

The House Committee on Appropriations offers the following substitute to HB 228:

A BILL TO BE ENTITLED  
AN ACT

1 To amend various titles of the Official Code of Georgia Annotated so as to establish the  
2 Department of Public and Behavioral Health; to reassign various functions of the Department  
3 of Human Resources to the Department of Public and Behavioral Health; to provide for  
4 transition to the new agency; to create a new board for the Department of Public and  
5 Behavioral Health; to establish the position of State Health Officer; to establish the Health  
6 Coordinating Council; to amend various titles for purposes of conformity; to provide for  
7 related matters; to provide an effective date; to repeal conflicting laws; and for other  
8 purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 PART I  
11 Department of Public and Behavioral Health.

12 SECTION 1-1.  
13 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising  
14 Chapter 2, relating to the Department of Human Resources, as follows:

15 "CHAPTER 2  
16 31-2-1.  
17 The General Assembly finds that the multiple health service issues confronting Georgia  
18 citizens and delivered by the state beg for improved coordination and integrated delivery  
19 systems. Scientific and service delivery research increasingly identify the relationship of  
20 physical, mental, and developmental conditions with and to each other and accent that good  
21 mental and physical health and well-being can best be achieved with an awareness of how  
22 the mind and body interact. The General Assembly further finds that Georgia citizens  
23 suffering from one physical ailment may also suffer from disabling mental or

24 developmental conditions and that many such health issues frequently co-occur with  
25 addictive disease or substance abuse. Georgia has multiple delivery systems for the  
26 detection, prevention, and treatment of mental, physical, developmental, and substance  
27 abuse conditions which too often exist in separate programs, divisions, or departments  
28 without sufficient coordinated planning and funding. Greater efficiencies and more  
29 effective outcomes can be achieved by organizing and delivering services with awareness  
30 of a citizen's whole condition. The General Assembly, therefore, desires to create a  
31 Department of Public and Behavioral Health as specified in this chapter combining the  
32 mental health, addictive disease, public health, and developmental disability services  
33 provided by the State of Georgia.

34 31-2-2.

35 (a) There is created the Board of Public and Behavioral Health which shall establish the  
36 general policy to be followed by the Department of Public and Behavioral Health. The  
37 powers, functions, and duties of the Board of Human Resources as they existed on June 30,  
38 2009, with regard to the Division of Mental Health, Developmental Disabilities, and  
39 Addictive Diseases and with regard to the Division of Public Health, unless otherwise  
40 provided in this Act, are transferred to the Board of Public and Behavioral Health effective  
41 July 1, 2009. The board shall consist of nine members appointed by the Governor and  
42 confirmed by the Senate.

43 (b) The Governor shall designate the initial terms of the members of the board as follows:  
44 three members shall be appointed for one year; three members shall be appointed for two  
45 years; and three members shall be appointed for three years. Thereafter, all succeeding  
46 appointments shall be for three-year terms from the expiration of the previous term.

47 (c) Vacancies in office shall be filled by appointment by the Governor in the same manner  
48 as the appointment to the position on the board which becomes vacant. An appointment to  
49 fill a vacancy other than by expiration of a term of office shall be for the balance of the  
50 unexpired term.

51 (d) Members of the board may be removed from office under the same conditions for  
52 removal from office of members of professional licensing boards provided in Code Section  
53 43-1-17.

54 (e) There shall be a chairperson of the board elected by and from the membership of the  
55 board who shall be the presiding officer of the board.

56 (f) The members of the board shall receive a per diem allowance and expenses as shall be  
57 set and approved by the Office of Planning and Budget in conformance with rates and  
58 allowances set for members of other state boards.

59 31-2-3.

60 (a) There is created a Department of Public and Behavioral Health. The powers, functions,  
61 and duties of the Department of Human Resources as they existed on June 30, 2009,  
62 relating to the Division of Mental Health, Developmental Disabilities, and Addictive  
63 Diseases and the Division of Public Health, unless otherwise provided in this Act, are  
64 transferred to the Department of Public and Behavioral Health effective July 1, 2009.

65 (b) There is created the position of commissioner of public and behavioral health. The  
66 commissioner shall be the chief administrative officer of the department and be both  
67 appointed and removed by the board, subject to the approval of the Governor. Subject to  
68 the general policy established by the board, the commissioner shall supervise, direct,  
69 account for, organize, plan, administer, and execute the functions vested in the department.

70 31-2-4.

71 (a) The Department of Public and Behavioral Health shall succeed to all rules, regulations,  
72 policies, procedures, and administrative orders of the Department of Human Resources that  
73 are in effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and  
74 which relate to the functions transferred to the Department of Public and Behavioral Health  
75 pursuant to Code Section 31-2-3 and shall further succeed to any rights, privileges,  
76 entitlements, obligations, and duties of the Department of Human Resources that are in  
77 effect on June 30, 2009, which relate to the functions transferred to the Department of  
78 Public and Behavioral Health pursuant to Code Section 31-2-3. Such rules, regulations,  
79 policies, procedures, and administrative orders shall remain in effect until amended,  
80 repealed, superseded, or nullified by the Department of Public and Behavioral Health by  
81 proper authority or as otherwise provided by law.

82 (b) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
83 agreements, and other transactions entered into before July 1, 2009, by the Department of  
84 Human Resources which relate to the functions transferred to the Department of Public and  
85 Behavioral Health pursuant to Code Section 31-2-3 shall continue to exist; and none of  
86 these rights, privileges, entitlements, and duties are impaired or diminished by reason of  
87 the transfer of the functions to the Department of Public and Behavioral Health. In all such  
88 instances, the Department of Public and Behavioral Health shall be substituted for the  
89 Department of Human Resources, and the Department of Public and Behavioral Health  
90 shall succeed to the rights and duties under such contracts, leases, agreements, and other  
91 transactions.

92 (c) All persons employed by the Department of Human Resources in capacities which  
93 relate to the functions transferred to the Department of Public and Behavioral Health  
94 pursuant to Code Section 31-2-3 on June 30, 2009, shall, on July 1, 2009, become

95 employees of the Department of Public and Behavioral Health in similar capacities, as  
 96 determined by the commissioner of public and behavioral health. Such employees shall  
 97 be subject to the employment practices and policies of the Department of Public and  
 98 Behavioral Health on and after July 1, 2009, but the compensation and benefits of such  
 99 transferred employees shall not be reduced as a result of such transfer. Employees who are  
 100 subject to the rules of the State Personnel Board and thereby under the State Merit System  
 101 of Personnel Administration and who are transferred to the department shall retain all  
 102 existing rights under the State Merit System of Personnel Administration. Retirement  
 103 rights of such transferred employees existing under the Employees' Retirement System of  
 104 Georgia or other public retirement systems on June 30, 2009, shall not be impaired or  
 105 interrupted by the transfer of such employees and membership in any such retirement  
 106 system shall continue in the same status possessed by the transferred employees on June  
 107 30, 2009. Accrued annual and sick leave possessed by said employees on June 30, 2009,  
 108 shall be retained by said employees as employees of the Department of Public and  
 109 Behavioral Health.

110 ~~31-2-1.31-2-5.~~

111 The Department of ~~Human Resources~~ Public and Behavioral Health is ~~created and~~  
 112 established to provide a mental health, developmental disability, and addictive disease  
 113 system in this state pursuant to Title 37 and to safeguard and promote the health of the  
 114 people of this state and is empowered to employ all legal means appropriate to that end.  
 115 Illustrating, without limiting, the foregoing grant of authority, the department is  
 116 empowered to:

- 117 (1) Provide epidemiological investigations and laboratory facilities and services in the  
 118 detection and control of disease, disorders, and disabilities and to provide research,  
 119 conduct investigations, and disseminate information concerning reduction in the  
 120 incidence and proper control of disease, disorders, and disabilities;
- 121 (2) Forestall and correct physical, chemical, ~~and biological, and psychological~~  
 122 that, if left to run their course, could be injurious to health;
- 123 (3) Regulate and require the use of sanitary facilities at construction sites and places of  
 124 public assembly and to regulate persons, firms, and corporations engaged in the rental  
 125 and service of portable chemical toilets;
- 126 (4) Isolate and treat persons afflicted with a communicable disease who are either unable  
 127 or unwilling to observe the department's rules and regulations for the suppression of such  
 128 disease and to establish, to that end, complete or modified quarantine, surveillance, or  
 129 isolation of persons and animals exposed to a disease communicable to man;

- 130 (5) Manufacture drugs and biologicals which are not readily available on the market and  
131 not manufactured for commercial purposes, when expressly authorized and shown on the  
132 minutes of the department; to procure and distribute drugs and biologicals and purchase  
133 services from clinics, laboratories, hospitals, and other health facilities and, when  
134 authorized by law, to acquire and operate such facilities;
- 135 (6) Cooperate with agencies and departments of the federal government and of the state  
136 by supplying consultant services in medical and hospital programs and in the health  
137 aspects of civil defense, emergency preparedness, and emergency response;
- 138 (7) ~~Detect~~ Prevent, detect, and relieve physical defects and deformities and provide  
139 treatment for mental and emotional disorders and infirmities;
- 140 (8) Promote the prevention, early detection, and control of problems affecting the dental  
141 health of the citizens of Georgia;
- 142 (9) Contract with county boards of health to assist in the performance of services  
143 incumbent upon them under Chapter 3 of this title and, in the event of grave emergencies  
144 of more than local peril, to employ whatever means may be at its disposal to overcome  
145 such emergencies;
- 146 (10) Contract and execute releases for assistance in the performance of its functions and  
147 the exercise of its powers and to supply services which are within its purview to perform;
- 148 (11) Enter into or upon public or private property at reasonable times for the purpose of  
149 inspecting same to determine the presence of disease and conditions deleterious to health  
150 or to determine compliance with health laws and rules, regulations, and standards  
151 thereunder;
- 152 (12) Promulgate and enforce rules and regulations for the licensing of medical facilities  
153 wherein abortion procedures under subsections (b) and (c) of Code Section 16-12-141 are  
154 to be performed; and, further, to disseminate and distribute educational information and  
155 medical supplies and treatment in order to prevent unwanted pregnancy; and
- 156 (13) Establish, by rule adopted pursuant to Chapter 13 of Title 50, the 'Georgia  
157 Administrative Procedure Act,' a schedule of fees for laboratory services provided,  
158 schedules to be determined in a manner so as to help defray the costs incurred by the  
159 department, but in no event to exceed such costs, both direct and indirect, in providing  
160 such laboratory services, provided no person shall be denied services on the basis of his  
161 inability to pay. All fees paid thereunder shall be paid into the general funds of the State  
162 of Georgia. The individual who requests services authorized in this Code section shall  
163 pay the fee. As used in this Code section, the term 'individual' means a natural person.

164 ~~31-2-2:~~ 31-2-6.

165 The department is designated and empowered as the agency of this state to apply for,  
 166 receive, and administer grants and donations for health purposes from the federal  
 167 government and from any of its departments, agencies, and instrumentalities; from  
 168 appropriations of the state; and from any other sources in conformity with law. The  
 169 department shall have the authority to prescribe the purposes for which such funds may be  
 170 used in order to:

- 171 (1) Provide, extend, and improve maternal and child health services;
- 172 (2) Locate children already ~~crippled~~ disabled or suffering from conditions leading to  
 173 ~~crippling~~ a disability and provide for such children medical, surgical, corrective, and  
 174 other services and to provide for facilities for diagnosis, hospitalization, and aftercare;
- 175 (3) Advance the prevention and control of cancer and of venereal, tubercular, and other  
 176 diseases;
- 177 (4) Forestall and correct conditions that, if left to run their course, could be injurious to  
 178 health;
- 179 (5) Conduct programs which lie within the scope and the power of the department  
 180 relating to industrial hygiene, control of ionizing radiation, occupational health, water  
 181 quality, water pollution control, and planning and development of water resources;
- 182 (6) Administer grants-in-aid to assist in the construction of publicly owned and operated  
 183 general and special medical facilities;
- 184 (7) Conduct programs:
- 185 (A) Relating to chronic illness;
- 186 (B) Relating to the dental and oral health of the people of this state which are  
 187 appropriate to the purpose of the department; and
- 188 (C) Relating to the mental and physical health of the people of this state which are  
 189 appropriate to the purpose of the department; and
- 190 (8) Develop the health aspects of ~~civil defense~~ emergency preparedness and emergency  
 191 response.

192 When a plan is required to be approved by any department, agency, or instrumentality of  
 193 the federal government as condition precedent to the making of grants for health purposes,  
 194 the department, as agent of this state, is directed to formulate, submit, and secure approval  
 195 of that plan and thereafter, upon its approval and the receipt of funds payable thereunder,  
 196 to carry the plan into effect in accordance with its terms, applying thereto the funds so  
 197 received as well as other applicable amounts from whatever source.

198 ~~31-2-3.~~ 31-2-7.

199 The department, from time to time, shall make or cause to be made studies and surveys to  
200 determine the quality, scope, and reach of its programs.

201 ~~31-2-4.~~ 31-2-8.

202 (a) The department is authorized to adopt and promulgate rules and regulations to effect  
203 prevention, abatement, and correction of situations and conditions which, if not promptly  
204 checked, would militate against the health of the people of this state. Such rules and  
205 regulations shall be adapted to the purposes intended, within the purview of the powers and  
206 duties imposed upon the department by this chapter, and supersede conflicting rules,  
207 regulations, and orders adopted pursuant to the authority of Chapter 3 of this title.

208 (b) The department upon application or petition may grant variances and waivers to  
209 specific rules and regulations which establish standards for facilities or entities regulated  
210 by the department as follows:

211 (1) The department may authorize departure from the literal requirements of a rule or  
212 regulation by granting a variance upon a showing by the applicant or petitioner that the  
213 particular rule or regulation that is the subject of the variance request should not be  
214 applied as written because strict application would cause undue hardship. The applicant  
215 or petitioner additionally must show that adequate standards affording protection of  
216 health, safety, and care exist and will be met in lieu of the exact requirements of the rule  
217 or regulation in question;

218 (2) The department may dispense entirely with the enforcement of a rule or regulation  
219 by granting a waiver upon a showing by the applicant or petitioner that the purpose of the  
220 rule or regulation is met through equivalent standards affording equivalent protection of  
221 health, safety, and care;

222 (3) The department may grant waivers and variances to allow experimentation and  
223 demonstration of new and innovative approaches to delivery of services upon a showing  
224 by the applicant or petitioner that the intended protections afforded by the rule or  
225 regulation which is the subject of the request are met and that the innovative approach has  
226 the potential to improve service delivery;

227 (4) Waivers or variances which affect an entire class of facilities may only be approved  
228 by the Board of ~~Human Resources~~ Public and Behavioral Health and shall be for a time  
229 certain, as determined by the board. A notice of the proposed variance or waiver affecting  
230 an entire class of facilities shall be made in accordance with the requirements for notice  
231 of rule making in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act'; or

232 (5) Variances or waivers which affect only one facility in a class may be approved or  
233 denied by the department and shall be for a time certain, as determined by the

234 department. The department shall maintain a record of such action and shall make this  
235 information available to the board and all other persons who request it.

236 (c) The department may exempt classes of facilities from regulation when, in the  
237 department's judgment, regulation would not permit the purpose intended or the class of  
238 facilities is subject to similar requirements under other rules and regulations. Such  
239 exemptions shall be provided in rules and regulations promulgated by the board.

240 ~~31-2-5.~~ 31-2-9.

241 Actions at law and in equity against the department, the board, or any of its members  
242 predicated upon omissions or acts done in their official capacity or under color thereof shall  
243 be brought in the appropriate county; provided, however, that nothing in this Code section  
244 shall be construed as waiving the immunity of the state to be sued without its consent.

245 ~~31-2-6.~~ 31-2-10.

246 (a) This Code section shall be applicable to any agency, center, facility, institution,  
247 ~~community living arrangement, drug abuse treatment and education program,~~ or entity  
248 subject to regulation by the department under ~~Chapters 7, 13, 22, 23, and 44~~ Chapter 13  
249 ~~of this title; Chapter 5 of Title 26, paragraph (16) of subsection (b) and subsection (c) of~~  
250 ~~Code Section 37-1-20; and Chapter 5 and Article 7 of Chapter 6 of Title 49.~~ For purposes  
251 of this Code section, the term 'license' shall be used to refer to any license, permit,  
252 registration, or commission issued by the department pursuant to the provisions of the law  
253 cited in this subsection.

254 (b) The department shall have the authority to take any of the actions enumerated in  
255 subsection (c) of this Code section upon a finding that the applicant or licensee has:

256 (1) Knowingly made any false statement of material information in connection with the  
257 application for a license, or in statements made or on documents submitted to the  
258 department as part of an inspection, survey, or investigation, or in the alteration or  
259 falsification of records maintained by the agency, facility, institution, or entity;

260 (2) Failed or refused to provide the department with access to the premises subject to  
261 regulation or information pertinent to the initial or continued licensing of the agency,  
262 facility, institution, or entity;

263 (3) Failed to comply with the licensing requirements of this state; or

264 (4) Failed to comply with any ~~provisions~~ provision of this Code section.

265 (c) When the department finds that any applicant or licensee has violated any ~~provisions~~  
266 provision of subsection (b) of this Code section or laws, rules, regulations, or formal orders  
267 related to the initial or continued licensing of the agency, facility, institution, or entity, the



268 department, subject to notice and opportunity for hearing, may take any of the following  
269 actions:

- 270 (1) Refuse to grant a license; provided, however, that the department may refuse to grant  
271 a license without holding a hearing prior to taking such action;
- 272 (2) Administer a public reprimand;
- 273 (3) Suspend any license, ~~permit, registration, or commission~~ for a definite period or for  
274 an indefinite period in connection with any condition which may be attached to the  
275 restoration of said license;
- 276 (4) Prohibit any applicant or licensee from allowing a person who previously was  
277 involved in the management or control, as defined by rule, of any agency, facility,  
278 institution, or entity which has had its license or application revoked or denied within the  
279 past 12 months to be involved in the management or control of such agency, facility,  
280 institution, or entity;
- 281 (5) Revoke any license;
- 282 (6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for  
283 each violation of a law, rule, regulation, or formal order related to the initial or ongoing  
284 licensing of any agency, facility, institution, or entity, except that no fine may be imposed  
285 against any nursing facility, nursing home, or intermediate care facility which is subject  
286 to intermediate sanctions under the provisions of 42 U.S.C. Section 1396r(h)(2)(A), as  
287 amended, whether or not those sanctions are actually imposed; or
- 288 (7) Limit or restrict any license as the department deems necessary for the protection of  
289 the public, including, but not limited to, restricting some or all services of or admissions  
290 into an agency, facility, institution, or entity for a time certain.

291 In taking any of the actions enumerated in this subsection, the department shall consider  
292 the seriousness of the violation, including the circumstances, extent, and gravity of the  
293 prohibited acts, and the hazard or potential hazard created to the health or safety of the  
294 public.

295 (d)(1) With respect to any facility classified as a nursing facility, nursing home, or  
296 intermediate care home, the department may not take an action to fine or restrict the  
297 license of any such facility based on the same act, occurrence, or omission for which:

- 298 (A) The facility has received an intermediate sanction under the provisions of 42  
299 U.S.C. Section 1396r(h)(2)(A), as amended, or 42 U.S.C. Section 1395i-3(h)(2)(B); or  
300 (B) Such facility has been served formal notice of intent to take such a sanction which  
301 the Department of Community Health based on administrative review or any other  
302 appropriate body based on administrative or judicial review determines not to impose;  
303 provided, however, that nothing in this subsection shall prohibit the department from  
304 utilizing the provisions authorized under subsection (f) of this Code section.

305 (2) When any civil monetary penalty is recommended and imposed against such facility,  
306 and the department does not resurvey the facility within 48 hours after the date by which  
307 all items on a plan of correction submitted by the facility are to be completed, the accrual  
308 of any resulting civil monetary penalties shall be suspended until the facility is  
309 resurveyed by the department.

310 (3) If the department resurveys such facility beyond 48 hours after the final date for  
311 completion of all items on the plan of correction submitted by the facility, and the facility  
312 is not in substantial compliance with the applicable standards, any civil monetary  
313 penalties imposed shall relate back to the date on which such penalties were suspended.

314 (4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, nothing  
315 contained in said paragraphs ~~(2) and (3) of this subsection~~ shall be construed as requiring  
316 the state survey agency to act in violation of applicable federal law, regulations, and  
317 guidelines.

318 (e) The department may deny a license or otherwise restrict a license for any applicant  
319 who has had a license denied, revoked, or suspended within one year of the date of an  
320 application or who has transferred ownership or governing authority of an agency, facility,  
321 institution, or entity subject to regulation by the department within one year of the date of  
322 a new application when such transfer was made in order to avert denial, revocation, or  
323 suspension of a license.

324 (f) With regard to any contested case instituted by the department pursuant to this Code  
325 section or other provisions of law which may now or hereafter authorize remedial or  
326 disciplinary grounds and action, the department may, in its discretion, dispose of the action  
327 so instituted by settlement. In such cases, all parties, successors, and assigns to any  
328 settlement agreement shall be bound by the terms specified therein, and violation thereof  
329 by any applicant or licensee shall constitute grounds for any action enumerated in  
330 subsection (c) of this Code section.

331 (g) The department shall have the authority to make public or private investigations or  
332 examinations inside or outside of this state to determine whether the provisions of this  
333 Code section or any other law, rule, regulation, or formal order relating to the licensing of  
334 any agency, facility, institution, or entity has been violated. Such investigations may be  
335 initiated at any time, in the discretion of the department, and may continue during the  
336 pendency of any action initiated by the department pursuant to subsection (c) of this Code  
337 section.

338 (h) For the purpose of conducting any investigation, inspection, or survey, the department  
339 shall have the authority to require the production of any books, records, papers, or other  
340 information related to the initial or continued licensing of any agency, facility, institution,  
341 or entity.

342 (i) Pursuant to the investigation, inspection, and enforcement powers given to the  
343 department by this Code section and other applicable laws, the department may assess  
344 against an agency, facility, institution, or entity reasonable and necessary expenses incurred  
345 by the department pursuant to any administrative or legal action required by the failure of  
346 the agency, facility, institution, or entity to fully comply with the provisions of any law,  
347 rule, regulation, or formal order related to the initial or continued licensing. Assessments  
348 shall not include attorney's fees and expenses of litigation, shall not exceed other actual  
349 expenses, and shall only be assessed if such investigations, inspection, or enforcement  
350 actions result in adverse findings, as finally determined by the department, pursuant to  
351 administrative or legal action.

