

The Senate Judiciary Committee offered the following substitute to SB 375:

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 37 and various other titles of the Official Code of Georgia Annotated,
2 relating to mental health and other matters, so as to revise certain provisions relating to the
3 Department of Behavioral Health and Developmental Disabilities; to provide for service of
4 notice against the department; to delete an obsolete provision relating to the arrest of persons
5 with contagious diseases; to revise certain provisions relating to conviction data for
6 employment purposes; to delete a Code section relating to hearing rights for revoked or
7 suspended licenses, permits, or certificates; to correct a cross-reference relating to a mental
8 health law; to provide for additional members of the Behavioral Health Coordinating
9 Council; to revise a provision relating to the duties and functions of regional planning boards;
10 to provide for continuances in court for board members attending meetings; to revise
11 provisions relating to disposition of a deprived child; to provide conditions for the placement
12 of a child following a termination order; to provide that certain training relating to child
13 abuse is conducted by the Office of the Child Advocate for the Protection of Children; to
14 provide for educational services for children in the physical custody of the department; to
15 provide for input by the department in pilot projects to address at-risk students; to provide
16 for medical scholarships for applicants practicing in hospitals or facilities operated by or
17 under the jurisdiction of the department; to provide that mental health records may be
18 maintained in electronic format; to provide for liability coverage for nonprofit agencies and
19 their employees who have contracted with the department; to provide that the commissioner
20 of behavioral health and developmental disabilities is a member of the Purchasing Advisory
21 Council; to provide that the commissioner of behavioral health and developmental
22 disabilities is a member of the State Use Council; to provide that there shall be a privilege
23 to refuse to disclose certain information related to certain research conducted by the
24 department; to amend an Act approved May 6, 2008 (Ga. L. 2008, p. 133), relating to the
25 office of disability services ombudsman; to provide for related matters; to repeal conflicting
26 laws; and for other purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

28 **SECTION 1.**

29 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by
30 adding a new Code section to Chapter 1, relating to general provisions, to read as follows:

31 "37-1-6.

32 When any action is brought against the department, the board, the commissioner, or any
33 employee or agent thereof or when any action is brought in which the department could be
34 held responsible for damages awarded in such action, it shall be the duty of the plaintiff to
35 provide for service of notice of the pendency of such action by providing for service of
36 process, issued from the court in which the action is filed, upon the commissioner
37 personally or upon a person designated by the commissioner in writing to serve as agent
38 for the acceptance of such service of process. The service of process in such action shall
39 not be perfected until such process has been served as provided in this Code section. The
40 provisions of this Code section shall be cumulative of any other requirements imposed by
41 law for the service of process or notice."

42 **SECTION 2.**

43 Said title is further amended by revising paragraph (4) of subsection (a) of Code Section
44 37-1-21, relating to institutional powers and duties, as follows:

45 "(4) To appoint police of such facilities, institutions, or programs who are authorized,
46 while on the grounds or in the buildings of the respective facilities, institutions, or
47 programs to make arrests with the same authority, power, privilege, and duties as the
48 sheriffs of the respective counties in which such facilities, institutions, or programs are
49 situated. ~~If because of the contagious or infectious nature of the disease of persons~~
50 ~~arrested facilities are not available for their detention, such police shall be authorized to~~
51 ~~confine such persons within the respective facilities, institutions, or programs pending~~
52 ~~trial as provided in other cases. After trial and conviction of any such person, he or she~~
53 ~~shall be sentenced to serve his or her term of sentence in the secured ward of the facility,~~
54 ~~institution, or program; and"~~

55 **SECTION 3.**

56 Said title is further amended by revising Code Section 37-1-28, relating to conviction data
57 for employment purposes for the Department of Behavioral Health and Developmental
58 Disabilities, as follows:

59 "37-1-28.

60 (a) As used in this Code section, the term 'conviction data' means a record of a finding or
61 verdict of guilty or a plea of guilty or a plea of nolo contendere with regard to any crime,
62 regardless of whether an appeal of the conviction has been sought.

63 (b) The department may receive from any law enforcement agency conviction data that is
64 relevant to a person whom the department; or its contractors; ~~or a district or county health~~
65 ~~agency~~ is considering as a final selectee for employment in a position the duties of which
66 involve direct care, treatment, custodial responsibilities, or any combination thereof for its
67 clients. The department may also receive conviction data which is relevant to a person
68 whom the department; or its contractors; ~~or a district or county health agency~~ is considering
69 as a final selectee for employment in a position if, in the judgment of the employer, a final
70 employment decision regarding the selectee can only be made by a review of conviction
71 data in relation to the particular duties of the position and the security and safety of clients,
72 the general public, or other employees.

