

House Bill 498 (AS PASSED HOUSE AND SENATE)

By: Representatives Murphy of the 18th, Heard of the 89th, McBee of the 88th and Epps of the 131st

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 mental health,
5 developmental disabilities, and addictive diseases planning boards and their duties and
6 responsibilities; to provide for appointments to regional planning boards; to provide for
7 changes in the powers and duties of community service boards; to provide for appointments
8 to community service boards; to establish eligibility for appointment to regional planning
9 boards and community service boards; to provide for reimbursement of actual expenses of
10 regional planning board and community service board members; to provide for a community
11 ombudsman program; to provide for community service boards to convert their
12 organizational structures; to amend the Official Code of Georgia Annotated to make
13 conforming changes; to provide for all related matters; to provide for effective dates; to
14 repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**PART I**
17 style="text-align:center">**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
25 youth development center. After the first six months of confinement in a youth

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

10 SECTION 1-2.

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

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

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

26 SECTION 1-3.

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

31 "31-3-12.1.

32 In addition to any other power authorized by law, the county governing authority may
 33 authorize the county board of health to enter into a contract with ~~a regional~~ the department
 34 or a community mental health, ~~mental retardation, and substance abuse~~ developmental
 35 disabilities, and addictive diseases service board created under Chapter 2 of Title 37 to

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

33 SECTION 1-4.

34 Said title is further amended by striking paragraph (3) of subsection (f) of Code Section
 35 31-5A-4, relating to department's powers, duties, functions, and responsibilities, divisions,
 36 and directors, and inserting in its place the following:

1 "(3) Is authorized to convene at least quarterly a state agency coordinating committee
 2 comprised of the commissioners, directors, chairpersons, or their designees, of the
 3 following agencies involved in health related activities: the Department of Human
 4 Resources, including the Division of Public Health, the Division of Mental Health,
 5 ~~Mental Retardation, and Substance Abuse~~ Developmental Disabilities, and Addictive
 6 Diseases, and the ~~Office~~ Division of Aging Services thereof, the Department of Juvenile
 7 Justice, the Department of Corrections, the Insurance Department, the State Merit System
 8 of Personnel Administration, the State Board of Workers' Compensation, and the
 9 Governor's Office of Planning and Budget. The board of regents may also designate a
 10 person to serve on the coordinating committee. The committee will convene for the
 11 purposes of planning and coordinating health issues that have interagency considerations.
 12 The commissioner of the department will serve as the chairperson of the state agency
 13 coordinating committee and will report to the Governor the activities, findings, and
 14 recommendations of the committee;"

15 SECTION 1-5.

16 Said title is further amended by striking subparagraph (A) of paragraph (1) of Code Section
 17 31-7-1, relating to definitions, and inserting in its place the following:

18 "(A) ~~Reserved~~ Any community living arrangements as defined in paragraph (16) of
 19 subsection (b) of Code Section 37-1-20;"

20 SECTION 1-6.

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

25 "ARTICLE 1

26 37-1-1.

27 As used in this title, the term:

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

30 (2) 'Board' means the Board of Human Resources.

31 (3) 'Commissioner' means the commissioner of human resources.

32 (4) 'Community service board' means a public mental health, developmental disabilities,
 33 and addictive diseases board established pursuant to Code Section 37-2-6.

- 1 (5) 'Consumer' means a natural person who has been or is a recipient of disability
2 services as defined in Code Section 37-2-2.
- 3 (6) 'County board of health' means a county board of health established in accordance
4 with Chapter 3 of Title 31 and includes its duly authorized agents.
- 5 (7) 'Department' means the Department of Human Resources and includes its duly
6 authorized agents and designees.
- 7 (8) 'Division' means the Division of Mental Health, Developmental Disabilities, and
8 Addictive Diseases.
- 9 (9) 'Peace officer' means any federal, city, or county police officer, any officer of the
10 Georgia State Patrol, or any sheriff or deputy sheriff.
- 11 (10) 'Penal offense' means a violation of a law of the United States, this state, or a
12 political subdivision thereof for which the offender may be confined in a state prison or
13 a city or county jail or any other penal institution.
- 14 (11) 'Physician' means any person duly authorized to practice medicine in this state under
15 Chapter 34 of Title 43.
- 16 (12) 'Psychologist' means any person authorized under the laws of this state to practice
17 as a licensed psychologist as set forth in paragraph (3) of Code Section 43-39-1.
- 18 (13) 'Regional board' means a regional mental health, mental retardation, and substance
19 abuse board established in accordance with Code Section 37-2-4.1 as that Code section
20 existed on June 30, 2002.
- 21 (14) 'Regional coordinator' means an employee of the department who acts as the
22 department's agent and designee to manage community and hospital services for
23 consumers of disability services within a mental health, developmental disabilities, and
24 addictive diseases region established in accordance with Code Section 37-2-3.
- 25 (15) 'Regional office' means a Division of Mental Health, Developmental Disabilities,
26 and Addictive Diseases of the Department of Human Resources office created pursuant
27 to Code Section 37-2-4.1. Such office shall serve as the entity for the administration of
28 disability services in a region.
- 29 (16) 'Regional planning board' means a mental health, developmental disabilities, and
30 addictive diseases planning board established in accordance with Code Section 37-2-4.1.
- 31 (17) 'Regional services administrator' means an employee of the department who, under
32 the supervision of the regional coordinator, manages the purchase or authorization of
33 services, or both, for consumers of disability services, the assessment and coordination
34 of services, and ongoing monitoring and evaluation of services provided within a mental
35 health, developmental disabilities, and addictive diseases region established in
36 accordance with Code Section 37-2-3.

1 (18) 'Regional state hospital administrator' means the chief administrative officer of a
2 state owned or state operated hospital and the state owned or operated community
3 programs in a region. The regional state hospital administrator, under the supervision of
4 the regional coordinator, has overall management responsibility for the regional state
5 hospital and manages services provided by employees of the regional state hospital and
6 employees of state owned or operated community programs within a mental health,
7 developmental disabilities, and addictive diseases region established in accordance with
8 Code Section 37-2-3.

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

10 (20) 'Service area' means a community service area.

11 37-1-2.

12 (a) The General Assembly finds that the state has a need to continually improve its system
13 for providing effective, efficient, and quality mental health, developmental disability, and
14 addictive disease services. The General Assembly also finds that the needs of the publicly
15 funded mental health, developmental disability, and addictive disease system and the state
16 can best be met through reorganizing the regional mental health, mental retardation, and
17 substance abuse boards and certain functions of the Department of Human Resources.
18 Further, the General Assembly finds that a comprehensive range of quality services and
19 opportunities is vitally important to the existence and well-being of individuals with mental
20 health, developmental disability, or addictive disease needs and their families. The General
21 Assembly further finds that the state has an obligation and a responsibility to develop and
22 implement planning and service delivery systems which focus on a core set of consumer
23 oriented, community based values and principles which include, but are not limited to, the
24 following:

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

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

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

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

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

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

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

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

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

14 (10) Consumers, staff, providers, and regional planning board and community service
15 board members should receive ongoing training and education and should have access
16 to key management resources such as information systems and technical and professional
17 support services; and

18 (11) The department is responsible for ensuring the appropriate use of state, federal, and
19 other funds to provide quality services for individuals with mental health, developmental
20 disabilities, or addictive disease needs who are served by the public system and to protect
21 consumers of these services from abuse and maltreatment.

