives' means the persons appointed as provided in Code Section 37-7-147 to receive notice of the proceedings for voluntary or involuntary treatment.

(19) 'Superintendent' means the chief administrative officer who has overall management responsibility at any facility, other than a regional state hospital or state owned or operated community program, receiving patients under this chapter or an individual appointed as the designee of such superintendent."

**SECTION 1-15.**

Said title is further amended by striking Code Section 37-7-149, relating to establishment of patients and staff complaint procedures, making of final decisions, and complaint procedures as alternative to legal remedies, and inserting in its place the following:

"37-7-149.

Each facility shall establish procedures whereby complaints of the patient or complaints of the staff concerning treatment of the patient can be speedily heard, with final decisions to be made by the superintendent, the regional state hospital administrator, or an advisory committee, whichever is appropriate. The board shall establish reasonable rules and regulations for the implementation of such procedures. However, the patient shall not be required to utilize these procedures in lieu of other available legal remedies."

**SECTION 1-16.**

Said title is further amended by striking paragraph (6) of Code Section 37-9-2, relating to definitions, and inserting in its place the following:

"(6) 'State hospital' means any state hospital which now or hereafter comes under the control of the Division of ~~Mental Health, Mental Retardation, and Substance Abuse~~ Behavioral Health and Developmental Disabilities of the department and any facility operated in conjunction therewith."

**SECTION 1-17.**

Each of the following Code sections is amended by striking "superintendent" or "superintendent's" wherever those words appear and inserting in their respective places "regional state hospital administrator" or "regional state hospital administrator's":

- (1) Code Section 37-3-7, relating to abandoning or leaving patients on grounds of psychiatric hospital;
- (2) Code Section 37-3-103, relating to procedure for transfer of Georgia residents from out-of-state hospitals to Georgia hospitals;
- (3) Code Section 37-3-104, relating to procedure upon discovery that a patient hospitalized in Georgia is not a resident;
- (4) Code Section 37-4-20, relating to examination of minor children, recommendation of individualized program plan if retardation found, provision plan services by department, and parent's or guardian's request for discharge of child admitted to facility;
- (5) Code Section 37-4-21, relating to admission of mentally retarded persons to facilities for purposes of temporary supervision and care;

- 1 (6) Code Section 37-4-22, relating to admission of persons to facilities for dental  
2 services;
- 3 (7) Code Section 37-4-40, relating to filing petition with court for according of program  
4 of services to mentally retarded person, order for examination of person by  
5 comprehensive evaluation team, report by team, petition hearing, and procedure upon  
6 finding that department services are necessary;
- 7 (8) Code Section 37-4-40.2, relating to admission or discharge of a person in custody of  
8 a state facility for temporary care and notice of proposed discharge;
- 9 (9) Code Section 37-4-41, relating to procedure upon failure of or client's  
10 noncompliance with court ordered habilitation program;
- 11 (10) Code Section 37-4-42, relating to procedure for continuation of court ordered  
12 habilitation;
- 13 (11) Code Section 37-4-63, relating to procedure for transfer of Georgia residents from  
14 out-of-state facilities to Georgia facilities;
- 15 (12) Code Section 37-4-64, relating to procedure upon discovery that a client receiving  
16 court ordered services from a Georgia facility is not a resident;
- 17 (13) Code Section 37-7-103, relating to procedure for transfer of Georgia residents from  
18 out-of-state hospitals to Georgia hospitals; and
- 19 (14) Code Section 37-7-104, relating to procedure upon discovery that a patient  
20 hospitalized in Georgia is not a resident.