73 (c) The department shall establish a uniform method of obtaining conviction data under
74 subsection (a) of this Code section which shall be applicable to the department and its
75 contractors. Such uniform method shall require the submission to the Georgia Crime
76 Information Center of fingerprints and the records search fee in accordance with Code
77 Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall
78 promptly transmit fingerprints to the Federal Bureau of Investigation for a search of bureau
79 records and an appropriate report and shall promptly conduct a search of its own records
80 and records to which it has access. After receiving the fingerprints and fee, the Georgia
81 Crime Information Center shall notify the department in writing of any derogatory finding,
82 including, but not limited to, any conviction data regarding the fingerprint records check
83 or if there is no such finding.

84 (d) All conviction data received shall be for the exclusive purpose of making employment
85 decisions or decisions concerning individuals in the care of the department and shall be
86 privileged and shall not be released or otherwise disclosed to any other person or agency.
87 Immediately following the employment decisions or upon receipt of the conviction data,
88 all such conviction data collected by the department or its agent shall be maintained by the
89 department or agent pursuant to laws regarding and the rules or regulations of the Federal
90 Bureau of Investigation and the Georgia Crime Information Center, as is applicable.
91 Penalties for the unauthorized release or disclosure of any conviction data shall be as
92 prescribed pursuant to laws regarding and rules or regulations of the Federal Bureau of
93 Investigation and the Georgia Crime Information Center, as is applicable.

94 (e) The department may promulgate written rules and regulations to implement the
95 provisions of this Code section.

96 ~~(f) The department may receive from any law enforcement agency criminal history~~
 97 ~~information, including arrest and conviction data, and any and all other information which~~
 98 ~~it may be provided pursuant to state or federal law which is relevant to any person in the~~
 99 ~~care of the department. The department shall establish a uniform method of obtaining~~
 100 ~~criminal history information under this subsection. Such method shall require the~~
 101 ~~submission to the Georgia Crime Information Center of fingerprints together with any~~
 102 ~~required records search fee in accordance with Code Section 35-3-35. Upon receipt~~
 103 ~~thereof, the Georgia Crime Information Center shall promptly transmit the fingerprints~~
 104 ~~submitted by the department to the Federal Bureau of Investigation for a search of bureau~~
 105 ~~records and an appropriate report and shall promptly conduct a search of its own records~~
 106 ~~and records to which it has access. Such method shall also permit the submission of the~~
 107 ~~names alone of such persons to the proper law enforcement agency for a name based check~~
 108 ~~of such person's criminal history information as maintained by the Georgia Crime~~
 109 ~~Information Center and the Federal Bureau of Investigation. In such circumstances, the~~
 110 ~~department shall submit fingerprints of those persons together with any required records~~
 111 ~~search fee, to the Federal Bureau of Investigation within 15 calendar days of the date of the~~
 112 ~~name based check on that person. The fingerprints shall be forwarded to the Federal~~
 113 ~~Bureau of Investigation through the Georgia Crime Information Center in accordance with~~
 114 ~~Code Section 35-3-35. Following the submission of such fingerprints, the department may~~
 115 ~~receive the criminal history information, including arrest and conviction data, relevant to~~
 116 ~~such person.~~

117 ~~(g)(f)~~ The department shall be authorized to conduct a name or descriptor based check of
 118 any person's criminal history information, including arrest and conviction data, and other
 119 information from the Georgia Crime Information Center regarding any adult person who
 120 provides care or is in contact with persons under the care of the department without the
 121 consent of such person and without fingerprint comparison to the fullest extent permissible
 122 by federal and state law."

123 **SECTION 4.**

124 Said title is further amended by revising Code Section 37-1-50, relating to necessity of
 125 hearing, powers of hearing examiner, and qualification, as follows:

126 "37-1-50.

127 ~~(a) No license, permit, or certificate or other similar right shall be revoked or suspended~~
 128 ~~without opportunity for a hearing as provided in Chapter 13 of Title 50, the 'Georgia~~
 129 ~~Administrative Procedure Act.'~~ Any such hearing or appeal related thereto shall be
 130 ~~conducted in accordance with such Act.~~

131 ~~(b) The department is authorized and empowered to employ and appoint hearing~~
 132 ~~examiners to conduct hearings, issue compulsory process, administer oaths, and submit~~
 133 ~~their findings and recommendations to the appointing agency; provided, however, that any~~
 134 ~~such examiner shall be a member of the State Bar of Georgia in good standing. Reserved.~~"

135 **SECTION 5.**

136 Said title is further amended by revising paragraph (2) of Code Section 37-1-70, relating to
 137 definitions relative to inspection warrants, as follows:

138 "(2) 'Mental health law' means Code Sections 37-3-7, 37-3-8, and ~~37-4-4~~ 37-4-7, Chapter
 139 6 of this title, and any rule or regulation duly promulgated thereunder."