22 (b) Local governments, specifically county governing authorities, have provided
23 outstanding leadership and support for mental health, developmental disability, and
24 addictive disease programs, and the General Assembly finds that their investments, both
25 personal and capital, should be valued and utilized in any improved system. As such, the
26 state and any new governing structure should take special precautions to ensure that the
27 county governing authorities have an expanded level of input into decision making and
28 resource allocation and that any services or programs should continue to use and expand
29 their use of county facilities and resources wherever appropriate and possible.

30 (c) The purpose of this chapter and Chapter 2 of this title is to provide for a comprehensive
31 and improved mental health, developmental disability, and addictive disease services
32 planning and delivery system in this state which will develop and promote the essential
33 public interests of the state and its citizens. The provisions of this chapter and Chapter 2
34 of this title shall be liberally construed to achieve their purposes.

35 ARTICLE 2

36 37-1-20.

1 (a) The Division of Mental Health, Developmental Disabilities, and Addictive Diseases
2 shall be a division of the department and shall be managed by a director whose
3 qualifications meet standards set by the board.

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

5 (1) Establish, administer, and supervise the state programs for mental health,
6 developmental disabilities, and addictive diseases;

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

10 (3) Have authority to contract for services with: community service boards, private
11 agencies, and other public entities for the provision of services within a service area so
12 as to provide an adequate array of services, choice of providers for consumers, and to
13 comply with the applicable federal laws, rules and regulations related to public or private
14 hospitals; hospital authorities; medical schools, and training and educational institutions;
15 departments and agencies of this state; county or municipal governments; any person,
16 partnership, corporation, or association, whether public or private; the United States
17 government or the government of any other state;

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

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

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

28 (7) Establish a system for regional administration of mental health, developmental
29 disability, and addictive disease services in institutions and in the community under the
30 supervision of a regional coordinator;

31 (8) Make and administer budget allocations to regional offices of the division established
32 by the board pursuant to Code Section 37-2-4.1, to fund the operation of mental health,
33 developmental disabilities, and addictive diseases facilities and programs;

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

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

3 (11) Disseminate information about available services and the facilities through which
4 such services may be obtained;

5 (12) Supervise the regional office's exercise of its responsibility and authority
6 concerning funding and delivery of disability services;

7 (13) Supervise the regional offices concerning the receipt and administration of grants,
8 gifts, moneys, and donations for purposes pertaining to mental health, developmental
9 disabilities, and addictive diseases;

10 (14) Supervise the regional offices concerning making contracts with any hospital,
11 community service board, or any public or private providers without regard to regional
12 or state boundaries for the provision of disability services and in making and entering into
13 all contracts necessary or incidental to the performance of the duties and functions of the
14 division and the regional offices;

15 (15) Regulate the delivery of care, including behavioral interventions and medication
16 administration by licensed staff, or certified staff as determined by the division, within
17 residential settings serving only persons who are receiving services authorized or
18 financed, in whole or in part, by the division; and

19 (16) Establish 'community living arrangements' which shall be defined as any residence,
20 whether operated for profit or not, which undertakes through its ownership or
21 management to provide or arrange for the provision of housing, food, one or more
22 personal services, supports, care, or treatment exclusively for two or more persons who
23 are not related to the owner or administrator of the residence by blood or marriage and
24 whose services are financially supported, in whole or in part, by funds authorized through
25 the Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the
26 Department of Human Resources. All community living arrangements, as defined in this
27 paragraph, shall be classified by the department pursuant to subparagraph (A) of
28 paragraph (1) of Code Section 31-7-1 solely for the purposes of being licensed by the
29 department in accordance with the administration, regulation, and enforcement provisions
30 of Chapters 2, 5, and 7 of Title 31. To be eligible for licensing as a community living
31 arrangement, the residence and services provided must be integrated within the local
32 community.

33 (c) The department shall:

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

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

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

7 37-1-21.

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

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

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

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

32 (4) To appoint police of such facilities, institutions, or programs who are authorized,
33 while on the grounds or in the buildings of the respective facilities, institutions, or
34 programs to make arrests with the same authority, power, privilege, and duties as the
35 sheriffs of the respective counties in which such facilities, institutions, or programs are
36 situated. If because of the contagious or infectious nature of the disease of persons

1 arrested facilities are not available for their detention, such police shall be authorized to
 2 confine such persons within the respective facilities, institutions, or programs pending
 3 trial as provided in other cases. After trial and conviction of any such person, he or she
 4 shall be sentenced to serve his or her term of sentence in the secured ward of the facility,
 5 institution, or program; and

6 (5) To have full authority to receive patients ordered admitted to such facilities,
 7 institutions, or programs pursuant to any law, to receive any voluntary patients, to
 8 discharge such patients pursuant to law, to contract with patients or other persons acting
 9 on behalf of patients or legally responsible therefor, and in general to exercise any power
 10 or function with respect to patients provided by law. It is the intent of the General
 11 Assembly to provide always the highest quality of diagnosis, treatment, custody, and care
 12 consistent with medical, therapeutic, and habilitative evidence based practice and
 13 knowledge. It is the further intent of the General Assembly that the powers and duties of
 14 the department with respect to patients shall be administered by persons properly trained
 15 professionally for the exercise of their duties, consistent with the intention expressed in
 16 this Code section.

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

19 37-1-22.

20 The board shall adopt and promulgate written rules, regulations, and standards as may be
 21 deemed necessary to effectuate the purposes of this title and which shall be the basis of
 22 state financial participation in mental health, developmental disabilities, and addictive
 23 diseases programs.

24 37-1-23.

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

28 37-1-24.

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

33 **SECTION 1-7.**

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

3 "ARTICLE 1

4 37-2-1.

5 (a) The State of Georgia recognizes its responsibility for its citizens who are mentally ill
6 or developmentally disabled including individuals with epilepsy, cerebral palsy, autism,
7 and other neurologically disabling conditions or who abuse alcohol, narcotics, or other
8 drugs and recognizes an obligation to such citizens to meet their needs through a
9 coordinated system of community facilities, programs, and services.

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

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

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

25 37-2-2.

26 As used in this chapter, the term:

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

29 (2) 'Community service board' means a public mental health, developmental disabilities,
30 and addictive diseases board established pursuant to Code Section 37-2-6.

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

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

4 (5) 'Director' means the director of the Division of Mental Health, Developmental
5 Disabilities, and Addictive Diseases.

6 (6) 'Disability' means:

7 (A) Mental or emotional illness;

8 (B) Developmental disability; or

9 (C) Addictive disease.

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

12 (8) 'Disabled' means any person or persons having a disability.

13 (9) 'Division' means the Division of Mental Health, Developmental Disabilities, and
14 Addictive Diseases of the Department of Human Resources.

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

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

22 (12) 'Regional office' means the Division of Mental Health, Developmental Disabilities,
23 and Addictive Diseases of the Department of Human Resources office created pursuant
24 to Code Section 37-2-4.1. Such office shall be an office of the division which shall serve
25 as the entity for the administration of disability services in a region.

26 (13) 'Regional planning board' means a regional mental health, developmental
27 disabilities, and addictive diseases board established in accordance with Code Section
28 37-2-4.1.