21 **SECTION 1-18.**

22 Each of the following Code sections is amended by striking the word "superintendent" and  
23 inserting in its place the words "superintendent or regional state hospital administrator":

- 24 (1) Code Section 37-3-144, relating to patients' right to vote;
- 25 (2) Code Section 37-4-5, relating to validity of hospitalization orders entered before  
26 September 1, 1978, and establishment of regulations authorizing continued care for  
27 clients receiving services pursuant to orders entered before September 1, 1978;
- 28 (3) Code Section 37-4-102, relating to right of clients to communicate with persons  
29 outside facility and to receive visitors, treatment of client correspondence, and  
30 establishment of regulations governing visitation and telephone usage;
- 31 (4) Code Section 37-4-103, relating to clients' rights in regard to personal effects and  
32 liability of facility's employees and staff members for loss of or damage to clients'  
33 personal effects;
- 34 (5) Code Section 37-4-104, relating to clients' right to vote;
- 35 (6) Code Section 37-4-122, relating to client's care and treatment rights;

1 (7) Code Section 37-4-124, relating to mistreatment, neglect, or abuse of clients  
2 prohibited, use of medication, physical restraints, or seclusion restricted, and standards  
3 for use of physical restraints;

4 (8) Code Section 37-4-125, relating to treatment of clinical records, scope of privileged  
5 communications, and liability for disclosure;

6 (9) Code Section 37-4-127, relating to right of client's attorney to interview persons in  
7 charge of client's habilitation in a facility and establishment by superintendent of  
8 regulations as to release of information to client's attorney; and

9 (10) Code Section 37-7-144, relating to patients' right to vote.

#### 10 SECTION 1-19.

11 Chapter 5 of Title 40 of the Official Code of Georgia Annotated, relating to drivers' licenses,  
12 is amended by striking subparagraph (g)(1)(B) of Code Section 40-5-64, relating to limited  
13 driving permits for certain offenders, and inserting in its place the following:

14 "(B) Upon receipt of notice from the Division of ~~Mental Health, Mental Retardation,~~  
15 ~~and Substance Abuse~~ Behavioral Health and Development Disabilities of the  
16 Department of Human Resources that a permittee who is required to complete a  
17 substance abuse treatment program pursuant to Code Section 40-5-63.1 enrolled in but  
18 failed to attend or complete such program as scheduled, the department shall revoke  
19 such person's limited driving permit and, by regular mail to his or her last known  
20 address, notify such person of such revocation. Such notice of revocation shall inform  
21 the person of the grounds for and effective date of the revocation and of the right to  
22 review. The notice of revocation shall be deemed received three days after mailing."

#### 23 SECTION 1-20.

24 Chapter 18 of Title 45 of the Official Code of Georgia Annotated, relating to employees'  
25 insurance and benefits plans, is amended by striking Code Section 45-18-5.2, relating to  
26 sheltered employment center employees, and inserting in its place the following:

27 "45-18-5.2.

28 The board is authorized to contract with public and private nonprofit sheltered employment  
29 centers which contract with or employ persons within the Division of Rehabilitation  
30 Services of the Department of Labor and the Division of ~~Mental Health, Mental~~  
31 ~~Retardation, and Substance Abuse~~ Behavioral Health and Developmental Disabilities of  
32 the Department of Human Resources for the inclusion of employees working in the  
33 sheltered employment centers within any health insurance plan or plans established under  
34 this article. The board is authorized to adopt regulations for entering into any contract. In

1 the event any contract is entered into, it shall be the duty of the sheltered employment  
 2 center to remit any funds that may be deducted from the earnings or other compensation  
 3 of such sheltered employees for inclusion in the health insurance fund. In addition, it shall  
 4 be the duty of the sheltered employment center to make the employer contributions  
 5 required for the operation of such plan or plans."

#### 6 SECTION 1-21.

7 Chapter 4A of Title 49 of the Official Code of Georgia Annotated, relating to the Department  
 8 of Juvenile Justice, is amended by striking subsection (e) of Code Section 49-4A-9, relating  
 9 to sentence of youthful offenders, modification of order, review, and participation in  
 10 programs, and inserting in its place the following:

11 "(e) Any child under 17 years of age who is sentenced in the superior court and committed  
 12 to the department may be eligible to participate in all youth development center programs  
 13 and services including community work programs, sheltered workshops, special state  
 14 sponsored programs for evaluation and services under the Division of Rehabilitation  
 15 Services of the Department of Labor and the Division of ~~Mental Health, Mental~~  
 16 ~~Retardation, and Substance Abuse~~ Behavioral Health and Developmental Disabilities of  
 17 the Department of Human Resources, and under the general supervision of youth  
 18 development center staff at special planned activities outside of the youth development  
 19 center. When such a child sentenced in the superior court is approaching his or her  
 20 seventeenth birthday, the department shall notify the court that a further disposition of the  
 21 child is necessary. The department shall provide the court with information concerning the  
 22 participation and progress of the child in programs described in this subsection. The court  
 23 shall review the case and determine if the child, upon becoming 17 years of age, should be  
 24 placed on probation, have his or her sentence reduced, be transferred to the Department of  
 25 Corrections for the remainder of the original sentence, or be subject to any other  
 26 determination authorized by law."