140 **SECTION 6.**

141 Said title is further amended by revising subsection (a) of Code Section 37-2-4, relating to
 142 the Behavioral Health Coordinating Council, as follows:

143 "(a) There is created the Behavioral Health Coordinating Council. The council shall
 144 consist of the commissioner of behavioral health and developmental disabilities; the
 145 commissioner of community health; the commissioner of human services; the
 146 commissioner of juvenile justice; the commissioner of corrections; the commissioner of
 147 community affairs; the Commissioner of Labor; the State School Superintendent; the
 148 chairperson of the State Board of Pardons and Paroles; the ombudsman appointed pursuant
 149 to Code Section 37-2-32; an adult consumer of public behavioral health services, appointed
 150 by the Governor; a family member of a consumer of public behavioral health services,
 151 appointed by the Governor; a parent of a child receiving public behavioral health services,
 152 appointed by the Governor; a member of the House of Representatives, appointed by the
 153 Speaker of the House of Representatives; and a member of the Senate, appointed by the
 154 Lieutenant Governor."

155 **SECTION 7.**

156 Said title is further amended by revising paragraph (1) of subsection (a) of Code Section
 157 37-2-5.2, relating to the duties and functions of regional planning boards, as follows:

158 "(1) To prepare, in consultation with consumers and families, community programs,
 159 hospitals, other public and private providers, its regional planning board, and appropriate
 160 advisory and advocacy groups, an annual plan ~~for the funding and provision of all~~
 161 identifying the needs and priorities for disability services in the region. The plan shall
 162 be submitted to the department at a time and in the manner specified by the department
 163 so as to ensure that the plan ~~is a basis for~~ provides information for the annual
 164 appropriations request;"

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SECTION 8.

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Code Section 37-3-1 of the Official Code of Georgia Annotated, relating to definitions relative to the examination and treatment for mental illness, is amended by revising paragraph (16.1) as follows:

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"(16.1) 'Traumatic brain injury' means a traumatic insult to the brain and its related parts resulting in organic damage thereto which may cause physical, intellectual, emotional, social, or vocational changes in a person. It shall also be recognized that a person having a traumatic brain injury may have organic damage or physical or social disorders, but for the purposes of this chapter, traumatic brain injury shall not be considered mental illness as defined in paragraph (11) of this Code section."

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SECTION 9.

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Code Section 9-10-152 of the Official Code of Georgia Annotated, relating to grounds for continuance due to attendance at meeting of Board of Human Services, is amended as follows:

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"9-10-152.

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Should any member of the Board of Human Services or the Board of Behavioral Health and Developmental Disabilities be engaged, at the time of any meeting of the board, as counsel or party in any case pending in the courts of this state and should the case be called for trial during the regular session of the board, the absence of the member to attend the session shall be good ground for a postponement or a continuance of the case until the session of the board has come to an end."

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SECTION 10.

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Code Section 15-11-55 of the Official Code of Georgia Annotated, relating to disposition of a deprived child, is amended by revising subparagraphs (a)(2)(B) and (a)(2)(C) as follows:

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"(B) Except for dispositions pursuant to paragraph (1) of subsection (a) of Code Section 15-11-66 and Code Section 15-11-67, ~~before transferring temporary legal custody in an order of disposition under this paragraph a reasonably diligent search for~~ within 30 days after the removal of a child from the custody of the parent or parents of the child, the Department of Human Services shall exercise due diligence to identify a parent or relative of the child or other persons who have demonstrated an ongoing commitment to the child ~~shall be conducted by the court and the Department of Human Services. Such search shall be completed within 90 days from the date on which the child was removed from the home.~~ All identified adult relatives of the child, subject to exceptions due to family or domestic violence, shall be provided with notice:

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(i) Specifying that the child has been or is being removed from parental custody;

- 200 (ii) Explaining the options the relative has to participate in the care and placement of
 201 the child and any options that may be lost by failing to respond to the notice;
 202 (iii) Describing the process for becoming an approved foster family home and the
 203 additional services and supports available for children placed in approved foster
 204 homes; and
 205 (iv) Describing any financial assistance for which the relative may be eligible.
 206 (C) The results of such search and notification shall be documented in writing and filed
 207 with the court at by the time of the first review. During such ~~90~~ 30 day period, the
 208 court may order that the child may be placed in the temporary legal custody of the
 209 Department of Human Services or any other appropriate entity or person."

