

House Bill 1382 (AS PASSED HOUSE AND SENATE)

By: Representative Ralston of the 7<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To create the Gilmer County Kids Kottage Commission; to provide for a short title; to  
2 provide for the manner of appointment of members; to provide for membership; to provide  
3 for definitions; to provide for organization; to provide for powers and duties; to provide for  
4 immunity; to provide for charitable and public functions; to provide for treatment under the  
5 Internal Revenue Code as a tax exempt organization; to provide for actions; to provide for  
6 construction; to provide for related matters; to provide for an effective date; to repeal  
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Short title.

11 This Act shall be known and may be cited as the "Gilmer County Kids Kottage Commission  
12 Act."

13 **SECTION 2.**

14 Gilmer County Kids Kottage Commission.

15 There is a created a body corporate and politic to be known as the "Gilmer County Kids  
16 Kottage Commission," which shall be deemed to be a political subdivision of the State of  
17 Georgia and a public corporation and by that name, style, and title said body may contract  
18 and be contracted with, sue and be sued, implead and be impleaded, and bring and defend  
19 actions in all courts. The commission shall have perpetual existence.

**SECTION 3.**

## Membership.

(a) The commission shall be composed of 15 members, which will consist of five ex officio members and ten community members as follows:

(1) The ex officio members shall consist of one member of the Gilmer County Board of Commissioners, one member of the Gilmer County Board of Education, one member of the City of Ellijay City Council, one member of the City of East Ellijay City Council, and the chief judge of the Superior Court of Gilmer County, Appalachian Judicial Circuit; and

(2) Community members shall be composed of the director of the department of family and children services, the Gilmer County superintendent of schools, the Gilmer County mental health director, the health department manager, and six additional members who shall be appointed as follows: three by the Gilmer County Board of Commissioners, three by the Gilmer County Board of Education, one by the chief judge of the Superior Court of Gilmer County, one by the City of Ellijay City Council, and one by the City of East Ellijay City Council.

(b) Of the community members appointed by the Gilmer County Board of Commissioners, one shall be appointed for the initial term of one year and one shall be appointed for an initial term of two years and one shall be appointed for an initial term of three years. Of the community members appointed by the Gilmer County Board of Education, one shall be appointed for the initial term of one year and one shall be appointed for an initial term of two years and one shall be appointed for an initial term of three years. The appointments of the chief judge, the City of Ellijay City Council, and the City of East Ellijay City Council shall be for a three year term. Successors to all such members and future successors shall be appointed for terms of three years. Those members who serve on the commission shall serve for the term of the position and until their successors are duly appointed and qualified.

(c) The ex officio members shall be selected as follows: the Gilmer County Board of Commissioners shall select by vote one of their elected members, the City of Ellijay Council shall select by vote one of their elected members, the City of East Ellijay Council shall select by vote one of their elected members, the governing board of education shall select one its elected members, and the sitting chief judge of the Superior Court of Gilmer County, Appalachian Judicial Circuit.

(d) Ex officio members shall serve on the commission for the same terms as the respective offices to which they were elected and until their successors are duly appointed and qualified.

(e) Members of the commission shall not receive compensation for serving on the commission but may be reimbursed for actual and necessary expenses incurred by them in carrying out their official duties.

1 (f) No person shall be a member of the commission if that person has been finally convicted  
2 and sentenced for any felony involving moral turpitude under the laws of this or any other  
3 state, unless restored to all his rights of citizenship by a pardon from the State Board of  
4 Pardons and Paroles.

#### 5 **SECTION 4.**

#### 6 Definitions.

7 As used in this Act, the term:

8 (1) "Commission" means the Gilmer County Kids Kottage Commission.

9 (2) "Comprehensive plan" means a plan that establishes a vision and goals for children  
10 and youth exposed to conflict, measures the extent to which current practices fall short  
11 in meeting such goals, identifies the conditions that must change to meet such goals,  
12 specifies a coordinated and integrated strategy and budget for changing conditions, and  
13 specifies the means of implementing strategies, managing and evaluating performance,  
14 and measuring effectiveness in achieving the established goals and objectives.

15 (3) "County" means the County of Gilmer.