#### 27 SECTION 1-22.

28 Said title is further amended by striking subsection (b) of Code Section 49-5-220, relating  
 29 to legislative findings and intent and State Plan for Coordinated System of Care for severely  
 30 emotionally disturbed children or adolescents, and inserting in its place the following:

31 "(b) In recognition of the fact that services to these children are provided by several  
 32 different agencies, each having a different philosophy, a different mandate, and a different  
 33 source of funding, the General Assembly intends that the Division of ~~Mental Health,~~  
 34 ~~Mental Retardation, and Substance Abuse~~ Behavioral Health and Developmental

1 Disabilities of the Department of Human Resources shall have the primary responsibility  
 2 for planning, developing, and implementing the coordinated system of care for severely  
 3 emotionally disturbed children. Further, it recognizes that to enable severely emotionally  
 4 disturbed children to develop appropriate behaviors and demonstrate academic and  
 5 vocational skills, it is necessary that the Department of Education provide appropriate  
 6 education in accordance with P.L. 94-142 and that the Division of ~~Mental Health, Mental~~  
 7 ~~Retardation, and Substance Abuse~~ Behavioral Health and Developmental Disabilities of  
 8 the Department of Human Resources provide mental health treatment."

9 **SECTION 1-23.**

10 Said title is further amended by striking the introductory language of subsection (a) of Code  
 11 Section 49-5-225, relating to local interagency committees, membership, and function of  
 12 committees, and inserting in its place the following:

13 "(a) At least one local interagency committee shall be established for each ~~administrative~~  
 14 ~~district~~ region of the Division of ~~Mental Health, Mental Retardation, and Substance Abuse~~  
 15 Behavioral Health and Developmental Disabilities of the Department of Human Resources  
 16 whose permanent membership shall include a local representative from each of the  
 17 following:"

18 **PART II**

19 **SECTION 2-1.**

20 Chapter 1 of Title 37 of the Official Code of Georgia Annotated, relating to general  
 21 provisions, is amended by striking paragraph (4) of Code Section 37-1-1, relating to  
 22 definitions, and inserting in its place the following:

23 "(4) 'Community service board' means a public board established pursuant to Code  
 24 Section 37-2-6, which ~~board governs the provision of certain disability services not~~  
 25 ~~provided by other public or private providers under~~ provides one or more behavioral  
 26 health and developmental disability services through contract with the department. Such  
 27 community service board may enroll with the department to become a provider of  
 28 specific behavioral health and developmental disability services with such services being  
 29 negotiated and contracted annually with the department."

30 **SECTION 2-2.**

Chapter 2 of Title 37 of the Official Code of Georgia Annotated, relating to administration of behavioral health and developmental disability services, is amended by striking paragraph (2) of Code Section 37-2-2, relating to definitions, and inserting in its place the following:

"(2) 'Community service board' means a public board established pursuant to Code Section 37-2-6, which ~~board governs the provision of certain disability services not provided by other public or private providers under~~ provides one or more behavioral health and developmental disabilities services through contract with the department. Such community service board may enroll with the department to become a provider of specific behavioral health and developmental disability services with such services being negotiated and contracted annually with the department."

### SECTION 2-3.

Said chapter is further amended by striking Code Section 37-2-6, relating to community mental health, mental retardation, and substance abuse service boards, creation, membership, participation of counties, transfer of powers and duties, alternate method of establishment, and bylaws, and inserting in its place the following:

"37-2-6.