29 37-2-2.1.

30 The Department of Human Resources shall have a Division of Mental Health,
31 Developmental Disabilities, and Addictive Diseases.

32 37-2-3.

33 (a) The board shall designate boundaries for mental health, developmental disabilities, and
34 addictive diseases regions and may modify the boundaries of such regions from time to
35 time as deemed necessary by the board.

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

7 (c) To the extent practicable, the boundaries for regional planning boards and offices and
8 community service areas shall not subdivide any county unit or conflict with any districts
9 established by the department and the state relating to the planning for, or delivery of,
10 health services. In dividing the state into areas, the board, the department, and the division
11 shall take into consideration such factors as geographic boundaries, roads and other means
12 of transportation, population concentrations, city and county lines, other relevant
13 community services, and community economic and social relationships. Consideration
14 shall also be given to the existence of facilities and personnel available in the areas for the
15 delivery of disability services.

16 37-2-4.

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

28 (b) The Governor's council shall advise the Governor, the board, the department, and the
29 division as to the efficacy of the state disability services programs, the need for legislation
30 relating to the disabled, the need for expansion or reduction of specific disability services
31 programs, and the need for specific changes in the state disability services programs. The
32 Governor's council shall review and prepare written comments on proposed state plans and
33 on standards, rules, and regulations promulgated by the division. Such comments shall be
34 submitted to the director, the board, the commissioner, and to any other individual or
35 agency deemed appropriate. The Governor's council shall further receive and consider
36 complaints and grievances submitted in writing by individuals, associations, or agencies

1 involved with the delivery or receipt of disability services and, if deemed appropriate, shall
2 make recommendations to the Governor, the board, the department, or the division with
3 respect to such complaints or grievances. The Governor's council shall also provide
4 guidance and assistance to the regional planning boards, hospitals, community service
5 boards, and other private or public providers in the performance of their duties.

6 37-2-4.1.

7 (a) The division shall create regional mental health, developmental disabilities, and
8 addictive diseases offices. The number of these offices may be modified from time to time
9 as deemed necessary by the division.

10 (b) The division shall create a separate regional mental health, developmental disabilities,
11 and addictive diseases planning board for each regional office established under subsection
12 (a) of this Code section. Each board shall provide and facilitate coordinated and
13 comprehensive planning for its region in conformity with minimum standards and
14 procedures established by the division. Each board shall be designated with such
15 identifying words before the term 'regional mental health, developmental disabilities, and
16 addictive diseases planning board' as that regional planning board may, from time to time,
17 choose and designate by official action.

18 (c) The powers, functions, obligations, and duties of the regional mental health, mental
19 retardation, and substance abuse boards as they existed on June 30, 2002, are transferred
20 to the department. The department shall succeed to all rights, privileges, entitlements,
21 contracts, leases, agreements, and other transactions of the regional boards which were in
22 effect on June 30, 2002, and none of those rights, privileges, entitlements, contracts, leases,
23 agreements, and other transactions shall be impaired or diminished by reason of such
24 transfer. In all such instances, the department shall be substituted for such regional board
25 and the department shall succeed to the rights and duties under such contracts, leases,
26 agreements, and other transactions.

27 37-2-5.

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

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

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

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 business person with an interest in mental health, developmental disabilities, and
9 addictive diseases; provided, however, that for counties with more than one appointment,
10 the county governing authority shall seek to ensure that such appointments represent
11 various groups and disability services.

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

18 (b.2)(1) A person shall not be eligible to be appointed to or serve on a regional planning
19 board if such person is:

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

21 (B) An employee or board member of a private or public entity which contracts with
22 the department, through the division, to provide mental health, developmental
23 disabilities, or addictive diseases services within the region; or

24 (C) An employee of such regional office or employee or board member of any private
25 or public group, organization, or service provider which contracts with or receives
26 funds from such regional office.

27 (2) A person shall not be eligible to be appointed to or serve on a regional planning board
28 if such person's spouse, parent, child, or sibling is a member of that regional planning
29 board or a member, employee, or board member specified in subparagraph (A), (B), or
30 (C) of paragraph (1) of this subsection. No person who has served a full term or more on
31 a regional board or regional planning board may be appointed to a community service
32 board until a period of at least two years has passed since the time such person served on
33 the regional board or the regional planning board. No person who has served on a
34 regional board and who becomes a member of a regional planning board on June 30,
35 2002, may be appointed to a community service board until a period of at least two years
36 has passed since the time such person has served on the regional planning board.

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

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

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

27 (e) Prior to August 1, 2002, each regional planning board shall adopt bylaws governing
28 its operation and management. At a minimum, the bylaws shall provide for staggered
29 terms of the board, requirements for an annual meeting to elect officers, a mechanism for
30 ensuring that consumers of disability services and family members of consumers constitute
31 a majority of the appointments to the board, and a mechanism for ensuring that each
32 disability service is equitably represented by appointments to the board. Any board
33 member who serves an initial term of less than three years may be eligible to be
34 reappointed for two full consecutive three-year terms. The chairperson and vice
35 chairperson of the regional planning board shall be elected from among the members of the
36 board to serve a term of one year with the option of reelection for an additional one-year
37 term. The bylaws shall provide for any other officers and their means of selection, as well

1 as any necessary committees or subcommittees of the board. Prior to their adoption by the
2 regional planning board, the bylaws shall be submitted to the division for review and
3 approval. The regional planning board must have the written approval of the director of the
4 division prior to the adoption of bylaws.

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

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

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

18 37-2-5.1.

19 (a) Each region shall be served by a regional coordinator, who shall be duly qualified and
20 appointed by the director of the division. The regional coordinator shall serve as the
21 supervisor of the regional office, which shall be a unit of the division. The regional
22 coordinator shall serve at the pleasure of the division director. The director of the division
23 shall be authorized to appoint an interim regional coordinator at any time that the position
24 of regional coordinator is vacant and prior to the appointment of a duly qualified and
25 approved successor.

26 (b) The regional coordinator may appoint such other staff including a regional services
27 administrator and a regional state hospital administrator and personnel to work for the
28 regional office as the division deems necessary and appropriate. The regional coordinator
29 and such staff and personnel shall be employees of the division. Expenses for the regional
30 office and planning board, the employment of the regional coordinator, other staff and
31 personnel, and the operation of the regional office shall be funded by the division as funds
32 are appropriated by the General Assembly. The department and the division shall impose
33 limits on the administrative and operating expenditures of the regional office and planning
34 board.

35 (c)(1) State, federal, and other funds appropriated to the department, the division, or
36 both, and available for the purpose of funding the planning and delivery of disability

1 services shall be distributed in accordance with this subsection. All funds associated with
2 services to clients residing within a given region shall be managed through the division;
3 the term 'all funds' shall include funding for hospitals, community service boards, private
4 and public contracts, and any contracts relating to service delivery for clients within the
5 given region. The division shall establish a funding amount for regions conditioned upon
6 the amount of funds appropriated. The funding amount shall be determined, in part,
7 based on consumer service needs, service and program history, population based funding
8 needs, infrastructure mandates, program efficiency and effectiveness, geographic
9 distances, and other factors affecting the cost and level of service needs within each
10 region.