352 (j) For any action taken or any proceeding held under this Code section or under color of  
353 law, except for gross negligence or willful or wanton misconduct, the department, when  
354 acting in its official capacity, shall be immune from liability and suit to the same extent that  
355 any judge of any court of general jurisdiction in this state would be immune.

356 (k) In an administrative or legal proceeding under this Code section, a person or entity  
357 claiming an exemption or an exception granted by law, rule, regulation, or formal order has  
358 the burden of proving this exemption or exception.

359 (l) This Code section and all actions resulting from its provisions shall be administered in  
360 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

361 (m) The provisions of this Code section shall be supplemental to and shall not operate to  
362 prohibit the department from acting pursuant to those provisions of law which may now  
363 or hereafter authorize remedial or disciplinary grounds and action for the department. In  
364 cases where those other provisions of law so authorize other disciplinary grounds and  
365 actions, but this Code section limits such grounds or actions, those other provisions shall  
366 apply.

367 (n) The department is authorized to promulgate rules and regulations to implement the  
368 provisions of this Code section.

369 ~~31-2-7.~~ 31-2-11.

370 (a) As used in this Code section, the term:

371 (1) 'Chamber system' means a system of chambers with each chamber being a molded  
372 polyolefin plastic, arch shaped, hollow structure with an exposed bottom area and solid  
373 top and louvered sidewall for infiltration of effluent into adjoining bottom and sidewall  
374 soil areas. Chambers may be of different sizes and configurations to obtain desired  
375 surface areas.

376 (2) 'Conventional system' means a system traditionally used composed of perforated pipe  
377 surrounded by gravel or stone masking for the infiltration of effluent into adjoining  
378 bottom and side soil areas.

379 (3) 'On-site sewage management system' means a sewage management system other than  
380 a public or community sewage treatment system serving one or more buildings, mobile  
381 homes, recreational vehicles, residences, or other facilities designed or used for human  
382 occupancy or congregation. Such term shall include, without limitation, conventional and  
383 chamber septic tank systems, privies, and experimental and alternative on-site sewage  
384 management systems which are designed to be physically incapable of a surface  
385 discharge of effluent that may be approved by the department.

386 (4) 'Prior approved system' means only a chamber system or conventional system or  
387 component of such system which is designed to be physically incapable of a surface  
388 discharge of effluent and which was properly approved pursuant to subparagraph  
389 (a)(2)(B) of this Code section, as such Code section became law on April 19, 1994, for  
390 use according to manufacturers' recommendations, prior to April 14, 1997.

391 (5) 'Unsatisfactory service' means documented substandard performance as compared  
392 to other approved systems or components.

393 (b) ~~The Department of Human Resources~~ department shall have the authority as it deems  
394 necessary and proper to adopt state-wide regulations for on-site; sewage management  
395 systems, including but not limited to experimental and alternative systems. The department  
396 is authorized to require that any such on-site sewage management system be examined and  
397 approved prior to allowing the use of such system in the state; provided, however, that any  
398 prior approved system shall continue to be approved for installation in every county of the  
399 state pursuant to the manufacturer's recommendations, including sizing of no less than 50  
400 percent of trench length of a conventional system designed for equal flows in similar soil  
401 conditions. Upon written request of one-half or more of the health districts in the state, the  
402 department is authorized to require the reexamination of any such system or component  
403 thereof, provided that documentation is submitted indicating unsatisfactory service of such  
404 system or component thereof. Before any such examination or reexamination, the  
405 department may require the person, persons, or organization manufacturing or marketing  
406 the system to reimburse the department or its agent for the reasonable expenses of such  
407 examination.

408 (c)(1) This subsection shall not be construed to prohibit the governing authority of any  
409 county or municipality in the state from adopting and enforcing codes at the local level;  
410 provided, however, that no county, municipality, or state agency may require any  
411 certified septic tank installer or certified septic tank pumper who has executed and  
412 deposited a bond as authorized in paragraph (2) of this subsection to give or furnish or

413 execute any code compliance bond or similar bond for the purpose of ensuring that all  
 414 construction, installation, or modifications are made or completed in compliance with the  
 415 county or municipal ordinances or building and construction codes.

416 (2) In order to protect the public from damages arising from any work by a certified  
 417 septic tank installer or certified septic tank pumper, which work fails to comply with any  
 418 state construction codes or with the ordinances or building and construction codes  
 419 adopted by any county or municipal corporation, any such certified septic tank installer  
 420 or certified septic tank pumper may execute and deposit with the judge of the probate  
 421 court in the county of his or her principal place of business a bond in the sum of  
 422 \$10,000.00. Such bond shall be a cash bond of \$10,000.00 or executed by a surety  
 423 authorized and qualified to write surety bonds in the State of Georgia and shall be  
 424 approved by the local county or municipal health department. Such bond shall be  
 425 conditioned upon all work done or supervised by such certificate holder complying with  
 426 the provisions of any state construction codes or any ordinances or building and  
 427 construction codes of any county or municipal corporation wherein the work is  
 428 performed. Action on such bond may be brought against the principal and surety thereon  
 429 in the name of and for the benefit of any person who suffers damages as a consequence  
 430 of said certificate holder's work not conforming to the requirements of any ordinances or  
 431 building and construction codes; provided, however, that the aggregate liability of the  
 432 surety to all persons so damaged shall in no event exceed the sum of such bond.

433 (3) In any case where a bond is required under this subsection, the certified septic tank  
 434 installer or certified septic tank pumper shall file a copy of the bond with the county or  
 435 municipal health department in the political subdivision wherein the work is being  
 436 performed.

437 (4) The provisions of this subsection shall not apply to or affect any bonding  
 438 requirements involving contracts for public works as provided in Chapter 10 of Title 13.

439 (d) This Code section does not restrict the work of a plumber licensed by the State  
 440 Construction Industry Licensing Board to access any on-site sewage management system  
 441 for the purpose of servicing or repairing any plumbing system or connection to the on-site  
 442 sewage management system.

443 ~~31-2-8.~~ 31-2-12.

444 Until July 1, 2012, the department shall provide by rule or regulation for the regulation of  
 445 any land disposal site that receives septic tank waste from only one septic tank pumping  
 446 and hauling business and which as of June 30, 2007, operated under a valid permit for such  
 447 activity as issued by the department (previously conducted by the Department of Human  
 448 Resources) under this Code section. No new permit shall be issued by the department

449 under this Code section for such type of site on or after July 1, 2007, but instead any new  
 450 permit issued for such type of site on or after such date shall be issued by the Department  
 451 of Natural Resources under Code Section 12-8-41. This Code section shall stand repealed  
 452 on July 1, 2012.

453 ~~31-2-9.~~ 31-2-13.

454 (a) The General Assembly makes the following findings:

- 455 (1) Every year in Georgia, approximately 850 people die from suicide;  
 456 (2) More Georgians die from suicide than from homicide;  
 457 (3) More teenagers and young adults die from suicide than from cancer, heart disease,  
 458 AIDS, birth defects, stroke, pneumonia, influenza, and chronic lung disease combined;  
 459 (4) Many who attempt suicide do not seek professional help after the attempt;  
 460 (5) In Georgia, three out of four suicide deaths involve a firearm;  
 461 (6) Factors such as aging, drug and alcohol abuse, unemployment, mental illness,  
 462 isolation, and bullying in school contribute to causes of suicide; and  
 463 (7) Education is necessary to inform the public about the causes of suicide and the early  
 464 intervention programs that are available.

465 (b) There is created the Suicide Prevention Program to be managed by the injury  
 466 prevention section of the Division of Public Health of the ~~Department of Human Resources~~  
 467 department.

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

- 469 (1) Establish a link between state agencies and offices, including but not limited to the  
 470 ~~department's~~ Division of Aging Services; and Division of Family and Children Services  
 471 of the Department of Human Services; and the Division of Mental Health, Developmental  
 472 Disabilities, and Addictive Diseases of the department, local government agencies, health  
 473 care providers, hospitals, nursing homes, and jails to collect data on suicide deaths and  
 474 attempted suicides;  
 475 (2) Work with public officials to improve firearm safety;  
 476 (3) Improve education for nurses, judges, physician assistants, social workers,  
 477 psychologists, and other counselors with regard to suicide education and prevention and  
 478 expand educational resources for professionals working with those persons most at risk  
 479 of suicide;  
 480 (4) Provide training and minimal screening tools for clergy, teachers and other  
 481 educational staff, and correctional workers on how to identify and respond to persons at  
 482 risk of suicide;  
 483 (5) Provide educational programs for family members of persons at an elevated risk of  
 484 suicide;

- 485 (6) Develop standardized protocols to be used by the ~~Department of Human Resources~~  
 486 department in reviewing suicide death scene investigations;
- 487 (7) Work to increase the number of follow-back studies of suicides;
- 488 (8) Work to increase the number of hospitals that code for external ~~cause of injuries~~  
 489 causes of injury;
- 490 (9) Implement a state-wide reporting system for reporting suicides;
- 491 (10) Support pilot projects to link and analyze information on self-destructive behavior  
 492 from various, distinct data systems; and
- 493 (11) Perform such other tasks as deemed appropriate to further suicide education and  
 494 prevention in Georgia.
- 495 (d) The Suicide Prevention Program shall be provided staff to consist of a full-time  
 496 coordinator, half-time data analyst/epidemiologist, and administrative support, all subject  
 497 to available funding.

498 31-2-14.

- 499 (a) The position of State Health Officer is created. The commissioner of public and  
 500 behavioral health or the director of the Division of Public Health of the Department of  
 501 Public and Behavioral Health shall be the State Health Officer, as designated by the  
 502 Governor.
- 503 (b) The State Health Officer shall perform such health emergency preparedness duties as  
 504 assigned by the Governor.

505 31-2-15.

- 506 (a) There is created the Health Coordinating Council. The council shall consist of the  
 507 commissioner of public and behavioral health; the commissioner of human services; the  
 508 commissioner of juvenile justice; the commissioner of corrections; an adult consumer of  
 509 public or behavioral health services, appointed by the Governor; a family member of a  
 510 consumer of public or behavioral health services, appointed by the Governor; a parent of  
 511 a child receiving public or behavioral health services, appointed by the Governor; a  
 512 member of the House of Representatives, appointed by the Speaker of the House of  
 513 Representatives; and a member of the Senate, appointed by the Lieutenant Governor.
- 514 (b) The commissioner of public and behavioral health shall be the chairperson of the  
 515 council. A vice chairperson and a secretary shall be selected by the members of the council  
 516 as prescribed in the council's bylaws.
- 517 (c) Meetings of the council shall be held quarterly, or more frequently, on the call of the  
 518 chairperson. Meetings of the council shall be held with no less than five days' public notice  
 519 for regular meetings and with such notice as the bylaws may prescribe for special meetings.

520 Each member shall be given written notice of all meetings. All meetings of the council  
521 shall be subject to the provisions of Chapter 14 of Title 50. Minutes or transcripts shall  
522 be kept of all meetings of the council and shall include a record of the votes of each  
523 member, specifying the yea or nay vote or absence of each member, on all questions and  
524 matters coming before the council. No member may abstain from a vote other than for  
525 reasons constituting disqualification to the satisfaction of a majority of a quorum of the  
526 council on a recorded vote. No member of the council shall be represented by a delegate  
527 or agent.

528 (d) Except as otherwise provided in this Code section, a majority of the members of the  
529 council then in office shall constitute a quorum for the transaction of business. No vacancy  
530 on the council shall impair the right of the quorum to exercise the powers and perform the  
531 duties of the council. The vote of a majority of the members of the council present at the  
532 time of the vote, if a quorum is present at such time, shall be the act of the council unless  
533 the vote of a greater number is required by law or by the bylaws of the council.

534 (e) The council shall inform the Governor, the board, and the department of the efficacy  
535 of the state public health programs and services and state mental health, developmental  
536 disabilities, and addictive diseases programs and services and the need for specific changes  
537 to such services and programs. The council shall also provide guidance and assistance to  
538 the regional planning boards, hospitals, community service boards, county boards of health,  
539 and other private or public providers in the performance of their duties. In addition, with  
540 respect to mental health, developmental disabilities, and addictive diseases programs and  
541 services, the council shall:

542 (1) Develop solutions to the systemic barriers or problems to the delivery of behavioral  
543 health services by making recommendations that implement funding, policy changes,  
544 practice changes, and evaluation of specific goals designed to improve services delivery  
545 and outcome for individuals served by the various departments;

546 (2) Focus on specific goals designed to resolve issues for provision of behavioral health  
547 services that negatively impact individuals serviced by various divisions and departments,  
548 including but not limited to the interactions and effects on physical disease conditions of  
549 mental illnesses, addictive diseases, and developmental disabilities, and vice versa, so  
550 that service planning, delivery, and reimbursement may be coordinated and integrated  
551 among relevant divisions and departments to encourage effective treatment of the whole  
552 person and improve morbidity and mortality outcomes for citizens suffering from  
553 multiple conditions;

554 (3) Monitor and evaluate the implementation of established goals; and

555 (4) Establish common inspections, surveys, monitoring, and outcome measures among  
556 the relevant programs.



557 (f)(1) The council may consult with various entities, including state agencies, councils,  
 558 and advisory committees and other advisory groups, as deemed appropriate by the  
 559 council.

560 (2) All state departments, agencies, boards, bureaus, commissions, and authorities shall  
 561 make available to the council access to records or data which are available in electronic  
 562 format or, if electronic format is unavailable, in whatever format is available. The judicial  
 563 and legislative branches are authorized to likewise provide such access to the council.

564 (g) The council shall be attached to the Department of Public and Behavioral Health for  
 565 administrative purposes only as provided by Code Section 50-4-3.

566 (h)(1) The council shall submit annual reports of its recommendations and evaluation of  
 567 their implementation to the Governor and the General Assembly.

568 (2) The recommendations developed by the council shall be presented to the board of  
 569 each member department for approval or review at least annually.

570 (i) For purposes of this Code section, the term 'behavioral health services' has the same  
 571 meaning as 'disability services' as defined in Code Section 37-2-2."

572 **SECTION 1-2.**

573 Said title is further amended by revising Code Section 31-1-1, relating to definitions relative  
 574 to health generally, as follows:

575 "31-1-1.

576 Except as specifically provided otherwise, as used in this title, the term:

577 (1) 'Board' means the Board of ~~Human Resources~~ Public and Behavioral Health.

578 (2) 'Commissioner' means the commissioner of ~~human resources~~ public and behavioral  
 579 health.

580 (3) 'Department' means the Department of ~~Human Resources~~ Public and Behavioral  
 581 Health."

582 **SECTION 1-3.**

583 The following Code sections of the Official Code of Georgia Annotated are amended by  
 584 replacing "Department of Human Resources" wherever it occurs with "Department of Public  
 585 and Behavioral Health":

586 (1) Code Section 4-4-69, relating to regulation of manufacture and use of disease vectors  
 587 in livestock;

588 (2) Code Section 4-10-10, relating to the joint regulation of the sale or transportation of  
 589 exotic or pet birds;

590 (3) Code Section 12-2-8, relating to promulgation of minimum standards and procedures  
 591 for protection of natural resources, environment, and vital areas of the state;

- 592 (4) Code Section 12-3-9, relating to adoption and promulgation by the Board of Natural  
593 Resources of rules and regulations regarding parks, historic sites, and recreational areas;  
594 (5) Code Section 12-5-175, relating to fluoridation of public water systems;  
595 (6) Code Section 12-8-1, relating to notice of denial of individual sewage disposal  
596 permits;  
597 (7) Code Section 15-11-66.1, relating to disposition of a child committing delinquent act  
598 constituting AIDS transmitting crime;  
599 (8) Code Section 15-11-73, relating to juvenile traffic offenses;  
600 (9) Code Section 15-11-152, relating to ordering an evaluation of a child's mental  
601 condition;  
602 (10) Code Section 15-21-143, relating to appointment of members and personnel of the  
603 Brain and Spinal Injury Trust Fund Commission;  
604 (11) Code Section 16-6-13.1, relating to testing for sexually transmitted diseases;  
605 (12) Code Section 16-7-83, relating to persons convicted or under indictment for certain  
606 offenses;  
607 (13) Code Section 16-11-129, relating to license to carry pistol or revolver;  
608 (14) Code Section 16-12-141, relating to when abortion is legal;  
609 (15) Code Section 16-12-141.1, relating to disposal of aborted fetuses;  
610 (16) Code Section 17-7-130, relating to proceedings upon plea of mental incompetency  
611 to stand trial;  
612 (17) Code Section 17-7-131, relating to proceedings upon plea of insanity or mental  
613 incompetency at time of crime;  
614 (18) Code Section 17-10-15, relating to AIDS transmitting crimes;  
615 (19) Code Section 19-3-41, relating to preparation by the Department of Human  
616 Resources of a marriage manual on family planning and other material;  
617 (20) Code Section 20-2-142, relating to prescribed courses in elementary and secondary  
618 schools on alcohol, tobacco, and drug use;  
619 (21) Code Section 20-2-143, relating to sex education and AIDS prevention instruction  
620 in elementary and secondary schools;  
621 (22) Code Section 20-2-144, relating to mandatory instruction in elementary and  
622 secondary schools concerning alcohol and drug use;  
623 (23) Code Section 20-2-260, relating to capital outlay funds generally;  
624 (24) Code Section 20-2-770, relating to rules and regulations for nutritional screening  
625 and eye, ear, and dental examinations of students;  
626 (25) Code Section 20-2-771, relating to immunization of students in elementary and  
627 secondary education;

- 628 (26) Code Section 20-2-772, relating to rules and regulations for screening of students  
629 for scoliosis;
- 630 (27) Code Section 24-9-40, relating to when medical information may be released by a  
631 physician, hospital, health care facility, or pharmacist;
- 632 (28) Code Section 24-9-47, relating to disclosure of AIDS confidential information;
- 633 (29) Code Section 25-3-6, relating to the effect of certain laws relating to local fire  
634 departments on the powers and duties of other officials and departments;
- 635 (30) Code Section 26-2-371, relating to permits required for food service establishments;
- 636 (31) Code Section 26-2-372, relating to the issuance of permits for food service  
637 establishments;
- 638 (32) Code Section 26-2-373, relating to promulgation of rules, regulations, and standards  
639 by the Department of Human Resources and county boards of health for food service  
640 establishments;
- 641 (33) Code Section 26-2-374, relating to contents and posting of notices relating to  
642 assistance to persons choking;
- 643 (34) Code Section 26-2-375, relating to enforcement of laws regarding the regulation of  
644 food service establishments;
- 645 (35) Code Section 26-2-376, relating to review of final order or determination by  
646 Department of Human Resources regarding regulation of a food service establishment;
- 647 (36) Code Section 26-2-377, relating to penalties for violation of laws regarding the  
648 regulation of food service establishments;
- 649 (37) Code Section 26-3-18, relating to assistance in enforcement from Department of  
650 Agriculture or Department of Human Resources with respect to standards, labeling, and  
651 adulteration of drugs and cosmetics;
- 652 (38) Code Section 26-4-5, relating to definitions relative to the "Georgia Pharmacy  
653 Practice Act";
- 654 (39) Code Section 26-4-85, relating to patient counseling by a pharmacist;
- 655 (40) Code Section 26-4-116, relating to emergency service providers with respect to  
656 dangerous drugs and controlled substances;
- 657 (41) Code Section 26-4-192, relating to the state-wide program for distribution of unused  
658 prescription drugs for the benefit of medically indigent persons;
- 659 (42) Code Section 31-1-3.2, relating to hearing screenings for newborns;
- 660 (43) Code Section 31-3-4, relating to powers of county boards of health;
- 661 (44) Code Section 31-3-11, relating to appointments of director and staff of county board  
662 of health;
- 663 (45) Code Section 31-5-1, relating to adoption of rules and regulations by the  
664 Department of Human Resources and county boards of health;

- 665 (46) Code Section 31-5-9, relating to injunctions for enjoining violations of the  
666 provisions of Title 31;
- 667 (47) Code Section 31-5-20, relating to the definition of the term "inspection warrant"  
668 with respect to enforcement of certain public health laws;
- 669 (48) Code Section 31-5-21, relating to persons who may obtain inspection warrants;
- 670 (49) Code Section 31-8-193, relating to the establishment of a program to provide health  
671 care services to low-income recipients;
- 672 (50) Code Section 31-9A-4, relating to information to be made available by the  
673 Department of Human Resources under the "Woman's Right to Know Act";
- 674 (51) Code Section 31-9A-6, relating to reporting requirements under the "Woman's Right  
675 to Know Act";
- 676 (52) Code Section 31-10-1, relating to definitions relative to vital records;
- 677 (53) Code Section 31-11-1, relating to findings of the General Assembly and declaration  
678 of policy with respect to emergency medical services;
- 679 (54) Code Section 31-11-3, relating to recommendations by local coordinating entity as  
680 to administration of the Emergency Medical Systems Communication Program;
- 681 (55) Code Section 31-11-81, relating to definitions relative to emergency services;
- 682 (56) Code Section 31-11-100, relating to definitions relative to the Georgia Trauma Care  
683 Network Commission;
- 684 (57) Code Section 31-11-101, relating to the creation of the Georgia Trauma Care  
685 Network Commission;
- 686 (58) Code Section 31-11-102, relating to the duties and responsibilities of the Georgia  
687 Trauma Care Network Commission;
- 688 (59) Code Section 31-11-110, relating to legislative findings relative to a system of  
689 certified stroke centers;
- 690 (60) Code Section 31-12-1, relating to the power to conduct research and studies relative  
691 to the control of hazardous conditions, preventable diseases, and metabolic diseases;
- 692 (61) Code Section 31-12A-9, relating to a continuing education program relative to the  
693 "Georgia Smokefree Air Act of 2005";
- 694 (62) Code Section 31-12A-10, relating to enforcement by the Department of Human  
695 Resources and county boards of health of the "Georgia Smokefree Air Act of 2005";
- 696 (63) Code Section 31-13-3, relating to definitions relative to the "Georgia Radiation  
697 Control Act";
- 698 (64) Code Section 31-13-4, relating to administration of state-wide radiation control  
699 program for radiation generating equipment;