(a) ~~There shall be created community mental health, mental retardation, and substance abuse~~ Community service boards, created in conformity with the areas established pursuant to the subsection (b) of Code Section 37-2-3, ~~which shall govern the provision of certain disability services not provided by other public or private providers under contract with the department~~ shall provide one or more behavioral health and developmental disability services through contract with the department. Such community service boards may enroll with the department to become a provider of specific behavioral health and developmental disability services with such services being negotiated and contracted annually with the department. ~~Community mental health, mental retardation, and substance abuse service boards shall be established as public agencies.~~ Such boards shall be considered public agencies.

(b) Each community service board shall consist of members appointed by the county governing authorities from nominations by the boards of health of the counties within the boundaries of the community service board. Membership on such community service board shall be determined as follows:

(1) Each county with a population of 50,000 or less according to the United States decennial census of 1990 or any future such census shall appoint one member to the board;

1 (2) Each county with a population of more than 50,000 according to the United States  
2 decennial census of 1990 or any future such census shall appoint one member for each  
3 population increment of 50,000 or any portion thereof;

4 (3) The appointment or appointments for each county shall be made by the county  
5 governing authority;

6 (4) The county governing authority shall appoint a consumer of disability services, a  
7 family member of a consumer, an advocate for disability services, or a local leader or  
8 businessperson with an interest in mental health, mental retardation, and substance abuse;  
9 provided, however, that for counties with more than one appointment, the county  
10 governing authority shall seek to ensure that such appointments represent various groups  
11 and disability services;

12 (5) The chief executive or a designee of the chief executive of each county governing  
13 authority or municipal governing authority which contributes funding or resources which  
14 equal or exceed one-half of 1 percent of the budget allocation from the regional office for  
15 disability services within the area governed by the community service board shall serve  
16 as an ex officio, voting member of the community service board; and

17 (6)(A) A person shall not be eligible to be appointed to or serve on a regional planning  
18 board if such person is:

19 (i) A member of the community service board which serves that region; or

20 (ii) An employee of such regional office or employee or board member of any private  
21 or public group, organization, or service provider which contracts with or receives  
22 funds from such regional office.

23 (B) A person shall not be eligible to be appointed to or serve on a regional planning  
24 board if such person's spouse, parent, child, or sibling is a member of such regional  
25 planning board or a member, employee, or board member specified in division (i) or (ii)  
26 of subparagraph (A) of this paragraph. No person who has served a full term or more  
27 on a regional board or regional planning board may be appointed to a community  
28 service board until a period of at least two years has passed since the time such person  
29 served on regional board or the regional planning board. No person who has served on  
30 a regional board and who becomes a member of a regional planning board on June 30,  
31 2002, may be appointed to a community service board until a period of at least two  
32 years has passed since the time such person has served on the regional planning board.

33 (b.1) A county governing authority may appoint the school superintendent, a member of  
34 the board of health, a member of the board of education, or any other elected or appointed  
35 official to serve on the community service board provided that such person meets the  
36 qualifications of paragraph (4) of subsection (b) of this Code section and such appointment

1 does not violate the provisions of Chapter 10 of Title 45. For terms of office which begin  
2 July 1, 1994, or later, an employee of the Department of Human Resources or an employee  
3 of a county board of health may not serve on a community service board.

4 (c) In making appointments to the community service board, the various county governing  
5 authorities shall ensure that appointments are reflective of the cultural and social  
6 characteristics, including gender, race, ethnic, and age characteristics, of the regional and  
7 county populations. The county governing authorities are further encouraged to ensure that  
8 each disability group is viably and capably represented on the community service board,  
9 and in making nominations for such appointments the board of health shall consider  
10 suggestions from clinical professional associations as well as advocacy groups, including  
11 but not limited to the Georgia Mental Health Consumer Network, People First of Georgia,  
12 the Georgia Parent Support Network, National Alliance for the Mentally Ill Georgia, the  
13 American Association for Retired Persons, Georgians for Children, the National Mental  
14 Health Association of Georgia, Georgia ARC Network, and the Georgia Council on  
15 Substance Abuse and their local chapters and affiliates.

