

House Bill 354

By: Representatives Walker of the 107th, Cooper of the 41st, Maddox of the 172nd, and Manning of the 32nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 49 of the Official Code of Georgia Annotated, relating to social services, so
2 as to transfer the functions, duties, and employees of the Division of Aging Services of the
3 Department of Human Resources to a newly established Department of Aging; to revise
4 various titles of the Official Code of Georgia Annotated for purposes of conformity; to
5 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended
10 by adding a new chapter to read as follows:

11 "CHAPTER 6A

12 49-6A-1.

13 The Georgia General Assembly finds that Georgia's burgeoning older adult population
14 provides unique opportunities and challenges for the state. Georgia has an unprecedented
15 potential to benefit from the strengths, talents, knowledge, and resources of its growing
16 older adult population. At the same time, the state has a responsibility to address the
17 unique needs and concerns of its older adults and their caregivers and, in keeping with
18 Chapter 6 of this title, to encourage continuous study and research into the needs and
19 problems of older people under present and future economic and social conditions to plan
20 for the prevention of dependency and the conservation of human values. To meet these
21 challenges and capitalize on these opportunities, it is the intent of the General Assembly
22 to create a Department of Aging.

23 49-6A-2.

24 As used in this chapter, the term:

25 (1) 'Board' means the Board of Aging.

26 (2) 'Commissioner' means the commissioner of aging.

27 (3) 'Department' means the Department of Aging.

28 49-6A-3.

29 (a) There is created the Department of Aging, which shall be the successor entity and
 30 continuation of the Division of Aging Services of the Department of Human Resources.

31 The department shall have the following responsibilities:

32 (1) To serve as the lead planning agency for all aging issues in this state;

33 (2) To minimize duplication and maximize administrative efficiency by removing
 34 overlapping functions and streamlining and coordinating functions;

35 (3) To develop an infrastructure that encourages older adults to share their unique
 36 strengths, talents, knowledge, and resources with other community members, whether as
 37 a volunteer or in a paid position, for the benefit of Georgians of all ages;

38 (4) To identify the opportunities for synergy among the Department of Aging and other
 39 governmental agencies for the mutual benefit of the agencies, their constituencies, and
 40 the citizens of Georgia as a whole; and

41 (5) To simplify the decision-making process to allow the state to respond effectively,
 42 efficiently, and in a timely manner to the needs and concerns of older adults and to utilize
 43 fully the knowledge and resources they offer.

44 (b) There is created the position of commissioner of aging. The commissioner shall be the
 45 chief administrative officer of the Department of Aging and shall be appointed by and shall
 46 serve at the pleasure of the Governor. The commissioner shall receive a salary to be
 47 determined by the Governor and shall be in the unclassified service of the state merit
 48 system. The commissioner shall not serve simultaneously as the commissioner of any
 49 other department. Subject to the general policy and rules and regulations of the board, the
 50 commissioner shall supervise, direct, account for, organize, plan, administer, and execute
 51 the functions of the Department of Aging.

52 49-6A-4.

53 (a)(1) There is created the Board of Aging which shall establish the general policy to be
 54 followed by the Department of Aging. The board shall consist of 15 members, with at
 55 least one from each of the 12 area agency on aging service areas in this state. The
 56 remaining three members shall be selected from the two area agency on aging service
 57 areas with the largest concentration of older adults. All members of the board shall be

58 appointed by the Governor and confirmed by the Senate. The Governor shall make such
59 appointments with a view toward achieving minority representation, representation of
60 women, and equitable geographic representation on the board.

61 (2) The Governor shall designate the initial terms of the members of the board as
62 follows: five members shall be appointed for two years; five members shall be appointed
63 for three years; and five members shall be appointed for four years. Thereafter, all
64 succeeding appointments shall be for four-year terms from the expiration of the previous
65 term and shall continue until a successor member has been appointed.

66 (3) Vacancies in office shall be filled by appointment by the Governor in the same
67 manner as the appointment to the position on the board which becomes vacant, and the
68 appointment shall be submitted to the Senate for confirmation at the next session of the
69 General Assembly. An appointment to fill a vacancy, other than by expiration of a term
70 of office, shall be for the balance of the unexpired term.

71 (4) There shall be a chairperson of the board, elected by and from the membership of the
72 board, who shall be the presiding officer of the board.

73 (5) The members of the board shall receive per diem and expenses as shall be set and
74 approved by the Office of Planning and Budget and in conformance with rates and
75 allowances set for members of other state boards.

76 (b) The board shall:

77 (1) Develop programs to successfully provide services to Georgia's elderly;

78 (2) Develop initiatives to further the goals of the department's various divisions and
79 offices;

80 (3) Identify opportunities for synergy with other governmental agencies;

81 (4) Promote collaborations with other public and private partners to meet the goals
82 identified by the department for engaging Georgia's older adults;

83 (5) Collaborate with academic institutions to evaluate programs, develop best practices,
84 encourage innovation, and advance further aging research; and

85 (6) Assure accountability among the department staff, providers of services, public
86 policy makers, and consumers to be served.

87 (c) The board shall perform duties required of it by this chapter and Chapter 6 of this title
88 and shall, in addition thereto, be responsible for promulgation of all rules and regulations
89 not in conflict with this chapter or Chapter 6 of this title that may be necessary and
90 appropriate to the administration of the department, to the accomplishment of the purposes
91 of this chapter, and to the performance of the duties and functions of the department as set
92 forth in this chapter and Chapter 6 of this title.

