

## Senate Bill 375

By: Senators Unterman of the 45th, Grant of the 25th and Goggans of the 7th

**AS PASSED SENATE**

## 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;"

165 **SECTION 8.**

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

169 "(16.1) 'Traumatic brain injury' means a traumatic insult to the brain and its related parts  
170 resulting in organic damage thereto which may cause physical, intellectual, emotional,  
171 social, or vocational changes in a person. It shall also be recognized that a person having  
172 a traumatic brain injury may have organic damage or physical or social disorders, but for  
173 the purposes of this chapter, traumatic brain injury shall not be considered mental illness  
174 as defined in paragraph (11) of this Code section."

175 **SECTION 9.**

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

179 "9-10-152.

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

186 **SECTION 10.**

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

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

199 (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 17-8-30 of the Official Code of Georgia Annotated, relating to grounds for  
 212 continuances for party or party's counsel in attendance at meeting of Board of Human  
 213 Services, is amended as follows:

214 "17-8-30.

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

221 **SECTION 12.**

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

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

228 **SECTION 13.**

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

231 "20-2-133.

232 (a) Admission to the instructional programs funded under this article shall be free to all  
 233 eligible children and youth who enroll in such programs within the local school system in

234 which they reside and to children as provided in subsection (b) of this Code section.  
235 Therefore, a local school system shall not charge resident students tuition or fees, nor shall  
236 such students be required to provide materials or equipment except for items specified by  
237 the State Board of Education, as a condition of enrollment or full participation in any  
238 instructional program. However, a local school system is authorized to charge nonresident  
239 students tuition or fees or a combination thereof; provided, however, that such charges to  
240 a student shall not exceed the average locally financed per student cost for the preceding  
241 year, excluding the local five mill share funds required pursuant to Code Section 20-2-164;  
242 provided, further, that no child in a placement operated by the Department of Human  
243 Services or the Department of Behavioral Health and Developmental Disabilities or for  
244 which payment is made by the Department of Juvenile Justice, ~~or~~ the Department of  
245 Human Services or any of its divisions, or the Department of Behavioral Health and  
246 Developmental Disabilities and no child who is in the physical or legal custody of the  
247 Department of Juvenile Justice, ~~or~~ under the care or physical or legal custody of the  
248 Department of Human Services or any of its divisions, or under the physical custody of the  
249 Department of Behavioral Health and Developmental Disabilities shall be charged tuition,  
250 fees, or a combination thereof. A local school system is further authorized to contract with  
251 a nonresident student's system of residence for payment of tuition. The amount of tuition  
252 paid directly by the system of residence shall be limited only by the terms of the contract  
253 between systems. Local units of administration shall provide textbooks or any other  
254 reading materials to each student enrolled in a class which has a course of study that  
255 requires the use of such materials by the students.

256 (b)(1) Any child, except a child in a youth development center as specifically provided  
257 in this paragraph, who is in the physical or legal custody of the Department of Juvenile  
258 Justice or the Department of Human Services, or in a placement operated by the  
259 Department of Human Services or the Department of Behavioral Health and  
260 Developmental Disabilities, or in a facility or placement paid for by the Department of  
261 Juvenile Justice, ~~or~~ the Department of Human Services or any of its divisions, or the  
262 Department of Behavioral Health and Developmental Disabilities and who is physically  
263 present within the geographical area served by a local unit of administration for any  
264 length of time is eligible for enrollment in the educational programs of that local unit of  
265 administration; provided, however, that the child meets the age eligibility requirements  
266 established by this article. The local unit of administration of the school district in which  
267 such child is present shall be responsible for the provision of all educational programs,  
268 including special education and related services, at no charge as long as the child is  
269 physically present in the school district. A child will be considered in the physical or  
270 legal custody of the Department of Juvenile Justice or the Department of Human Services