16 (d) Each county within the boundaries established for the community service board shall  
17 ~~be required to participate with the board in the operation of the program through the~~  
18 ~~community service board. Each community mental health, mental retardation, and~~  
19 ~~substance abuse service area in existence on June 30, 1994, shall automatically be~~  
20 ~~succeeded by the community service board for the same region as of July 1, 1994, and each~~  
21 ~~such community service board shall be governed, from and after July 1, 1994, by this~~  
22 ~~chapter.~~ All contractual obligations, including but not limited to real estate leases, rentals,  
23 and other property agreements, other duties, rights, and benefits of such the behavioral  
24 health and developmental disabilities service area areas in existence on June 30, 2003, or  
25 ~~the county board of health involved in administering programs in such area, unless~~  
26 ~~continued by the current service providers, shall automatically become duties, obligations,~~  
27 ~~rights, and benefits of its respective successor community service board or other successor~~  
28 ~~entity~~ shall continue to exist along with the new powers granted to the community service  
29 boards effective July 1, 2003.

30 (e) Notwithstanding any other provision of this chapter, a community service board may  
31 be constituted in a method other than that outlined in subsection (b) of this Code section  
32 if:

33 (1) A board of health of a county desiring to be the lead county board of health for that  
34 county submits a written agreement to the division before July 1, 1993, to serve as the  
35 community service board and to continue providing disability services in that county after  
36 July 1, 1994, and the governing authority for that county adopts a resolution stating its

1 desire to continue the provision of disability services through its board of health after July  
2 1, 1994, and submits a copy of such resolution to the division before July 1, 1993; or

3 (2)(A) The lead county board of health for a community mental health, mental  
4 retardation, and substance abuse service area, as designated by the division on July 15,  
5 1993, but which area excludes any county which meets the requirements of paragraph  
6 (1) of this subsection, submits a written agreement to the division and to all counties  
7 within such service area to serve as the community service board for that area and to  
8 continue providing disability services after July 1, 1994, which agreement shall be  
9 submitted between July 31, 1993, and December 31, 1993; and

10 (B) Each county governing authority which is within the service area of a lead county  
11 board of health which has submitted an agreement pursuant to subparagraph (A) of this  
12 paragraph adopts a resolution stating its desire to continue the provision of disability  
13 services through such lead county board of health after July 1, 1994, and submits a copy  
14 of that resolution to the division, the regional board, and the lead county board of health  
15 between July 31, 1993, and December 31, 1993; and

16 (3) The lead county board of health qualifying as such under paragraph (1) or (2) of this  
17 subsection agrees in writing to appoint a director for mental health, mental retardation,  
18 and substance abuse other than the director of the county board of health as stipulated in  
19 Code Section 31-3-12.1, to appoint an advisory council on mental health, mental  
20 retardation, and substance abuse consisting of consumers, families of consumers, and  
21 representatives from each of the counties within the boundaries of the community service  
22 board, and to comply with all other provisions relating to the delivery of disability  
23 services pursuant to this chapter.

24 (f) If the conditions enumerated in subsection (e) of this Code section are not met prior to  
25 or on December 31, 1993, a community service board as provided in subsection (b) shall  
26 be established and appointed by January 31, 1994, to govern the provision of disability  
27 services within the boundaries of the community service board. Such community service  
28 board shall have the authority to adopt bylaws and undertake organizational and contractual  
29 activities after January 31, 1994; provided, however, that the community service board  
30 established pursuant to this Code section may not begin providing services to clients until  
31 July 1, 1994.

32 (g) If a community service board is established pursuant to paragraph (2) of subsection (e)  
33 of this Code section, such community service board must operate as established at least  
34 until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996,  
35 the counties included under the jurisdiction of such a community service board may vote  
36 to reconstitute the community service board pursuant to the provisions of subsection (b)

1 of this Code section by passage of a resolution by a majority of the county governing  
2 authorities within the jurisdiction of the community service board prior to January 1, 1997,  
3 or each year thereafter.

4 (h) Each community service board shall ~~be responsible for adopting~~ adopt bylaws and  
5 operational policies and guidelines in conformity with procedures established by the  
6 division. Those bylaws shall address board appointment procedures, initial terms of board  
7 members, the staggering of terms, a mechanism for ensuring that consumers of disability  
8 services and family members of consumers constitute a majority of the appointed board  
9 members, and a mechanism for ensuring equitable representation of the various disability  
10 groups. The regular term of office for each community service board member shall be two  
11 years. Vacancies on such board shall be filled in the same manner as the original  
12 appointment.