93 (d) The board shall oversee the budget of the department and shall submit an annual
94 request for funding to the Office of Planning and Budget in accordance with Code Section
95 45-12-78.

96 49-6A-5.

97 (a) The Department of Aging shall perform the functions and assume the duties and
98 powers exercised on June 30, 2009, by the Division of Aging Services of the Department
99 of Human Resources. The department shall also assume powers and responsibility with
100 respect to the expenditure of any funds appropriated to the department or the Department
101 of Human Resources as its predecessor including, without being limited to, funds received
102 by the state pursuant to the Older Americans Act of 1965. The divisions of the department
103 shall be:

104 (1) The Community Care Services Program Section of the Division of Aging Services,
105 as it existed on June 30, 2009, is continued in existence on and after July 1, 2009, but
106 shall thereafter be the Division of Community Care Services within the department;

107 (2) The Program Development and Operations Section of the Division of Aging
108 Services, as it existed on June 30, 2009, is continued in existence on and after July 1,
109 2009, but shall thereafter be the Division of Program Development and Operations within
110 the department;

111 (3) The Elder Rights and Advocacy Section of the Division of Aging Services, as it
112 existed on June 30, 2009, is continued in existence on and after July 1, 2009, but shall
113 thereafter be the Division of Elder Rights and Advocacy within the department;

114 (4) The Adult Protective Services Section of the Division of Aging Services, as it existed
115 on June 30, 2009, is continued in existence on and after July 1, 2009, but shall thereafter
116 be the Division of Adult Protective Services within the department;

117 (5) The Planning and Evaluation Section of the Division of Aging Services, as it existed
118 on June 30, 2009, is continued in existence on and after July 1, 2009, but shall thereafter
119 be the Division of Planning and Evaluation within the department;

120 (6) The Fiscal and Administrative Section of the Division of Aging Services, as it existed
121 on June 30, 2009, is continued in existence on and after July 1, 2009, but shall thereafter
122 be the Division of Fiscal and Administrative Services within the department;

123 (7) The department may further create a Division of Communities for a Lifetime which
124 shall come into existence on or after July 1, 2009. This division shall work to support
125 older adults' participation in their communities. Specific functions of this division shall
126 be:

127 (A) To educate Georgia's residents, businesses, and public and private entities about
128 the strengths, talents, knowledge, and resources of Georgia's older adults;

129 (B) To encourage older adults to become involved in their communities, for the benefit
 130 of Georgians of all ages, through volunteerism with local schools, hospitals, charitable
 131 organizations, and religious organizations, among others;

132 (C) To promote liveable communities through consultation with existing resources at
 133 the local, county, and state levels to make crucial civic improvements in such areas as
 134 housing, health care, transportation, accessibility, business partnerships, community
 135 education, and efficient use of natural resources;

136 (D) To encourage businesses, institutions of higher education, and older Georgians to
 137 identify opportunities for intergenerational entrepreneurship collaborations;

138 (E) To promote the adoption of employment initiatives that would allow older adults
 139 to remain active in the work force if they so choose;

140 (F) To collaborate with local and state agencies and other public and private entities
 141 to encourage older Georgians to remain active and healthy through leisure activities
 142 available across this state; and

143 (G) To support and advance aging research initiatives; and

144 (8) Such other divisions as the board may establish within the department.

145 (b) The program administrators of the Community Care Services Program Section, the
 146 Program Development and Operations Section, the Elder Rights and Advocacy Section,
 147 the Adult Protective Services Section, the Planning and Evaluation Section, and the Fiscal
 148 and Administrative Section of the Division of Aging Services in office on June 30, 2009,
 149 shall become directors of the respective divisions which those predecessor sections have
 150 become on and after July 1, 2009, and until such time as the commissioner appoints other
 151 directors of such divisions.

152 (c) There is transferred to the department the long-term care ombudsman program, which
 153 shall be a continuation of the existing long-term care ombudsman program established
 154 pursuant to Article 3 of Chapter 8 of Title 31.

155 (d) There is transferred to the department all functions relating to the Georgia Council on
 156 Aging created pursuant to Code Section 49-6-20.

157 49-6A-6.

158 (a) To assist in the transition of functions, until July 1, 2010, the State Merit System of
 159 Personnel Administration shall perform payroll, accounting, and purchasing services and
 160 other general support services.

161 (b) All persons employed in a predecessor section on June 30, 2009, shall, on July 1, 2009,
 162 become employees of the department within the division that such predecessor section has
 163 become. Such employees shall be subject to the employment practices and policies of the
 164 department on and after July 1, 2009, but the compensation and benefits of such transferred

165 employees shall not be reduced as a result of such transfer. Employees who are subject to
166 the rules of the State Personnel Board and thereby under the State Merit System of
167 Personnel Administration and who are transferred to the department shall retain all existing
168 rights under the State Merit System of Personnel Administration. Retirement rights of such
169 transferred employees existing under the Employees' Retirement System of Georgia or
170 other public retirement systems on June 30, 2009, shall not be impaired or interrupted by
171 the transfer of such employees, and membership in any such retirement system shall
172 continue in the same status possessed by the transferred employees on June 30, 2009.
173 Accrued annual and sick leave possessed by said employees on June 30, 2009, shall be
174 retained by said employees as employees of the department.