16 (4) "Public agency" means the Gilmer County Board of Commissioners, the Gilmer  
17 County Board of Education, or any agency, board, commission, or department of the  
18 State of Georgia.

19 (5) "Officers" means the chairperson, vice chairperson, secretary, and treasurer of the  
20 commission.

#### 21 **SECTION 5.**

#### 22 Organizational meeting.

23 (a) The organizational meeting of the commission shall be called by the chairperson of the  
24 Gilmer County Board of Commissioners. At the organizational meeting, the commission  
25 shall adopt bylaws and elect a chairperson, vice chairperson, secretary, and treasurer. Ex  
26 officio members of the commission may not serve as officers. The terms of office of such  
27 officers shall be as specified in the bylaws of the commission.

28 (b) For the purposes of the organizational meeting of the commission a quorum shall  
29 constitute a majority. Quorum for further meetings shall be set forth in the commission  
30 bylaws.

31 (c) The commission shall prepare and submit to the appointing bodies listed in subsection (a)  
32 of Section 3 of this Act at the end of each fiscal year an annual report outlining the work of  
33 the commission and the results achieved thereby and an annual report on the state of the

1 children, youth, and families in the community. The commission shall also have prepared  
2 an independent audit of income and expenditures for the fiscal year.

3 (e) No vacancy on the commission shall impair the right of the quorum to exercise all of the  
4 rights and perform all of the duties of the commission.

5 (f) In the event of a vacancy by reason of death, disqualification, resignation, or other  
6 reason, the appointing body of the member whose position is vacant shall select and appoint  
7 a qualified person to fill the unexpired term of the member whose position has been vacated.

8 A vacancy shall exist in the office of any member of the commission who:

9 (1) Is convicted of or pleads guilty to or who enters a plea of nolo contendere to a crime  
10 involving moral turpitude;

11 (2) Commits any act of misfeasance, malfeasance, or nonfeasance of his or her duties as  
12 a member of the commission; or

13 (3) Fails to attend 33 percent of the regular or special meetings of the commission for  
14 any 12 consecutive months without an excuse approved by a resolution of the  
15 commission.

16 (g) All meetings of the commission, regular or special, shall be open to the public. The  
17 commission is subject to the Georgia open meeting and open records laws.

18 (h) No member or employee of the commission shall have directly or indirectly any financial  
19 interest, profit, or benefit in any contract, work, or business of the commission nor in the  
20 sale, lease or purchase of any property.

## 21 **SECTION 6.**

### 22 Purposes.

23 The commission is created for the following purposes:

24 (1) To develop with the community a vision of success for children and youth exposed  
25 to conflict;

26 (2) To develop and adopt a core set of goals for children and youth exposed to conflict;

27 (3) To develop, adopt, recommend, and amend a comprehensive plan for the Gilmer  
28 County community to deal effectively with the problems experienced by children and  
29 youth exposed to conflict and who are under court-ordered, supervised visitation in order  
30 to achieve the goals that have been adopted;

31 (4) To monitor and report to the Gilmer County Board of Commissioners, the Gilmer  
32 County Board of Education, the mayors of municipalities in the county, and to the public  
33 the implementation of the comprehensive plan developed by the commission and to  
34 provide administrative services and assistance in implementing and carrying out this plan;

1 (5) To contract or recommend and promote contracts with public and private agencies  
2 to provide programs and services to carry out the provisions of the comprehensive plan;

3 (6) To be an advocate for the well-being of children exposed to conflict as set forth in  
4 this Act; and

5 (7) To create an arrangement as set forth in this Act under which all of the agencies,  
6 institutions, and organizations in a community whose operations can affect the well-being  
7 of children, youth, and their families agree and commit themselves:

8 (A) To the protection and well-being of children who find themselves in family  
9 circumstances where they may be exposed to conflict and who are under court-ordered,  
10 supervised visitation;

11 (B) To provide a neutral child friendly environment to bring about their safe visitation;

12 (C) As independent agencies, institutions, and organizations to carry out the  
13 components of the strategies assigned to them by a comprehensive plan for serving the  
14 well-being of children and youth exposed to conflict and who are under court-ordered,  
15 supervised visitation;

16 (D) To be individually and collectively responsible for the success and failure of these  
17 strategies;

18 (E) To coordinate and integrate their work and share information;

19 (F) To identify and eliminate the duplication of programs and services;

20 (G) To eliminate competition for funding and recognition;

21 (H) To report successes and failures in results objectively and completely; and

22 (I) To adopt and carry out comprehensive and integrated annual work programs and  
23 budgets to serve the objectives set forth herein.