11 (2) The division shall establish guidelines to ensure that regions receive such funding
12 based on client population, past and future service delivery needs and capabilities, and
13 in consideration of special needs populations, such as homeless and transient populations.
14 The division shall ensure that funds are managed based primarily on services to clients
15 and in compliance with all federal, state, and regulatory requirements.

16 (3) The division, in compliance with the provisions of the General Appropriations Act
17 and other applicable laws, is authorized to move funds to and between community and
18 institutional programs based on need, and the division shall develop appropriate
19 allocation and accounting mechanisms to move funds in a planned and rational manner
20 between hospitals, community service boards, and other providers based on client needs
21 and utilization.

22 37-2-5.2.

23 (a) Under the supervision of the division, each regional office shall have the following
24 duties and functions:

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

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

33 (3) To exercise responsibility and authority as specified in this chapter within the region
34 in all matters relating to the funding and delivery of disability services;

35 (4) To receive and administer grants, gifts, moneys, and donations for purposes
36 pertaining to mental health, developmental disability, and addictive disease services;

1 (5) To enter into contracts on behalf of the division with any hospital, community service
2 board, or other public or private providers without regard to regional or state boundaries
3 for the provision of disability services, and to enter into all contracts on behalf of the
4 division necessary or incidental to the performance of duties and functions of the division
5 and regional office;

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

9 (7) To serve as the representative of the citizens of the area in regard to disability
10 services;

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

17 (9) To assure the highest achievable level of public awareness and understanding of both
18 available and needed disability services;

19 (10) To visit regularly disability services facilities and programs which serve the region
20 in order to assure contracted providers are licensed and accredited by the designated
21 agencies prescribed by the division, and in order to evaluate the effectiveness and
22 appropriateness of the services, as such services relate to the health, safety, and welfare
23 of service recipients, and to provide technical assistance to programs in delivering
24 services; and

25 (11) To participate with other regional offices and planning boards, the division, the
26 department, local, state, or federal government agencies, educational institutions, and
27 public and private organizations in the coordination of planning, research, service
28 development, and evaluation activities:

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

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

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

36 (b) It is the express intent of this chapter to confer upon the regional offices as the
37 administrative entities of the division the flexibility and authority necessary to enter into

1 contracts on behalf of the division with a wide range of public and private providers to
2 ensure that consumers are afforded cost-effective, locally based, and quality disability
3 services. Under the supervision of the division, regional offices are specifically authorized
4 to enter into contracts on behalf of the division directly with any county governing
5 authority, any disability services organization created or designated by such county
6 governing authority, any county board of health, any private or public provider, or any
7 hospital for the provision of disability services.

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

11 37-2-6.

12 (a) There shall be re-created community mental health, developmental disabilities, and
13 addictive diseases service boards, in conformity with the service areas established pursuant
14 to subsection (b) of Code Section 37-2-3. Each community service board shall be a public
15 corporation and an instrumentality of the state within the boundaries determined under
16 subsection (b) of Code Section 37-2-3 served by the community service board; provided,
17 however, the liabilities, debts, and obligations of a community service board shall not
18 constitute liabilities, debts, or obligations of the state or any county or municipal
19 corporation and neither the state nor any county or municipal corporation shall be liable for
20 any liability, debt, or obligation of a community service board. Each community service
21 board re-created pursuant to this Code section is created for nonprofit and public purposes
22 to exercise essential governmental functions. The re-creation of community service boards
23 pursuant to this Code section shall not alter the provisions of Code Section 37-2-6.2 which
24 shall apply to those re-created community service boards and their employees covered by
25 that Code section and those employees' rights are retained.

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

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

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

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

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

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

14 (6)(A) A person shall not be eligible to be appointed to or serve on a community
15 service board if such person is:

16 (i) A member of the regional planning board which serves the region in which that
17 community service board is located;

18 (ii) An employee or board member of a public or private entity which contracts with
19 the division to provide mental health, developmental disabilities, and addictive
20 diseases services within the region; or

21 (iii) An employee of that community service board or employee or board member of
22 any private or public group, organization, or service provider which contracts with or
23 receives funds from that community service board.

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

34 (b.1) A county governing authority may appoint the school superintendent, a member of
35 the board of health, a member of the board of education, or any other elected or appointed
36 official to serve on the community service board provided that such person meets the
37 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 service area, or the
24 county board of health involved in administering programs in such area, unless continued
25 by the current service providers, shall automatically become duties, obligations, rights, and
26 benefits of its respective successor community service board or other successor entity.

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

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

36 (2)(A) The lead county board of health for a community mental health, mental
37 retardation, and substance abuse service area, as designated by the division on July 15,

1 1993, but which area excludes any county which meets the requirements of paragraph
2 (1) of this subsection, submits a written agreement to the division and to all counties
3 within such service area to serve as the community service board for that area and to
4 continue providing disability services after July 1, 1994, which agreement shall be
5 submitted between July 31, 1993, and December 31, 1993; and

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

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

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

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

36 (h) Each community service board shall be responsible for adopting bylaws and
37 operational policies and guidelines in conformity with procedures established by the

1 division. Those bylaws shall address board appointment procedures, initial terms of board
2 members, the staggering of terms, quorum, a mechanism for ensuring that consumers of
3 disability services and family members of consumers constitute a majority of the appointed
4 board members, and a mechanism for ensuring equitable representation of the various
5 disability groups. The regular term of office for each community service board member
6 shall be two years. Vacancies on such board shall be filled in the same manner as the
7 original appointment.

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

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

23 (k) A member of a community service board who after notice that such member has failed
24 to complete any required training prescribed by the department pursuant to paragraph (4)
25 of subsection (b) of Code Section 37-1-20 continues such failure for 30 days may be
26 removed from office by the remaining members of the community service board.

27 (l) A member of a community service board may resign from office by giving written
28 notice to the executive director of the community service board. The resignation is
29 irrevocable after delivery to such executive director but shall become effective upon the
30 date on which the notice is received or on the effective date given by the member in the
31 notice, whichever date is later. The executive director, upon receipt of the resignation,
32 shall give notice of the resignation to the remaining members of the community service
33 board and to the chief executive officer or governing authority of the county that appointed
34 the member.

35 (m) The office of a member of a community service board shall be vacated upon such
36 member's resignation, death, or inability to serve due to medical infirmity or other
37 incapacity, removal by the community service board as authorized in this Code section, or

1 upon such other reasonable condition as the community service board may impose under
2 its bylaws.

3 (n) A member of a community service board may not enter upon the duties of office until
4 such member takes the following oath of office:

5 STATE OF GEORGIA

6 COUNTY OF _____

7 I, _____, do solemnly swear or affirm that I will truly perform the
8 duties of a member of the _____ Community Service Board
9 to the best of my ability.

10 _____

11 Signature of member of _____ Community Service Board

12 _____

13 Typed name of member of _____ Community Service Board

14 Sworn and subscribed

15 before me this _____ day

16 of _____, _____.

17 (SEAL)

18 37-2-6.1.

19 (a) Each community service board shall employ an executive director to serve as its chief
20 executive officer. Such executive director shall be appointed and removed by the
21 community service board and shall appoint other necessary staff pursuant to an annual
22 budget adopted by the board, which budget shall provide for securing appropriate facilities,
23 sites, and professionals necessary for the provision of disability services. The community
24 service board may delegate any power, authority, duty, or function to its executive director
25 or other staff. The executive director or other staff is authorized to exercise any power,
26 authority, duty, or function on behalf of the community service board.