175 (c)(1) The department shall conform to federal standards for a merit system of personnel
176 administration in any respects necessary for receiving federal grants, and the board is
177 authorized and empowered to effect such changes as may, from time to time, be
178 necessary in order to comply with such standards.

179 (2) The department is authorized to employ, on a full-time or part-time basis, such
180 medical, supervisory, institutional, and other professional personnel and such clerical and
181 other employees as may be necessary to discharge the duties of the department under this
182 chapter. The department is also authorized to contract for such professional services as
183 may be necessary.

184 (3) Classified employees of the department under this chapter shall in all instances be
185 employed and dismissed in accordance with rules of the State Personnel Board.

186 (4) All personnel of the department shall be authorized to be members of the Employees'
187 Retirement System of Georgia as provided in Chapter 2 of Title 47. All rights, credits,
188 and funds in that retirement system which are possessed by state personnel transferred
189 by provisions of this chapter to the department, or otherwise had by persons at the time
190 of employment with the department, shall be continued and preserved, it being the
191 intention of the General Assembly that such persons shall not lose any rights, credits, or
192 funds to which they may be entitled prior to becoming employees of the department.

193 (d) The department shall succeed to all rules, regulations, policies, procedures, and
194 administrative orders of the predecessor agency that were in effect on June 30, 2009, or
195 scheduled to go into effect on or after July 1, 2009, and which relate to the functions
196 transferred to the department by this chapter. Such rules, regulations, policies, procedures,
197 and administrative orders shall remain in effect until amended, repealed, superseded, or
198 nullified by proper authority or as otherwise provided by law. Rules of the department
199 shall be adopted, promulgated, and implemented as provided in Chapter 13 of Title 50, the
200 'Georgia Administrative Procedure Act.'

201 (e) The rights, privileges, entitlements, and duties of parties to contracts, leases,
202 agreements, and other transactions entered into before July 1, 2009, by any predecessor
203 section and which pertain to the functions transferred to the department by this chapter
204 shall continue to exist; and none of these rights, privileges, entitlements, and duties shall
205 be impaired or diminished by reason of the transfer of the functions to the department. In
206 all such instances, the Department of Aging shall be substituted for the predecessor agency,
207 and the Department of Aging shall succeed to the rights and duties under such contracts,
208 leases, agreements, and other transactions.

209 (f) The commissioner is authorized to transfer department employees from one division
210 to another division within the department.

211 (g) All office equipment, furniture, and other assets in the possession of the Division of
212 Aging Services, the long-term care ombudsman program, and the Georgia Council on
213 Aging which are used or held exclusively or principally by personnel transferred under this
214 subsection shall be transferred to the department on July 1, 2009.

215 (h) Funding for functions and positions transferred to the department under this Code
216 section shall be transferred as provided in Code Section 45-12-90.

217 (i) Information technology developed for the use of the Division of Aging Services of the
218 Department of Human Resources as it existed on June 30, 2009, including the Aging
219 Information System and other such technology, shall be transferred to the department on
220 July 1, 2009.

221 49-6A-7.

222 (a) Subject to approval by the board, the commissioner shall have the power to make and
223 publish reasonable rules and regulations not inconsistent with this title or other laws or with
224 the Constitution of this state or of the United States for the administration of this chapter
225 or any law which it is his or her duty to administer.

226 (b) The commissioner may prescribe forms as he or she deems necessary for the
227 administration and enforcement of this chapter or any law which it is his or her duty to
228 administer.

229 (c) The authority granted to the commissioner pursuant to this Code section shall be
230 exercised at all times in conformity with Chapter 13 of Title 50, the 'Georgia
231 Administrative Procedure Act.'

232 (d) Rules and regulations previously adopted which relate to functions performed by the
233 Division of Aging Services of the Department of Human Resources as it existed on June
234 30, 2009, shall remain in full force and effect as rules and regulations of the Department
235 of Aging until amended, repealed, or superseded by rules or regulations adopted by the
236 commissioner of aging. The following rules and regulations shall remain in full force and

237 effect as rules and regulations of the referenced department until amended, repealed, or
 238 superseded by rules or regulations adopted by the referenced department:

239 (1) All rules and regulations previously adopted by the Community Care Services
 240 Program of the Division of Aging Services of the Department of Human Resources which
 241 relate to functions transferred under this chapter to the Department of Aging:

242 (2) All rules and regulations previously adopted by the Program Development and
 243 Operations Section of the Division of Aging Services of the Department of Human
 244 Resources which relate to functions transferred under this chapter to the Department of
 245 Aging:

246 (3) All rules and regulations previously adopted by the Elderly Rights and Advocacy
 247 Section of the Division of Aging Services of the Department of Human Resources which
 248 relate to functions transferred under this chapter to the Department of Aging:

249 (4) All rules and regulations previously adopted by the Office of the State Long-Term
 250 Care Ombudsman of the Division of Aging Services of the Department of Human
 251 Resources which relate to functions transferred under this chapter to the Department of
 252 Aging:

253 (5) All rules and regulations previously adopted by the Adult Protection Services Section
 254 of the Division of Aging Services of the Department of Human Resources which relate
 255 to functions transferred under this chapter to the Department of Aging:

256 (6) All rules and regulations previously adopted by the Planning and Evaluation Section
 257 of the Division of Aging Services of the Department of Human Resources which relate
 258 to functions transferred under this chapter to the Department of Aging:

259 (7) All rules and regulations previously adopted by the Fiscal and Administrative Section
 260 of the Division of Aging Services of the Department of Human Resources which relate
 261 to functions transferred under this chapter to the Department of Aging; and

262 (8) All other rules and regulations previously adopted which relate to functions
 263 transferred under this chapter to the Department of Aging.