13 (i) Each community service board which is composed of members who are appointed  
14 thereto by the governing authority of only one county shall have a minimum of six  
15 members, not including ex officio members, notwithstanding the provisions of subsection  
16 (b) of this Code section, which members in all other respects shall be appointed as provided  
17 in this Code section.

18 (j) No officer or employee of such community service board who has authority to take,  
19 direct others to take, recommend, or approve any personnel action shall take or threaten  
20 action against any employee of a community service board as a reprisal for making a  
21 complaint or disclosing information concerning the possible existence of any activity  
22 constituting fraud, waste, or abuse in or relating to the programs, operations, or client  
23 services of the board to the board or to a member of the General Assembly unless the  
24 complaint was made or the information was disclosed with the knowledge that it was false  
25 or with willful disregard for its truth or falsity. Any action taken in violation of this  
26 subsection shall give the public employee a right to have such action set aside in a  
27 proceeding instituted in the superior court."

#### 28 **SECTION 2-4.**

29 Said chapter is further amended by striking subsection (b) of Code Section 37-2-6.1, relating  
30 to community service boards, program director, staff, budget, facilities, powers and duties,  
31 exemption from state and local taxation, and inserting in its place the following:

32 "(b) Each community service board, under the jurisdiction of its board, shall perform  
33 duties, responsibilities, and functions and may exercise power and authority described in  
34 this subsection. Each program may exercise the following power and authority:

1 (1) Each community service board may adopt bylaws for the conduct of its affairs;  
2 provided, however, that the community service board shall meet at least quarterly, and  
3 that all such meetings and any bylaws shall be open to the public, as otherwise required  
4 under Georgia law;

5 (2) Each community service board may make and enter into all contracts necessary and  
6 incidental to the performance of its duties and functions;

7 (3) Each community service board may acquire ~~and dispose of real and personal~~  
8 ~~property; by purchase, gift, lease, or otherwise and may own, hold, improve, use, and sell,~~  
9 convey, exchange, transfer, lease, sublease, and dispose of real and personal property of  
10 every kind and character, or any interest therein, for its corporate purposes;

11 (4) Each community service board may contract to utilize the services of the Department  
12 of Administrative Services, the State Merit System of Personnel Administration, the state  
13 auditor, or any other agency of state, local, or federal government;

14 (5) Each community service board may provide, either independently or through contract  
15 with appropriate state or local governmental entities, the following benefits to its  
16 employees, their dependents, and survivors, in addition to any compensation or other  
17 benefits provided to such persons:

18 (A) Retirement, pension, disability, medical, and hospitalization benefits, through the  
19 purchase of insurance or otherwise, but medical and hospitalization benefits may only  
20 be provided through the Department of Community Health under the same conditions  
21 as provided for such benefits to state employees, and the Department of Community  
22 Health shall so provide if requested;

23 (B) Life insurance coverage and coverage under federal old age and survivors'  
24 insurance programs;

25 (C) Sick leave, annual leave, and holiday leave; and

26 (D) Any other similar benefits including, but not limited to, death benefits;

27 (6) Each community service board may cooperate with all units of local government  
28 within the boundaries of the community service board as well as neighboring regions and  
29 with the programs of other departments, agencies, and regional commissions and regional  
30 planning boards;

31 (7) Each community service board shall comply with the provisions of Chapter 20 of  
32 Title 45, relating to state personnel administration, and each employee of such board shall  
33 be a covered employee as defined in Code Section 45-20-2, subject to the rules and  
34 regulations of the state merit system;

35 (8) Each community service board may receive and administer grants, gifts, contracts,  
36 moneys, and donations for purposes pertaining to the delivery of disability services;

1       (9) Each community service board may ~~make contracts and establish fees for the~~  
 2 ~~provision of disability services; provided, however, that such contract and fees shall be~~  
 3 ~~in compliance with guidelines established by the division and the regional office;~~  
 4 establish fees for the provision of disability services according to Department of Human  
 5 Resources and Department of Community Health state-wide standards;

6       (10) Each community service board may accept appropriations, ~~or~~ loans of funds,  
 7 facilities, equipment, and supplies from the local governmental entities within ~~their~~  
 8 program ~~its~~ boundaries; and