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

30 (1) Each community service board may adopt bylaws for the conduct of its affairs;
31 provided, however, that the community service board shall meet at least quarterly, and

1 that all such meetings and any bylaws shall be open to the public, as otherwise required
2 under Georgia law;

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

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

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

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

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

19 (B) Life insurance coverage and coverage under federal old age and survivors'
20 insurance programs;

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

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

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

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

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

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

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

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

10 (12) Each community service board shall elect a chairperson and vice chairperson from
11 among its membership; and the bylaws of the community service board shall provide for
12 any other officers of such board and the means of their selection, the terms of office of
13 the officers, and an annual meeting to elect officers;

14 (13) Each community service board may have a seal and alter it;

15 (14) Each community service board may contract with the State Merit System of
16 Personnel Administration regarding its personnel who remain in the classified service;
17 and

18 (15) Each community service board may establish fees, rates, rents, and charges for the
19 use of facilities of the community service board for the provision of disability services
20 when approved by the department.

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

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

29 37-2-6.2.

30 (a)(1) Those employees whose job descriptions, duties, or functions as of June 30, 1994,
31 included the performance of employment duties or functions which will become
32 employment duties or functions of the personnel of a community service board on July
33 1, 1994, shall become employees of the applicable community service boards on and after
34 July 1, 1994. Such employees shall be subject to the employment practices and policies
35 of the applicable community service board on and after July 1, 1994. Employees who are
36 subject to the State Merit System of Personnel Administration and who are transferred

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

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

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

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

- 33 (1) The department;
- 34 (2) A regional board;
- 35 (3) A community service board;
- 36 (4) A hospital; or

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

8 37-2-7.

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

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

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

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

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

33 37-2-8.

34 Reserved.

1 37-2-9.

2 To the maximum extent possible, disability services provided by the division and the
3 regional offices, hospitals, community service boards, and other public and private
4 providers shall be coordinated with related activities of the department and judicial,
5 correctional, educational, social, and other health service agencies and organizations, both
6 private and public.

7 37-2-9.1.

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

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

16 37-2-10.

17 (a) Notwithstanding any other provisions of the law, the director with the concurrence of
18 the commissioner and the Governor is authorized to establish and administer community
19 programs on an emergency basis in the event one or more community service boards fail
20 to assume responsibility for the establishment and implementation of an adequate range of
21 disability services or to provide appropriate disability services as determined by the
22 division or substantially breach their contracts with the department pursuant to this chapter.

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

26 (1) Assume responsibility for the administration and operation of all of the community
27 programs operated by or through such board and, in which case, the programs shall
28 become department programs; the department shall acquire the assets of the community
29 service board; and the community service board employees shall become employees of
30 the department;

31 (2) Assume responsibility for the administration and operation of one or more of the
32 community programs operated by or through such board, in which case, such program
33 or programs shall become a department program or programs; the department shall
34 acquire those assets of the community service board assigned to such program or
35 programs; and the employees of such program or programs shall become employees of

1 the department. Any community service board programs not transferred to the
2 department shall continue to be operated by the community service board and the
3 employees for such programs shall remain community service board employees; or

4 (3) Appoint a manager or management team to manage and operate the programs and
5 services of the community service board until such time as a determination has been
6 made that the circumstances or conditions causing the appointment of a manager or
7 management team have been sufficiently corrected. Upon such a determination, the
8 authority to manage and operate the programs and services of the community service
9 board shall be returned to the community service board.

10 37-2-11.

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

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

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

33 37-2-11.1.

34 (a) Venue for the purpose of any action against a community service board shall be the
35 county in which the principal office of the community service board is located. For

1 purposes of this Code section, 'principal office' shall be defined as the facility which houses
2 the executive director or other such top administrator for the community service board.

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

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

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

22 37-2-11.2.

23 (a) Notwithstanding any other law to the contrary, to ensure the quality and integrity of
24 patient and client care, any program receiving any public funds from, or subject to
25 licensing, certification, or facility approval by, the Department of Human Resources or a
26 regional office shall be required to provide the department or the appropriate regional
27 office or both, upon request, complete access to, including but not limited to authorization
28 to examine and reproduce, any records required to be maintained in accordance with
29 contracts, standards, or rules and regulations of the Department of Human Resources or
30 pursuant to the provisions of this title.

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

34 (c) The community service board shall maintain a clinical record for each consumer
35 receiving treatment or habilitation services from such board. The treatment of clinical
36 records of consumers in receiving services for mental illness shall be governed by the

1 provisions of Code Section 37-3-166. The treatment of clinical records of consumers
 2 receiving habilitation services for developmental disabilities shall be governed by the
 3 provisions of Code Section 37-4-125. The treatment of clinical records of consumers in
 4 treatment for addictive diseases shall be governed by the provisions of Code Section
 5 37-7-166."

6 **SECTION 1-8.**

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

9 "ARTICLE 2

10 37-2-30.

11 As used in this article, the term:

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

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

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

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

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

24 (6) 'State ombudsman' means the state ombudsman for mental health, developmental
 25 disabilities, and addictive diseases created under Code Section 37-2-31.

26 37-2-31.

27 There is created the state ombudsman for mental health, developmental disabilities, and
 28 addictive diseases who shall be a full-time state employee under the supervision and
 29 direction of the consumers' insurance advocate in the Governor's Office of Consumer
 30 Affairs under Code Section 33-57-3. The state ombudsman shall have the powers and
 31 duties set forth in this article. The state ombudsman shall be a person qualified by training
 32 and experience in the field of disability services, have experience advocating for the rights
 33 of people with disabilities, and have the skills to perform the duties set forth in this article.

1 The state ombudsman shall be free of a conflict of interest. The state ombudsman shall
2 promote the well-being and quality of life of service recipients and encourage the
3 development of community ombudsman activities at the local level.

4 37-2-32.

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

14 37-2-33.

15 The state ombudsman shall:

16 (1) Establish policies and procedures for receiving, investigating, referring, and
17 attempting to resolve complaints made by or on behalf of service recipients concerning
18 any act, omission to act, practice, policy, or procedure of a services provider that may
19 adversely affect the health, safety, or welfare of any service recipient or the delivery of
20 disability services to such service recipient;

21 (2) Investigate and make reports and recommendations to the department and other
22 appropriate agencies concerning any act or failure to act by any services provider with
23 respect to its responsibilities and duties in connection with service recipients receiving
24 or eligible to receive disability services from such provider;

25 (3) Establish a uniform state-wide reporting system to record data about complaints and
26 conditions with regard to services providers and collect and analyze such data in order
27 to identify significant problems affecting service recipients receiving or eligible to
28 receive disability services from such providers;

29 (4) Promote the development of community ombudsmen activities and provide technical
30 assistance as necessary;

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

34 (A) Analyze, comment on, and monitor the development and implementation of
35 federal, state, and local laws, regulations, and other governmental policies and actions

1 that pertain to the health, safety, welfare, and rights of the service recipients with
2 respect to the adequacy of disability services in the state;

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

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

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

11 37-2-34.