210 **SECTION 11.**

211 Code Section 15-11-103 of the Official Code of Georgia Annotated, relating to placement
 212 of child following termination order, is amended by revising subsection (a) as follows:

213 ~~"(a)(1) If, upon the entering of an order terminating the parental rights of a parent, there~~
 214 ~~is no parent having parental rights, the court shall first attempt to place the child with a~~
 215 ~~person related to the child by blood or marriage or with a member of the child's extended~~
 216 ~~family if such a person is willing and, after study by the probation officer or other person~~
 217 ~~or agency designated by the court, is found by the court to be qualified to receive and care~~
 218 ~~for the child, if the court determines such placement is the most appropriate for and in the~~
 219 ~~best interest of the child. A placement effected under this paragraph shall be conditioned~~
 220 ~~upon the family member who is given permanent custody or who is granted an adoption~~
 221 ~~of the child agreeing to abide by the terms and conditions of the order of the court.~~

222 ~~(2) If no placement of the child is effected under paragraph (1) of this subsection, the~~
 223 ~~court may commit the child to the custody of the Department of Human Services or to a~~
 224 ~~licensed child-placing agency willing to accept custody for the purpose of placing the~~
 225 ~~child for adoption, if the court determines such placement is the most appropriate for and~~
 226 ~~in the best interest of the child.~~

227 ~~(3) If no placement of the child is effected under paragraph (1) or (2) of this subsection,~~
 228 ~~the court may commit the child to a suitable individual on the condition that the person~~
 229 ~~becomes the guardian of the person of the child pursuant to the court's authority under~~
 230 ~~Code Section 15-11-30.1, if the court determines such placement is the most appropriate~~
 231 ~~for and in the best interest of the child.~~

232 ~~(4) If no placement of the child is effected under paragraph (1), (2), or (3) of this~~
 233 ~~subsection, the court may commit the child to the custody of the Department of Human~~
 234 ~~Services or to a licensed child-placing agency willing to accept custody for the purpose~~

235 of placing the child in a foster home, if the court determines such placement is the most
 236 appropriate for and in the best interest of the child:

237 ~~(5) If no placement of the child is effected under paragraph (1), (2), (3), or (4) of this~~
 238 ~~subsection, the court may commit the child to the custody of an agency or organization~~
 239 ~~authorized by law to receive and provide care for children which is operated in a manner~~
 240 ~~that provides such care, guidance, and control as would be provided in a family home as~~
 241 ~~defined in the court's order, if the court determines that such placement is the most~~
 242 ~~appropriate for and in the best interest of the child.~~

243 ~~(6) If no placement of the child is effected under paragraph (1), (2), (3), (4), or (5) of this~~
 244 ~~subsection, the court may take other suitable measures for the care and welfare of the~~
 245 ~~child. Upon the entering of an order terminating the parental rights of a parent, a~~
 246 ~~placement may be made only if the court finds that such placement is in the best interest~~
 247 ~~of the child and in accordance with the child's court approved permanency plan created~~
 248 ~~pursuant to Code Section 15-11-58. In determining which placement is in the child's best~~
 249 ~~interest, the court shall enter findings of fact reflecting its consideration of the following:~~

250 ~~(1) The child's need for a placement that offers the greatest degree of legal permanence~~
 251 ~~and security;~~

252 ~~(2) The least disruptive placement alternative for the child;~~

253 ~~(3) The child's sense of attachment and need for continuity of relationships; and~~

254 ~~(4) Any other factors the court deems relevant to its determination."~~

255 SECTION 12.

256 Code Section 17-8-30 of the Official Code of Georgia Annotated, relating to grounds for
 257 continuances for party or party's counsel in attendance at meeting of Board of Human
 258 Services, is amended as follows:

259 "17-8-30.

260 Should any member of the Board of Human Services or the Board of Behavioral Health
 261 and Developmental Disabilities be engaged at the time of any meeting of the board as
 262 counsel or party in any case pending in the courts of this state and should the case be called
 263 for trial during the regular session of the board, ~~his~~ the absence of the member to attend the
 264 session shall be good ground for a postponement or a continuance of the case until the
 265 session of the board has ended."

266 SECTION 13.

267 Code Section 19-15-2 of the Official Code of Georgia Annotated, relating to child abuse
 268 protocol committee, is amended by revising subsection (j) as follows:

269 "(j) By July 1, 2001, members of each protocol committee shall receive appropriate
 270 training. As new members are appointed, they will also receive training within 12 months
 271 after their appointment. The ~~Department of Human Services~~ Office of the Child Advocate
 272 for the Protection of Children shall provide such training."