264 (e) All valid licenses, permits, certificates, and similar authorizations previously issued by
 265 any department or agency with respect to any function transferred as provided in this
 266 chapter shall continue in effect until the same expire by their terms unless they are
 267 suspended, revoked, or otherwise made ineffective as provided by law."

268 **SECTION 2.**

269 The following Code sections of the Official Code of Georgia Annotated are amended by
 270 striking "Division of Aging Services", "Division of Aging Services of the Department of
 271 Human Resources", or "Office of Aging within the Department of Human Resources"
 272 wherever such terms occur and inserting in its place "Department of Aging":

- 273 (1) Code Section 10-1-855, relating to referral procedures to provide intervention and
 274 assistance with respect to unfair or deceptive practices toward the elderly;
 275 (2) Code Section 29-10-3, relating to qualifications and requirements of public
 276 guardians;
 277 (3) Code Section 29-10-4, relating to registration of public guardians with the probate
 278 court;
 279 (4) Code Section 29-10-10, relating to compensation of public guardians; and
 280 (5) Code Section 29-10-11, relating to appropriation of funds for compensation of public
 281 guardians in certain circumstances.

282 **SECTION 3.**

283 Chapter 5 of Title 30 of the Official Code of Georgia Annotated, relating to the "Disabled
 284 Adults and Elder Persons Protection Act," is amended by revising Code Section 30-5-3,
 285 relating to definitions, by adding a new paragraph to read as follows:

286 "(2.1) 'Commissioner' means the commissioner of aging."

287 **SECTION 4.**

288 Said chapter is further amended in Code Section 30-5-3, relating to definitions, by revising
 289 paragraphs (4) and (5) as follows:

290 "(4) 'Department' means the Department of ~~Human Resources~~ Aging.

291 "(5) '~~Director~~' means the director of the ~~Division of Aging Services~~ of the Department of
 292 ~~Human Resources, or the director's designee.~~ Reserved."

293 **SECTION 5.**

294 Said chapter is further amended by striking "director" and "director's" wherever such terms
 295 occur in the following Code sections and inserting in their respective places "commissioner"
 296 and "commissioner's":

297 (1) Code Section 30-5-4, relating to reporting of need for protective services;

298 (2) Code Section 30-5-5, relating to investigation of reports of need for protective
 299 services;

300 (3) Code Section 30-5-6, relating to cooperation of other public agencies with director;
 301 and

302 (4) Code Section 30-5-7, relating to confidentiality of public records.

303

SECTION 6.

304 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended in Code
 305 Section 31-2-9, relating to a suicide prevention program, by revising subsection (c) as
 306 follows:

307 "(c) The injury prevention section, in implementing the Suicide Prevention Program, shall:

308 (1) Establish a link between state agencies and offices, including, but not limited to, the
 309 department's ~~Division of Aging Services~~, Division of Family and Children Services, and
 310 Division of Mental Health, Developmental Disabilities, and Addictive Diseases, the
 311 Department of Aging, local government agencies, health care providers, hospitals,
 312 nursing homes, and jails to collect data on suicide deaths and attempted suicides;

313 (2) Work with public officials to improve firearm safety;

314 (3) Improve education for nurses, judges, physician assistants, social workers,
 315 psychologists, and other counselors with regard to suicide education and prevention and
 316 expand educational resources for professionals working with those persons most at risk
 317 of suicide;

318 (4) Provide training and minimal screening tools for clergy, teachers and other
 319 educational staff, and correctional workers on how to identify and respond to persons at
 320 risk of suicide;

321 (5) Provide educational programs for family members of persons at an elevated risk of
 322 suicide;

323 (6) Develop standardized protocols to be used by the Department of Human Resources
 324 in reviewing suicide death scene investigations;

325 (7) Work to increase the number of follow-back studies of suicides;

326 (8) Work to increase the number of hospitals that code for external ~~cause of injuries~~
 327 causes of injury;

328 (9) Implement a state-wide reporting system for reporting suicides;

329 (10) Support pilot projects to link and analyze information on self-destructive behavior
 330 from various, distinct data systems; and

331 (11) Perform such other tasks as deemed appropriate to further suicide education and
 332 prevention in Georgia."

333

SECTION 7.