9       (11) Each member of the community service board may, upon approval of the executive  
 10 director, receive reimbursement for actual expenses incurred in carrying out the duties  
 11 of such office in conformance with rates and allowances set for state employees by the  
 12 Office of Planning and Budget and the same milage allowance for use of a personal car  
 13 as that received by all other state officials and employees or a travel allowance of actual  
 14 transportation cost if traveling by public carrier;

15 (12) Each community service board may have a seal and alter it;

16 (13) Each community service board may contract with the State Personnel Board  
 17 regarding its personnel who remain in the classified service;

18 (14) Each community service board may borrow money for any business purpose and  
 19 may incur debt, liabilities, and obligations for any business purpose. A debt, liability, or  
 20 obligation incurred by a community service board shall not be considered a debt, liability,  
 21 or obligation of the state or any county or any municipality or any political subdivision  
 22 of the state. A community service board may not borrow money as permitted by this  
 23 Code section if the highest aggregate annual debt service requirements of the then current  
 24 fiscal year or any subsequent year for outstanding borrowings of the community service  
 25 board, including the proposed borrowing, exceed 15 percent of the total revenues of the  
 26 community service board in its fiscal year immediately preceding the fiscal year in which  
 27 such debt is to be incurred. Interest paid upon such borrowings shall be exempt from  
 28 taxation by the state or its political subdivisions. A state contract with a community  
 29 service board shall not be used or accepted as security or collateral for a debt, liability,  
 30 or obligation of a community service board without the prior written approval of the  
 31 commissioner;

32 (15) Each community service board, to the extent authorized by law and contract for the  
 33 funds involved, may carry forward without lapse fund balances and establish operating,  
 34 capital, and debt reserve accounts from revenues and grants derived from state, county,  
 35 and all other sources;

1 (16) Each community service board may operate, establish, or operate and establish  
 2 facilities deemed by the community service board as necessary and convenient for the  
 3 administration, operation, or provision of disability services by the community service  
 4 board and may construct, reconstruct, improve, alter, repair, and equip such facilities to  
 5 the extent authorized by state and federal law; and

6 (17) Each community service board may establish fees, rates, rents, and charges for the  
 7 use of facilities of the community service board for the provision of disability services  
 8 when approved by the department."

#### 9 SECTION 2-5.

10 Said chapter is further amended by adding to the end of Code Section 37-2-6.1, relating to  
 11 community service boards, program director, staff, budget, facilities, powers and duties,  
 12 exemption from state and local taxation, new subsections (e) through (j) to read as follows:

13 "(e) A community service board does not have the power to tax, the power to issue general  
 14 obligation bonds or revenue bonds or revenue certificates, or the power to financially  
 15 obligate the state or any county or any municipal corporation.

16 (f) A community service board shall not operate any facility for profit. A community  
 17 service board may fix fees, rents, rates, and charges that are reasonably expected to produce  
 18 revenues, which, together with all other funds of the community service board, will be  
 19 sufficient to administer, operate, and provide the following:

20 (1) Disability services;

21 (2) The cost of acquiring, constructing, equipping, maintaining, repairing, and operating  
 22 its facilities; and

23 (3) The creation and maintenance of reserves sufficient to meet principal and interest  
 24 payments due on any obligation of the community service board.

25 (g) Each community service board may provide reasonable reserves for the improvement,  
 26 replacement, or expansion of its facilities and services. Reserves under this subsection  
 27 shall be subject to the limitations in paragraph (17) of subsection (b) of this Code section.

28 (h) Each county and municipal corporation of this state is authorized to convey or lease  
 29 property of such county or municipal corporation to a community service board for its  
 30 public purposes. Any property conveyed or leased to a community services board by a  
 31 county or municipal corporation shall be operated by such community service board in  
 32 accordance with this chapter and the terms of the community service board's agreements  
 33 with the county or municipal corporation providing such conveyance or lease.

1 (i) Each community service board shall keep books of account reflecting all funds  
2 received, expended, and administered by the community service board which shall be  
3 independently audited annually.