271 or any of its divisions if custody has been awarded either temporarily or permanently by  
272 court order or by voluntary agreement, or if the child has been admitted or placed  
273 according to an individualized treatment or service plan of the Department of Human  
274 Services. A child will be considered in a facility or placement paid for or operated by the  
275 Department of Behavioral Health and Developmental Disabilities if the child has been  
276 admitted or placed according to an individualized treatment or service plan of the  
277 Department of Behavioral Health and Developmental Disabilities. No child in a youth  
278 development center, regardless of his or her custody status, shall be eligible for  
279 enrollment in the educational programs of the local unit of administration of the school  
280 district in which that youth development center is located. No child or youth in the  
281 custody of the Department of Corrections or the Department of Juvenile Justice and  
282 confined in a facility as a result of a sentence imposed by a court shall be eligible for  
283 enrollment in the educational programs of the local unit of administration of the school  
284 district where such child or youth is being held.

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

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

293 (4) When the custodian of or placing agency for any child notifies a local unit of  
294 administration, as provided in paragraph (3) of this subsection, that the child may become  
295 eligible for enrollment in the educational programs of a local unit of administration, such  
296 local unit of administration shall request the transfer of the educational records and  
297 Individualized Education Programs (IEP's) and all education related evaluations,  
298 assessments, social histories, and observations of the child from the appropriate local unit  
299 of administration no later than ten days after receiving notification. Notwithstanding any  
300 other law to the contrary, the custodian of the records has the obligation to transfer these  
301 records and the local unit of administration has the right to receive, review, and utilize  
302 these records. Notwithstanding any other law to the contrary, upon the request of a local  
303 unit of administration responsible for providing educational services to a child described  
304 in paragraph (1) of this subsection, the Department of Juvenile Justice, the Department  
305 of Behavioral Health and Developmental Disabilities, or the Department of Human  
306 Services shall furnish to the local unit of administration all medical and educational  
307 records in the possession of the Department of Juvenile Justice, the Department of

308 Behavioral Health and Developmental Disabilities, or the Department of Human Services  
 309 pertaining to any such child, except where consent of a parent or legal guardian is  
 310 required in order to authorize the release of any of such records, in which event the  
 311 Department of Juvenile Justice, the Department of Behavioral Health and Developmental  
 312 Disabilities, or the Department of Human Services shall obtain such consent from the  
 313 parent or guardian prior to such release.

314 (5) Any local unit of administration which serves a child pursuant to paragraph (1) of this  
 315 subsection shall receive in the form of annual grants in state funding for that child the  
 316 difference between the actual state funds received for that child pursuant to Code Section  
 317 20-2-161 and the reasonable and necessary expenses incurred in educating that child,  
 318 calculated pursuant to regulations adopted by the State Board of Education. Each local  
 319 board of education shall be held harmless by the state from expending local funds for  
 320 educating students pursuant to this Code section; provided, however, that this shall only  
 321 apply to students who are unable to leave the facility in which they have been placed.

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

324 (7) The Department of Education, the Department of Human Services, the Department  
 325 of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities,  
 326 and the local units of administration where Department of Education, Department of  
 327 Juvenile Justice, Department of Behavioral Health and Developmental Disabilities, or  
 328 Department of Human Services placements, facilities, or contract facilities are located  
 329 shall jointly develop procedures binding on all agencies implementing the provisions of  
 330 this Code section applicable to children and youth in the physical or legal custody of the  
 331 Department of Juvenile Justice or under the care or physical or legal custody of the  
 332 Department of Human Services or under the physical custody of the Department of  
 333 Behavioral Health and Developmental Disabilities."

#### 334 **SECTION 14.**

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

337 "(d)(1) In order to better address the needs of students at risk of failing to complete their  
 338 education, the State Board of Education shall approve pilot projects that allow schools,  
 339 clusters of schools, or school systems to decategorize funds received under Code Section  
 340 20-2-161. The state board shall appoint an interdisciplinary review panel consisting of  
 341 students, parents, educators, and representatives from business, the community, ~~and~~ the  
 342 Department of Human Services, and the Department of Behavioral Health and

343 Developmental Disabilities to evaluate all submitted proposals and to submit appropriate  
344 recommendations to the state board.