334 Said title is further amended in Code Section 31-5A-4, relating to the powers, duties,
 335 functions, and responsibilities of the Department of Community Health, by revising
 336 subsection (f) as follows:

337 "(f) In addition to its other powers, duties, and functions, the department:

- 338 (1) Shall be the lead agency in coordinating and purchasing health care benefit plans for
339 state and public employees, dependents, and retirees and may also coordinate with the
340 board of regents for the purchase and administration of such health care benefit plans for
341 its members, employees, dependents, and retirees;
- 342 (2) Is authorized to plan and coordinate medical education and physician workforce
343 issues;
- 344 (3) Is authorized to convene at least quarterly a state agency coordinating committee
345 ~~comprised~~ composed of the commissioners, directors, chairpersons, or their designees,
346 of the following agencies involved in health related activities: the Department of Human
347 Resources, including the Division of Public Health; and the Division of Mental Health,
348 Developmental Disabilities, and Addictive Diseases; ~~and the Division of Aging Services~~
349 ~~thereof~~, the Department of Aging, the Department of Juvenile Justice, the Department of
350 Corrections, the Insurance Department, the State Merit System of Personnel
351 Administration, the State Board of Workers' Compensation, and the Governor's Office
352 of Planning and Budget. The board of regents may also designate a person to serve on the
353 coordinating committee. The committee ~~will~~ shall convene for the purposes of planning
354 and coordinating health issues that have interagency considerations. The commissioner
355 of the department ~~will~~ shall serve as the chairperson of the state agency coordinating
356 committee and ~~will~~ shall report to the Governor the activities, findings, and
357 recommendations of the committee;
- 358 (4) Shall investigate the lack of availability of health insurance coverage and the issues
359 associated with the uninsured population of this state. In particular, the department is
360 authorized to investigate the feasibility of creating and administering insurance programs
361 for small businesses and political subdivisions of the state and to propose cost-effective
362 solutions to reducing the numbers of uninsured in this state;
- 363 (5) Shall study and recommend any additional functions needed to carry out the purposes
364 of the department, including the creation of a consumer medical advocate. Such
365 recommendations shall be made to the Governor and General Assembly by December 31,
366 1999;
- 367 (6) Is authorized to appoint a health care work force policy advisory committee to
368 oversee and coordinate work force planning activities;
- 369 (7) Is authorized to solicit and accept donations, contributions, and gifts and receive,
370 hold, and use grants, devises, and bequests of real, personal, and mixed property on
371 behalf of the state to enable the department to carry out its functions and purposes; and
- 372 (8) Is authorized to award grants, as funds are available, to hospital authorities and
373 hospitals for public health purposes, pursuant to Code Sections 31-7-94 and 31-7-94.1."

374 **SECTION 8.**

375 Said title is further amended in Code Section 31-8-51, relating to definitions relative to the
 376 long-term care ombudsman program, as follows:

377 "31-8-51.

378 As used in this article, the term:

379 (1) 'Commissioner' means the commissioner of aging.

380 ~~(1)(2)~~ (2) 'Community ombudsman' means a person certified as a community ombudsman
 381 pursuant to Code Section 31-8-52.

382 (3) 'Department' means the Department of Aging.

383 ~~(2)(4)~~ (4) 'Long-term care facility' means any skilled nursing home, intermediate care home,
 384 or personal care home now or hereafter subject to regulation and licensure by the
 385 department.

386 ~~(3)(5)~~ (5) 'Resident' means any person who is receiving treatment or care in any long-term
 387 care facility who seeks admission to such facility or who has been discharged or
 388 transferred from such facility.

389 ~~(4)(6)~~ (6) 'State ombudsman' means the state ombudsman established under Code Section
 390 31-8-52."

391 **SECTION 9.**

392 Said title is further amended in Code Section 31-8-52, relating to the establishment of the
 393 long-term care ombudsman program, as follows:

394 "31-8-52.

395 Pursuant to the Older Americans Act of 1965 (P.L. 89-73, 79 Stat. 219), as amended, and
 396 as a condition of receiving funds under that act for various programs for older citizens of
 397 this state, the Department of ~~Human Resources~~ Aging has been required to establish and
 398 operate a long-term care ombudsman program. ~~In order to receive such funds, the~~
 399 ~~department has already established a position of state ombudsman within the state Office~~
 400 ~~of Special Programs.~~ The state ombudsman shall be under the direct supervision of the
 401 commissioner or his or her designee and shall be given the powers and duties hereafter
 402 provided by this article. The state ombudsman shall be a person qualified by training and
 403 experience in the field of aging or long-term care, or both. The state ombudsman shall
 404 promote the well-being and quality of life of residents in long-term care facilities and
 405 encourage the development of community ombudsman activities at the local level. The
 406 state ombudsman may certify community ombudsmen and such certified ombudsmen shall
 407 have the powers and duties set forth in Code Sections 31-8-54 and 31-8-55. The state
 408 ombudsman shall require such community ombudsmen to receive appropriate training as
 409 determined and approved by the department prior to certification. Such training shall

410 include an internship of at least seven working days in a nursing home and at least three
 411 working days in a personal care home. Upon certification, the state ombudsman shall issue
 412 an identification card which shall be presented upon request by community ombudsmen
 413 whenever needed to carry out the purposes of this article. Two years after first being
 414 certified and every two years thereafter, each such community ombudsman, in order to
 415 carry out his or her duties under this article, shall be recertified by the state ombudsman as
 416 continuing to meet the department's standards as community ombudsman."

417 **SECTION 10.**

418 Said title is further amended in Code Section 31-8-53, relating to the duties of the long-term
 419 care ombudsman, as follows:

420 "31-8-53.