- 700 (65) Code Section 31-13-5, relating to the powers and duties of the Department of  
701 Human Resources and the Department of Natural Resources under the "Georgia  
702 Radiation Control Act";
- 703 (66) Code Section 31-13-8.2, relating to licensing of diagnostic and therapeutic medical  
704 uses of radioactive materials;
- 705 (67) Code Section 31-13-9, relating to records of use of radiation sources and exposure  
706 of employees to radiation;
- 707 (68) Code Section 31-13-10, relating to suspension, revocation, and amendment of  
708 license or registration of radiation generating equipment;
- 709 (69) Code Section 31-13-11, relating to impounding and condemnation of radiation  
710 generating equipment and radioactive materials;
- 711 (70) Code Section 31-13-12, relating to the license requirements under the "Georgia  
712 Radiation Control Act";
- 713 (71) Code Section 31-13-13, relating to penalties under the "Georgia Radiation Control  
714 Act";
- 715 (72) Code Section 31-13-23, relating to transfer of powers and duties between the  
716 Department of Natural Resources and the Department of Human Resources under the  
717 "Georgia Radiation Control Act";
- 718 (73) Code Section 31-14-2, relating to petition for commitment of a person who has  
719 active tuberculosis;
- 720 (74) Code Section 31-14-9, relating to procedure for securing discharge of a person  
721 committed for active tuberculosis;
- 722 (75) Code Section 31-15-2, relating to the establishment of a program for the prevention,  
723 control, and treatment of cancer;
- 724 (76) Code Section 31-16-2, relating to the establishment of a program for the prevention,  
725 control, and treatment of kidney disease;
- 726 (77) Code Section 31-17-2, relating to the report of diagnosis or treatment to health  
727 authorities of a case of venereal disease;
- 728 (78) Code Section 31-17-3, relating to examination and treatment by health authorities  
729 for venereal disease;
- 730 (79) Code Section 31-17-4.2, relating to HIV pregnancy screening;
- 731 (80) Code Section 31-17A-2, relating to examination of persons infected or suspected  
732 of being infected with HIV;
- 733 (81) Code Section 31-17A-3, relating to refusal to consent to an HIV test;
- 734 (82) Code Section 31-21-25, relating to bonds required prior to receiving unclaimed  
735 bodies;
- 736 (83) Code Section 31-22-9.1, relating to who may perform HIV tests;

- 737 (84) Code Section 31-22-9.2, relating to report of positive HIV tests;
- 738 (85) Code Section 31-26-2, relating to the requirement of a certificate to practice  
739 midwifery;
- 740 (86) Code Section 31-27-2, relating to the requirement of a permit for a mass gathering;
- 741 (87) Code Section 31-28-2, relating to issuance of permits to operate a tourist court;
- 742 (88) Code Section 31-28-5, relating to standards for health, sanitation, and safety of  
743 tourist courts;
- 744 (89) Code Section 31-28-6, relating to inspection of premises of tourist courts;
- 745 (90) Code Section 31-30-9, relating to effectiveness of chapter on reports on veterans  
746 exposed to agent orange;
- 747 (91) Code Section 31-34-5, relating to service cancelable loans under the "Physicians for  
748 Rural Areas Assistance Act";
- 749 (92) Code Section 31-35-10, relating to definitions relative to bioterrorism protection for  
750 emergency providers;
- 751 (93) Code Section 31-40-2, relating to issuance of permits for tattoo studios;
- 752 (94) Code Section 31-40-5, relating to rules and regulations relative to tattoo studios;
- 753 (95) Code Section 31-40-6, relating to enforcement of chapter regulating tattoo studios;
- 754 (96) Code Section 31-40-8, relating to a public education program relative to tattoo  
755 studios;
- 756 (97) Code Section 31-45-8, relating to inspections by the county board of health of  
757 public swimming pools;
- 758 (98) Code Section 31-45-9, relating to suspension or revocation of permit for a public  
759 swimming pool;
- 760 (99) Code Section 31-45-10, relating to rules and regulations relative to public  
761 swimming pools;
- 762 (100) Code Section 31-45-11, relating to enforcement of rules and regulations relative  
763 to public swimming pools;
- 764 (101) Code Section 31-46-4, relating to the Georgia Commission for Saving the Cure;
- 765 (102) Code Section 33-24-59.7, relating to insurance coverage for the treatment of  
766 morbidly obese patients;
- 767 (103) Code Section 34-9-1, relating to definitions relative to workers' compensation;
- 768 (104) Code Section 35-1-8, relating to acquisition, collection, classification, and  
769 preservation of information assisting in identifying deceased persons and locating missing  
770 persons;
- 771 (105) Code Section 37-1-90, relating to injections for the purpose of enjoining violations;
- 772 (106) Code Section 37-2-2, relating to definitions relative to mental health.

- 773 (107) Code Section 37-2-2.1, relating to the creation of the Division of Mental Health,  
774 Developmental Disabilities, and Addictive Diseases;
- 775 (108) Code Section 37-2-6.1, relating to program directors, staff, budget, and facilities  
776 of community service boards;
- 777 (109) Code Section 37-3-146, relating to education of children undergoing treatment in  
778 a facility for persons who are mentally ill;
- 779 (110) Code Section 37-3-150, relating to right to appeal orders of probate court, juvenile  
780 court, or hearing examiner;
- 781 (111) Code Section 37-4-4, relating to coordination of training programs for the mentally  
782 retarded;
- 783 (112) Code Section 37-4-110, relating to appeal rights of clients, their representatives,  
784 or attorneys relating to habilitation of mentally retarded persons;
- 785 (113) Code Section 37-5-4, relating to applicability of the "Community Services Act for  
786 the Mentally Retarded";
- 787 (114) Code Section 37-5-7, relating to duty of the Department of Human Resources to  
788 provide consulting and financial assistance to county boards of health;
- 789 (115) Code Section 37-7-3, relating to coordination of state drug and alcohol abuse  
790 programs;
- 791 (116) Code Section 37-7-146, relating to education of children undergoing treatment in  
792 a facility for persons who are alcoholics, drug dependent individuals, or drug abusers;
- 793 (117) Code Section 37-7-150, relating to right to appeal orders of probate court, juvenile  
794 court, or hearing examiner;
- 795 (118) Code Section 37-10-2, relating to the Interstate Compact on Mental Health;
- 796 (119) Code Section 38-3-22, relating to the Governor's emergency management powers  
797 and duties;
- 798 (120) Code Section 38-3-51, relating to emergency powers of the Governor;
- 799 (121) Code Section 40-5-82, relating to administration of the Driver Improvement  
800 Program;
- 801 (122) Code Section 40-6-392, relating to chemical tests for alcohol or drugs in blood  
802 relating to violations of driving under the influence of alcohol, drugs, or other  
803 intoxicating substances;
- 804 (123) Code Section 42-1-7, relating to notification to transporting law enforcement  
805 agency of inmate's or patient's infectious or communicable disease;
- 806 (124) Code Section 42-4-6, relating to confinement and care of tubercular inmates;
- 807 (125) Code Section 42-4-32, relating to sanitation and health requirements for jails;
- 808 (126) Code Section 42-5-52, relating to classification and separation of inmates;

- 809 (127) Code Section 42-8-35.3, relating to conditions of probation for stalking or  
810 aggravated stalking;
- 811 (128) Code Section 42-9-41, relating to duty of the State Board of Pardons and Paroles  
812 to obtain and place in records information respecting persons subject to relief or placed  
813 on probation;
- 814 (129) Code Section 43-10-6, relating to rules and regulations as to sanitary requirements  
815 of beauty shops, beauty salons, schools of cosmetology, schools of esthetics, schools of  
816 hair design, and schools of nail care;
- 817 (130) Code Section 43-11-74, relating to direct supervision requirement of dental  
818 hygienists by a licensed dentist;
- 819 (131) Code Section 43-12A-5, relating to provider centers that engage in the practice of  
820 providing, installing, or monitoring ignition interlock devices not to operate under any  
821 name deceptively similar to another business;
- 822 (132) Code Section 43-14-2, relating to definitions relative to the regulation of electrical  
823 contractors, plumbers, conditioned air contractors, low-voltage contractors, and utility  
824 contractors;
- 825 (133) Code Section 43-18-1, relating to definitions relative to the regulation of funeral  
826 directors and establishments, embalmers, and crematories;
- 827 (134) Code Section 43-18-46, relating to grounds for denial or revocation of license or  
828 registration to operate a funeral establishment or to practice embalming or funeral  
829 directing;
- 830 (135) Code Section 43-34-26.1, relating to delegation of authority to nurse or physician's  
831 assistant;
- 832 (136) Code Section 43-34-26.3, relating to delegation of certain medical acts to advanced  
833 practice registered nurse;
- 834 (137) Code Section 43-34-103, relating to applications for utilization of physician's  
835 assistants;
- 836 (138) Code Section 45-9-4.2, relating to liability coverage for nonprofit agencies  
837 providing services to the mentally retarded;
- 838 (139) Code Section 45-18-1, relating to definitions relative to the state employees' health  
839 insurance plan;
- 840 (140) Code Section 45-18-32, relating to administration of deferred compensation plans  
841 for employees of the state;
- 842 (141) Code Section 46-11-4, relating to regulation of transportation of hazardous  
843 materials on public roads of the state generally;
- 844 (142) Code Section 49-5-221, relating to definitions relative to children and adolescents  
845 with severe emotional problems;



- 846 (143) Code Section 49-5-223, relating to the State Plan for the Coordinated System of  
 847 Care for children and adolescents with severe emotional problems;
- 848 (144) Code Section 49-5-224, relating to the submission by the commissioner of human  
 849 resources of an annual report on the State Plan for the Coordinated System of Care;
- 850 (145) Code Section 49-5-227, relating to the Governor's Office for Children and Families  
 851 to comment on the State Plan for Coordinated System of Care and provide  
 852 recommendations;
- 853 (146) Code Section 50-13-4, relating to procedural requirements for adoption,  
 854 amendment, or repeal of rules by a state agency;
- 855 (147) Code Section 50-18-72, relating to when public disclosure is not required under  
 856 open records laws;
- 857 (148) Code Section 50-18-76, relating to written matter exempt from disclosure under  
 858 vital records laws; and
- 859 (149) Code Section 50-27-24, relating to lottery prize proceeds subject to state income  
 860 tax.

861 **SECTION 1-4.**

862 The following Code sections of the Official Code of Georgia Annotated are amended by  
 863 replacing "Board of Human Resources" wherever it occurs with "Board of Public and  
 864 Behavioral Health":

- 865 (1) Code Section 31-1-3.2, relating to hearing screenings for newborns;
- 866 (2) Code Section 31-11-2, relating to definitions relative to emergency medical services;
- 867 (3) Code Section 31-11-3, relating to recommendations by local coordinating entity as  
 868 to administration of the Emergency Medical Systems Communication Program;
- 869 (4) Code Section 31-11-31.1, relating to license fees on ambulance services;
- 870 (5) Code Section 31-12-14, relating to breast cancer, prostate cancer, and ovarian cancer  
 871 research program fund;
- 872 (6) Code Section 37-1-1, relating to definitions relative to mental health generally;
- 873 (7) Code Section 37-1-40, relating to rules and regulations of the Board of Human  
 874 Resources;
- 875 (8) Code Section 42-9-12, relating to appointment of replacement for incapacitated  
 876 member on the State Board of Pardons and Paroles; and
- 877 (9) Code Section 43-7-9, relating to general powers and duties of the State Board of  
 878 Barbers.

879 **SECTION 1-5.**

880 The following Code sections of the Official Code of Georgia Annotated are amended by  
881 replacing "commissioner of human resources" wherever it occurs with "commissioner of  
882 public and behavioral health":

- 883 (1) Code Section 8-2-24, relating to appointment of advisory committee relating to state  
884 building, plumbing, and electrical codes;
- 885 (2) Code Section 12-5-524, relating to the creation of the Water Council;
- 886 (3) Code Section 16-12-141, relating to when abortion is legal;
- 887 (4) Code Section 16-12-141.1, relating to disposal of aborted fetuses;
- 888 (5) Code Section 21-2-231, relating to lists of persons convicted of felonies, persons  
889 declared mentally incompetent, and deceased persons provided to Secretary of State with  
890 respect to registration of voters;
- 891 (6) Code Section 26-2-393, relating to enforcement of article relating to nonprofit food  
892 sales and food service;
- 893 (7) Code Section 31-9A-2, relating to definitions relative to the "Woman's Right to Know  
894 Act";
- 895 (8) Code Section 31-10-1, relating to definitions relative to vital records;
- 896 (9) Code Section 31-11-2, relating to definitions relative to emergency medical services;
- 897 (10) Code Section 31-11-36, relating to suspension or revocation of licenses for  
898 ambulance services;
- 899 (11) Code Section 31-16-3, relating to functions of the Kidney Disease Advisory  
900 Committee;
- 901 (12) Code Section 31-27-7, relating to emergency powers of the Governor regarding  
902 mass gatherings;
- 903 (13) Code Section 31-35-10, relating to definitions relative to bioterrorism protection for  
904 emergency responders;
- 905 (14) Code Section 31-36A-7, relating to petition for health care placement transfer,  
906 admission, or discharge order by health care facility;
- 907 (15) Code Section 37-1-1, relating to definitions relative to mental health generally;
- 908 (16) Code Section 37-10-2, relating to the Interstate Compact on Mental Health;
- 909 (17) Code Section 38-2-10, relating to use of National Guard in drug law enforcement,  
910 provision of medical care in medically underserved areas, and for youth opportunity  
911 training programs;
- 912 (18) Code Section 42-4-32, relating to sanitation and health requirements in jails  
913 generally;
- 914 (19) Code Section 42-9-12, relating to appointment of replacement for incapacitated  
915 member on the State Board of Pardons and Paroles;

- 916 (20) Code Section 43-1A-4, relating to the Occupational Regulation Review Council;  
 917 (21) Code Section 43-45-3, relating to creation of the State Structural Pest Control  
 918 Commission;  
 919 (22) Code Section 49-5-224, relating to the submission by the commissioner of human  
 920 resources of an annual report on the State Plan for the Coordinated System of Care;  
 921 (23) Code Section 45-9-73, relating to the creation of the Georgia Public School  
 922 Personnel Indemnification Commission; and  
 923 (24) Code Section 45-9-83, relating to the creation of the Georgia State Indemnification  
 924 Commission.

925 **SECTION 1-6.**

926 The following Code sections of the Official Code of Georgia Annotated are amended by  
 927 replacing "mentally retarded" or "Mentally Retarded" wherever it occurs with  
 928 "developmentally disabled" or "Developmentally Disabled", respectively:

- 929 (1) Code Section 31-22-9.1, relating to who may perform HIV tests;  
 930 (2) Code Section 35-1-8, relating to the acquisition, collection, classification, and  
 931 preservation of information assisting in identifying deceased persons and locating missing  
 932 persons;  
 933 (3) Code Section 35-3-34.1, relating to circumstances when exonerated first offender's  
 934 criminal record may be disclosed;  
 935 (4) Code Section 37-4-1, relating to the declaration of policy relating to the habilitation  
 936 of mentally retarded persons generally;  
 937 (5) Code Section 37-4-3, relating to the authority of the board of human resources to  
 938 issue regulations relating to the habilitation of mentally retarded persons generally;  
 939 (6) Code Section 37-4-4, relating to coordination of training programs for the mentally  
 940 retarded;  
 941 (7) Code Section 37-4-5, relating to validity of hospital orders entered before September  
 942 1, 1978;  
 943 (8) Code Section 37-4-8, relating to approval of private facilities;  
 944 (9) Code Section 37-4-20, relating to examination of minor children;  
 945 (10) Code Section 37-4-21, relating to admission of mentally retarded persons to  
 946 facilities for purposes of temporary supervision and care;  
 947 (11) Code Section 37-4-22, relating to admission of persons to facilities for dental  
 948 services;  
 949 (12) Code Section 37-4-40, relating to filing petition with the court for according of  
 950 program of services to mentally retarded person;

- 951 (13) Code Section 37-4-40.1, relating to certification that a person requires temporary  
952 care;
- 953 (14) Code Section 37-4-40.2, relating to admission or discharge of a person in custody  
954 of a state facility for temporary care;
- 955 (15) Code Section 37-4-42, relating to procedure for continuation of court ordered  
956 habilitation;
- 957 (16) Code Section 37-4-62, relating to transfer of clients to custody of federal agencies  
958 for services;
- 959 (17) Code Section 37-4-120, relating to individual dignity of clients to be respected;
- 960 (18) Code Section 37-4-123, relating to recognition of clients' physical integrity;
- 961 (19) Code Section 37-5-1, relating to the short title;
- 962 (20) Code Section 37-5-2, relating to declaration of policy relative to community  
963 services for the mentally retarded;
- 964 (21) Code Section 37-5-4, relating to applicability of chapter;
- 965 (22) Code Section 37-5-5, relating to duty of county board of health to provide  
966 community services;
- 967 (23) Code Section 37-5-6, relating to county or health district plan for community  
968 services;
- 969 (24) Code Section 37-5-7, relating to duty of department to provide consulting and  
970 financial assistance to county boards of health;
- 971 (25) Code Section 37-5-10, relating to timetable for implementation of this chapter;
- 972 (26) Code Section 37-6-2, relating to participation by department in financing of  
973 day-care centers for mentally retarded children;
- 974 (27) Code Section 37-6-3, relating to participation by department in financing of  
975 day-care centers generally;
- 976 (28) Code Section 37-6-4, relating to grants-in-aid to county board of health for purchase  
977 of services from private day-care centers;
- 978 (29) Code Section 37-6-6, relating to inspection and approval of day-care centers;
- 979 (30) Code Section 37-6-7, relating to departmental standards for day-care centers;
- 980 (31) Code Section 37-9-6, relating to standards for determination of assessments for less  
981 than full cost of care;
- 982 (32) Code Section 42-8-63.1, relating to discharges disqualifying individuals from  
983 employment;
- 984 (33) Code Section 45-9-4.2, relating to liability coverage for nonprofit agencies  
985 providing services to the mentally retarded;
- 986 (34) Code Section 49-4-51, relating to definitions relative to the "Aid to the Blind Act";  
987 and

988 (35) Code Section 49-4-80, relating to definitions relative to aid to the disabled.

989 **SECTION 1-7.**

990 The following Code sections of the Official Code of Georgia Annotated are amended by  
991 replacing "mental retardation" wherever it occurs with "developmental disability":

992 (1) Code Section 31-12-3.2, relating to meningococcal disease;

993 (2) Code Section 31-32-4, relating to the advance directives for health care form;

994 (3) Code Section 37-4-40.4, relating to evaluation of a person in custody of a state  
995 facility for temporary care;

996 (4) Code Section 37-4-61, relating to transportation of clients generally;

997 (5) Code Section 49-4-31, relating to definitions relative to old-age assistance;

998 (6) Code Section 49-4-51, relating to definitions relative to the "Aid to the Blind Act";  
999 and

1000 (7) Code Section 49-4-80, relating to definitions relative to aid to the disabled.

1001 **SECTION 1-8.**

1002 The following Code sections of the Official Code of Georgia Annotated are amended by  
1003 replacing "mental retardation" wherever it occurs with "a developmental disability":

1004 (1) Code Section 31-20-3, relating to sterilization of mentally incompetent persons;

1005 (2) Code Section 37-4-80, relating to effect of inability to pay on right to habilitation  
1006 services;

1007 (3) Code Section 37-4-100, relating to retention of rights and privileges by clients  
1008 generally; and

1009 (4) Code Section 37-4-122, relating to client's care and treatment rights.

1010 **SECTION 1-9.**

1011 The following Code sections of the Official Code of Georgia Annotated are amended by  
1012 replacing "Code Section 31-2-7" wherever it occurs with "Code Section 31-2-11":

1013 (1) Code Section 31-3-5, relating to functions of county boards of health;

1014 (2) Code Section 31-3-5.1, relating to conformity prerequisite to building permit; and

1015 (3) Code Section 50-13-4, relating to procedural requirements for adoption, amendment,  
1016 or repeal of rules.

**SECTION 1-10.**

1017  
1018 Code Section 12-8-41 of the Official Code of Georgia Annotated, relating to permits issued  
1019 by the Department of Natural Resources for land disposal sites, is amended as follows:

1020 "12-8-41.

1021 The department shall provide by rule or regulation for the regulation and permitting of any  
1022 land disposal site that receives septic tank waste from any one or more septic tank pumping  
1023 and hauling businesses. Any new permit issued for such type of site on or after July 1,  
1024 2007, shall be issued by the department under this Code section. Any such type of site that  
1025 as of June 30, 2007, operated under a valid permit issued on or before such date by the  
1026 Department of Human Resources (now known as the Department of Public and Behavioral  
1027 Health for these purposes) under Code Section ~~31-2-8~~ 31-2-12 may continue to operate  
1028 under such Code section until July 1, 2012, but a permit shall be obtained from the  
1029 department under this Code section prior to such date in order to continue such operation  
1030 thereafter."

**SECTION 1-11.**

1031  
1032 Code Section 17-18-1 of the Official Code of Georgia Annotated, relating to duty of certain  
1033 officials to offer written statement of information to victims of rape or forcible sodomy, is  
1034 amended as follows:

1035 "17-18-1.

1036 When any employee of the Department of Human ~~Resources Services, the Department of~~  
1037 Public and Behavioral Health, a law enforcement agency, or a court has reason to believe  
1038 that he or she in the course of official duties is speaking to an adult who is or has been a  
1039 victim of a violation of Code Section 16-6-1, relating to rape, or Code Section 16-6-2,  
1040 relating to aggravated sodomy, such employee shall offer or provide such adult a written  
1041 statement of information for victims of rape or aggravated sodomy. Such written statement  
1042 shall, at a minimum, include the information set out in Code Section 17-18-2 and may  
1043 include additional information regarding resources available to victims of sexual assault.  
1044 Information for victims of rape or aggravated sodomy may be provided in any language."