273 SECTION 14.

274 Code Section 20-2-133 of the Official Code of Georgia Annotated, relating to free public
 275 instruction in elementary and secondary education, is amended as follows:

276 "20-2-133.

277 (a) Admission to the instructional programs funded under this article shall be free to all
 278 eligible children and youth who enroll in such programs within the local school system in
 279 which they reside and to children as provided in subsection (b) of this Code section.
 280 Therefore, a local school system shall not charge resident students tuition or fees, nor shall
 281 such students be required to provide materials or equipment except for items specified by
 282 the State Board of Education, as a condition of enrollment or full participation in any
 283 instructional program. However, a local school system is authorized to charge nonresident
 284 students tuition or fees or a combination thereof; provided, however, that such charges to
 285 a student shall not exceed the average locally financed per student cost for the preceding
 286 year, excluding the local five mill share funds required pursuant to Code Section 20-2-164;
 287 provided, further, that no child in a placement operated by the Department of Human
 288 Services or the Department of Behavioral Health and Developmental Disabilities or for
 289 which payment is made by the Department of Juvenile Justice, ~~or~~ the Department of
 290 Human Services or any of its divisions, or the Department of Behavioral Health and
 291 Developmental Disabilities and no child who is in the physical or legal custody of the
 292 Department of Juvenile Justice, ~~or~~ under the care or physical or legal custody of the
 293 Department of Human Services or any of its divisions, or under the physical custody of the
 294 Department of Behavioral Health and Developmental Disabilities shall be charged tuition,
 295 fees, or a combination thereof. A local school system is further authorized to contract with
 296 a nonresident student's system of residence for payment of tuition. The amount of tuition
 297 paid directly by the system of residence shall be limited only by the terms of the contract
 298 between systems. Local units of administration shall provide textbooks or any other
 299 reading materials to each student enrolled in a class which has a course of study that
 300 requires the use of such materials by the students.

301 (b)(1) Any child, except a child in a youth development center as specifically provided
 302 in this paragraph, who is in the physical or legal custody of the Department of Juvenile
 303 Justice or the Department of Human Services, or in a placement operated by the
 304 Department of Human Services or the Department of Behavioral Health and

305 Developmental Disabilities, or in a facility or placement paid for by the Department of
306 Juvenile Justice, ~~or~~ the Department of Human Services or any of its divisions, or the
307 Department of Behavioral Health and Developmental Disabilities and who is physically
308 present within the geographical area served by a local unit of administration for any
309 length of time is eligible for enrollment in the educational programs of that local unit of
310 administration; provided, however, that the child meets the age eligibility requirements
311 established by this article. The local unit of administration of the school district in which
312 such child is present shall be responsible for the provision of all educational programs,
313 including special education and related services, at no charge as long as the child is
314 physically present in the school district. A child will be considered in the physical or
315 legal custody of the Department of Juvenile Justice or the Department of Human Services
316 or any of its divisions if custody has been awarded either temporarily or permanently by
317 court order or by voluntary agreement, or if the child has been admitted or placed
318 according to an individualized treatment or service plan of the Department of Human
319 Services. A child will be considered in a facility or placement paid for or operated by the
320 Department of Behavioral Health and Developmental Disabilities if the child has been
321 admitted or placed according to an individualized treatment or service plan of the
322 Department of Behavioral Health and Developmental Disabilities. No child in a youth
323 development center, regardless of his or her custody status, shall be eligible for
324 enrollment in the educational programs of the local unit of administration of the school
325 district in which that youth development center is located. No child or youth in the
326 custody of the Department of Corrections or the Department of Juvenile Justice and
327 confined in a facility as a result of a sentence imposed by a court shall be eligible for
328 enrollment in the educational programs of the local unit of administration of the school
329 district where such child or youth is being held.

330 (2) Except as otherwise provided in this Code section, placement in a facility by a parent
331 or by another local unit of administration shall not create an obligation, financial or
332 otherwise, on the part of the local unit of administration in which the facility is located
333 to educate the child.

334 (3) For any child described in paragraph (1) of this subsection, the custodian of or
335 placing agency for the child shall notify the appropriate local unit of administration at
336 least five days in advance of the move, when possible, when the child is to be moved
337 from one local unit of administration to another.