345 (2) Pilot projects must meet the following criteria:

346 (A) Address the needs of at-risk students who meet two or more of the criteria in the  
347 definition of the at-risk student as approved by the State Board of Education;

348 (B) Develop a plan for such a pilot project using an interdisciplinary committee  
349 composed of students, parents, educators, and representatives from business, the  
350 community, the Department of Human Services, the Department of Behavioral Health  
351 and Developmental Disabilities, and others as appropriate;

352 (C) Ensure that the plan for the pilot project becomes a component of the local  
353 strategic plan;

354 (D) Provide for a program evaluation that specifies the goals of the program, the means  
355 to achieve those goals, the reasons for any decategorization or combining of program  
356 earnings to carry out those means, and objective and other criteria to be met which will  
357 determine the success or failure of the new programs;

358 (E) No funds may be expended for any program or service explicitly excluded from the  
359 full-time equivalent count in subsection (a) of Code Section 20-2-160, except that such  
360 funds will be expended in conformity with the requirements for expenditures of direct  
361 instructional costs under Code Section 20-2-167. Any local plan approved by the board  
362 to combine program earnings for the purpose of providing programs for at-risk students  
363 under this subsection must also conform with the expenditure controls under Code  
364 Section 20-2-167 as modified by the new program categories described in the local  
365 system's proposal to the board. In no event will the aggregate funds expended for direct  
366 instructional costs be a lower amount than would have been required under the original  
367 formula calculations and expenditure requirements; and

368 (F) No funds may be expended for transitional programs, such as transitional  
369 kindergarten or first grade.

370 (3) The state board shall give priority to proposed pilot projects that focus on interagency  
371 cooperation and the joint provision of services.

372 (4) All pilot projects shall be reviewed annually by the state board to ensure that they are  
373 meeting the goals and objectives outlined in their plan. Pilot projects that are no longer  
374 achieving their goals and objectives shall be discontinued by the state board.

375 (5) The pilot projects shall report annually to the Appropriations Committees of the  
376 House of Representatives and the Senate, the House Education Committee, and the  
377 Senate Education and Youth Committee."

378 **SECTION 15.**

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

382 "20-3-513.

383 Students whose applications are approved shall receive a loan or scholarship in an amount  
 384 to be determined by the State Medical Education Board to defray the tuition and other  
 385 expenses of the applicant in an accredited four-year medical school in the United States  
 386 which has received accreditation or provisional accreditation by the Liaison Committee on  
 387 Medical Education of the American Medical Association or the Bureau of Professional  
 388 Education of the American Osteopathic Association for a program in medical education  
 389 designed to qualify the graduate for licensure by the Georgia Composite Medical Board.  
 390 The loans and scholarships shall be paid in such manner as the State Medical Education  
 391 Board shall determine and may be prorated so as to pay to the medical college or school  
 392 to which any applicant is admitted such funds as are required by that college or school with  
 393 the balance being paid directly to the applicant; all of which shall be under such terms and  
 394 conditions as may be provided under rules and regulations of the State Medical Education  
 395 Board. The loans or scholarships to be granted to each applicant shall be based upon the  
 396 condition that the full amount of the loans or scholarships shall be repaid to the State of  
 397 Georgia in services to be rendered by the applicant by practicing his or her profession in  
 398 a State Medical Education Board approved rural county in Georgia of 35,000 population  
 399 or less according to the United States decennial census of 1990 or any future such census  
 400 or at any hospital or facility operated by or under the jurisdiction of the Department of  
 401 Community Health or the Department of Behavioral Health and Developmental Disabilities  
 402 or at any facility operated by or under the jurisdiction of the Department of Corrections or  
 403 at any facility operated by or under the jurisdiction of the Department of Juvenile Justice.  
 404 For each year of practicing his or her profession in such State Medical Education Board  
 405 approved location, the applicant shall receive credit for the amount of the scholarship  
 406 received during any one year in medical school, with the interest due on such amount."

407 **SECTION 16.**

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

410 "31-33-4.

411 The provisions of this chapter, except as otherwise provided in Code Sections 31-33-7 and  
 412 31-33-8, shall not apply to psychiatric, psychological, or other mental health records of a  
 413 patient."