**SECTION 1-12.**

1045  
1046 Code Section 19-3-35.1 of the Official Code of Georgia Annotated, relating to AIDS  
1047 brochures for applicants for a marriage license, is amended by revising subsection (b) as  
1048 follows:

1049 "(b) The ~~Department of Human Resources~~ Department of Public and Behavioral Health  
1050 shall prepare a brochure describing AIDS, HIV, and the dangers, populations at risk, risk  
1051 behaviors, and prevention measures relating thereto. That department shall also prepare a

1052 listing of sites at which confidential and anonymous HIV tests are provided without charge.  
 1053 That department shall further prepare a form for acknowledging that the brochures and  
 1054 listings have been received, as required by subsection (c) of this Code section. ~~The~~  
 1055 ~~brochures, listings, and forms prepared by the Department of Human Resources under this~~  
 1056 ~~subsection shall be prepared and furnished to the office of each judge of the probate court~~  
 1057 ~~no later than October 1, 1988."~~

### 1058 SECTION 1-13.

1059 Code Section 19-15-4 of the Official Code of Georgia Annotated, relating to Georgia Child  
 1060 Fatality Review Panel, is amended by revising subsection (c) as follows:

1061 "(c) The panel shall be composed as follows:

- 1062 (1) One district attorney appointed by the Governor;
- 1063 (2) One juvenile court judge appointed by the Governor;
- 1064 (3) Two citizen members who shall be appointed by the Governor, who are not employed  
 1065 by or officers of the state or any political subdivision thereof and one of whom shall come  
 1066 from each of the following: (A) a state-wide child abuse prevention organization; and (B)  
 1067 a state-wide childhood injury prevention organization;
- 1068 (4) One forensic pathologist appointed by the Governor;
- 1069 (5) The chairperson of the Board of ~~Human Resources~~ Services;
- 1070 (6) The director of the Division of Family and Children Services of the Department of  
 1071 ~~Human Resources~~ Services;
- 1072 (7) The director of the Georgia Bureau of Investigation;
- 1073 (8) The chairperson of the Criminal Justice Coordinating Council;
- 1074 (9) A member of the Georgia Senate appointed by the Lieutenant Governor;
- 1075 (10) A member of the Georgia House of Representatives appointed by the Speaker of the  
 1076 House of Representatives;
- 1077 (11) A local law enforcement official appointed by the Governor;
- 1078 (12) A superior court judge appointed by the Governor;
- 1079 (13) A coroner appointed by the Governor;
- 1080 (14) The Child Advocate for the Protection of Children;
- 1081 (15) The director of the Division of Public Health of the Department of ~~Human~~  
 1082 ~~Resources~~ Public and Behavioral Health; and
- 1083 (16) The director of the Division of Mental Health, Developmental Disabilities, and  
 1084 Addictive Diseases of the Department of ~~Human Resources~~ Public and Behavioral  
 1085 Health."

**SECTION 1-14.**

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Code Section 30-8-1 of the Official Code of Georgia Annotated, relating to the Governor's Council on Developmental Disabilities, is amended as follows:

"30-8-1.

(a) There is created the ~~Governor's~~ Georgia Council on Developmental Disabilities. The council shall serve as the designated state agency and state planning council for purposes of carrying out the provisions of Chapter 75 of Title 42 of the United States Code, as now or hereafter amended, relating to programs for persons with developmental disabilities.

(b) The members of the council shall be appointed by the Governor from among the residents of the state, and the composition of the council shall comply with the membership requirements of Chapter 75 of Title 42 of the United States Code, as now or hereafter amended. The Governor shall consider appointing to the council persons representing a broad range of individuals with developmental disabilities and individuals interested in programs for the developmentally disabled. To the extent feasible, appointments to the council shall be made with a view toward equitable geographic, racial, and ethnic representation.

(c) Each member shall serve for a term of four years or until a successor is appointed. Members shall be eligible to succeed themselves. Vacancies shall be filled in the same manner as original appointments. The council shall elect its own chairperson and such other officers as it deems necessary. The council may adopt rules and procedures and shall meet at the call of the chairperson.

(d) The ~~Governor's~~ Georgia Council on Developmental Disabilities shall:

(1) Develop and implement a state plan, which includes the specification of federal and state priority areas, to address on a state-wide and comprehensive basis the need for services, support, and other assistance for individuals with developmental disabilities and their families;

(2) Monitor, review, and evaluate, not less than annually, the implementation and effectiveness of the plan;

(3) Submit to the United States secretary of health and human services, through the Governor, such plan and periodic reports on the council's activities as the secretary finds necessary;

(4) Receive, account for, and disburse funds paid to the state pursuant to the provisions of Chapter 75 of Title 42 of the United States Code, as now or hereafter amended, and as authorized by the approved state plan;

(5) To the maximum extent feasible, review and comment on all plans in the state which relate to programs affecting persons with developmental disabilities;

(6) Serve as an advocate for persons with developmental disabilities;



1123 (7) Advise the Governor, the General Assembly, and all other state agencies in matters  
 1124 relating to developmentally disabled persons; and

1125 (8) Fulfill the responsibilities and meet the requirements of a designated state agency and  
 1126 of a state planning council as provided by Chapter 75 of Title 42 of the United States  
 1127 Code, as now or hereafter amended.

1128 (e) The ~~Governor's~~ Georgia Council on Developmental Disabilities shall be attached to the  
 1129 Department of ~~Human Resources~~ Public and Behavioral Health for administrative purposes  
 1130 only as provided in Code Section 50-4-3. The council shall recruit and hire staff as  
 1131 provided by law and as the council determines necessary to carry out its duties. All costs  
 1132 incurred by the council shall be covered by funds paid to the state under Chapter 75 of Title  
 1133 42 of the United States Code, as now or hereafter amended, except that members who are  
 1134 state employees shall be reimbursed for their expenses by their agency in the same manner  
 1135 as other state employees. Members who are not state employees shall be reimbursed for  
 1136 their actual expenses, including travel and any other expenses incurred in performance of  
 1137 their council duties, from funds appropriated to the Department of ~~Human Resources~~  
 1138 Public and Behavioral Health."

#### 1139 SECTION 1-15.

1140 Code Section 31-8-135 of the Official Code of Georgia Annotated, relating to hearings under  
 1141 the "Remedies for Residents of Personal Care Homes Act," is amended by revising paragraph  
 1142 (3) of subsection (f) as follows:

1143 "(3) Upon failure of the personal care home to correct such violation within a reasonable  
 1144 time, the department may impose appropriate civil penalties as provided for in Code  
 1145 Section ~~31-2-6~~ 31-2-10."

#### 1146 SECTION 1-16.

1147 Code Section 31-5-2 of the Official Code of Georgia Annotated, relating to hearings of the  
 1148 Department of Human Resources, is amended as follows:

1149 "31-5-2.

1150 (a) Hearings shall be required ~~with respect to~~ for any and all quasi-judicial actions and in  
 1151 any other proceeding required by this title or the Constitution of Georgia. All such hearings  
 1152 shall be conducted ~~as provided in this Code section~~ in accordance with Chapter 13 of Title  
 1153 50, the 'Georgia Administrative Procedure Act.'

1154 (b) ~~Where hearing is required or afforded, notice thereof as provided in this Code section~~  
 1155 ~~shall be given in person or by registered or certified mail or statutory overnight delivery~~  
 1156 ~~to all interested parties; provided, however, in proceedings where the number of interested~~  
 1157 ~~parties is so numerous as to make individual notice impracticable, notice shall be given by~~

1158 ~~publication or by such other means reasonably calculated to afford actual notice as may be~~  
 1159 ~~prescribed by the agency or person conducting such hearing. All notices shall state (1) the~~  
 1160 ~~time and place of hearing and nature thereof and (2) the matters of fact and law asserted~~  
 1161 ~~and must be given at least five days before the day set for hearing unless the agency~~  
 1162 ~~determines that an imminent threat to the public health exists which requires shorter notice.~~  
 1163 ~~(c) All interested parties at such hearings shall have, upon request, compulsory process as~~  
 1164 ~~provided in Code Section 31-5-4 and shall have the right to adduce evidence and conduct~~  
 1165 ~~cross-examination of all adverse witnesses. Any member of the department or county~~  
 1166 ~~boards of health, as the case may be, their authorized officials or agents, or any attorney~~  
 1167 ~~at law may administer oaths to all witnesses. No witness shall be abused while under~~  
 1168 ~~examination or required to incriminate himself. Where possible, all evidence and~~  
 1169 ~~proceedings shall be reported.~~  
 1170 ~~(d) The department is authorized and empowered to employ and appoint hearing~~  
 1171 ~~examiners to conduct hearings, issue compulsory process, administer oaths, and submit~~  
 1172 ~~their findings and recommendations to the appointing agency; provided, however, that any~~  
 1173 ~~such examiner shall be a member in good standing of the State Bar of Georgia. A county~~  
 1174 ~~board of health is authorized and empowered to direct its director or the director's~~  
 1175 ~~appointee to conduct hearings, issue compulsory process, administer oaths, and submit his~~  
 1176 ~~findings and recommendations to the county board of health. In both of such cases, the~~  
 1177 ~~examiner and director or the director's appointee shall make the report available to all~~  
 1178 ~~interested parties, and such parties are permitted to file written exception thereto prior to~~  
 1179 ~~final decision thereon."~~

#### 1180 SECTION 1-17.

1181 Code Section 31-7-95 of the Official Code of Georgia Annotated, relating to funding of  
 1182 medical education provided by hospital authorities and designated teaching hospitals, is  
 1183 amended by revising subsection (a) as follows:

1184 "(a) As used in this Code section, the term:

1185 (1) 'Designated teaching hospital' means a teaching hospital operated by other than a  
 1186 hospital authority, which hospital agrees to contract with the state to offer or continue to  
 1187 offer a residency program approved by the American Medical Association, which  
 1188 program has at least 50 residents and which hospital operates a 24 hour,  
 1189 seven-day-per-week emergency room open to the public and which hospital files a  
 1190 semiannual statistical report consistent with those filed by other state funded tertiary,  
 1191 neonatal, obstetrical centers with the Family Health Section of the Department of Human  
 1192 Resources Department of Public and Behavioral Health.

1193 (2) 'Hospital authority' means a hospital authority operating a teaching hospital which  
1194 offers a residency program approved by the American Medical Association.

1195 (3) 'Resident' means a physician receiving medical education and training through a  
1196 teaching hospital operated by a hospital authority or designated teaching hospital."

1197 **SECTION 1-18.**

1198 Code Section 31-11-2 of the Official Code of Georgia Annotated, relating to definitions  
1199 relative to emergency medical services, is amended by revising paragraphs (3), (5), and (6.1)  
1200 as follows:

1201 "(3) 'Ambulance provider' means an agency or company providing ambulance service  
1202 which is operating under a valid license from the Emergency Health Section of the  
1203 Division of Public Health of the Department of ~~Human Resources~~ Public and Behavioral  
1204 Health."

1205 "(5) 'Cardiac technician' means a person who, having been trained and certified as an  
1206 emergency medical technician and having completed additional training in advanced  
1207 cardiac life support techniques in a training course approved by the department, is so  
1208 certified by the Composite State Board of Medical Examiners prior to January 1, 2002,  
1209 or the Department of Human Resources (now known as the Department of Public and  
1210 Behavioral Health for these purposes) on and after January 1, 2002."

1211 "(6.1) 'Department' means the Department of ~~Human Resources~~ Public and Behavioral  
1212 Health."

1213 **SECTION 1-19.**

1214 Code Section 31-11-50 of the Official Code of Georgia Annotated, relating to medical  
1215 advisers relative to emergency medical services, is amended by revising subsection (a) as  
1216 follows:

1217 "(a) To enhance the provision of emergency medical care, each ambulance service shall  
1218 be required to have a medical adviser. The adviser shall be a physician licensed to practice  
1219 medicine in this state and subject to approval by the medical consultant of the Emergency  
1220 Health Section of the Division of ~~Physical~~ Public Health of the ~~Department of Human~~  
1221 ~~Resources~~ Department of Public and Behavioral Health. Ambulance services unable to  
1222 obtain a medical adviser, due to unavailability or refusal of physicians to act as medical  
1223 advisers, may request the district health director or his or her designee to act as medical  
1224 adviser until the services of a physician are available."

**SECTION 1-20.**

1225  
 1226 Code Section 31-11-53.1 of the Official Code of Georgia Annotated, relating to automated  
 1227 external defibrillator program, is amended by revising paragraph (1) of subsection (b) as  
 1228 follows:

1229 "(1) It is recommended that all persons who have access to or use an automated external  
 1230 defibrillator obtain appropriate training as set forth in the ~~Rules and Regulations~~ rules and  
 1231 regulations of the Department of Public and Behavioral Health ~~Human Resources Chapter~~  
 1232 ~~290-5-30~~. It is further recommended that such training include at a minimum the  
 1233 successful completion of:

- 1234 (A) A nationally recognized health care provider/professional rescuer level  
 1235 cardiopulmonary resuscitation course; and  
 1236 (B) A department established or approved course which includes demonstrated  
 1237 proficiency in the use of an automated external defibrillator;"

**SECTION 1-21.**

1238  
 1239 Code Section 31-13-25 of the Official Code of Georgia Annotated, relating to rules,  
 1240 regulations, agreements, and contracts formerly under the Department of Human Resources  
 1241 with respect to radiation control, is amended as follows:

1242 "31-13-25.

1243 All rules and regulations, agreements, contracts, or other instruments which involve  
 1244 radioactive materials heretofore under the jurisdiction of the Department of Human  
 1245 Resources (now known as the Department of Public and Behavioral Health for these  
 1246 purposes) will, by operation of law, be assumed by the Department of Natural Resources  
 1247 on April 4, 1990."

**SECTION 1-22.**

1248  
 1249 Code Section 31-15-4 of the Official Code of Georgia Annotated, relating to a cancer control  
 1250 officer, is amended as follows:

1251 "31-15-4.

1252 The commissioner shall appoint a cancer control officer. The cancer control officer shall  
 1253 be a physician licensed to practice medicine under Chapter 34 of Title 43 and ~~must~~ shall  
 1254 be knowledgeable in the field of medicine covered by this chapter. He or she shall  
 1255 administer the cancer program for the Division of ~~Physical~~ Public Health of the ~~Department~~  
 1256 ~~of Human Resources~~ Department of Public and Behavioral Health in compliance with this  
 1257 chapter. He or she shall be provided an office with clerical and administrative assistance  
 1258 to carry out this program."

**SECTION 1-23.**

1259

1260 Code Section 31-15-5, relating to duties of the commissioner with respect to care and  
 1261 treatment of cancer patients, is amended by revising paragraph (3) as follows:

1262 "(3) Extend financial aid to persons suffering from cancer to enable them to obtain the  
 1263 medical, nursing, pharmaceutical, and technical services necessary in caring for such  
 1264 disease. Criteria and procedures for financial aid will be developed by the Division of  
 1265 ~~Physical~~ Public Health in accordance with the principle that pauperization of a functional  
 1266 family unit will subvert the rehabilitative purposes of this program and will be more  
 1267 costly to the state in the long run;"

**SECTION 1-24.**

1268

1269 Code Section 33-24-28 of the Official Code of Georgia Annotated, relating to termination  
 1270 of coverage of dependent child upon attainment of specified age, is amended as follows:

1271 "33-24-28.

1272 (a) An individual hospital or medical expense insurance policy or hospital or medical  
 1273 service plan contract which provides that coverage of a dependent child shall terminate  
 1274 upon attainment of the limiting age for dependent children specified in the policy or  
 1275 contract shall also provide in substance that attainment of the limiting age shall not operate  
 1276 to terminate the coverage of the child while the child is and continues to be both incapable  
 1277 of self-sustaining employment by reason of ~~mental retardation~~ developmental disability or  
 1278 physical disability as determined by the Department of ~~Human Resources~~ Public and  
 1279 Behavioral Health and chiefly dependent upon the policyholder or subscriber for support  
 1280 and maintenance, provided proof of incapacity and dependency is furnished to the insurer,  
 1281 hospital, or medical service plan corporation by the policyholder or subscriber within 31  
 1282 days of the child's attainment of the limiting age and subsequently as may be required by  
 1283 the insurer or corporation but not more frequently than annually after the two-year period  
 1284 following the child's attainment of the limiting age.

1285 (b) A group hospital or medical expense insurance policy or hospital or medical service  
 1286 plan contract which provides that coverage of a dependent child of an employee or other  
 1287 member of the covered group shall terminate upon attainment of the limiting age for  
 1288 dependent children specified in the policy or contract shall also provide in substance that  
 1289 attainment of such limiting age shall not operate to terminate the coverage of the child  
 1290 while the child is and continues to be both incapable of self-sustaining employment by  
 1291 reason of ~~mental retardation~~ developmental disability or physical disability as determined  
 1292 by the Department of ~~Human Resources~~ Public and Behavioral Health and chiefly  
 1293 dependent upon the employee or member for support and maintenance, provided proof of  
 1294 incapacity and dependency is furnished to the insurer or hospital or medical service plan

1295 corporation by the employee or member within 31 days of the child's attainment of the  
 1296 limiting age and subsequently as may be required by the insurer or corporation but not  
 1297 more frequently than annually after the two-year period following the child's attainment  
 1298 of the limiting age.

1299 (c) This Code section shall apply equally to health insurance policies issued pursuant to  
 1300 Chapters 29 and 30 of this title, contracts issued by nonprofit hospital and medical service  
 1301 corporations under Chapters 18 and 19 of this title, coverage by health maintenance  
 1302 organizations under Chapter 21 of this title, and health care plans under Chapter 20 of this  
 1303 title."

#### 1304 **SECTION 1-25.**

1305 Code Section 33-24-59.2 of the Official Code of Georgia Annotated, relating to insurance  
 1306 coverage for equipment and self-management training for individuals with diabetes, is  
 1307 amended by revising subsection (b) as follows:

1308 "(b)(1) Diabetes outpatient self-management training and education as provided for in  
 1309 subsection (a) of this Code section shall be provided by a certified, registered, or licensed  
 1310 health care professional with expertise in diabetes.

1311 (2) The office of the Commissioner of Insurance shall promulgate rules and regulations  
 1312 after consultation with the Department of ~~Human Resources~~ Public and Behavioral  
 1313 Health which conform to the current standards for diabetes outpatient self-management  
 1314 training and educational services established by the American Diabetes Association for  
 1315 purposes of this Code section.

1316 (3) The office of the Commissioner of Insurance shall promulgate rules and regulations,  
 1317 relating to standards of diabetes care, to become effective July 1, 2002, after consultation  
 1318 with the Department of Human Resources (now known as the Department of Public and  
 1319 Behavioral Health for these purposes), the American Diabetes Association, and the  
 1320 National Institutes of Health. Such rules and regulations shall be adopted in accordance  
 1321 with the provisions of Code Section 33-2-9."

#### 1322 **SECTION 1-26.**

1323 Chapter 1 of Title 37 of the Official Code of Georgia Annotated, relating to mental health  
 1324 generally, is amended by revising subsection (a) of Code Section 37-1-2, relating to  
 1325 legislative findings as to mental health, developmental disability, and addictive disease  
 1326 problems and services, as follows:

1327 "(a) The General Assembly finds that the state has a need to continually improve its system  
 1328 for providing effective, efficient, and quality mental health, developmental disability, and  
 1329 addictive disease services. ~~The General Assembly also finds that the needs of the publicly~~

1330 ~~funded mental health, developmental disability, and addictive disease system and the state~~  
 1331 ~~can best be met through reorganizing the regional mental health, mental retardation, and~~  
 1332 ~~substance abuse boards and certain functions of the Department of Human Resources.~~  
 1333 Further, the General Assembly finds that a comprehensive range of quality services and  
 1334 opportunities is vitally important to the existence and well-being of individuals with mental  
 1335 health, developmental disability, or addictive disease needs and their families. The General  
 1336 Assembly further finds that the state has an obligation and a responsibility to develop and  
 1337 implement planning and service delivery systems which focus on a core set of consumer  
 1338 oriented, community based values and principles which include, but are not limited to, the  
 1339 following:

1340 (1) Consumers and families should have choices about services and providers and should  
 1341 have substantive input into the planning and delivery of all services;

1342 (2) The delivery of services for consumers and families who endure mental illnesses,  
 1343 addictive diseases, or developmental disabilities should consider and take into account  
 1344 the medical needs of such patients and their families and how the diseases, disabilities,  
 1345 or conditions regarded primarily as mental are affected by and often lead to physical  
 1346 illnesses, conditions, or ailments, exacerbating each other and shortening life;

1347 (3) Providers of mental health, developmental disability, or addictive disease services  
 1348 should coordinate with providers of primary and specialty care so that treatment of  
 1349 conditions of the brain and the body can be integrated to promote recovery and health and  
 1350 well-being;

1351 ~~(2)~~(4) A single point of accountability should exist for fiscal, service, and administrative  
 1352 issues to ensure better coordination of services among all programs and providers and to  
 1353 promote cost-effective, efficient service delivery and administration;

1354 ~~(3)~~(5) The system should be appropriately comprehensive and adaptive to allow  
 1355 consumers and their families to access the services they desire and need;

1356 ~~(4)~~(6) Public programs are the safety net and foundation of the service planning and  
 1357 delivery system, they are essential for adequate state-wide services, and they should be  
 1358 valued and nurtured; at the same time, while assuring comparable standards of quality,  
 1359 private sector involvement should be increased to allow for expanded consumer choice  
 1360 and improved cost effectiveness;

1361 ~~(5)~~(7) Planning should reside at the local level, with the primary authority vested in local  
 1362 government, consumers, families, advocates, and other interested local parties;

1363 ~~(6)~~(8) The system should ensure that the needs of consumers who are most in need are  
 1364 met at the appropriate service levels; at the same time, prevention strategies should be  
 1365 emphasized for those disabilities which are known to be preventable;

1366 ~~(7)~~(9) The system should be designed to provide the highest quality of services utilizing  
 1367 flexibility in funding, incentives, and outcome evaluation techniques which reinforce  
 1368 quality, accountability, efficiency, and consumer satisfaction;  
 1369 ~~(8)~~(10) The functions of service planning, coordination, contracting, resource allocation,  
 1370 and consumer assessment should be separated from the actual treatment, habilitation, and  
 1371 prevention services provided by contractors;  
 1372 ~~(9)~~(11) Consumers and families should have a single, community based point of entry  
 1373 into the system;  
 1374 ~~(10)~~(12) Consumers, staff, providers, and regional planning board and community  
 1375 service board members should receive ongoing training and education and should have  
 1376 access to key management resources such as information systems and technical and  
 1377 professional support services; and  
 1378 ~~(11)~~(13) The department is responsible for ensuring the appropriate use of state, federal,  
 1379 and other funds to provide quality services for individuals with mental health,  
 1380 developmental disabilities, or addictive disease needs who are served by the public  
 1381 system and to protect consumers of these services from abuse and maltreatment."

#### 1382 SECTION 1-27.

1383 Said chapter is further amended by revising Code Section 37-1-20, relating to the Division  
 1384 of Mental Health, Developmental Disabilities, and Addictive Diseases, as follows:

1385 "37-1-20.