12 Pursuant to policies and procedures established by the state ombudsman, each community
13 ombudsman shall:

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

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

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

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

21 37-2-35.

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

25 (b) The state ombudsman or a community ombudsman shall have the authority to enter any
26 facility, premises, or property where disability services are provided and shall use his or
27 her best efforts to enter such facility, premises, or property during normal business hours.
28 Upon entering such facility, premises, or property, the ombudsman shall notify the
29 administrator or, in the absence of the administrator, the person in charge of such facility,
30 premises, or property before speaking to any service recipient. After notifying the
31 administrator or the person in charge of such facility, premises, or property, the
32 ombudsman may communicate privately and confidentially with service recipients in such
33 facility, premises, or property individually or in groups. The ombudsman shall have access
34 to the medical, social, and disability records of any service recipient if:

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

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

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

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

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

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

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

22 (d) The service recipient or the service recipient's legal representative shall have the right
23 to participate in planning any course of action to be taken on the service recipient's behalf
24 by the state ombudsman or community ombudsman, and the service recipient or such
25 representative shall have the right to approve or disapprove any proposed action to be taken
26 on the service recipient's behalf by such ombudsman.

27 (e) The state ombudsman or community ombudsman shall have the authority to obtain
28 from any governmental agency or services provider which receives state funds for
29 disability services, and such agency or provider shall provide cooperation and assistance,
30 services, data, and access to, such files and records as will enable the ombudsman properly
31 to perform his or her duties and exercise his or her powers, provided that such information
32 is not privileged under any law.

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

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

4 37-2-36.

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

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

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

24 37-2-37.

25 Any person who has reasonable cause to believe that a service recipient is being or has
26 been abused, neglected, exploited, or abandoned, is in a condition which is the result of
27 abuse, neglect, exploitation, or abandonment, or is being denied disability services for
28 which such service recipient is eligible may report such information or cause a report to be
29 made in any reasonable manner to the state ombudsman or community ombudsman, if any.

30 37-2-38.

31 The identity of any complainant, service recipient on whose behalf a complaint is made,
32 or individual providing information on behalf of the service recipient or complainant
33 relevant to the investigation of a complaint shall be confidential and may be disclosed only
34 with the express permission of such person. The information produced by an investigation

1 may be disclosed by the state ombudsman or community ombudsman only if the identity
2 of any such person is not disclosed by name or inference. If the identity of any such person
3 is disclosed by name or inference in such information, the information may be disclosed
4 only with his or her express permission. If the complaint becomes the subject of a judicial
5 proceeding, such investigative information may be disclosed for the purpose of the
6 proceeding.

7 37-2-39.

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

23 37-2-40.

24 (a) No person shall discriminate or retaliate in any manner against any service recipient
25 or relative or guardian of a service recipient, any employee of a services provider, or any
26 other person because of the making of a complaint or the providing of information in good
27 faith to the state ombudsman or community ombudsman. No person shall willfully interfere
28 with the state ombudsman or community ombudsman in the performance of his or her
29 official duties.

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

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

- 1 (1) The termination of any contract for which state funds are received for the provision
 2 of disability services if such contract was executed on or after July 1, 2002;
- 3 (2) The payment of a civil penalty not to exceed \$5,000.00 for each violation; or
- 4 (3) Having to suspend without pay for a period of at least two months or terminate any
 5 employee of such provider determined to have committed the violation.
- 6 (d) An action against a member of a regional planning board, community service board,
 7 or services provider under this Code section shall be a contested case within Article 1 of
 8 Chapter 13 of Title 50, relating to administrative procedure.

9 37-2-41.

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

15 37-2-42.

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

22 37-2-43.

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

25 37-2-44.

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

27 **SECTION 1-9.**

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

30 "(14.2) 'Regional state hospital administrator' means the chief administrative officer of
 31 a state owned or state operated hospital and the state owned or operated community
 32 programs in a region. The regional state hospital administrator, under the supervision of

1 the regional coordinator, has overall management responsibility for the regional state
 2 hospital and manages services provided by employees of the regional state hospital and
 3 employees of state owned or operated community programs within a mental health,
 4 developmental disabilities, and addictive diseases region established in accordance with
 5 Code Section 37-2-3."

6 **SECTION 1-10.**

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

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

13 **SECTION 1-11.**

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

18 "37-3-149.

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

25 **SECTION 1-12.**

26 Said title is further amended by striking paragraphs (14) through (16) of Code Section
 27 37-4-2, relating to definitions, and inserting in their place the following:

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

33 (14.1) 'Regional state hospital administrator' means the chief administrative officer of a
 34 state owned or state operated hospital and the state owned or operated community

1 programs in a region. The regional state hospital administrator, under the supervision of
 2 the regional coordinator, has overall management responsibility for the regional state
 3 hospital and manages services provided by employees of the regional state hospital and
 4 employees of state owned or operated community programs within a mental health,
 5 developmental disabilities, and addictive diseases region established in accordance with
 6 Code Section 37-2-3.

7 (15) 'Representatives' means the persons appointed as provided in Code Section
 8 37-4-107 to receive any notice under this chapter.

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

13 SECTION 1-13.

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

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

28 SECTION 1-14.

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

33 "37-4-109.

34 The department shall establish procedures whereby complaints of the client or complaints
 35 of the staff concerning admission, treatment, or habilitation can be speedily heard. Clients

1 shall receive reasonable notice of such procedures. Final decisions shall be made by the
 2 superintendent, the regional state hospital administrator, or an advisory committee,
 3 whichever is appropriate, with the right of appeal to the director of the Division of Mental
 4 Health, ~~Mental Retardation, and Substance Abuse~~ Developmental Disabilities, and
 5 Addictive Diseases or his or her designee. The board shall establish rules and regulations
 6 for the implementation of such procedures. However, the client shall not be required to
 7 utilize these procedures in lieu of other available legal remedies."

8 SECTION 1-15.

9 Said title is further amended by striking paragraphs (17.1) through (19) of Code Section
 10 37-7-1, relating to definitions, and inserting in their respective places the following:

11 "(17.1) 'Psychologist' means a licensed psychologist who meets the criteria of training
 12 and experience as a health service provider psychologist as provided in Code Section
 13 31-7-162.

14 (17.2) 'Regional state hospital administrator' means the chief administrative officer of a
 15 state owned or state operated hospital and the state owned or operated community
 16 programs in a region. The regional state hospital administrator, under the supervision of
 17 the regional coordinator, has overall management responsibility for the regional state
 18 hospital and manages services provided by employees of the regional state hospital and
 19 employees of state owned or operated community programs within a mental health,
 20 developmental disabilities, and addictive diseases region established in accordance with
 21 Code Section 37-2-3.

22 (18) 'Representatives' means the persons appointed as provided in Code Section
 23 37-7-147 to receive notice of the proceedings for voluntary or involuntary treatment.

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

28 SECTION 1-16.

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

32 "37-7-149.

33 Each facility shall establish procedures whereby complaints of the patient or complaints
 34 of the staff concerning treatment of the patient can be speedily heard, with final decisions
 35 to be made by the superintendent, the regional state hospital administrator, or an advisory

1 committee, whichever is appropriate. The board shall establish reasonable rules and
 2 regulations for the implementation of such procedures. However, the patient shall not be
 3 required to utilize these procedures in lieu of other available legal remedies."