414 **SECTION 17.**

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

417 "31-33-8.

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

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

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

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

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

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

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

437 **SECTION 18.**

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

441 "(g) The policy of insurance provided for in this Code section may also provide liability  
 442 coverage to nonprofit agencies and their employees, which agencies have contracted with  
 443 the Department of Juvenile Justice, the Department of Transportation, the Department of  
 444 Behavioral Health and Developmental Disabilities, or the Department of Human Services  
 445 to furnish certain services; provided, however, that such liability coverage shall be limited  
 446 to damages arising out of the authorized use of a state-owned vehicle or a vehicle funded  
 447 pursuant to subsection (a) of Code Section 49-2-13.1 by an employee of such nonprofit  
 448 agency during the course of such person's employment with such nonprofit agency and the  
 449 cost of such insurance furnished to any such nonprofit agency and its employees shall be

450 allocated to and paid by such agency before any coverage shall be effective. For the  
 451 purpose of this Code section, 'nonprofit agency' means any nonprofit or charitable  
 452 organization, association, corporation, partnership, or other entity registered pursuant to  
 453 Section 501(c)(3) of the Internal Revenue Code."

454 **SECTION 19.**

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

457 "(a) If the needed supplies, materials, equipment, or service can reasonably be expected  
 458 to be acquired for less than \$5,000.00 and is not available on state contracts or through  
 459 statutorily required sources, the purchase may be effectuated without competitive bidding.  
 460 The commissioner of administrative services may by rule and regulation authorize the  
 461 various offices, agencies, departments, boards, bureaus, commissions, institutions,  
 462 authorities, or other entities of the state to make purchases in their own behalf and may  
 463 provide the circumstances and conditions under which such purchases may be effected.  
 464 In order to assist and advise the commissioner of administrative services in making  
 465 determinations to allow offices, agencies, departments, boards, bureaus, commissions,  
 466 institutions, authorities, or other entities of the state to make purchases in their own behalf,  
 467 there is created a Purchasing Advisory Council consisting of the executive director of the  
 468 Georgia Technology Authority or his or her designee; the director of the Office of Planning  
 469 and Budget or his or her designee; the chancellor of the University System of Georgia or  
 470 his or her designee; the commissioner of technical and adult education or his or her  
 471 designee; the commissioner of transportation or his or her designee; the Secretary of State  
 472 or his or her designee; the commissioner of human services or his or her designee; the  
 473 commissioner of community health or his or her designee; the commissioner of behavioral  
 474 health and developmental disabilities or his or her designee; and one member to be  
 475 appointed by the Governor. The commissioner of administrative services shall promulgate  
 476 the necessary rules and regulations governing meetings of such council and the method and  
 477 manner in which such council will assist and advise the commissioner of administrative  
 478 services."

479 **SECTION 20.**

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

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

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

- 485 (2) The commissioner of human services or his or her designee;  
 486 (2.1) The commissioner of behavioral health and developmental disabilities or his or her  
 487 designee;  
 488 (3) The commissioner of community affairs or his or her designee;  
 489 (4) The commissioner of corrections or his or her designee;  
 490 (5) Five members appointed by the Governor who shall represent the business  
 491 community of the state;  
 492 (6) Three members appointed by the Governor who shall represent a broad spectrum of  
 493 persons with disabilities; and  
 494 (7) Three members appointed by the Governor who shall represent the interest of  
 495 organizations representative of persons with disabilities.  
 496 (b) Initially, the ~~nine~~ eleven members appointed pursuant to paragraphs (5) through (7) in  
 497 subsection (a) of this Code section shall serve staggered terms of office as follows: ~~three~~  
 498 four members for two years, ~~three~~ four members for three years, and three members for  
 499 four years. Thereafter, each member shall serve for a term of four years. Such members  
 500 shall serve until the appointment and qualification of their successors. The members  
 501 appointed by the Governor shall be selected from the state at large but shall be  
 502 representative of all of the geographic areas of the state."

503

**SECTION 21.**

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

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

518 **SECTION 22.**

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

521 **SECTION 23.**

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