4 (j) A community service board may not create, form, or become a member of a nonprofit  
5 corporation, limited liability company, or other profit or nonprofit entity unless the  
6 community service board elects to convert to a private nonprofit corporation as provided  
7 in paragraph (1) of subsection (a) of Code Section 37-2-6.4."

## 8 SECTION 2-6.

9 Said chapter is further amended by adding following Code Section 37-2-6.2 new Code  
10 Sections 37-2-6.3 and 37-2-6.4 to read as follows:

11 "37-2-6.3.

12 (a) A community service board is a public body as provided in paragraph (1) of subsection  
13 (c) of Code Section 37-2-11.1.

14 (b) A community service board has the power to bring an action in its own name and, to  
15 the extent otherwise authorized by law and to the extent not immune from suit, may be  
16 sued in its own name. The state and the counties in which the community service board  
17 operates shall not be considered a party to or liable under any such litigation.

18 (c) Debts, obligations, and liabilities of a community service board are not, debts,  
19 obligations, or liabilities of the state or of the counties in which such board operates. A  
20 community service board is prohibited from entering into debts, obligations, or liabilities  
21 which are also debts, obligations, or liabilities of the state or of any county.

22 37-2-6.4.

23 (a) Notwithstanding any other provisions of this chapter, a community service board may  
24 reconstitute or convert its organizational structure in the following ways:

25 (1) With the approval of the governing board of the community service board and the  
26 approval of the county governing authorities of the counties served by the community  
27 service board, the community service board may convert to a private nonprofit  
28 corporation. So long as the reconstituted organization continues to serve a public purpose  
29 as defined by the department, such organization shall be authorized to retain the use of  
30 assets, equipment, and resources purchased with state and federal funds by the former  
31 community service board. In the event the new private nonprofit fails to serve such public  
32 purpose, those assets, equipment, and resources purchased by the former community  
33 service board with state and federal funds shall be returned to the department or to an  
34 agency designated by the department. For a period of three years following the

1 community service board's conversion to a private nonprofit corporation, the private  
2 nonprofit corporation shall ensure that consumers of disability services and family  
3 members of consumers constitute a majority of the appointed board members and that the  
4 various disability groups are equitably represented on the board of the nonprofit  
5 corporation;

6 (2) With the approval of the governing board of the community service board and the  
7 approval of all of the county governing authorities of the counties served by the  
8 community service board, the community service board may convert to a unit of county  
9 government. All assets, equipment, and resources of the community service board shall  
10 be transferred to the new unit of county government; or

11 (3) With the approval of the governing board of the community service board and the  
12 approval of all of the county governing authorities of the counties served by the  
13 community service board, the community service board may become a component part  
14 of a hospital authority in those counties served by the community service board. So long  
15 as the hospital authority continues to serve a public purpose as defined by the department,  
16 the hospital authority shall be authorized to retain possession of those assets, equipment,  
17 and resources purchased by the community service board with state and federal funds.  
18 In the event the hospital authority fails to serve such public purpose, those assets,  
19 equipment, and resources purchased by the community service board with state and  
20 federal funds shall be returned to the department or to an agency designated by the  
21 department.

22 (b) In the event that all county governing authorities of a community service area  
23 designated pursuant to subsection (b) of Code Section 37-2-3 concur that a community  
24 service board reconstituted pursuant to subsection (a) of this Code section has failed to  
25 provide disability services as required, those county governing authorities may request that  
26 the division coordinate the formation of a new community service board pursuant to Code  
27 Section 37-2-6. Upon notification of the request, the division shall assist the county  
28 governing authorities in making appointments to the new community service board and  
29 establishing bylaws pursuant to Code Section 37-2-6. The division shall make a  
30 determination about the disposition of all assets, equipment, and resources purchased with  
31 state or federal funding in the possession of the predecessor agency."

**PART III****SECTION 3-1.**

Section 1-7 of this Act shall become effective only if funds are specifically appropriated for the purposes of this Act in an appropriations Act making specific reference to this Act and shall become effective when funds so appropriated become available for expenditure. The remaining sections of Part I of this Act shall become effective on July 1, 2002. Part II of this Act shall become effective on July 1, 2003.

**SECTION 3-2.**

All laws and parts of laws in conflict with this Act are repealed.