421 The state ombudsman shall:

422 (1) Establish policies and procedures, subject to approval by the commissioner of human
 423 resources, for receiving, investigating, referring, and attempting to resolve complaints
 424 made by or on behalf of residents of long-term care facilities concerning any act,
 425 omission to act, practice, policy, or procedure that may adversely affect the health, safety,
 426 or welfare of any resident;

427 (2) Investigate and make reports and recommendations to the department and other
 428 appropriate agencies concerning any act or failure to act by any government agency with
 429 respect to its responsibilities and duties in connection with long-term care or residents of
 430 long-term care facilities;

431 (3) Establish a uniform state-wide reporting system to record data about complaints and
 432 conditions in long-term care facilities and shall collect and analyze such data in order to
 433 identify significant problems affecting the residents of such facilities;

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

436 (5) Make an annual written report, documenting the types of complaints and problems
 437 reported by residents, to the ~~director of the Office of Special Programs for his~~
 438 ~~recommendations to the~~ commissioner concerning needed policy and regulatory and
 439 legislative changes."

440 **SECTION 11.**

441 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended
 442 in Code Section 49-1-9, relating to home delivered meals, transportation, services for the
 443 elderly, and preschool children with special needs fund, by revising subsections (b) and (c)
 444 as follows:

445 "(b) To support programs for home delivered meals, transportation services for the elderly,
 446 and preschool children with special needs ~~which programs that~~ have been established or
 447 approved by the department or the Department of Aging, the department and the
 448 Department of Aging may, without limitation, promote and solicit voluntary contributions
 449 through the income tax return contribution mechanism established in subsection (f) of this
 450 Code section, through offers to match contributions by any person with moneys
 451 appropriated or contributed to the department or the Department of Aging for such
 452 programs, or through any fund raising or other promotional techniques deemed appropriate
 453 by the department or the Department of Aging.

454 (c) There is established a special fund to be known as the 'Home Delivered Meals,
 455 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund.'
 456 This fund shall consist of all moneys contributed under subsection (b) of this Code section,
 457 all moneys transferred to the department under subsection (f) of this Code section, and any
 458 other moneys contributed to this fund or to the home delivered meals, transportation
 459 services for the elderly, or preschool children with special needs programs of the
 460 department or the Department of Aging and all interest thereon. All balances in the fund
 461 shall be deposited in an interest-bearing account identifying the fund and shall be carried
 462 forward each year so that no part thereof may be deposited in the general treasury. The
 463 fund shall be administered and the moneys held in the fund shall be expended by the
 464 ~~department through the Office of Aging~~ Department of Aging in furtherance of home
 465 delivered meals and transportation services to the elderly programs and by the department
 466 in furtherance of preschool children with special needs programs."

467 **SECTION 12.**

468 Said title is further amended in Code Section 49-4-162, relating to the establishment of the
 469 Georgia Qualified Long-term Care Partnership Program, by revising subsection (a) as
 470 follows:

471 "(a) In accordance with Section 6021 of the Federal Deficit Reduction Act of 2005, there
 472 is established the Georgia Qualified Long-term Care Partnership Program which shall be
 473 administered by the Department of Community Health, with the assistance of the
 474 ~~Commissioner of Insurance~~ and the Department of ~~Human Resources~~ Aging, and which
 475 shall be for the following purposes:

- 476 (1) To provide incentives for individuals to insure against the costs of providing for their
 477 long-term care needs;
- 478 (2) To provide a mechanism for individuals to qualify for coverage of the cost of their
 479 long-term care needs under the state Medicaid program without first being required to
 480 substantially exhaust their resources;

- 481 (3) To provide counseling services through the ~~Division~~Department of Aging ~~Services~~
 482 ~~of the Department of Human Resources~~ to individuals in planning of their long-term care
 483 needs; and
- 484 (4) To alleviate the financial burden on the state's Medicaid program by encouraging the
 485 pursuit of private initiatives."

486 **SECTION 13.**

487 Said title is further amended in Chapter 6, relating to services for the aging, by adding a new
 488 Code section to read as follows:

489 "49-6-1.1.

490 As used in this chapter, the term:

491 (1) 'Board' means the Board of Aging.

492 (2) 'Commissioner' means the commissioner of aging.

493 (3) 'Department' means the Department of Aging."

494 **SECTION 14.**

495 Said title is further amended in Code Section 49-6-5, relating to the creation of the Office of
 496 Aging Section within the Department of Human Resources, as follows:

497 "49-6-5.

498 ~~The Office of Aging Section, administratively established previously within the~~
 499 ~~department, is statutorily established. The Office of Aging Section established by this Code~~
 500 ~~section shall have those functions, duties, powers, and responsibilities heretofore assigned~~
 501 ~~by the board and the commissioner and as hereafter so assigned or as provided by law.~~

502 Reserved."

503 **SECTION 15.**

504 Said title is further amended in Code Section 49-6-20, relating to the creation of the Council
 505 on Aging, by revising subsection (a) as follows:

506 "(a) There is created the Council on Aging. The council shall be composed of 20 members,
 507 at least ten of whom shall be consumers of services under programs of the ~~Office of Aging~~
 508 ~~Section of the Department of Human Resources~~ Department of Aging or similar state
 509 agencies. The ten consumer members shall include low-income and minority older persons
 510 at least in proportion to their number in the population of ~~the~~ this state. The remaining ten
 511 members of the council shall be representative of major public and private agencies and
 512 organizations in ~~the~~ this state and shall be experienced in or have demonstrated particular
 513 interest in the needs of the elderly. The members of the council shall be appointed as
 514 follows:

- 515 (1) Four consumer members and four members representing public and private agencies
 516 and organizations shall be appointed by the Governor;
- 517 (2) Two consumer members and two members representing public and private agencies
 518 and organizations shall be appointed by the President of the Senate;
- 519 (3) Two consumer members and two members representing public and private agencies
 520 and organizations shall be appointed by the Speaker of the House; and
- 521 (4) Two consumer members and two members representing public and private agencies
 522 and organizations shall be appointed by the commissioner."