338 (4) When the custodian of or placing agency for any child notifies a local unit of
339 administration, as provided in paragraph (3) of this subsection, that the child may become
340 eligible for enrollment in the educational programs of a local unit of administration, such
341 local unit of administration shall request the transfer of the educational records and

342 Individualized Education Programs (IEP's) and all education related evaluations,
343 assessments, social histories, and observations of the child from the appropriate local unit
344 of administration no later than ten days after receiving notification. Notwithstanding any
345 other law to the contrary, the custodian of the records has the obligation to transfer these
346 records and the local unit of administration has the right to receive, review, and utilize
347 these records. Notwithstanding any other law to the contrary, upon the request of a local
348 unit of administration responsible for providing educational services to a child described
349 in paragraph (1) of this subsection, the Department of Juvenile Justice, the Department
350 of Behavioral Health and Developmental Disabilities, or the Department of Human
351 Services shall furnish to the local unit of administration all medical and educational
352 records in the possession of the Department of Juvenile Justice, the Department of
353 Behavioral Health and Developmental Disabilities, or the Department of Human Services
354 pertaining to any such child, except where consent of a parent or legal guardian is
355 required in order to authorize the release of any of such records, in which event the
356 Department of Juvenile Justice, the Department of Behavioral Health and Developmental
357 Disabilities, or the Department of Human Services shall obtain such consent from the
358 parent or guardian prior to such release.

359 (5) Any local unit of administration which serves a child pursuant to paragraph (1) of this
360 subsection shall receive in the form of annual grants in state funding for that child the
361 difference between the actual state funds received for that child pursuant to Code Section
362 20-2-161 and the reasonable and necessary expenses incurred in educating that child,
363 calculated pursuant to regulations adopted by the State Board of Education. Each local
364 board of education shall be held harmless by the state from expending local funds for
365 educating students pursuant to this Code section; provided, however, that this shall only
366 apply to students who are unable to leave the facility in which they have been placed.

367 (6) Enrollment of an eligible child pursuant to this Code section shall be effectuated in
368 accordance with rules and regulations adopted by the State Board of Education.

369 (7) The Department of Education, the Department of Human Services, the Department
370 of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities,
371 and the local units of administration where Department of Education, Department of
372 Juvenile Justice, Department of Behavioral Health and Developmental Disabilities, or
373 Department of Human Services placements, facilities, or contract facilities are located
374 shall jointly develop procedures binding on all agencies implementing the provisions of
375 this Code section applicable to children and youth in the physical or legal custody of the
376 Department of Juvenile Justice or under the care or physical or legal custody of the
377 Department of Human Services or under the physical custody of the Department of
378 Behavioral Health and Developmental Disabilities."

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SECTION 15.

Code Section 20-2-250 of the Official Code of Georgia Annotated, relating to projects to improve effectiveness, is amended by revising subsection (d) as follows:

"(d)(1) In order to better address the needs of students at risk of failing to complete their education, the State Board of Education shall approve pilot projects that allow schools, clusters of schools, or school systems to decategorize funds received under Code Section 20-2-161. The state board shall appoint an interdisciplinary review panel consisting of students, parents, educators, and representatives from business, the community, ~~and the Department of Human Services,~~ and the Department of Behavioral Health and Developmental Disabilities to evaluate all submitted proposals and to submit appropriate recommendations to the state board.

(2) Pilot projects must meet the following criteria:

- (A) Address the needs of at-risk students who meet two or more of the criteria in the definition of the at-risk student as approved by the State Board of Education;
- (B) Develop a plan for such a pilot project using an interdisciplinary committee composed of students, parents, educators, and representatives from business, the community, the Department of Human Services, the Department of Behavioral Health and Developmental Disabilities, and others as appropriate;
- (C) Ensure that the plan for the pilot project becomes a component of the local strategic plan;
- (D) Provide for a program evaluation that specifies the goals of the program, the means to achieve those goals, the reasons for any decategorization or combining of program earnings to carry out those means, and objective and other criteria to be met which will determine the success or failure of the new programs;
- (E) No funds may be expended for any program or service explicitly excluded from the full-time equivalent count in subsection (a) of Code Section 20-2-160, except that such funds will be expended in conformity with the requirements for expenditures of direct instructional costs under Code Section 20-2-167. Any local plan approved by the board to combine program earnings for the purpose of providing programs for at-risk students under this subsection must also conform with the expenditure controls under Code Section 20-2-167 as modified by the new program categories described in the local system's proposal to the board. In no event will the aggregate funds expended for direct instructional costs be a lower amount than would have been required under the original formula calculations and expenditure requirements; and
- (F) No funds may be expended for transitional programs, such as transitional kindergarten or first grade.