## 24 **SECTION 7.**

### 25 Powers and duties.

26 In addition to any other powers and duties provided for by this Act and in order for the  
27 commission to carry out its purposes as described in this Act, the commission shall have the  
28 following powers and duties:

29 (1) To have a seal and to alter the same at its pleasure;

30 (2) To acquire, hold, and dispose of in its own name, by purchase, gift, lease, or  
31 exchange in such manner as it may deem proper, real and personal property of every  
32 kind; provided, however, that the commission shall not have the power to acquire any real  
33 or personal property by condemnation or eminent domain;

34 (3) To procure insurance against loss in connection with its property and other assets of  
35 the commission;

1 (4) To exercise the power provided by Code Section 45-9-1 of the O.C.G.A. to procure  
2 policies of liability insurance or contracts of indemnity or to formulate sound programs  
3 for self-insurance to insure or indemnify members of the commission and its officers and  
4 employees against personal liability or damages arising out of the performance of their  
5 duties;

6 (5) To make contracts and to execute all instruments necessary or convenient in  
7 connection with the comprehensive plan;

8 (6) To establish bylaws and adopt, alter, or repeal its own bylaws, rules, and regulations  
9 governing the manner in which its business may be transacted as the commission may  
10 deem necessary or expedient;

11 (7) To receive, accept and utilize gifts, grants, donation, or contributions of money,  
12 property, facilities, or services with or without consideration from any person, firm,  
13 corporation, foundation, or other entity or from the State of Georgia or any agency,  
14 instrumentality, or political subdivision thereof or from the United States or any agency  
15 or instrumentality thereof;

16 (8) To the extent that a contract between the commission and a public or private agency  
17 provides, to act as an agent of such public or private agency in any matter coming within  
18 the purposes or powers of the commission;

19 (9) To select, appoint, and employ professional, administrative, clerical, or other  
20 personnel and to contract professional or other services and to allow suitable  
21 compensation for such services;

22 (10) To do all things necessary and convenient to carry out the powers and purposes of  
23 the commission which are expressly provided for in this Act; and

24 (11) To keep suitable and proper books and records of all receipts, income, and  
25 expenditures of every kind and obtain an annual independent audit of income and  
26 expenditures.

27 **SECTION 8.**

28 **Members as trustees.**

29 The members of the commission are trustees and shall be accountable in all respects to  
30 manage the funds and expenditures and direct the policies of the commission.

**SECTION 9.**

Immunity.

The commission shall have the same immunity and exemption from liability for torts and negligence as Gilmer County, and the officers, agents, and employees of the commission, when in the performance of the work of the commission, shall have the same immunity and exemption from liability for torts and negligence as the officers, agents, and employees of Gilmer County when in the performance of their public duties or the work of the county.

**SECTION 10.**

Charitable and public functions.

Because the commission will be performing valuable and charitable and public functions and purposes in the exercise of the powers conferred upon it, the commission shall not be required to pay taxes or assessments by the state or by any county, municipality, authority, or political subdivision of the state upon any real or personal property acquired by it or upon its activities in the operation or maintenance of any facility maintained or acquired by it or upon any income from levy and sale, garnishment, or attachment.

**SECTION 11.**

Federal taxation exemption.

The commission shall apply to the Internal Revenue Service for the exemption from federal taxation pursuant to Section 501(c) of the Internal Revenue Code.

**SECTION 12.**

Actions.

Any action brought against the commission shall be brought in the Superior Court of Gilmer County and such court shall have exclusive original jurisdiction of such action.

**SECTION 13.**

Liberal construction.

Being for the welfare of the state and its inhabitants, this Act shall be liberally construed to effect the purposes of this Act.