523 **SECTION 16.**

524 Said title is further amended in Code Section 49-6-60, relating to legislative intent with
 525 respect to community care and services for the elderly, as follows:

526 "49-6-60.

527 The purpose of this article is to assist functionally impaired elderly persons in living
 528 dignified and reasonably independent lives in their own homes or in the homes of relatives
 529 or caregivers through the development, expansion, reorganization, and coordination of
 530 various ~~community-based~~ community based services. In recognition of the desire of older
 531 Georgians to reside at home or with their families as long as possible, the General
 532 Assembly intends that a continuum of care be established so that functionally impaired
 533 elderly persons age 60 and older may be assured the least restrictive environment suitable
 534 to their needs. The General Assembly further intends to maximize the utilization of existing
 535 community social and health services in order to prevent unnecessary placement of
 536 individuals in long-term care facilities. The development of innovative approaches to
 537 program management, staff training, and service delivery that impact on cost avoidance,
 538 cost effectiveness, and program efficiency shall be encouraged. It is further the intent of
 539 the General Assembly that the Department of ~~Human Resources~~ Aging shall serve as the
 540 agency responsible for planning and implementing the provision of ~~community-based~~
 541 community based services to the elderly reimbursable under the 'Georgia Medical
 542 Assistance Act of 1977.'"

543 **SECTION 17.**

544 Said title is further amended in Code Section 49-6-61, relating to definitions, as follows:

545 "49-6-61.

546 As used in this article, the term:

- 547 (1) ~~'Aging section' means the single organizational unit within the Department of Human~~
 548 ~~Resources responsible for the planning and administration of services under the Older~~
 549 ~~Americans Act of 1965.~~

- 550 (2) 'Department' means the Department of ~~Human Resources~~ Aging.
- 551 (3)(2) 'Functionally impaired elderly person' means any person 60 years of age or older
 552 with physical or mental limitations that restrict individual ability to perform the normal
 553 activities of daily living and which impede individual capacity to live independently.
- 554 (4)(3) The 'Georgia Medical Assistance Act of 1977' means Article 7 of Chapter 4 of this
 555 title.
- 556 (5)(4) 'Lead agency' means one or more agencies designated by the Department of
 557 ~~Human Resources~~ Aging to assess services needed by functionally impaired elderly
 558 persons, to coordinate and provide community care services to those persons, to provide
 559 case management, and, where necessary, to subcontract with providers of service. A lead
 560 agency shall be either a private nonprofit entity or any public entity, including, but not
 561 limited to, any organizational unit of the department.
- 562 (6)(5) 'Older Americans Act of 1965' means P.L. 92-258, as amended, on July 1, 1982."

563 **SECTION 18.**

564 Said title is further amended in Code Section 49-6-62, relating to the establishment of a
 565 community care unit within the aging section, as follows:

566 "49-6-62.

- 567 (a) The department shall establish a ~~community care unit within the aging section~~ division
 568 within the department called the Division of Community Care Services. The ~~community~~
 569 ~~care unit~~ Division of Community Care Services shall plan and oversee implementation of
 570 a system of coordinated community care and support services for the elderly. The
 571 ~~community care unit~~ Division of Community Care Services shall develop uniform
 572 assessment criteria that shall be used to determine an individual's functional impairment
 573 and to evaluate on a periodic basis the individual's need for community support services
 574 or institutionalized long-term care. The ~~community care unit~~ Division of Community Care
 575 Services shall also define each community care service and establish standards for the
 576 delivery of community care services. Where appropriate, the ~~community care unit~~ Division
 577 of Community Care Services shall utilize existing standards and definitions.
- 578 (b) The department shall designate specified geographic service areas which shall be
 579 defined in such a way as to ensure the efficient delivery of community care services.
- 580 (c) The department shall contract with a lead agency to coordinate and provide community
 581 care services within each specified geographic service area.
- 582 (d) Each lead agency shall annually submit to the ~~community care unit~~ Division of
 583 Community Care Services for approval a service plan evaluating the community care needs
 584 of the functionally impaired elderly, identifying priority services and target client groups,
 585 and detailing the means by which community care services will be delivered for the service

586 area of that agency. The plan shall also include projected program costs and fees to be
 587 charged for services. The lead agency may exclude from the service plan those individuals
 588 eligible for benefits under the 'Georgia Medical Assistance Act of 1977,' as amended, for
 589 whom there is a reasonable expectation that ~~community-based~~ community based services
 590 would be more expensive than services the individual would otherwise receive which
 591 would have been reimbursable under the 'Georgia Medical Assistance Act of 1977,' as
 592 amended.