1386 (a) The Division of Mental Health, Developmental Disabilities, and Addictive Diseases  
 1387 shall be a division of the department and shall be managed by a director whose  
 1388 qualifications meet standards set by the board.

1389 (b) The department, through the division, shall:

1390 (1) Establish, administer, and supervise the state programs for mental health,  
 1391 developmental disabilities, and addictive diseases;

1392 (2) Direct, supervise, and control the medical and physical care, treatment, and  
 1393 rehabilitation and social and housing needs provided by the institutions, contractors, and  
 1394 programs under its control, management, or supervision;

1395 (3) Have authority to contract for services with community service boards, private  
 1396 agencies, and other public entities for the provision of services within a service area so  
 1397 as to provide an adequate array of services; and choice of providers for consumers; and  
 1398 to comply with the applicable federal laws, rules, and regulations related to public or  
 1399 private hospitals; hospital authorities; medical schools and training and educational  
 1400 institutions; departments and agencies of this state; county or municipal governments;



1401 any person, partnership, corporation, or association, whether public or private; and the  
 1402 United States government or the government of any other state;

1403 (4) Plan for and implement the coordination of mental health, addictive disease, and  
 1404 developmental disability services with physical health services, and the prevention of any  
 1405 of these diseases or conditions, and develop and promulgate rules and regulations to  
 1406 require that all health services be coordinated and that public and private providers of any  
 1407 of these services who receive state support notify other providers of services to the same  
 1408 patients of the conditions, treatment, and medication regimens each provider is  
 1409 prescribing and delivering;

1410 ~~(4)~~(5) Establish and support programs for the training of professional and technical  
 1411 personnel as well as regional planning boards and community service boards;

1412 ~~(5)~~(6) Have authority to conduct research into the causes and treatment of disability and  
 1413 into the means of effectively promoting mental health recovery;

1414 ~~(6)~~(7) Assign specific responsibility to one or more units of the division for the  
 1415 development of a disability prevention program. The objectives of such program shall  
 1416 include, but are not limited to, monitoring of completed and ongoing research related to  
 1417 the prevention of disability, implementation of programs known to be preventive, and  
 1418 testing, where practical, of those measures having a substantive potential for the  
 1419 prevention of disability;

1420 ~~(7)~~(8) Establish a system for regional administration of mental health, developmental  
 1421 disability, and addictive disease services in institutions and in the community under the  
 1422 supervision of a regional coordinator;

1423 ~~(8)~~(9) Make and administer budget allocations to regional offices of the division  
 1424 established by the board pursuant to Code Section 37-2-4.1 to fund the operation of  
 1425 mental health, developmental disabilities, and addictive diseases facilities and programs;

1426 ~~(9)~~(10) Coordinate in consultation with providers, professionals, and other experts the  
 1427 development of appropriate outcome measures for client centered service delivery  
 1428 systems;

1429 ~~(10)~~(11) Establish, operate, supervise, and staff programs and facilities for the treatment  
 1430 of disabilities throughout this state;

1431 ~~(11)~~(12) Disseminate information about available services and the facilities through  
 1432 which such services may be obtained;

1433 ~~(12)~~(13) Supervise the regional office's exercise of its responsibility and authority  
 1434 concerning funding and delivery of disability services;

1435 ~~(13)~~(14) Supervise the regional offices concerning the receipt and administration of  
 1436 grants, gifts, moneys, and donations for purposes pertaining to mental health,  
 1437 developmental disabilities, and addictive diseases;

1438 ~~(14)~~(15) Supervise the regional offices concerning making contracts with any hospital,  
 1439 community service board, or any public or private providers without regard to regional  
 1440 or state boundaries for the provision of disability services and in making and entering into  
 1441 all contracts necessary or incidental to the performance of the duties and functions of the  
 1442 division and the regional offices; and

1443 ~~(15)~~(16) Regulate the delivery of care, including behavioral interventions and medication  
 1444 administration by licensed staff, or certified staff as determined by the division, within  
 1445 residential settings serving only persons who are receiving services authorized or  
 1446 financed, in whole or in part, by the division;.

1447 ~~(16)~~ Classify 'community living arrangements' and 'host homes' for persons whose  
 1448 services are financially supported, in whole or in part, by funds authorized through the  
 1449 Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the  
 1450 Department of Human Resources. As used in this Code section, the term:

1451 ~~(A)~~ 'Community living arrangement' means any residence, whether operated for profit  
 1452 or not, which undertakes through its ownership or management to provide or arrange  
 1453 for the provision of housing, food, one or more personal services, supports, care, or  
 1454 treatment exclusively for two or more persons who are not related to the owner or  
 1455 administrator of the residence by blood or marriage.

1456 ~~(B)~~ 'Host home' means a private residence in a residential area in which the occupant  
 1457 owner or lessee provides housing and provides or arranges for the provision of food,  
 1458 one or more personal services, supports, care, or treatment exclusively for one or two  
 1459 persons who are not related to the occupant owner or lessee by blood or marriage. A  
 1460 host home shall be occupied by the owner or lessee, who shall not be an employee of  
 1461 the same community provider which provides the host home services by contract with  
 1462 the division. The division shall approve and enter into agreements with community  
 1463 providers which, in turn, contract with host homes. The occupant owner or lessee shall  
 1464 not be the guardian of any person served or of their property nor the agent in such  
 1465 person's advance directive for health care. The placement determination for each  
 1466 person placed in a host home shall be made according to such person's choice as well  
 1467 as the individual needs of such person in accordance with the requirements of Code  
 1468 Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person; and

1469 ~~(17)~~ Provide guidelines for and oversight of host homes, which may include, but not be  
 1470 limited to, criteria to become a host home, requirements relating to physical plants and  
 1471 supports, placement procedures, and ongoing oversight requirements.

1472 (c) The department shall:

1473 (1) Establish a unit of the department which shall receive and consider complaints from  
 1474 individuals receiving services, make recommendations to the director of the division

1475 regarding such complaints, and ensure that the rights of individuals receiving services are  
 1476 fully protected;

1477 (2) Exercise all powers and duties provided for in this title or which may be deemed  
 1478 necessary to effectuate the purposes of this title; and

1479 (3) Assign specific responsibility to one or more units of the division for the  
 1480 development of programs designed to serve disabled infants, children, and youth. To the  
 1481 extent practicable, such units shall cooperate with the Georgia Department of Education  
 1482 and the University System of Georgia in developing such programs; and.

1483 ~~(4) Classify and license community living arrangements, as defined in paragraph (16) of~~  
 1484 ~~subsection (b) of this Code section, in accordance with the rules and regulations~~  
 1485 ~~promulgated by the department for the licensing of community living arrangements and~~  
 1486 ~~the enforcement of licensing requirements. To be eligible for licensing as a community~~  
 1487 ~~living arrangement, the residence and services provided must be integrated within the~~  
 1488 ~~local community. All community living arrangements licensed by the department shall~~  
 1489 ~~be subject to the provisions of Code Sections 31-2-6 and 31-7-2.2. No person, business~~  
 1490 ~~entity, corporation, or association, whether operated for profit or not for profit, may~~  
 1491 ~~operate a community living arrangement without first obtaining a license or provisional~~  
 1492 ~~license from the department. A license issued under this article is not assignable or~~  
 1493 ~~transferable."~~

#### 1494 SECTION 1-28.

1495 Said chapter is further amended by revising subsection (a) of Code Section 37-1-21, relating  
 1496 to institutional powers and duties of the Department of Human Resources and the Board of  
 1497 Human Resources, as follows:

1498 "(a) The department is designated and empowered as the agency of this state responsible  
 1499 for supervision and administrative control of: state facilities for the treatment of mental  
 1500 illness or the habilitation and treatment of individuals with developmental disabilities who  
 1501 suffer from mental illnesses, developmental disabilities, or addictive diseases; state  
 1502 hospitals for the treatment of tubercular patients; programs for the care, custody, and  
 1503 treatment of addictive disease; and other facilities, institutions, or programs which now or  
 1504 hereafter come under the supervision and administrative control of the department. With  
 1505 respect to all such facilities, institutions, or programs the department shall have the  
 1506 following powers and duties:

1507 (1) To create all necessary offices, appoint and remove all officers of such facilities,  
 1508 institutions, or programs, prescribe and change the duties of such officers from time to  
 1509 time, and fix their salaries as provided for by the pay plan covering positions under the  
 1510 State Merit System of Personnel Administration and in accordance with rules and

1511 regulations of the State Personnel Board, except that the commissioner shall not be  
1512 subject to the State Merit System of Personnel Administration or the rules and regulations  
1513 of the State Personnel Board. The department shall discharge and cause to be prosecuted  
1514 any officer or other person who shall assault any patient in any of such facilities or  
1515 institutions or who shall knowingly use toward any such patient any other or greater force  
1516 than the occasion may require;

1517 (2) To refuse or accept and hold in trust for any such facility, institution, or program any  
1518 grant or devise of land or bequest or donation of money or other property for the  
1519 particular use specified or, if no use is specified, for the general use of such facility,  
1520 institution, or program;

1521 (3) To bring suit in its name for any claims which any such facility or institution may  
1522 have, however arising;

1523 (4) To appoint police of such facilities, institutions, or programs who are authorized,  
1524 while on the grounds or in the buildings of the respective facilities, institutions, or  
1525 programs to make arrests with the same authority, power, privilege, and duties as the  
1526 sheriffs of the respective counties in which such facilities, institutions, or programs are  
1527 situated. If because of the contagious or infectious nature of the disease of persons  
1528 arrested facilities are not available for their detention, such police shall be authorized to  
1529 confine such persons within the respective facilities, institutions, or programs pending  
1530 trial as provided in other cases. After trial and conviction of any such person, he or she  
1531 shall be sentenced to serve his or her term of sentence in the secured ward of the facility,  
1532 institution, or program; and

1533 (5) To have full authority ~~to receive~~ and responsibility to receive and treat patients  
1534 ordered admitted to such facilities, institutions, or programs pursuant to any law, to  
1535 receive any voluntary patients, to discharge such patients pursuant to law, to contract with  
1536 patients or other persons acting on behalf of patients or legally responsible therefor, and  
1537 in general to exercise any power or function with respect to patients provided by law. It  
1538 is the intent of the General Assembly to provide always the highest quality of diagnosis,  
1539 treatment, custody, and care consistent with medical, therapeutic recovery, and  
1540 habilitative evidence based practice and knowledge. It is the further intent of the General  
1541 Assembly that the powers and duties of the department with respect to patients shall be  
1542 administered by persons properly trained professionally for the exercise of their duties,  
1543 consistent with the intention expressed in this Code section."

**SECTION 1-29.**

1544

1545 Said chapter is further amended by adding new Code sections to read as follows:

1546 "37-1-25.

1547 The department is authorized to purchase land or lands adjacent to or near lands now under  
 1548 the control of the department where, in the opinion of the department, the land is needed  
 1549 for the benefit of one of the institutions under its control and management, to pay for such  
 1550 land out of any funds which may be available for such purpose, and to take title to land so  
 1551 purchased in the name of the State of Georgia for the use of the department.

1552 37-1-26.

1553 (a) The department shall sell, to the best advantage, all surplus products of the Central  
 1554 State Hospital or other institutions under the control and supervision of the department and  
 1555 shall apply the proceeds thereof to the maintenance of the institution from which such  
 1556 surplus products are received. Should any surplus funds arise from this source, they shall  
 1557 be paid into the state treasury annually; and the department shall, at the end of each quarter,  
 1558 make a detailed report of all such transactions to the Governor.

1559 (b) It is not the intention of this Code section to encourage competition in any way by the  
 1560 state, its institutions, agencies, departments or branches, or other subdivisions with the  
 1561 individual, private farmers of this state, or others, in the production and sale of agricultural  
 1562 or industrial commodities or products in due course of commerce."

**SECTION 1-30.**

1563

1564 Code Section 37-1-70 of the Official Code of Georgia Annotated, relating to definitions  
 1565 relative to inspection warrants relative to mental health laws, is amended by revising as  
 1566 follows:

1567 "37-1-70.

1568 As used in this chapter, the term:

1569 (1) 'Inspection warrant' means a warrant authorizing a search or inspection of private  
 1570 property where such a search or inspection is one that is necessary for the enforcement  
 1571 of a 'public mental health law.'

1572 (2) 'Mental health law' means Code Sections 37-3-7, 37-3-8, and 37-4-4, Chapter 6 of  
 1573 this title, and any rule or regulation duly promulgated thereunder."

**SECTION 1-31.**

1574

1575 Code Section 37-2-2 of the Official Code of Georgia Annotated, relating to definitions  
 1576 relative to the administration of mental health, developmental disabilities, addictive diseases,

1577 and other disability services, is amended by revising paragraph (7) and adding a new  
1578 paragraph to read as follows:

1579 "(7) 'Disability services' means services to the disabled or services which are designed  
1580 to prevent or ameliorate the effect of a disability. Such term shall include health  
1581 services."

1582 "(9.1) 'Health services' means social, housing, employment, recovery, and support  
1583 services and any education or service provided by the Department of Public and  
1584 Behavioral Health, either directly or by contract."

1585 **SECTION 1-32.**

1586 Code Section 37-2-5 of the Official Code of Georgia Annotated, relating to establishing  
1587 policy and direction for disability services for regional planning boards, is amended by  
1588 revising subsections (a) and (b.2) as follows:

1589 "(a) Each regional planning board shall engage in disability services planning including  
1590 job supports and housing within its region and shall perform such other functions as may  
1591 be provided or authorized by law."

1592 "(b.2)(1) A person shall not be eligible to be appointed to or serve on a regional planning  
1593 board if such person is:

1594 (A) A member of the community service board which serves that region; ~~or~~

1595 (B) An employee or board member of a private or public entity which contracts with  
1596 the department, through the division, to provide health, mental health, developmental  
1597 disabilities, or addictive diseases services within the region; ~~or~~

1598 (C) An employee of such regional office or employee or board member of any private  
1599 or public group, organization, or service provider which contracts with or receives  
1600 funds from such regional office; or

1601 (D) An employee or board member of the department.

1602 (2) A person shall not be eligible to be appointed to or serve on a regional planning board  
1603 if such person's spouse, parent, child, or sibling is a member of that regional planning  
1604 board or a member, employee, or board member specified in ~~subparagraph (A), (B), or~~  
1605 ~~(C)~~ of paragraph (1) of this subsection. No person who has served a full term or more  
1606 on a regional board or regional planning board may be appointed to a community service  
1607 board until a period of at least two years has passed since the time such person served on  
1608 the regional board or the regional planning board. No person who has served on a  
1609 regional board and who becomes a member of a regional planning board on June 30,  
1610 2002, may be appointed to a community service board until a period of at least two years  
1611 has passed since the time such person has served on the regional planning board."

1612 **SECTION 1-33.**

1613 Said chapter is further amended by revising subsection (b) of Code Section 37-2-5.2, relating  
1614 to duties and functions of regional planning boards, as follows:

1615 "(b) It is the express intent of this chapter to confer upon the regional offices as the  
1616 administrative entities of the division the flexibility, responsibility, and authority necessary  
1617 to enter into contracts on behalf of the division with a wide range of public and private  
1618 providers to ensure that consumers are afforded cost-effective, locally based, and quality  
1619 disability services. Under the supervision of the division, regional offices are specifically  
1620 authorized to enter into contracts on behalf of the division directly with any county  
1621 governing authority, any disability services organization created or designated by such  
1622 county governing authority, any county board of health, any private or public provider, or  
1623 any hospital for the provision of disability services."

1624 **SECTION 1-34.**

1625 Code Section 37-2-6 of the Official Code of Georgia Annotated, relating to the creation of  
1626 community mental health, developmental disabilities, and addictive diseases service boards,  
1627 is amended by revising subsections (a), (b), and (b.1) as follows:

1628 "(a) Community service boards in existence on June 30, 2006, are re-created effective  
1629 July 1, 2006, to provide mental health, developmental disabilities, and addictive diseases  
1630 services. Such community service boards may enroll and contract with the department to  
1631 become a provider of mental health, developmental disabilities, and addictive diseases  
1632 services or health, recovery, housing, or other supportive services. Such boards shall be  
1633 considered public agencies. Each community service board shall be a public corporation  
1634 and an instrumentality of the state; provided, however, the liabilities, debts, and obligations  
1635 of a community service board shall not constitute liabilities, debts, or obligations of the  
1636 state or any county or municipal corporation and neither the state nor any county or  
1637 municipal corporation shall be liable for any liability, debt, or obligation of a community  
1638 service board. Each community service board re-created pursuant to this Code section is  
1639 created for nonprofit and public purposes to exercise essential governmental functions.  
1640 The re-creation of community service boards pursuant to this Code section shall not alter  
1641 the provisions of Code Section 37-2-6.2 which shall apply to those re-created community  
1642 service boards and their employees covered by that Code section and those employees'  
1643 rights are retained.

1644 (b) Each community service board shall consist of members appointed by the governing  
1645 authorities of the counties within the community service board area. Membership on such  
1646 community service board shall be determined as follows:

1647 (1)(A) The governing authority of each county within the community service board  
1648 area:

1649 (i) With a population of 50,000 or less according to the most recent United States  
1650 decennial census shall appoint one member to the board; and

1651 (ii) With a population of more than 50,000 according to the most recent United States  
1652 decennial census shall appoint one member for each population increment of 50,000  
1653 or any portion thereof; or

1654 (B) In the event that the number of community service board member positions  
1655 established in accordance with subparagraph (A) of this paragraph would exceed 13,  
1656 the membership of such community service board pursuant to this subsection shall be  
1657 appointed as follows and the bylaws shall be amended accordingly:

1658 (i) For community service boards whose community service board area contains 13  
1659 or fewer counties, the board shall be set at 13 members and appointments to the board  
1660 shall be made by the governing authority of each county within the community  
1661 service board area in descending order from the county with the largest population to  
1662 the county with the smallest population according to the most recent United States  
1663 decennial census and this method shall be repeated until all 13 members of the  
1664 community service board are appointed. If a county governing authority fails to make  
1665 an appointment within a reasonable time, the next descending county by population  
1666 shall make an appointment and the method shall continue; and

1667 (ii) For community service boards whose community service board area contains  
1668 more than 13 counties, one member of the community service board shall be  
1669 appointed by the governing authority of each county within the community service  
1670 board area, so that the number of members on the board is equal to the number of  
1671 counties in the community service board area.

1672 The county governing authority shall appoint as at least one of its appointments a  
1673 consumer of disability services, a child psychiatrist, a child psychologist, a family  
1674 member of a consumer, an advocate for disability services, a parent of a child with  
1675 mental illness or addictive disease, or a local leader or businessperson with an interest  
1676 in mental health, developmental disabilities, and addictive diseases; provided, however,  
1677 that for counties with more than one appointment, the county governing authority shall  
1678 seek to ensure that such appointments represent various groups and disability services;

1679 (2) In addition to the members appointed pursuant to paragraph (1) of this subsection,  
1680 each community service board may appoint up to three additional members in order to  
1681 address variation in the population sizes of counties or the financial contributions of  
1682 counties within the community service board area or may authorize the elected chief  
1683 executive officer of a county governing authority, by whatever name called, or an elected



1684 member of that county governing authority to serve on the community service board  
1685 while holding such elective office. The bylaws of the community service board shall  
1686 address the number of such additional members, if any, and the purpose or purposes for  
1687 which such positions are created. The term of office of such additional members shall  
1688 be the same as that of other members as provided in subsection (h) of this Code section;  
1689 except that the term of office of a member in a position created to authorize the elected  
1690 chief executive officer of a county governing authority, by whatever name called, or an  
1691 elected member of that county governing authority to serve on the community service  
1692 board shall be the same term of office as the elective term of office of said chief  
1693 executive officer or said member of that county governing authority;

1694 (3) Each community service board in existence on June 30, 2006, shall reconstitute its  
1695 membership in accordance with the provisions of paragraphs (1) and (2) of this  
1696 subsection, effective July 1, 2006, as follows:

1697 (A) A community service board which increases or reduces the number of its members  
1698 in accordance with paragraphs (1) and (2) of this subsection shall revise its bylaws  
1699 adopted in accordance with subsection (h) of this Code section to reflect such increases  
1700 or reductions. A community service board which reduces the number of its members  
1701 shall designate which position or positions are to be eliminated and shall make  
1702 reasonable efforts to eliminate any position or positions of members whose terms expire  
1703 on or before June 30, 2006; provided, however, that members serving on a community  
1704 service board whose terms do not expire on or before June 30, 2006, shall continue to  
1705 serve out the terms of office to which they were appointed, regardless of whether this  
1706 causes a board to temporarily exceed the maximum number of members. Any  
1707 additional positions created in conformity with such paragraphs (1) and (2) may be  
1708 filled on July 1, 2006, and the governing authority of a county that is otherwise  
1709 authorized to appoint such additional community service board member or members  
1710 may do so no sooner than May 1, 2006, but any person so appointed shall not take  
1711 office until July 1, 2006. If a position on such community service board is not filled on  
1712 July 1, 2006, a vacancy in that position shall be deemed to have occurred on that date.  
1713 A community service board is authorized to make whatever changes necessary in the  
1714 terms of office of its members in order to achieve the staggering of terms required by  
1715 subsection (h) of this Code section; and

1716 (B) The term of office of an ex officio, voting member of a community service board  
1717 holding membership on June 30, 2006, shall expire on June 30, 2006; and

1718 (4)(A) A person shall not be eligible to be appointed to or serve on a community  
1719 service board if such person is:

1720 (i) A member of the regional planning board which serves the region in which that  
 1721 community service board is located;

1722 (ii) An employee or board member of a public or private entity which contracts with  
 1723 the division to provide mental health, developmental disabilities, and addictive  
 1724 diseases services within the region; or

1725 (iii) An employee of that community service board or employee or board member of  
 1726 any private or public group, organization, or service provider which contracts with or  
 1727 receives funds from that community service board.

1728 (B) A person shall not be eligible to be appointed to or serve on a community service  
 1729 board if such person's spouse, parent, child, or sibling is a member of that community  
 1730 service board or a member, employee, or board member specified in division (i), (ii),  
 1731 or (iii) of subparagraph (A) of this paragraph. With respect to appointments by the  
 1732 same county governing authority, no person who has served a full term or more on a  
 1733 community service board may be appointed to a regional planning board until a period  
 1734 of at least two years has passed since the time such person served on the community  
 1735 service board, and no person who has served a full term or more on a regional planning  
 1736 board may be appointed to a community service board until a period of at least two  
 1737 years has passed since the time such person has served on the regional planning board.