4 **SECTION 1-17.**

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

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

11 **SECTION 1-18.**

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

15 (1) Code Section 37-3-7, relating to abandoning or leaving patients on grounds of
 16 psychiatric hospital;

17 (2) Code Section 37-3-103, relating to procedure for transfer of Georgia residents from
 18 out-of-state hospitals to Georgia hospitals;

19 (3) Code Section 37-3-104, relating to procedure upon discovery that a patient
 20 hospitalized in Georgia is not a resident;

21 (4) Code Section 37-4-20, relating to examination of minor children, recommendation
 22 of individualized program plan if retardation found, provision plan services by
 23 department, and parent's or guardian's request for discharge of child admitted to facility;

24 (5) Code Section 37-4-21, relating to admission of mentally retarded persons to facilities
 25 for purposes of temporary supervision and care;

26 (6) Code Section 37-4-22, relating to admission of persons to facilities for dental
 27 services;

28 (7) Code Section 37-4-40, relating to filing petition with court for according of program
 29 of services to mentally retarded person, order for examination of person by
 30 comprehensive evaluation team, report by team, petition hearing, and procedure upon
 31 finding that department services are necessary;

32 (8) Code Section 37-4-40.2, relating to admission or discharge of a person in custody of
 33 a state facility for temporary care and notice of proposed discharge;

34 (9) Code Section 37-4-41, relating to procedure upon failure of or client's
 35 noncompliance with court ordered habilitation program;

- 1 (10) Code Section 37-4-42, relating to procedure for continuation of court ordered
2 habilitation;
- 3 (11) Code Section 37-4-63, relating to procedure for transfer of Georgia residents from
4 out-of-state facilities to Georgia facilities;
- 5 (12) Code Section 37-4-64, relating to procedure upon discovery that a client receiving
6 court ordered services from a Georgia facility is not a resident;
- 7 (13) Code Section 37-7-103, relating to procedure for transfer of Georgia residents from
8 out-of-state hospitals to Georgia hospitals; and
- 9 (14) Code Section 37-7-104, relating to procedure upon discovery that a patient
10 hospitalized in Georgia is not a resident.

11 **SECTION 1-19.**

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

- 14 (1) Code Section 37-3-144, relating to patients' right to vote;
- 15 (2) Code Section 37-4-5, relating to validity of hospitalization orders entered before
16 September 1, 1978, and establishment of regulations authorizing continued care for
17 clients receiving services pursuant to orders entered before September 1, 1978;
- 18 (3) Code Section 37-4-102, relating to right of clients to communicate with persons
19 outside facility and to receive visitors, treatment of client correspondence, and
20 establishment of regulations governing visitation and telephone usage;
- 21 (4) Code Section 37-4-103, relating to clients' rights in regard to personal effects and
22 liability of facility's employees and staff members for loss of or damage to clients'
23 personal effects;
- 24 (5) Code Section 37-4-104, relating to clients' right to vote;
- 25 (6) Code Section 37-4-122, relating to client's care and treatment rights;
- 26 (7) Code Section 37-4-124, relating to mistreatment, neglect, or abuse of clients
27 prohibited, use of medication, physical restraints, or seclusion restricted, and standards
28 for use of physical restraints;
- 29 (8) Code Section 37-4-125, relating to treatment of clinical records, scope of privileged
30 communications, and liability for disclosure;
- 31 (9) Code Section 37-4-127, relating to right of client's attorney to interview persons in
32 charge of client's habilitation in a facility and establishment by superintendent of
33 regulations as to release of information to client's attorney; and
- 34 (10) Code Section 37-7-144, relating to patients' right to vote.

SECTION 1-20.

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

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

SECTION 1-21.

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

"45-18-5.2.

The board is authorized to contract with public and private nonprofit sheltered employment centers which contract with or employ persons within the Division of Rehabilitation Services of the Department of Labor and the Division of Mental Health, ~~Mental Retardation, and Substance Abuse~~ Developmental Disabilities, and Addictive Diseases of the Department of Human Resources for the inclusion of employees working in the sheltered employment centers within any health insurance plan or plans established under this article. The board is authorized to adopt regulations for entering into any contract. In the event any contract is entered into, it shall be the duty of the sheltered employment center to remit any funds that may be deducted from the earnings or other compensation of such sheltered employees for inclusion in the health insurance fund. In addition, it shall be the duty of the sheltered employment center to make the employer contributions required for the operation of such plan or plans."

SECTION 1-22.

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

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

17 **SECTION 1-23.**

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

21 "(b) In recognition of the fact that services to these children are provided by several
 22 different agencies, each having a different philosophy, a different mandate, and a different
 23 source of funding, the General Assembly intends that the Division of Mental Health,
 24 ~~Mental Retardation, and Substance Abuse~~ Developmental Disabilities, and Addictive
 25 Diseases of the Department of Human Resources shall have the primary responsibility for
 26 planning, developing, and implementing the coordinated system of care for severely
 27 emotionally disturbed children. Further, it recognizes that to enable severely emotionally
 28 disturbed children to develop appropriate behaviors and demonstrate academic and
 29 vocational skills, it is necessary that the Department of Education provide appropriate
 30 education in accordance with P.L. 94-142 and that the Division of Mental Health, ~~Mental~~
 31 ~~Retardation, and Substance Abuse~~ Developmental Disabilities, and Addictive Diseases of
 32 the Department of Human Resources provide mental health treatment."

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

5 "37-2-6.

6 ~~(a) There shall be created community mental health, developmental disabilities, and~~
 7 ~~addictive diseases~~ Community service boards, created in conformity with the service areas
 8 established pursuant to subsection (b) of Code Section 37-2-3, shall provide one or more
 9 mental health, developmental disability, and addictive disease services through contract
 10 with the department. Such community service boards may enroll with the department to
 11 become a provider of specific mental health, developmental disabilities, and addictive
 12 diseases services with such services being negotiated and contracted annually with the
 13 department. Such boards shall be considered public agencies. Each community service
 14 board shall be a public corporation and an instrumentality of the state within the boundaries
 15 determined under subsection (b) of Code Section 37-2-3 served by the community service
 16 board; provided, however, the liabilities, debts, and obligations of a community service
 17 board shall not constitute liabilities, debts, or obligations of the state or any county or
 18 municipal corporation and neither the state nor any county or municipal corporation shall
 19 be liable for any liability, debt, or obligation of a community service board. Each
 20 community service board re-created pursuant to this Code section is created for nonprofit
 21 and public purposes to exercise essential governmental functions. The re-creation of
 22 community service boards pursuant to this Code section shall not alter the provisions of
 23 Code Section 37-2-6.2 which shall apply to those re-created community service boards and
 24 their employees covered by that Code section and those employees' rights are retained.

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

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

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

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

1 (4) The county governing authority shall appoint a consumer of disability services, a
 2 family member of a consumer, an advocate for disability services, or a local leader or
 3 businessperson with an interest in mental health, developmental disabilities, and addictive
 4 diseases; provided, however, that for counties with more than one appointment, the
 5 county governing authority shall seek to ensure that such appointments represent various
 6 groups and disability services;

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

12 (6)(A) A person shall not be eligible to be appointed to or serve on a community
 13 service board if such person is:

14 (i) A member of the regional planning board which serves the region in which that
 15 community service board is located;

16 (ii) An employee or board member of a public or private entity which contracts with
 17 the division to provide mental health, developmental disabilities, and addictive
 18 diseases services within the region; or

19 (iii) An employee of that community service board or employee or board member of
 20 any private or public group, organization, or service provider which contracts with or
 21 receives funds from that community service board.