- 415 (3) The state board shall give priority to proposed pilot projects that focus on interagency
 416 cooperation and the joint provision of services.
- 417 (4) All pilot projects shall be reviewed annually by the state board to ensure that they are
 418 meeting the goals and objectives outlined in their plan. Pilot projects that are no longer
 419 achieving their goals and objectives shall be discontinued by the state board.
- 420 (5) The pilot projects shall report annually to the Appropriations Committees of the
 421 House of Representatives and the Senate, the House Education Committee, and the
 422 Senate Education and Youth Committee."

423 **SECTION 16.**

424 Code Section 20-3-513 of the Official Code of Georgia Annotated, relating to determination
 425 of amount of medical scholarships by the State Medical Education Board, is amended as
 426 follows:

427 "20-3-513.

428 Students whose applications are approved shall receive a loan or scholarship in an amount
 429 to be determined by the State Medical Education Board to defray the tuition and other
 430 expenses of the applicant in an accredited four-year medical school in the United States
 431 which has received accreditation or provisional accreditation by the Liaison Committee on
 432 Medical Education of the American Medical Association or the Bureau of Professional
 433 Education of the American Osteopathic Association for a program in medical education
 434 designed to qualify the graduate for licensure by the Georgia Composite Medical Board.
 435 The loans and scholarships shall be paid in such manner as the State Medical Education
 436 Board shall determine and may be prorated so as to pay to the medical college or school
 437 to which any applicant is admitted such funds as are required by that college or school with
 438 the balance being paid directly to the applicant; all of which shall be under such terms and
 439 conditions as may be provided under rules and regulations of the State Medical Education
 440 Board. The loans or scholarships to be granted to each applicant shall be based upon the
 441 condition that the full amount of the loans or scholarships shall be repaid to the State of
 442 Georgia in services to be rendered by the applicant by practicing his or her profession in
 443 a State Medical Education Board approved rural county in Georgia of 35,000 population
 444 or less according to the United States decennial census of 1990 or any future such census
 445 or at any hospital or facility operated by or under the jurisdiction of the Department of
 446 Community Health or the Department of Behavioral Health and Developmental Disabilities
 447 or at any facility operated by or under the jurisdiction of the Department of Corrections or
 448 at any facility operated by or under the jurisdiction of the Department of Juvenile Justice.
 449 For each year of practicing his or her profession in such State Medical Education Board

450 approved location, the applicant shall receive credit for the amount of the scholarship
 451 received during any one year in medical school, with the interest due on such amount."

452 **SECTION 17.**

453 Code Section 31-33-4 of the Official Code of Georgia Annotated, relating to mental health
 454 records, is amended as follows:

455 "31-33-4.

456 The provisions of this chapter, except as otherwise provided in Code Sections 31-33-7 and
 457 31-33-8, shall not apply to psychiatric, psychological, or other mental health records of a
 458 patient."

459 **SECTION 18.**

460 Code Section 31-33-8 of the Official Code of Georgia Annotated, relating to electronic
 461 records, is amended as follows:

462 "31-33-8.

463 (a) Notwithstanding any other provision of the law to the contrary, any provider may, in
 464 its sole discretion, create, maintain, transmit, receive, and store records in an electronic
 465 format within the meaning of Code Section 10-12-2 and may, in its sole discretion,
 466 temporarily or permanently convert records into an electronic format.

467 (b) A provider shall not be required to maintain separate tangible copies of electronically
 468 stored records.

469 (c) The other provisions of this chapter shall apply to electronic records to the same extent
 470 as those provisions apply to tangible records.

471 (d) This Code section is subject to all applicable federal laws governing the security and
 472 confidentiality of a patient's personal health information.

473 ~~(d)~~(e) A tangible copy of a record reproduced from an electronically stored record shall
 474 be considered an original for purposes of providing copies to patients or other authorized
 475 parties and for introduction of the records into evidence in administrative or court
 476 proceedings.

477 ~~(e)~~(f) Except as provided otherwise under federal law, upon receiving a request for a copy
 478 of a record from a patient or an authorized person under Code Section 31-33-3, a provider
 479 shall provide copies of the record in either tangible or electronically stored form.

480 (g) Subsections (a), (b), (d) and (e) of this Code section shall apply to psychiatric,
 481 psychological, or other mental health records of a patient."

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SECTION 19.