1738 (5) A community service board created in accordance with this subsection shall  
 1739 reconstitute its membership in conformity with the most recent United States decennial  
 1740 census in accordance with subparagraph (d)(2)(C) of Code Section 1-3-1.

1741 (b.1) A county governing authority may appoint the school superintendent, a member of  
 1742 the county board of health, a member of the board of education, or any other elected or  
 1743 appointed official to serve on the community service board provided that such person meets  
 1744 the qualifications of paragraph (1) of subsection (b) of this Code section and such  
 1745 appointment does not violate the provisions of Chapter 10 of Title 45. For terms of office  
 1746 which begin July 1, 1994, or later, an employee of the Department of Human Resources  
 1747 (now known as the Department of Public and Behavioral Health for these purposes) or an  
 1748 employee of a county board of health ~~may~~ shall not serve on a community service board.  
 1749 For terms of office which begin July 1, 2009, or later, an employee of the department or  
 1750 a board member of the board of the department shall not serve on a community service  
 1751 board."

### 1752 SECTION 1-35.

1753 Code Section 37-4-2 of the Official Code of Georgia Annotated, relating to definitions  
 1754 relative to the habilitation of the mentally retarded, is amended as follows:

1755 "37-4-2.

1756 As used in this chapter, the term:

1757 (1) 'Client' means any ~~mentally retarded~~ developmentally disabled person who seeks  
1758 habilitation under this chapter or any person for whom such habilitation is sought.

1759 (2) 'Clinical record' means a written record pertaining to an individual client and includes  
1760 habilitation record, progress notes, charts, admission and discharge data, and all other  
1761 information which is recorded by a facility and which pertains to the client's habilitation.  
1762 Such other information as may be required by rules and regulations of the board shall also  
1763 be included.

1764 (3) 'Community services' means all services deemed reasonably necessary by the  
1765 Department of ~~Human Resources~~ Public and Behavioral Health to provide for the  
1766 education, training, habilitation, and care of ~~mentally retarded~~ developmentally disabled  
1767 individuals. Such services shall include, but not be limited to, diagnostic and evaluation  
1768 services, day-care and training services, work activity services, community residential  
1769 services such as group family care homes, transportation services, social services,  
1770 medical services, and specified home services.

1771 (4) 'Comprehensive evaluation team' or 'comprehensive habilitation team' means and  
1772 shall consist of a group of persons with special training and experience in the assessment  
1773 of needs and provision of services for ~~mentally retarded~~ developmentally disabled  
1774 persons, which group shall include, at a minimum, persons qualified to provide social,  
1775 psychological, medical, and other services. The department shall specify the  
1776 qualifications of the individuals who ~~compose~~ comprise a comprehensive evaluation team  
1777 or a comprehensive habilitation team and shall ensure that such teams are located  
1778 throughout the state so as to provide diagnostic, evaluation, and habilitation services for  
1779 all citizens of Georgia.

1780 (5) 'Court' means:

1781 (A) In the case of an individual who is 17 years of age or older, the probate court of the  
1782 county of residence of the client or the county in which such client is found.  
1783 Notwithstanding Code Section 15-9-13, in any case in which the judge of said probate  
1784 court is unable to hear a case brought under this chapter within the time required for  
1785 such hearing, said judge shall appoint a person to serve and exercise all the jurisdiction  
1786 of the probate court in such case. Any person so appointed shall be a member of the  
1787 State Bar of Georgia and shall be otherwise qualified for his or her duties by training  
1788 and experience. Such appointment may be made on a case-by-case basis or by making  
1789 a standing appointment of one or more persons. Any person receiving such standing  
1790 appointment shall serve at the pleasure of the judge making the appointment or ~~his~~ the  
1791 judge's successor in office to hear such cases if and when necessary. The compensation  
1792 of a person so appointed shall be as agreed upon by the judge who makes the

1793 appointment and the person appointed with the approval of the governing authority of  
 1794 the county for which such person is appointed and shall be paid from the county funds  
 1795 of said county. All fees collected for the services of such appointed person shall be paid  
 1796 into the general funds of the county served; or

1797 (B) In the case of an individual who is under the age of 17 years, the juvenile court of  
 1798 the county of residence of the client or the county in which such client is found.

1799 (6) 'Developmental disability' means a severe, chronic disability of an individual that:

1800 (A) Is attributable to a mental, cognitive, or physical impairment, or any combination  
 1801 of mental, cognitive, and physical impairments;

1802 (B) Is manifested before the individual attains age 22 except in cases of traumatic brain  
 1803 injury when age is not a variable;

1804 (C) Is likely to continue indefinitely;

1805 (D) Results in substantial functional limitations in three or more of the following areas  
 1806 of major life activities:

1807 (i) Self-care;

1808 (ii) Receptive and expressive language;

1809 (ii) Learning;

1810 (iv) Mobility;

1811 (v) Self-direction;

1812 (vi) Capacity for independent living; and

1813 (vii) Economic self-sufficiency; and

1814 (E) Reflects the person's need for a combination and sequence of special,  
 1815 interdisciplinary, or generic services, individualized supports, or other forms of  
 1816 assistance which are of lifelong or extended duration and are individually planned and  
 1817 coordinated.

1818 When applied to infants and young children, the term means individuals from birth to age  
 1819 nine years, inclusive, who have substantial developmental delay or specific congenital  
 1820 or acquired conditions with a high probability of resulting in developmental disabilities  
 1821 if services or supports are not provided.

1822 (7) 'Developmentally disabled person' means a person having a significantly subaverage  
 1823 general intellectual functioning existing concurrently with deficits in adaptive behavior  
 1824 and originating in the developmental period.

1825 (8) 'Developmentally disabled person in need of community services' means a  
 1826 developmentally disabled person who, after comprehensive evaluation and a hearing, is  
 1827 found to be in need of community services as defined in Code Section 37-5-3.

1828 (9) 'Developmentally disabled person requiring temporary and immediate care' means  
 1829 a person who is developmentally disabled, and:

- 1830 (A) Who presents a substantial risk of imminent harm to himself or herself or others;  
 1831 (B) Who is in need of immediate care, evaluation, stabilization, or treatment for certain  
 1832 developmental, medical, or behavioral needs; and  
 1833 (C) For whom there currently exists no available, appropriate community residential  
 1834 setting for meeting the needs of the person.

1835 ~~(6)~~(10) 'Facility' means any state owned or state operated institution utilized 24 hours a  
 1836 day for the habilitation and residence of persons who are ~~mentally-retarded~~  
 1837 developmentally disabled, any facility operated or utilized for such purpose by the United  
 1838 States Department of Veterans Affairs or any other federal agency, and any other facility  
 1839 within the State of Georgia approved for such purpose by the department.

1840 ~~(7)~~(11) 'Full and fair hearing' or 'hearing' means a proceeding before a hearing examiner,  
 1841 under Code Section 37-4-42, or before a court, as defined in paragraph (5) of this Code  
 1842 section. The hearing may be held in a regular courtroom or in an informal setting, in the  
 1843 discretion of the hearing examiner or the court, but the hearing shall be recorded  
 1844 electronically or by a qualified court reporter. The client shall be provided with effective  
 1845 assistance of counsel. If the client cannot afford counsel, the court shall appoint counsel  
 1846 for him or her or the hearing examiner shall have the court appoint such counsel. The  
 1847 client shall have the right to confront and cross-examine witnesses and to offer evidence.  
 1848 The client shall have the right to subpoena witnesses and to require testimony before the  
 1849 hearing examiner or in court in person or by deposition from any physician upon whose  
 1850 evaluation the decision of the hearing examiner or the court may rest. The client shall  
 1851 have the right to obtain a continuance for any reasonable time for good cause shown. The  
 1852 hearing examiner and the court shall apply the rules of evidence applicable in civil cases.  
 1853 The burden of proof shall be upon the party seeking treatment of the client. The standard  
 1854 of proof shall be by clear and convincing evidence. At the request of the client, the public  
 1855 may be excluded from the hearing; and the client need not be present if the court  
 1856 consents; in either of these events, the record shall reflect the reason for the hearing  
 1857 examiner's or the court's action.

1858 ~~(8)~~(12) 'Habilitation' means the process by which program personnel help clients acquire  
 1859 and maintain those life skills which will enable them to cope more effectively with the  
 1860 demands of their own persons and of their environment and to raise the level of their  
 1861 physical, mental, social, and vocational abilities.

1862 ~~(9)~~(13) 'Individualized program plan' means a proposed habilitation program written in  
 1863 behavioral terms, developed by the comprehensive evaluation team, and specifically  
 1864 tailored to the needs of an individual client. Each plan shall include:

- 1865 (A) A statement of the nature of the client's specific problems and specific needs;

- 1866 (B) A description of intermediate and long-range habilitation goals and a projected  
 1867 timetable for their attainment;
- 1868 (C) A description of the proposed habilitation program and its relation to habilitation  
 1869 goals;
- 1870 (D) Identification of the facility and types of professional personnel responsible for  
 1871 execution of the client's habilitation program;
- 1872 (E) A statement of the least restrictive environment necessary to achieve the purposes  
 1873 of habilitation, based upon the needs of the client;
- 1874 (F) An explanation of criteria for acceptance or rejection of alternative environments  
 1875 for habilitation; and
- 1876 (G) Proposed criteria for release of the client into less restrictive habilitation  
 1877 environments upon obtaining specified habilitation goals.
- 1878 ~~(10)~~(14) 'Least restrictive alternative,' 'least restrictive environment,' or 'least restrictive  
 1879 appropriate habilitation' means that which is the least restrictive available alternative,  
 1880 environment, or appropriate habilitation, as applicable, within the limits of state funds  
 1881 specifically appropriated therefor.
- 1882 ~~(11) 'Mental retardation' means a state of significantly subaverage general intellectual  
 1883 functioning existing concurrently with deficits in adaptive behavior and originating in the  
 1884 developmental period.~~
- 1885 ~~(12) 'Mentally retarded person' means a person having a significantly subaverage general  
 1886 intellectual functioning existing concurrently with deficits in adaptive behavior and  
 1887 originating in the developmental period.~~
- 1888 ~~(13) 'Mentally retarded person in need of community services' means a mentally retarded  
 1889 person who, after comprehensive evaluation and a hearing, is found to be in need of  
 1890 community services as defined in Code Section 37-5-3.~~
- 1891 ~~(13.1) 'Mentally retarded person requiring temporary and immediate care' means a  
 1892 person who is mentally retarded, and:~~
- 1893 ~~(A) Who presents a substantial risk of imminent harm to himself or others;~~
- 1894 ~~(B) Who is in need of immediate care, evaluation, stabilization, or treatment for certain  
 1895 developmental, medical, or behavioral needs; and~~
- 1896 ~~(C) For whom there currently exists no available, appropriate community residential  
 1897 setting for meeting the needs of the person.~~
- 1898 (14)~~(15)~~ 'Person in charge of a client's habilitation' means a superintendent or regional  
 1899 state hospital administrator of a facility, a case manager, or any other service provider  
 1900 designated by the department to have overall responsibility for implementation of a  
 1901 client's individualized program plan. The department shall designate such a person for  
 1902 each individual ordered to receive services from the department under this chapter.

1903 ~~(14.1)~~(16) 'Regional state hospital administrator' means the chief administrative officer  
 1904 of a state owned or state operated hospital and the state owned or operated community  
 1905 programs in a region. The regional state hospital administrator, under the supervision of  
 1906 the regional coordinator, has overall management responsibility for the regional state  
 1907 hospital and manages services provided by employees of the regional state hospital and  
 1908 employees of state owned or operated community programs within a mental health,  
 1909 developmental disabilities, and addictive diseases region established in accordance with  
 1910 Code Section 37-2-3.

1911 ~~(15)~~(17) 'Representatives' means the persons appointed as provided in Code Section  
 1912 37-4-107 to receive any notice under this chapter.

1913 ~~(16)~~(18) 'Superintendent' means the chief administrative officer who has overall  
 1914 management responsibility at any facility, other than a regional state hospital or state  
 1915 owned or operated community program, receiving ~~mentally retarded~~ developmentally  
 1916 disabled persons under this chapter or an individual appointed as the designee of such  
 1917 superintendent."

#### 1918 SECTION 1-36.

1919 Code Section 37-5-3 of the Official Code of Georgia Annotated, relating to definitions  
 1920 relative to community services for the mentally retarded, is amended as follows:

1921 "37-5-3.

1922 As used in this chapter, the term:

1923 (1) 'Community services' means all ~~community-based~~ community based services deemed  
 1924 reasonably necessary by the department to provide for education, training, rehabilitation,  
 1925 and care of ~~mentally retarded~~ developmentally disabled individuals and shall include but  
 1926 not be limited to: diagnostic and evaluation services; day-care and training services;  
 1927 work-activity services; community residential services such as group family-care homes;  
 1928 transportation services incidental to educational, training, and rehabilitation services;  
 1929 social services; medical services; and specified home services.

1930 (2) ~~'Mentally retarded~~ Developmentally disabled individual' means a person whose  
 1931 ability to care for himself or herself is substantially impaired by ~~mental retardation~~ a  
 1932 developmental disability or by a neurological dysfunction associated with ~~mental~~  
 1933 ~~retardation~~ a developmental disability.

1934 (3) ~~'Mental retardation~~ Developmental disability' ~~means a state of significantly~~  
 1935 ~~subaverage general intellectual functioning existing concurrently with deficits in adaptive~~  
 1936 ~~behavior and originating in the developmental period~~ means a severe, chronic disability  
 1937 of an individual that:

- 1938 (A) Is attributable to a mental, cognitive, or physical impairment, or any combination  
 1939 of mental, cognitive, and physical impairments;  
 1940 (B) Is manifested before the individual attains age 22 except in cases of traumatic brain  
 1941 injury when age is not a variable;  
 1942 (C) Is likely to continue indefinitely;  
 1943 (D) Results in substantial functional limitations in three or more of the following areas  
 1944 of major life activities:  
 1945 (i) Self-care;  
 1946 (ii) Receptive and expressive language;  
 1947 (ii) Learning;  
 1948 (iv) Mobility;  
 1949 (v) Self-direction;  
 1950 (vi) Capacity for independent living; and  
 1951 (vii) Economic self-sufficiency; and  
 1952 (E) Reflects the person's need for a combination and sequence of special,  
 1953 interdisciplinary, or generic services, individualized supports, or other forms of  
 1954 assistance which are of lifelong or extended duration and are individually planned and  
 1955 coordinated.  
 1956 When applied to infants and young children, the term means individuals from birth to age  
 1957 nine years, inclusive, who have substantial developmental delay or specific congenital  
 1958 or acquired conditions with a high probability of resulting in developmental disabilities  
 1959 if services or supports are not provided."

#### 1960 SECTION 1-37.

1961 Code Section 37-6-1 of the Official Code of Georgia Annotated, relating to definitions  
 1962 relative to day-care centers for the mentally retarded, is amended as follows:

1963 "37-6-1.

1964 As used in this chapter, the term:

- 1965 (1) 'Day-care center' means any facility that is operated and maintained for and is  
 1966 qualified to furnish care and training to ~~mentally retarded~~ developmentally disabled  
 1967 individuals on less than a 24 hour basis.  
 1968 (2) '~~Mentally retarded~~ Developmentally disabled individual' means any individual who  
 1969 is suffering from ~~mental retardation~~ a developmental disability.  
 1970 (3) '~~Mental retardation~~ Developmental disability ' means a ~~state of subaverage general~~  
 1971 ~~intellectual functioning which originates during the developmental period and is~~  
 1972 ~~associated with impairment in adaptive behavior~~ a severe, chronic disability of an  
 1973 individual that:



- 1974 (A) Is attributable to a mental, cognitive, or physical impairment, or any combination  
 1975 of mental, cognitive, and physical impairments;  
 1976 (B) Is manifested before the individual attains age 22 except in cases of traumatic brain  
 1977 injury when age is not a variable;  
 1978 (C) Is likely to continue indefinitely;  
 1979 (D) Results in substantial functional limitations in three or more of the following areas  
 1980 of major life activities:  
 1981 (i) Self-care;  
 1982 (ii) Receptive and expressive language;  
 1983 (ii) Learning;  
 1984 (iv) Mobility;  
 1985 (v) Self-direction;  
 1986 (vi) Capacity for independent living; and  
 1987 (vii) Economic self-sufficiency; and  
 1988 (E) Reflects the person's need for a combination and sequence of special,  
 1989 interdisciplinary, or generic services, individualized supports, or other forms of  
 1990 assistance which are of lifelong or extended duration and are individually planned and  
 1991 coordinated.  
 1992 When applied to infants and young children, the term means individuals from birth to age  
 1993 nine years, inclusive, who have substantial developmental delay or specific congenital  
 1994 or acquired conditions with a high probability of resulting in developmental disabilities  
 1995 if services or supports are not provided."

1996 **SECTION 1-38.**

1997 Code Section 40-16-5 of the Official Code of Georgia Annotated, relating to authority of the  
 1998 commissioner of driver services, is amended by revising paragraph (5) of subsection (d) as  
 1999 follows:

2000 "(5) All rules and regulations previously adopted which relate to functions transferred  
 2001 under this chapter from the Department of Human Resources (now known as the  
 2002 Department of Public and Behavioral Health for these purposes) to the Department of  
 2003 Driver Services."

2004 **SECTION 1-39.**

2005 Code Section 42-5-52.1 of the Official Code of Georgia Annotated, relating to submission  
 2006 to HIV test of inmates, is amended by revising subsection (c) as follows:

2007 "(c) No later than December 31, 1991, the department shall require to submit to an HIV  
 2008 test each person who has been committed to the custody of the commissioner to serve time

2009 in a penal institution of this state and who remains in such custody, or who would be in  
 2010 such custody but for having been transferred to the custody of the Department of Human  
 2011 Resources (now known as the Department of Public and Behavioral Health for these  
 2012 purposes) under Code Section 42-5-52, if that person has not submitted to an HIV test  
 2013 following that person's most recent commitment to the custody of the commissioner and  
 2014 unless that person is in such custody because of having committed an AIDS transmitting  
 2015 crime and has already submitted to an HIV test pursuant to Code Section 17-10-15."

2016 **SECTION 1-40.**

2017 Code Section 43-10A-7 of the Official Code of Georgia Annotated, relating to licensing  
 2018 requirements for professional counselors, social workers, and marriage and family therapists,  
 2019 is amended by revising paragraphs (3) and (12) of subsection (b) as follows:

2020 "(3)(A) Persons who, prior to July 1, 2000, engaged in the practice of a specialty as an  
 2021 employee of any community service board or similar entity created by general law to  
 2022 provide services to persons with disabilities, as defined in Chapter 2 of Title 37, or any  
 2023 agency or department of the state or any of its political subdivisions, but only when  
 2024 engaged in that practice as an employee of such an agency or department.

2025 (B) Persons who engage in the practice of social work as employees of any community  
 2026 service board or similar entity created by general law to provide services to persons with  
 2027 disabilities, as defined in Chapter 2 of Title 37, or any agency or department of the state  
 2028 or any of its political subdivisions, but only when engaged in that practice as employees  
 2029 of such community service board or similar entity, agency, or department, and persons or  
 2030 entities which contract to provide social work services with any community service board  
 2031 or similar entity or any agency or department of the state or any of its political  
 2032 subdivisions, but such contracting persons and entities shall only be exempt under this  
 2033 subparagraph when engaged in providing social work services pursuant to those contracts  
 2034 and shall only be exempt until January 1, 1996.

2035 (C) Persons who engage in the practice of professional counseling as employees of  
 2036 privately owned correctional facilities, the Department of Corrections, Department of  
 2037 ~~Human Resources Services, Department of Public and Behavioral Health~~, any county board  
 2038 of health, or any community service board or similar entity created by general law to  
 2039 provide services to persons with disabilities, as defined in Chapter 2 of Title 37, but only  
 2040 when engaged in that practice as employees of such privately owned correctional facility,  
 2041 department, board, or entity and persons or entities which contract to provide professional  
 2042 counseling services with such department or county board of health, but such contracting  
 2043 persons and entities shall only be exempt under this subparagraph when engaged in

2044 providing professional counseling services pursuant to those contracts and shall only be  
 2045 exempt until January 1, 1996;"

2046 "(12) Persons engaged in the practice of a specialty as an employee of the Division of  
 2047 Family and Children Services of the Department of Human ~~Resources~~ Services but only  
 2048 when engaged in such practice as an employee of that division;"

2049 **SECTION 1-41.**

2050 Code Section 45-9-1 of the Official Code of Georgia Annotated, relating to general  
 2051 provisions relative to insuring and indemnification of state officers and employees, is  
 2052 amended by revising subsection (c) as follows:

2053 "(c) For the purpose of this article, the term 'agency' shall specifically include, but shall not  
 2054 be limited to, public retirement systems of state-wide application established by the laws  
 2055 of this state, but shall not include counties or municipalities; provided, however, that the  
 2056 employees of community service boards, county departments of health, and county  
 2057 departments of family and children services as well as the members of the boards of said  
 2058 departments shall be considered to be state employees or officials for the purpose of this  
 2059 article. In order to facilitate the administration of liability coverage or other insurance  
 2060 coverages provided the community service boards; and county departments of health, ~~and~~  
 2061 ~~county departments of family and children services~~, the Department of ~~Human Resources~~  
 2062 Public and Behavioral Health ~~must~~ shall designate a central office which ~~will~~ shall be  
 2063 responsible for obtaining, submitting, and collecting all underwriting information and  
 2064 insurance premiums requested and assessed by the Department of Administrative Services.  
 2065 In order to facilitate the administration of liability coverage or other insurance coverages  
 2066 provided county departments of family and children services, the Department of Human  
 2067 Services shall designate a central office which shall be responsible for obtaining,  
 2068 submitting, and collecting all underwriting information and insurance premiums requested  
 2069 and assessed by the Department of Administrative Services."

2070 **SECTION 1-42.**

2071 Code Section 45-9-110 of the Official Code of Georgia Annotated, relating to authorization  
 2072 for consolidation of unemployment compensation claim matters under the commissioner of  
 2073 administrative services, is amended by revising subsection (d) as follows:

2074 "(d) The commissioner of administrative services shall have the authority to provide  
 2075 unemployment compensation benefits insurance to all of the county departments of health,  
 2076 county departments of family and children services, and community service boards. The  
 2077 commissioner of ~~human resources~~ public and behavioral health shall establish a procedure  
 2078 to provide the Department of Administrative Services all of the underwriting information

2079 required, including but not limited to payroll data each quarter for the service centers, and  
 2080 shall collect the unemployment premium from ~~such boards and departments~~ county  
 2081 departments of health and community service boards and remit the premium to the  
 2082 Department of Administrative Services. The commissioner of human services shall  
 2083 establish a procedure to provide the Department of Administrative Services all of the  
 2084 underwriting information required, including but not limited to payroll data each quarter  
 2085 for the service centers, and shall collect the unemployment premium from county  
 2086 departments of family and children services and remit the premium to the Department of  
 2087 Administrative Services. All of the county departments of health, county departments of  
 2088 family and children services, and community service boards shall participate in such  
 2089 unemployment compensation benefit insurance program."