593 (e) The department shall develop a plan which shall provide for the implementation of a
 594 community care system in each of the specified geographic service areas by July 1, 1985.
 595 The three-year plan shall be developed concurrent with and integrated into the state plan
 596 on aging required under the Older Americans Act of 1965 and shall provide for
 597 coordination of all ~~community-based~~ community based services for the elderly. The
 598 three-year plan shall include an inventory of existing services and an analysis comparing
 599 the cost of institutional long-term care and the cost of community care and other
 600 ~~community-based~~ community based services for the elderly. ~~The multiyear plan shall be~~
 601 ~~presented to the Board of Human Resources no later than July 31, 1983.~~

602 (f) At the end of the three-year implementation period, an annual community care service
 603 plan shall be incorporated into the state plan on aging.

604 (g) The department shall submit on January 1 of each year, beginning in 1984, a progress
 605 report on the implementation of the plan required by subsection (e) of this Code section to
 606 the Speaker of the House of Representatives, the Senate Committee on Assignments, the
 607 ~~chairman~~ chairperson of the House Committee on Health and Human Services ~~Committee~~,
 608 and the ~~chairman~~ chairperson of the Senate Health and Human Services Committee.

609 (h) In accordance with rules promulgated by the department, lead agencies may collect
 610 fees for community care case management and other services. Such fees shall be
 611 established on a sliding scale based upon income and economic need. Fees ~~will~~ shall not
 612 be charged those individuals for the mandatory assessment described in subsection (e) of
 613 Code Section 49-6-63. Lead agencies may accept contributions of money or contributions
 614 in kind from functionally impaired elderly persons, members of their families, or other
 615 interested persons or organizations. Such contributions ~~may~~ shall not be a condition of
 616 services and shall only be used to further the provision of community care services.

617 (i) Funding for services under this article shall be in addition to and not in lieu of funding
 618 for existing community services for the elderly. The department and the lead agency shall
 619 ensure that all other funding sources available, including reimbursement under the 'Georgia
 620 Medical Assistance Act of 1977' and the Older Americans Act of 1965, have been used
 621 prior to utilizing state funds for community care for the elderly."

622 **SECTION 19.**

623 Said title is further amended in Code Section 49-6-71, relating to the purpose of the "Georgia
624 Family Caregiver Support Act," as follows:

625 "49-6-71.

626 The purpose of this article shall be to establish a comprehensive caregiver program which
627 will marshal and integrate available resources and services to provide support and services
628 to caregivers of chronically dependent adults. This article exists to coordinate assistance
629 and maximize available services while maintaining and supporting existing services for
630 caregivers. Such assistance may include:

- 631 (1) Coordination and integration of information and services to caregivers in Georgia,
632 including, but not limited to, insurance and benefits counseling, respite services available
633 under the community care services program, the state respite or adult day-care program,
634 or the Older Americans Act of 1965, as amended, and coordination with educational and
635 other services offered by the caregiver resource center;
- 636 (2) Assistance to the caregiver to assure that supports to the functionally dependent older
637 adult or adult suffering from dementia are adequate and appropriate to maintain these
638 individuals in the home;
- 639 (3) Intermittent, planned, or emergency relief to the caregiver, either directly or through
640 use of other available resources and services;
- 641 (4) Restoration or maintenance of the caregiver's well-being;
- 642 (5) Preservation of the caregiver's informal supports such as family and friends;
- 643 (6) Supportive social services to the caregiver; and
- 644 (7) Affordable services through a cost-sharing mechanism developed by the ~~Division~~
645 Department of Aging ~~Services of the department~~ for those families whose household
646 incomes do not exceed 400 percent of the federal poverty level."

647 **SECTION 20.**

648 Said title is further amended in Code Section 49-6-72, relating to definitions relative to the
649 "Georgia Family Caregiver Support Act," by revising paragraphs (2) and (4) as follows:

650 "(2) 'Area agency on aging' means the single local agency designated by the ~~Division~~
651 Department of Aging ~~Services of the department~~ within each planning and service area
652 to administer the delivery of a comprehensive and coordinated plan of social and other
653 services and activities in the planning and service area."

654 "(4) 'Department' means the Department of ~~Human Resources~~ Aging."

655 **SECTION 21.**

656 Said title is further amended in Code Section 49-6-81, relating to legislative intent of the
657 "Adult Day Center for Aging Adults Licensure Act," which will be effective upon
658 appropriation of funds, as follows:

659 "49-6-81.

660 The intent of the General Assembly is to promote, safeguard, and protect the well-being
661 of adults participating in adult day care or adult day health services by authorizing,
662 promoting, and supporting licensure regulations for adult day care and adult day health
663 services providers. It is further the intent of the General Assembly that the Department of
664 ~~Human Resources~~ Aging shall serve as the agency responsible for promulgating,
665 implementing, and enforcing the licensure regulations."

666 **SECTION 22.**

667 Said title is further amended in Code Section 49-6-82, relating to definitions relative to the
668 "Adult Day Center for Aging Adults Licensure Act," which will be effective upon
669 appropriation of funds, by revising paragraph (5) as follows:

670 "(5) 'Department' means the Department of ~~Human Resources~~ Aging."

671 **SECTION 23.**

672 This Act shall become effective upon its approval by the Governor or upon its becoming law
673 without such approval.

674 **SECTION 24.**

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