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Code Section 45-9-4 of the Official Code of Georgia Annotated, relating to the commissioner of administrative services to purchase insurance or indemnity contracts, is amended by revising subsection (g) as follows:

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"(g) The policy of insurance provided for in this Code section may also provide liability coverage to nonprofit agencies and their employees, which agencies have contracted with the Department of Juvenile Justice, the Department of Transportation, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services to furnish certain services; provided, however, that such liability coverage shall be limited to damages arising out of the authorized use of a state-owned vehicle or a vehicle funded pursuant to subsection (a) of Code Section 49-2-13.1 by an employee of such nonprofit agency during the course of such person's employment with such nonprofit agency and the cost of such insurance furnished to any such nonprofit agency and its employees shall be allocated to and paid by such agency before any coverage shall be effective. For the purpose of this Code section, 'nonprofit agency' means any nonprofit or charitable organization, association, corporation, partnership, or other entity registered pursuant to Section 501(c)(3) of the Internal Revenue Code."

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SECTION 20.

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Code Section 50-5-69 of the Official Code of Georgia Annotated, relating to purchases without competitive bidding, is amended by revising subsection (a) as follows:

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"(a) If the needed supplies, materials, equipment, or service can reasonably be expected to be acquired for less than \$5,000.00 and is not available on state contracts or through statutorily required sources, the purchase may be effectuated without competitive bidding. The commissioner of administrative services may by rule and regulation authorize the various offices, agencies, departments, boards, bureaus, commissions, institutions, authorities, or other entities of the state to make purchases in their own behalf and may provide the circumstances and conditions under which such purchases may be effected. In order to assist and advise the commissioner of administrative services in making determinations to allow offices, agencies, departments, boards, bureaus, commissions, institutions, authorities, or other entities of the state to make purchases in their own behalf, there is created a Purchasing Advisory Council consisting of the executive director of the Georgia Technology Authority or his or her designee; the director of the Office of Planning and Budget or his or her designee; the chancellor of the University System of Georgia or his or her designee; the commissioner of technical and adult education or his or her designee; the commissioner of transportation or his or her designee; the Secretary of State or his or her designee; the commissioner of human services or his or her designee; the

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518 commissioner of community health or his or her designee; the commissioner of behavioral
 519 health and developmental disabilities or his or her designee; and one member to be
 520 appointed by the Governor. The commissioner of administrative services shall promulgate
 521 the necessary rules and regulations governing meetings of such council and the method and
 522 manner in which such council will assist and advise the commissioner of administrative
 523 services."

524 **SECTION 21.**

525 Code Section 50-5-135 of the Official Code of Georgia Annotated, relating to the creation
 526 of the State Use Council, is amended by revising subsections (a) and (b) as follows:

527 "(a) There is created the State Use Council, hereafter referred to as the council. The
 528 council shall be composed of ~~15~~ 16 members as follows:

529 (1) The commissioner of administrative services or his or her designee;

530 (2) The commissioner of human services or his or her designee;

531 (2.1) The commissioner of behavioral health and developmental disabilities or his or her
 532 designee;

533 (3) The commissioner of community affairs or his or her designee;

534 (4) The commissioner of corrections or his or her designee;

535 (5) Five members appointed by the Governor who shall represent the business
 536 community of the state;

537 (6) Three members appointed by the Governor who shall represent a broad spectrum of
 538 persons with disabilities; and

539 (7) Three members appointed by the Governor who shall represent the interest of
 540 organizations representative of persons with disabilities.

541 (b) Initially, the ~~nine~~ eleven members appointed pursuant to paragraphs (5) through (7) in
 542 subsection (a) of this Code section shall serve staggered terms of office as follows: ~~three~~
 543 four members for two years, ~~three~~ four members for three years, and three members for
 544 four years. Thereafter, each member shall serve for a term of four years. Such members
 545 shall serve until the appointment and qualification of their successors. The members
 546 appointed by the Governor shall be selected from the state at large but shall be
 547 representative of all of the geographic areas of the state."

548 **SECTION 22.**

549 Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public
 550 disclosure under open records laws is not required, is amended by revising paragraph (2) of
 551 subsection (c) as follows:

552 "(2) All state officers and employees shall have a privilege to refuse to disclose the
 553 identity or personally identifiable information of any person participating in research on
 554 commercial, scientific, technical, medical, scholarly, or artistic issues conducted by the
 555 Department of Community Health, the Department of Behavioral Health and
 556 Developmental Disabilities, or a state institution of higher education whether sponsored
 557 by the institution alone or in conjunction with a governmental body or private entity.
 558 Personally identifiable information shall mean any information which if disclosed might
 559 reasonably reveal the identity of such person including but not limited to the person's
 560 name, address, and social security number. The identity of such informant shall not be
 561 admissible in evidence in any court of the state unless the court finds that the identity of
 562 the informant already has been disclosed otherwise."

563 **SECTION 23.**

564 An Act approved May 6, 2008 (Ga. L. 2008, p. 133), is amended by repealing Section 4 of
 565 such Act in its entirety.

566 **SECTION 24.**

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