### 2090 SECTION 1-43.

2091 Code Section 48-7-161 of the Official Code of Georgia Annotated, relating to definitions  
 2092 relative to setoff debt collection, is amended as follows:

2093 "48-7-161.

2094 As used in this article, the term:

2095 (1) 'Claimant agency' means and includes, in the order of priority set forth below:

2096 (A) The Department of Human ~~Resources~~ Services and the Department of Public and  
 2097 Behavioral Health with respect to collection of debts under Chapter 9 of Title 37,  
 2098 Article 1 of Chapter 11 of Title 19, and Code Section 49-4-15;

2099 (B) The Georgia Student Finance Authority with respect to the collection of debts  
 2100 arising under Part 3 of Article 7 of Chapter 3 of Title 20;

2101 (C) The Georgia Higher Education Assistance Corporation with respect to the  
 2102 collection of debts arising under Part 2 of Article 7 of Chapter 3 of Title 20;

2103 (D) The State Medical Education Board with respect to the collection of debts arising  
 2104 under Part 6 of Article 7 of Chapter 3 of Title 20;

2105 (E) The Department of Labor with respect to the collection of debts arising under Code  
 2106 Sections 34-8-254 and 34-8-255 and Article 5 of Chapter 8 of Title 34, with the  
 2107 exception of Code Sections 34-8-158 through 34-8-161; provided, however, that the  
 2108 Department of Labor establishes that the debtor has been afforded required due process  
 2109 rights by such Department of Labor with respect to the debt and all reasonable  
 2110 collection efforts have been exhausted;

2111 (F) The Department of Corrections with respect to probation fees arising under Code  
 2112 Section 42-8-34 and restitution or reparation ordered by a court as a part of the sentence  
 2113 imposed on a person convicted of a crime who is in the legal custody of the department;

- 2114 (G) The State Board of Pardons and Paroles with respect to restitution imposed on a  
 2115 person convicted of a crime and subject to the jurisdiction of the board; and
- 2116 (H) The Department of Juvenile Justice with respect to restitution imposed on a  
 2117 juvenile for a delinquent act which would constitute a crime if committed by an adult.
- 2118 (2) 'Debt' means any liquidated sum due and owing any claimant agency, which sum has  
 2119 accrued through contract, subrogation, tort, or operation of law regardless of whether  
 2120 there is an outstanding judgment for the sum, any sum which is due and owing any  
 2121 person and is enforceable by the Department of Human Resources Services pursuant to  
 2122 subsection (b) of Code Section 19-11-8, or any sum of restitution or reparation due  
 2123 pursuant to a sentence imposed on a person convicted of a crime and sentenced to  
 2124 restitution or reparation and probation.
- 2125 (3) 'Debtor' means any individual owing money to or having a delinquent account with  
 2126 any claimant agency, which obligation has not been adjudicated as satisfied by court  
 2127 order, set aside by court order, or discharged in bankruptcy.
- 2128 (4) 'Refund' means the Georgia income tax refund which the department determines to  
 2129 be due any individual taxpayer."

#### 2130 SECTION 1-44.

2131 Code Section 49-4-142 of the Official Code of Georgia Annotated, relating to adoption and  
 2132 administration of a state plan for medical assistance by the Department of Community  
 2133 Health, is amended by revising subsection (b) as follows:

2134 "(b) The department shall, not later than June 1, 1986, implement a modification of the  
 2135 state plan for medical assistance or any affected rules or regulations of the department,  
 2136 which modification will allow supplementation by relatives or other persons for a private  
 2137 room or private sitter or both for a recipient of medical assistance in a nursing home. ~~The~~  
 2138 ~~Department of Human Resources shall likewise modify any affected rules and regulations~~  
 2139 ~~of the Department of Human Resources.~~ The modification to the plan or to any affected  
 2140 rules and regulations shall be effective unless and until federal authorities rule that such  
 2141 modification is out of compliance with federal regulations. Such modification of the state  
 2142 plan for medical assistance or rules and regulations:

- 2143 (1) Shall provide that a provider of nursing home services in either a skilled care facility  
 2144 or an intermediate care facility shall be obligated to provide a recipient of medical  
 2145 assistance only semiprivate accommodations which meet the other requirements of  
 2146 appropriate regulations;
- 2147 (2) Shall provide that at no time can more than 10 percent of a skilled care or  
 2148 intermediate care facility's rooms be used for Medicaid recipients for whom a private  
 2149 room supplementation has been made;

- 2150 (3) Shall provide that payments made by relatives or other persons to a provider of  
 2151 medical assistance for the specific stated purpose of paying the additional costs for a  
 2152 private room or private sitter or both for a recipient of medical assistance in a skilled care  
 2153 facility or intermediate care facility shall not be considered as income when determining  
 2154 the amount of patient liability toward vendor payments; provided, however, that the  
 2155 department's entitlement to payments made by legally liable third parties shall not be  
 2156 diminished by this modification of the state plan;
- 2157 (4) Shall provide that no provider of medical assistance shall discriminate against a  
 2158 recipient of medical assistance who does not have a relative or other person who is  
 2159 willing and able to provide supplementation; but the provision of a private room or  
 2160 private sitter to a recipient when supplementation is provided shall not constitute  
 2161 discrimination against other recipients;
- 2162 (5) Shall provide that no recipient who is transferred to or admitted to a private room  
 2163 because of a shortage of beds in semiprivate rooms shall be discharged because the  
 2164 recipient does not have a relative or other person who is willing and able to provide  
 2165 supplementation; and
- 2166 (6) May provide that the rate charged by the provider of medical assistance to the relative  
 2167 or other person providing supplementation for a private room for a recipient shall not  
 2168 exceed the difference between the maximum rate charged by the provider for a private  
 2169 room to or for a private pay patient and the amount which the provider receives or will  
 2170 receive from the department as reimbursement for otherwise providing for the recipient's  
 2171 care in a semiprivate room."

#### 2172 SECTION 1-45.

2173 Code Section 49-5-220 of the Official Code of Georgia Annotated, relating to legislative  
 2174 findings and intent with respect to children and adolescents with severe emotional problems,  
 2175 is amended as follows:

2176 "49-5-220.

2177 (a) The General Assembly declares its intention and desire to:

- 2178 (1) Ensure a comprehensive mental health program consisting of early identification,  
 2179 prevention, and early intervention for every child in Georgia;
- 2180 (2) Preserve the sanctity of the family unit;
- 2181 (3) Prevent the unnecessary removal of children and adolescents with a severe emotional  
 2182 disturbance from their homes;
- 2183 (4) Prevent the unnecessary placement of these children out of state;
- 2184 (5) Bring those children home who through use of public funds are inappropriately  
 2185 placed out of state; and

2186 (6) Develop a coordinated system of care so that children and adolescents with a severe  
 2187 emotional disturbance and their families will receive appropriate educational,  
 2188 nonresidential and residential mental health services, and support services, as prescribed  
 2189 in an individualized plan.

2190 (b) In recognition of the fact that services to these children are provided by several  
 2191 different agencies, each having a different philosophy, a different mandate, and a different  
 2192 source of funding, the General Assembly intends that the Division of Mental Health,  
 2193 Developmental Disabilities, and Addictive Diseases of the Department of ~~Human~~  
 2194 ~~Resources~~ Public and Behavioral Health shall have the primary responsibility for planning,  
 2195 developing, and implementing the coordinated system of care for severely emotionally  
 2196 disturbed children. Further, it recognizes that to enable severely emotionally disturbed  
 2197 children to develop appropriate behaviors and demonstrate academic and vocational skills,  
 2198 it is necessary that the Department of Education provide appropriate education in  
 2199 accordance with P.L. 94-142 and that the Division of Mental Health, Developmental  
 2200 Disabilities, and Addictive Diseases of the Department of ~~Human Resources~~ of Public and  
 2201 Behavioral Health provide mental health treatment.

2202 (c) Further, in recognition that only a portion of the children needing services are receiving  
 2203 them and in recognition that not all the services that comprise a coordinated system of care  
 2204 are currently in existence or do not exist in adequate numbers, the General Assembly  
 2205 intends that the Department of ~~Human Resources~~ Public and Behavioral Health and the  
 2206 Department of Education jointly develop and implement a State Plan for the Coordinated  
 2207 System of Care for severely or emotionally disturbed children or adolescents as defined in  
 2208 paragraph (10) of Code Section 49-5-221.

2209 (d) The commissioner of ~~the Department of Human Resources~~ public and behavioral  
 2210 health and the State School Superintendent shall be responsible for the development and  
 2211 implementation of the state plan.

2212 (e) The commissioner of ~~the Department of Human Resources~~ public and behavioral  
 2213 health shall be responsible for preparing this jointly developed state plan for publication  
 2214 and dissemination. The commissioner of ~~the Department of Human Resources~~ public and  
 2215 behavioral health shall also be responsible for preparing for publication and dissemination  
 2216 the annual report.

2217 (f) The receipt of services under this article is not intended to be conditioned upon  
 2218 placement of a child in the legal custody, protective supervision, or protection of the  
 2219 Department of ~~Human Resources~~ Services."

**SECTION 1-46.**

2220

2221 Code Section 49-5-225 of the Official Code of Georgia Annotated, relating to local  
 2222 interagency committees with respect to children and adolescents with severe emotional  
 2223 problems, is amended by revising subsection (a) as follows:

2224 "(a) At least one local interagency committee shall be established for each region of the  
 2225 Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the  
 2226 Department of ~~Human Resources~~ Public and Behavioral Health whose permanent  
 2227 membership shall include a local representative from each of the following:

2228 (1) The community mental health agency responsible for coordinating children's  
 2229 services;

2230 (2) The Division of Family and Children Services of the Department of Human  
 2231 ~~Resources~~ Services;

2232 (3) The Department of Juvenile Justice;

2233 (4) The Division of Public Health of the Department of ~~Human Resources~~ Public and  
 2234 Behavioral Health;

2235 (5) A member of the special education staff of the local education agency;

2236 (6) The Division of Rehabilitation Services of the Department of Labor."

**SECTION 1-47.**

2237

2238 Code Section 50-16-3 of the Official Code of Georgia Annotated, relating to property of state  
 2239 boards and departments, is amended by revising paragraph (2) as follows:

2240 "(2) The several institutions operated by the Department of Human ~~Resources~~ Services  
 2241 or the Department of Public and Behavioral Health, including all real and personal  
 2242 property belonging to the several institutions or used in connection therewith, and all  
 2243 other property conveyed to ~~the~~ such department for the use of any of the institutions or  
 2244 conveyed to any of the boards of trustees of which ~~the~~ such department is the successor  
 2245 or to any of the institutions under its control;"

**PART II**

2246

2247 Department of Human Services.

**SECTION 2-1.**

2248

2249 Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended  
 2250 by revising Chapters 1 and 2, relating to general provisions on social services and the  
 2251 Department of Human Resources, respectively, as follows:



## "CHAPTER 1

2252

2253 49-1-1.

2254 As used in this title, the term:

2255 (1) 'Board' means the Board of Human Resources Services.2256 (2) 'Commissioner' means the commissioner of human resources services.

2257 (3) 'County board' means a county or district board of family and children services.

2258 (4) 'County department' means a county or district department of family and children  
2259 services.2260 (5) 'County director' means the director of a county or district department of family and  
2261 children services.2262 (6) 'Department' means the Department of Human Resources Services.

2263 49-1-2.

2264 All rules and regulations made by the Department of Human Resources Services shall be  
2265 binding on the counties and shall be complied with by the respective county departments.

2266 49-1-3.

2267 ~~(a) Notwithstanding any other provisions of law, the Governor shall have the power by~~  
 2268 ~~executive order to direct and implement such internal organization of the Department of~~  
 2269 ~~Human Resources as he may determine necessary to improve the management and~~  
 2270 ~~administration of the functions vested in the department, including the power to allocate~~  
 2271 ~~within such organization the executive authority described in Code Section 49-2-1 with~~  
 2272 ~~respect to any or any grouping of the functions of the department. For these purposes, the~~  
 2273 ~~Governor shall have the power by executive order to redefine the department's substate~~  
 2274 ~~structure and to direct the establishment of district health and welfare organizations, as~~  
 2275 ~~respectively described and with such powers and duties as set forth in Code Sections~~  
 2276 ~~31-3-15 and 49-3-1. The district director of a health district shall be a licensed physician.~~  
 2277 ~~The district director and other executive staff of district health and welfare organizations~~  
 2278 ~~shall hereafter be appointed by the department, provided that the department shall not~~  
 2279 ~~appoint as a director of any such organization any person whose appointment is not~~  
 2280 ~~approved by a majority of the respective district board concerned in a meeting of such~~  
 2281 ~~board called for that purpose.~~

2282 ~~(b) Any other provisions of this Code section to the contrary notwithstanding, any such~~  
 2283 ~~reorganization plan shall provide for a county department of family and children services,~~  
 2284 ~~a county board of family and children services, and a county director of family and children~~  
 2285 ~~services in each county of this state. The county director shall be the executive officer of~~

2286 ~~the county department who shall be responsible for operations and personnel. In addition~~  
 2287 ~~to such other powers and authorities which may be delegated to county departments of~~  
 2288 ~~family and children services, each county board and director of family and children~~  
 2289 ~~services shall have the same powers, duties, and bond requirements as provided in Code~~  
 2290 ~~Sections 49-3-2 through 49-3-5.~~

2291 ~~(c) Notwithstanding any other provision of this Code section, the Governor shall not have~~  
 2292 ~~the power by executive order to abolish any county board.~~

2293 ~~(d) The Governor's power under this Code section shall expire on December 31, 1976, but~~  
 2294 ~~the organization accomplished by executive order hereunder shall continue until altered in~~  
 2295 ~~the manner provided by law. Reserved.~~

2296 49-1-4.

2297 No individual, supervisor, or member of the Board of Human ~~Resources~~ Services or the  
 2298 county or district boards of family and children services having to do with the  
 2299 administration of this title shall be authorized or permitted, directly or indirectly, to sell  
 2300 supplies or other items of any kind or character to any of the institutions to be benefited by  
 2301 this title.

2302 49-1-5.

2303 (a) In order that the public welfare laws of this state may be better enforced, the Governor  
 2304 is authorized and empowered to suspend any member of any county board, any county  
 2305 director, or any employee or official of the department whenever he or she shall find that  
 2306 good cause for such suspension exists. Such suspension shall be by executive order of the  
 2307 Governor, which shall state the reason therefor. A copy of such order of suspension shall  
 2308 be sent to the person so suspended within five days after it is issued, by registered or  
 2309 certified mail or statutory overnight delivery, return receipt requested, together with a  
 2310 notice from the Governor or his or her executive secretary that the suspended person may  
 2311 be heard before the Governor at such time as may be stated in the notice, which hearing  
 2312 shall be not less than ten nor more than 20 days from the date of the notice. Upon such  
 2313 hearing, if the Governor shall find that good cause for the removal of the person so  
 2314 suspended exists, he or she is authorized and empowered to remove such member of any  
 2315 county board, any county director, or any employee or official in the department;  
 2316 whereupon, such person's tenure of office or employment shall terminate, subject to the  
 2317 right of appeal granted to any employee under the State Merit System of Personnel  
 2318 Administration by Chapter 20 of Title 45, and the vacancy shall be filled as provided by  
 2319 law. If the Governor shall find that good cause for the removal of such person does not  
 2320 exist, he or she shall, by appropriate executive order, restore him or her to duty.

2321 (b) In addition to removal by the Governor as specified in subsection (a) of this Code  
2322 section, the director of the Division of Family and Children Services may terminate the  
2323 employment of any county director or district director subject to any right of appeal such  
2324 director may have under the State Merit System of Personnel Administration by Chapter  
2325 20 of Title 45, and the vacancy shall be filled as provided by law.

2326 49-1-6.

2327 (a) Any charitable or nonprofit corporation which has been granted a charter or articles of  
2328 incorporation under the laws of this state may transfer all or a part of its assets to the  
2329 department upon such terms as may be agreed upon between such corporation and the  
2330 department, provided such corporation shall first have obtained authority to make such  
2331 transfer in accordance with this Code section.

2332 (b) Any such corporation may apply for authority to make such transfer by filing its  
2333 petition with the superior court of the county in which such corporation has its principal  
2334 office. Such application shall set forth the assets which the corporation desires to transfer  
2335 to the department and the terms upon which it desires to transfer these assets.

2336 (c) Such corporation, once a week for four weeks prior to the filing of such petition, shall  
2337 publish notice in the newspaper of the county in which is located the principal office of the  
2338 corporation, such newspaper being the newspaper in which notices of sheriff's sales are  
2339 advertised. The notice shall set forth the date, time, and place when such application will  
2340 be presented, the court to which it will be presented, and the assets which such corporation  
2341 desires to transfer to the department.

2342 (d) After a hearing, the court shall be authorized to grant the application and permit a  
2343 transfer of the assets of the applicant upon terms as set out in the application or modified  
2344 as the court may deem advisable, if the court considers this in the public interest; or the  
2345 court may deny the application if the court deems such denial to be in the public interest.  
2346 Where such corporation makes a transfer of all of its right, title, and interest in any of its  
2347 assets to the department and such transfer is made pursuant to the authority of the court  
2348 obtained in the manner provided for in this Code section, such transfer shall be  
2349 conclusively deemed to be a proper and legal transfer.

2350 (e) Should such corporation desire to transfer all of its assets to the department, the court  
2351 to which such application is presented may include in its order a provision that upon the  
2352 transfer by such corporation of all of its assets to the department and upon compliance with  
2353 Chapter 3 of Title 14, the charter or articles of incorporation of such corporation shall stand  
2354 surrendered and the corporation dissolved.

2355 (f) Nothing contained in this Code section shall be considered as authorizing the  
 2356 department to accept a transfer of assets upon terms which would require the use of them  
 2357 by the department in a manner not authorized by law.

2358 ~~49-1-7.~~

2359 ~~The department is authorized to purchase land or lands adjacent to or near lands now under~~  
 2360 ~~the control of the department where, in the opinion of the department, the land is needed~~  
 2361 ~~for the benefit of one of the institutions under its control and management, to pay for such~~  
 2362 ~~land out of any funds which may be available for such purpose, and to take title to land so~~  
 2363 ~~purchased in the name of the State of Georgia for the use of the department.~~

2364 ~~49-1-8.~~

2365 ~~(a) The department shall sell, to the best advantage, all surplus products of the Central~~  
 2366 ~~State Hospital or other institutions under the control and supervision of the department and~~  
 2367 ~~shall apply the proceeds thereof to the maintenance of the institution from which such~~  
 2368 ~~surplus products are received. Should any surplus funds arise from this source, they shall~~  
 2369 ~~be paid into the state treasury annually; and the department shall, at the end of each quarter,~~  
 2370 ~~make a detailed report of all such transactions to the Governor.~~

2371 ~~(b) It is not the intention of this Code section to encourage competition in any way by the~~  
 2372 ~~state, its institutions, agencies, departments or branches, or other subdivisions with the~~  
 2373 ~~individual, private farmers of this state, or others, in the production and sale of agricultural~~  
 2374 ~~or industrial commodities or products in due course of commerce.~~

2375 ~~49-1-9~~ 49-1-7.

2376 (a) The General Assembly finds that it is in the best interest of the state to provide for  
 2377 programs for home delivered meals, transportation services for the elderly, and preschool  
 2378 children with special needs, including but not limited to disabled children, troubled  
 2379 children, school readiness programs, and other similar needs for the benefit of the citizens  
 2380 of Georgia. In addition to and as a supplement to traditional financing mechanisms for such  
 2381 programs, it is the policy of this state to enable and encourage citizens voluntarily to  
 2382 support such programs.

2383 (b) To support programs for home delivered meals, transportation services for the elderly,  
 2384 and preschool children with special needs which programs have been established or  
 2385 approved by the department or the Department of Public and Behavioral Health, the  
 2386 department may, without limitation, promote and solicit voluntary contributions through  
 2387 the income tax return contribution mechanism established in subsection (f) of this Code  
 2388 section, through offers to match contributions by any person with moneys appropriated or

2389 contributed to the department or the Department of Public and Behavioral Health for such  
 2390 programs, or through any fund raising or other promotional techniques deemed appropriate  
 2391 by the department or the Department of Public and Behavioral Health.

2392 (c) There is established a special fund to be known as the 'Home Delivered Meals,  
 2393 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund.'  
 2394 This fund shall consist of all moneys contributed under subsection (b) of this Code section,  
 2395 all moneys transferred to the department under subsection (f) of this Code section, and any  
 2396 other moneys contributed to this fund or to the home delivered meals, transportation  
 2397 services for the elderly, or preschool children with special needs programs of the  
 2398 department or the Department of Public and Behavioral Health and all interest thereon. All  
 2399 balances in the fund shall be deposited in an interest-bearing account identifying the fund  
 2400 and shall be carried forward each year so that no part thereof may be deposited in the  
 2401 general treasury. The fund shall be administered and the moneys held in the fund shall be  
 2402 expended by the department through the ~~Office~~ Division of Aging Services in furtherance  
 2403 of home delivered meals and transportation services to the elderly programs and by the  
 2404 ~~department~~ Department of Public and Behavioral Health in furtherance of preschool  
 2405 children with special needs programs.

2406 (d) Following the transmittal of contributions to the department for deposit in the fund  
 2407 pursuant to subsection (f) of this Code section, the expenditure of moneys in the fund shall  
 2408 be allocated as follows:

2409 (1) Fifty percent of the contributions to the fund shall be used for home delivered meals  
 2410 and transportation services to the elderly programs; and

2411 (2) Fifty percent of the contributions to the fund shall be transferred to the Department  
 2412 of Public and Behavioral Health to be used for preschool children with special needs  
 2413 programs.