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

32 (b.1) A county governing authority may appoint the school superintendent, a member of
 33 the board of health, a member of the board of education, or any other elected or appointed
 34 official to serve on the community service board provided that such person meets the
 35 qualifications of paragraph (4) of subsection (b) of this Code section and such appointment
 36 does not violate the provisions of Chapter 10 of Title 45. For terms of office which begin

1 July 1, 1994, or later, an employee of the Department of Human Resources or an employee
2 of a county board of health may not serve on a community service board.

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

15 (d) Each county within the boundaries established for the community service board shall
16 ~~be required to participate with the board in the operation of the program through the~~
17 ~~community service board. Each community mental health, mental retardation, and~~
18 ~~substance abuse service area in existence on June 30, 1994, shall automatically be~~
19 ~~succeeded by the community service board for the same region as of July 1, 1994, and each~~
20 ~~such community service board shall be governed, from and after July 1, 1994, by this~~
21 ~~chapter.~~ All contractual obligations, including but not limited to real estate leases, rentals,
22 and other property agreements, other duties, rights, and benefits of such the mental health,
23 developmental disabilities, and addictive diseases service area areas in existence on
24 December 31, 2002, or the county board of health involved in administering programs in
25 such area, unless continued by the current service providers, shall automatically become
26 duties, obligations, rights, and benefits of its respective successor community service board
27 or other successor entity shall continue to exist along with the new powers granted to the
28 community service boards effective January 1, 2003.

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

32 (1) A board of health of a county desiring to be the lead county board of health for that
33 county submits a written agreement to the division before July 1, 1993, to serve as the
34 community service board and to continue providing disability services in that county after
35 July 1, 1994, and the governing authority for that county adopts a resolution stating its
36 desire to continue the provision of disability services through its board of health after July
37 1, 1994, and submits a copy of such resolution to the division before July 1, 1993; or

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

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

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

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

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

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

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

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

25 (k) A member of a community service board who after notice that such member has failed
26 to complete any required training prescribed by the department pursuant to paragraph (4)
27 of subsection (b) of Code Section 37-1-20 continues such failure for 30 days may be
28 removed from office by the remaining members of the community service board.

29 (l) A member of a community service board may resign from office by giving written
30 notice to the executive director of the community service board. The resignation is
31 irrevocable after delivery to such executive director but shall become effective upon the
32 date on which the notice is received or on the effective date given by the member in the
33 notice, whichever date is later. The executive director, upon receipt of the resignation,
34 shall give notice of the resignation to the remaining members of the community service
35 board and to the chief executive officer or governing authority of the county that appointed
36 the member.

1 (m) The office of a member of a community service board shall be vacated upon such
 2 member’s resignation, death, or inability to serve due to medical infirmity or other
 3 incapacity, removal by the community service board as authorized in this Code section, or
 4 upon such other reasonable condition as the community service board may impose under
 5 its bylaws.

6 (n) A member of a community service board may not enter upon the duties of office until
 7 such member takes the following oath of office:

8 STATE OF GEORGIA

9 COUNTY OF _____

10 I, _____, do solemnly swear or affirm that I will truly perform the
 11 duties of a member of the _____ Community Service Board
 12 to the best of my ability.

13 _____

14 Signature of member of _____ Community Service Board

15 _____

16 Typed name of member of _____ Community Service Board

17 Sworn and subscribed

18 before me this _____ day

19 of _____, _____.

20 (SEAL)”

21 **SECTION 2-4.**

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

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

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

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

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

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

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

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

19 (B) Life insurance coverage and coverage under federal old age and survivors'
20 insurance programs;

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

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

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

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

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

33 (9) Each community service board may ~~make contracts and establish fees for the~~
34 ~~provision of disability services; provided, however, that such contract and fees shall be~~
35 ~~in compliance with guidelines established by the division; establish fees for the provision~~
36 ~~of disability services according to Department of Human Resources and Department of~~
37 ~~Community Health state-wide standards;~~

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

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

10 (12) Each community service board shall elect a chairperson and vice chairperson from
11 among its membership; and the bylaws of the community service board shall provide for
12 any other officers of such board and the means of their selection, the terms of office of
13 the officers, and an annual meeting to elect officers;

14 (13) Each community service board may have a seal and alter it;

15 (14) Each community service board may contract with the State Merit System of
16 Personnel Administration regarding its personnel who remain in the classified service;
17 ~~and~~

18 (15) Each community service board may establish fees, rates, rents, and charges for the
19 use of facilities of the community service board for the provision of disability services
20 when approved by the department;

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

35 (17) Each community service board, to the extent authorized by law and contract for the
36 funds involved, may carry forward without lapse fund balances and establish operating,

1 capital, and debt reserve accounts from revenues and grants derived from state, county,
 2 and all other sources; and
 3 (18) Each community service board may operate, establish, or operate and establish
 4 facilities deemed by the community service board as necessary and convenient for the
 5 administration, operation, or provision of disability services by the community service
 6 board and may construct, reconstruct, improve, alter, repair, and equip such facilities to
 7 the extent authorized by state and federal law."

8 **SECTION 2-5.**

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

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

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

19 (1) Disability services;

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

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

24 (g) Each community service board may provide reasonable reserves for the improvement,
 25 replacement, or expansion of its facilities and services. Reserves under this subsection
 26 shall be subject to the limitations in paragraph (16) of subsection (b) of this Code section.

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

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

1 (j) When approved by the commissioner, a community service board may create, form, or
 2 become a member of a nonprofit corporation, limited liability company, or other nonprofit
 3 entity, the voting membership of which shall be limited to community service boards,
 4 governmental entities, nonprofit corporations, or a combination thereof, if such entity is
 5 created for purposes that are within the powers of the community service board, for the
 6 cooperative functioning of its members, or a combination thereof. No community service
 7 board, whether or not it exercises the power authorized by this subsection, shall be relieved
 8 of compliance with Chapter 14 of Title 50, relating to open and public meetings, and
 9 Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless
 10 otherwise provided by law."

11 **SECTION 2-6.**

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

14 "37-2-6.3.

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

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

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

25 37-2-6.4.

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

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

1 service board with state and federal funds shall be returned to the department or to an
 2 agency designated by the department. For a period of three years following the
 3 community service board's conversion to a private nonprofit corporation, the private
 4 nonprofit corporation shall ensure that consumers of disability services and family
 5 members of consumers constitute a majority of the appointed board members and that the
 6 various disability groups are equitably represented on the board of the nonprofit
 7 corporation;

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

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

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

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

1 Section 1-8 of this Act shall become effective only if funds are specifically appropriated for
2 the purposes of this Act in an appropriations Act making specific reference to this Act and
3 shall become effective when funds so appropriated become available for expenditure. The
4 remaining sections of Part I of this Act shall become effective on July 1, 2002. Part II of this
5 Act shall become effective on January 1, 2003.

6 **SECTION 3-2.**

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