2414 (e) Contributions to the fund shall be deemed supplemental to and shall in no way supplant  
 2415 funding that would otherwise be appropriated for these purposes. Contributions shall only  
 2416 be used for benefits and services and shall not be used for personnel or administrative  
 2417 positions. The department and the Department of Public and Behavioral Health shall each  
 2418 prepare, by February 1 of each year, an accounting of the funds received and expended  
 2419 from the fund and a review and evaluation of all expended moneys of the fund. The ~~report~~  
 2420 reports shall be made available to the Governor, the Lieutenant Governor, the Speaker of  
 2421 the House of Representatives, to the members of the Board of Human ~~Resources~~ Services  
 2422 and the Board of Public and Behavioral Health, and, upon request, to members of the  
 2423 public.

2424 (f)(1) Unless an earlier date is deemed feasible and established by the Governor, each  
 2425 Georgia income tax return form for taxable years beginning on or after January 1, 1993,

2426 shall contain appropriate language, to be determined by the state revenue commissioner,  
 2427 offering the taxpayer the opportunity to contribute to the Home Delivered Meals,  
 2428 Transportation Services for the Elderly, and Preschool Children with Special Needs Fund  
 2429 established in subsection (c) of this Code section by either donating all or any part of any  
 2430 tax refund due, by authorizing a reduction in the refund check otherwise payable, or by  
 2431 contributing any amount over and above any amount of tax owed by adding that amount  
 2432 to the taxpayer's payment. The instructions accompanying the income tax return form  
 2433 shall contain a description of the purposes for which this fund was established and the  
 2434 intended use of moneys received from the contributions. Each taxpayer required to file  
 2435 a state income tax return who desires to contribute to such fund may designate such  
 2436 contribution as provided in this Code section on the appropriate income tax return form.  
 2437 (2) The Department of Revenue shall determine annually the total amount so contributed,  
 2438 shall withhold therefrom a reasonable amount for administering this voluntary  
 2439 contribution program, and shall transmit the balance to the department for deposit in the  
 2440 fund established in subsection (c) of this Code section; provided, however, the amount  
 2441 retained for administrative costs, including implementation costs, shall not exceed  
 2442 \$50,000.00 per year. If, in any tax year, the administrative costs of the Department of  
 2443 Revenue for collecting contributions pursuant to this Code section exceed the sum of  
 2444 such contributions, the administrative costs which the Department of Revenue is  
 2445 authorized to withhold from such contributions shall not exceed the sum of such  
 2446 contributions.

2447 CHAPTER 2

2448 ARTICLE 1

2449 49-2-1.

2450 (a) There is created a Department of Human Resources Services. The powers, functions,  
 2451 and duties of the Department of Human Resources as they existed on June 30, 2009, except  
 2452 for those relating to the Division of Mental Health, Developmental Disabilities, and  
 2453 Addictive Diseases and the Division of Public Health transferred or reassigned to the  
 2454 Department of Public and Behavioral Health and those relating to regulatory services  
 2455 transferred or reassigned to the Department of Community Health, are transferred to the  
 2456 Department of Human Services effective July 1, 2009, and the Department of Human  
 2457 Resources shall be reconstituted as the Department of Human Services effective July 1,  
 2458 2009.

2459 (b) There is also created the position of commissioner of human resources services. The  
 2460 commissioner shall be the chief administrative officer of the department and be both

2461 appointed and removed by the board, subject to the approval of the Governor. Subject to  
 2462 the general policy established by the board, the commissioner shall supervise, direct,  
 2463 account for, organize, plan, administer, and execute the functions vested in the department.

2464 49-2-2.

2465 (a) There is created a Board of Human Resources Services, as of July 1, 2009, which shall  
 2466 establish the general policy to be followed by the Department of Human Resources  
 2467 Services created by Code Section 49-2-1. The powers, functions, and duties of the Board  
 2468 of Human Resources as they existed on June 30, 2009, except for those relating to the  
 2469 Division of Mental Health, Developmental Disabilities, and Addictive Diseases and the  
 2470 Division of Public Health and transferred or reassigned to the Board of Public and  
 2471 Behavioral Health and those relating to regulatory services transferred or reassigned to the  
 2472 Board of Community Health, are transferred to the Board of Human Services effective July  
 2473 1, 2009, and the Board of Human Resources as it existed on June 30, 2009, shall be  
 2474 abolished effective July 1, 2009. The board shall consist of ~~one member from each~~  
 2475 ~~congressional district in the state and four at-large~~ nine members appointed by the  
 2476 Governor and confirmed by the Senate. ~~For this purpose, the congressional districts used~~  
 2477 ~~shall be those specified in Code Section 21-1-2, as amended by Act No. 2EX11 of the~~  
 2478 ~~second extraordinary 2001 session of the General Assembly and as thereafter amended by~~  
 2479 ~~law. Seven members of the board shall be engaged professionally in rendering health~~  
 2480 ~~services, and at least five of these seven members shall be licensed to practice medicine~~  
 2481 ~~pursuant to Chapter 34 of Title 43. In appointing members to the board, the Governor shall~~  
 2482 ~~take into account to the extent practicable all areas and functions encompassed by the~~  
 2483 ~~department.~~

2484 (b) The Governor shall designate the initial terms of the members of the board as follows:  
 2485 three members shall be appointed for one year; three members shall be appointed for two  
 2486 years; and three members shall be appointed for three years; ~~three members shall be~~  
 2487 ~~appointed for four years, and the remaining members shall be appointed for five years.~~  
 2488 Thereafter, all succeeding appointments shall be for ~~five-year~~ three-year terms from the  
 2489 expiration of the previous term.

2490 (c) Vacancies in office shall be filled by appointment by the Governor in the same manner  
 2491 as the appointment to the position on the board which becomes vacant, and the appointment  
 2492 shall be submitted to the Senate for confirmation at the next session of the General  
 2493 Assembly. An appointment to fill a vacancy, other than by expiration of a term of office,  
 2494 shall be for the balance of the unexpired term.

2495 (d) Members of the board may be removed from office under the same conditions for  
 2496 removal from office of members of professional licensing boards provided in Code Section  
 2497 43-1-17.

2498 ~~(d)~~(e) There shall be a ~~chairman~~ chairperson of the board, elected by and from the  
 2499 membership of the board, who shall be the presiding officer of the board.

2500 ~~(e) Those members engaged in rendering health services shall comprise no more than~~  
 2501 ~~seven members of the total membership of the board.~~

2502 (f) The members of the board shall receive per diem and expenses as shall be set and  
 2503 approved by the Office of Planning and Budget and in conformance with rates and  
 2504 allowances set for members of other state boards.

2505 49-2-2.1.

2506 (a) The Department of Human Services shall succeed to all rules, regulations, policies,  
 2507 procedures, and administrative orders of the Department of Human Resources that are in  
 2508 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
 2509 relate to the functions transferred or reassigned to the Department of Human Services  
 2510 pursuant to Code Section 49-2-1 and shall further succeed to any rights, privileges,  
 2511 entitlements, obligations, and duties of the Department of Human Resources that are in  
 2512 effect on June 30, 2009, which relate to the functions transferred or reassigned to the  
 2513 Department of Human Services pursuant to Code Section 49-2-1. Such rules, regulations,  
 2514 policies, procedures, and administrative orders shall remain in effect until amended,  
 2515 repealed, superseded, or nullified by the Department of Human Services by proper  
 2516 authority or as otherwise provided by law.

2517 (b) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
 2518 agreements, and other transactions entered into before July 1, 2009, by the Department of  
 2519 Human Resources which relate to the functions transferred or reassigned to the Department  
 2520 of Human Services pursuant to Code Section 49-2-1 shall continue to exist; and none of  
 2521 these rights, privileges, entitlements, and duties are impaired or diminished by reason of  
 2522 the transfer of the functions to the Department of Human Services. In all such instances,  
 2523 the Department of Human Services shall be substituted for the Department of Human  
 2524 Resources, and the Department of Human Services shall succeed to the rights and duties  
 2525 under such contracts, leases, agreements, and other transactions.

2526 (c) All persons employed by the Department of Human Resources in capacities which  
 2527 relate to the functions transferred or reassigned to the Department of Human Services  
 2528 pursuant to Code Section 49-2-1 on June 30, 2009, shall, on July 1, 2009, become  
 2529 employees of the Department of Human Services in similar capacities, as determined by  
 2530 the commissioner of human services. Such employees shall be subject to the employment



2531 practices and policies of the Department of Human Services on and after July 1, 2009, but  
 2532 the compensation and benefits of such transferred employees shall not be reduced as a  
 2533 result of such transfer. Employees who are subject to the rules of the State Personnel  
 2534 Board and thereby under the State Merit System of Personnel Administration and who are  
 2535 transferred to the department shall retain all existing rights under the State Merit System  
 2536 of Personnel Administration. Retirement rights of such transferred employees existing  
 2537 under the Employees' Retirement System of Georgia or other public retirement systems on  
 2538 June 30, 2009, shall not be impaired or interrupted by the transfer of such employees and  
 2539 membership in any such retirement system shall continue in the same status possessed by  
 2540 the transferred employees on June 30, 2009. Accrued annual and sick leave possessed by  
 2541 said employees on June 30, 2009, shall be retained by said employees as employees of the  
 2542 Department of Human Services.

2543 49-2-3.

2544 (a) ~~Reserved.~~

2545 ~~(b)~~ The policy-making functions of the State Board for Children and Youth, contained in  
 2546 Ga. L. 1963, p. 81, are vested in the Board of Human ~~Resources~~ Services.

2547 ~~(c)~~(b) The policy-making functions of the Commission on Aging, created in Ga. L. 1962,  
 2548 p. 604, are vested in the Board of Human ~~Resources~~ Services.

2549 49-2-4.

2550 There shall be created in the department such divisions as may be found necessary for its  
 2551 effective operation. The commissioner shall have the power to allocate and reallocate  
 2552 functions among the divisions within the department.

2553 49-2-5.

2554 The department is declared to be an institution of the state for which the powers of taxation  
 2555 over the whole state may be exercised, and the department is empowered and authorized  
 2556 to administer, expend, and disburse funds appropriated to it and allocated to it by the  
 2557 General Assembly, the respective counties of the state, and the United States, through its  
 2558 appropriate agencies and instrumentalities for the purpose of distributing old-age benefits  
 2559 and all other benefits as provided in this title.

- 2560 49-2-6.
- 2561 (a) The department shall administer or supervise all county departments of the state as  
 2562 provided in Chapter 3 of this title.
- 2563 (b) The department shall:
- 2564 (1) Administer or supervise:
- 2565 (A) All categories of public assistance established under Code Section 49-4-3;
- 2566 (B) The operation of state charitable and eleemosynary institutions;
- 2567 (C) Agencies and institutions caring for dependent or mentally or physically disabled  
 2568 or aged adults; and
- 2569 (D) Such other welfare activities or services as may be vested in it;
- 2570 ~~(2) Cooperate in the supervision of all correctional activities, including the operation of~~  
 2571 ~~all the penal and correctional institutions of the state, together with parole, supervising~~  
 2572 ~~of probation services, segregation of first offenders, and the inspection of local jails;~~
- 2573 ~~(3)~~ Provide services to county governments, including the organization and supervision  
 2574 of county departments for the effective administration of welfare functions and the  
 2575 compilation of statistics and necessary information relative to public welfare problems  
 2576 throughout the state;
- 2577 ~~(4)~~(3) Prescribe qualifications and salary standards for welfare personnel in state and  
 2578 county departments, subject to Chapter 20 of Title 45;
- 2579 ~~(5)~~(4) Assist other state and federal departments, agencies, and institutions, when so  
 2580 requested, by performing services in conformity with the purposes of this title;
- 2581 ~~(6)~~(5) Act as the agent of the federal government in welfare matters of mutual concern  
 2582 in conformity with this title and the administration of any federal funds granted to the  
 2583 state to aid in the furtherance of any functions of the department;
- 2584 ~~(7)~~(6) Under rules and regulations prescribed by the board, designate county and district  
 2585 departments to serve as agents in the performance of all state welfare activities in the  
 2586 counties or districts;
- 2587 ~~(8)~~(7) Have the right to designate private institutions as state institutions; to contract with  
 2588 such private institutions for such activities, in carrying out this title, as the department  
 2589 may deem necessary from time to time; and to exercise such supervision and cooperation  
 2590 in the operation of such designated private institutions as the department may deem  
 2591 necessary;
- 2592 ~~(9)~~(8) Have the right to accept and execute gifts or donations for welfare purposes, as  
 2593 may be prescribed by the donors thereof;
- 2594 ~~(10)~~(9) Have authority to delegate in whole or in part the operation of any institution or  
 2595 other activity of the department to any other appropriate department or agency of the  
 2596 state, county, or municipal governments; and to contract with and cooperate with such

2597 departments or subdivisions in any manner proper for carrying out the purposes of this  
 2598 title;

2599 ~~(11) Make provision for meeting the cost of hospital care of persons eligible for public~~  
 2600 ~~assistance to the extent that federal matching funds are available for such expenditures~~  
 2601 ~~for hospital care. To accomplish this purpose, the department is authorized to pay from~~  
 2602 ~~funds appropriated for the purposes of this title the amount required under this paragraph~~  
 2603 ~~into a trust fund account which shall be available for disbursement for the cost of hospital~~  
 2604 ~~care of public assistance recipients. The commissioner, subject to the approval of the~~  
 2605 ~~Office of Planning and Budget, on the basis of the funds appropriated in any year, shall~~  
 2606 ~~estimate the scope of hospital care available to public assistance recipients and the~~  
 2607 ~~approximate per capita cost of such care. Monthly payments into the trust fund for~~  
 2608 ~~hospital care shall be made on behalf of each public assistance recipient and such~~  
 2609 ~~payments shall be deemed encumbered for assistance payable. Ledger accounts~~  
 2610 ~~reflecting payments into and out of the hospital care fund shall be maintained for each of~~  
 2611 ~~the categories of public assistance established under Code Section 49-4-3. The balance~~  
 2612 ~~of state funds in such trust fund for the payment of hospital costs in an amount not to~~  
 2613 ~~exceed the amount of federal funds held in the trust fund by the department available for~~  
 2614 ~~expenditure under this paragraph shall be deemed encumbered and held in trust for the~~  
 2615 ~~payment of the costs of hospital care and shall be rebudgeted for this purpose on each~~  
 2616 ~~quarterly budget required under the laws governing the expenditure of state funds. The~~  
 2617 ~~state auditor shall audit the funds in the trust fund established under this paragraph in the~~  
 2618 ~~same manner that any other funds disbursed by the department are audited; and~~

2619 ~~(12)~~(10) Administer such programs and provide such services as may be appropriate and  
 2620 necessary to strengthen family life and help needy individuals attain the maximum  
 2621 economic and personal independence of which they are capable, including services to  
 2622 applicants and recipients of old-age assistance to help them attain self-care, provided that  
 2623 the costs incurred by the county departments in administering this Code section in  
 2624 conjunction with the public assistance programs administered by the department shall be  
 2625 deemed to be administrative expenses;

2626 (11) Classify and license community living arrangements in accordance with the rules  
 2627 and regulations promulgated by the department for the licensing and enforcement of  
 2628 licensing requirements for persons whose services are financially supported, in whole or  
 2629 in part, by funds authorized through the department. To be eligible for licensing as a  
 2630 community living arrangement, the residence and services provided must be integrated  
 2631 within the local community. All community living arrangements licensed by the  
 2632 department shall be subject to the provisions of Code Sections 49-2-17 and 49-2-18. No  
 2633 person, business entity, corporation, or association, whether operated for profit or not for

2634 profit, may operate a community living arrangement without first obtaining a license or  
 2635 provisional license from the department. A license issued pursuant to this paragraph is  
 2636 not assignable or transferable. As used in this paragraph, the term 'community living  
 2637 arrangement' means any residence, whether operated for profit or not, which undertakes  
 2638 through its ownership or management to provide or arrange for the provision of housing,  
 2639 food, one or more personal services, supports, care, or treatment exclusively for two or  
 2640 more persons who are not related to the owner or administrator of the residence by blood  
 2641 or marriage; and

2642 (12) Classify host homes for persons whose services are financially supported, in whole  
 2643 or in part, by funds authorized through the department and provide guidelines for and  
 2644 oversight of host homes, which may include, but not be limited to, criteria to become a  
 2645 host home, requirements relating to physical plants and supports, placement procedures,  
 2646 and ongoing oversight requirements. A host home shall be occupied by the owner or  
 2647 lessee, who shall not be an employee of the same community provider which provides  
 2648 the host home services by contract with the department. The department shall approve  
 2649 and enter into agreements with community providers which, in turn, contract with host  
 2650 homes. The occupant owner or lessee shall not be the guardian of any person served or  
 2651 of their property nor the agent in such person's advance directive for health care. The  
 2652 placement determination for each person placed in a host home shall be made according  
 2653 to such person's choice, as well as the individual needs of such person in accordance with  
 2654 the requirements of Code Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such  
 2655 person. As used in this paragraph, the term 'host home' means a private residence in a  
 2656 residential area in which the occupant owner or lessee provides housing and provides or  
 2657 arranges for the provision of food, one or more personal services, supports, care, or  
 2658 treatment exclusively for one or two persons who are not related to the occupant owner  
 2659 or lessee by blood or marriage.

2660 49-2-7.

2661 (a) The functions, duties, and authority of the Board of Public Welfare, established by Ga.  
 2662 L. 1919, p. 222, as amended, as transferred and vested in the Board of Control of  
 2663 Eleemosynary Institutions by Ga. L. 1931, p. 7, Section 44A, are vested in the Department  
 2664 of Human Resources Services.

2665 (b) The functions, duties, and authority of the Department of Family and Children  
 2666 Services, created in Ga. L. 1937, p. 355, as amended, are vested in the Department of  
 2667 Human Resources Services.

2668 (c) The functions of the State Board for Children and Youth, created in Ga. L. 1963, p. 81,  
 2669 except for the policy-making functions transferred to the Board of Human Resources, are  
 2670 vested in the Department of Human ~~Resources~~ Services.

2671 (d) ~~Reserved~~.

2672 ~~(e)~~ The functions, duties, and authority of the State Commission on Aging, created in Ga.  
 2673 L. 1962, p. 602, except the policy-making functions transferred to the Board of Human  
 2674 ~~Resources~~ Services, are vested in the Department of Human ~~Resources~~ Services.

2675 49-2-8.

2676 ~~The five members of the board who are licensed to practice medicine pursuant to Chapter~~  
 2677 ~~34 of Title 43 shall pass upon and approve the professional qualifications of all physicians~~  
 2678 ~~and medical doctors employed by the department.~~ Reserved.

2679 49-2-9.

2680 In administering any funds appropriated or made available to the department for welfare  
 2681 purposes, the department shall have the power:

2682 (1) To make use of all local processes to enforce the minimum standards prescribed  
 2683 under or pursuant to the laws providing for grants-in-aid; and

2684 (2) To administer and disburse any and all funds which may be allocated by any  
 2685 municipality of the state or private organization or society for such purposes as may be  
 2686 designated by such municipality or other agency. The department may use a reasonable  
 2687 percentage of such funds for administrative costs, not to exceed 10 percent of the total  
 2688 sum administered.

2689 49-2-10.

2690 For the purpose of carrying out the duties and obligations of the department for  
 2691 performance of welfare services of the state, for administrative costs, for matching such  
 2692 federal funds as may be available for all of the aforesaid services, for the purpose of  
 2693 establishing an equalization fund to be used in assisting those counties which may be  
 2694 unable otherwise to bear their proportionate share of the expenses of administration and of  
 2695 dispensing the benefits provided for under this title, and for dispensing all of the benefits  
 2696 provided for under this title, the General Assembly shall make appropriations out of the  
 2697 general fund of the state or otherwise for the various and separate activities of the  
 2698 department. All funds appropriated or allocated to the department or to the county  
 2699 departments by the General Assembly, the fiscal authorities of the respective counties, and  
 2700 by the federal government through its appropriate agencies and instrumentalities are  
 2701 declared to be funds provided for a public purpose; and all appropriations provided for in

2702 this Code section and hereafter may be expended and distributed by the department for the  
2703 purposes provided for under this title.

2704 49-2-11.

2705 (a) Notwithstanding any provision in this title to the contrary, particularly Articles 2, 3,  
2706 and 5 of Chapter 4 of this title, nothing therein contained shall be construed to prevent the  
2707 acceptance of more than 50 percent federal matching funds. The department may accept  
2708 and disburse the maximum percentage of federal grant-in-aid funds made available to this  
2709 state by the federal government under any formula of variable grants or other formula for  
2710 the granting of federal grants-in-aid.

2711 (b) The department is authorized to comply with the requirements prescribed by Congress  
2712 as conditions to federal grants.

2713 (c) To the end of empowering the department to comply with federal requirements and to  
2714 effectuate the purposes of grant-in-aid welfare programs, the board is authorized to  
2715 promulgate all necessary rules and regulations and the department is authorized to do all  
2716 things necessary and proper for the securing of the maximum amount of such federal  
2717 grants.

2718 (d) In the event that Congress appropriates funds for grants-in-aid to the state governments  
2719 for the purpose of assisting them in the operation of general assistance programs, medical  
2720 assistance programs, or any other welfare programs, the department is authorized to  
2721 cooperate with the federal government in such programs, to accept funds from the federal  
2722 government in the maximum amounts made available, to disburse them, and to comply  
2723 with all requirements of the federal government necessary for the securing of such  
2724 grant-in-aid funds.

2725 (e) Any state funds which are made available by appropriation to the department for  
2726 matching federal funds shall be available to supply the state portion of expenditures for  
2727 general assistance programs, medical assistance programs, or any other type welfare  
2728 programs provided for by the federal government which benefit the citizens or residents  
2729 of this state.

2730 (f) Notwithstanding subsections (a) through (e) of this Code section, the Department of  
2731 Community Health shall be the single state agency for the administration of the state  
2732 medical assistance plan.

2733 49-2-12.

2734 (a) All divisions and sections within the department shall make an inventory of all the  
2735 various vehicles to which the department holds title and shall investigate their utilization  
2736 patterns in order to establish and develop a consolidated and coordinated transportation

2737 plan for the various human services programs of the department, including, but not limited  
2738 to, those programs relating to the aged and to the mentally and physically disabled.

2739 (b) Other departments and agencies of the state shall cooperate with the Department of  
2740 ~~Human Resources~~ Services in mutually beneficial agreements regarding the establishment  
2741 and development of a coordinated transportation plan involving various vehicles to which  
2742 the state has title.

2743 (c) The plan required to be developed under this Code section shall identify the fully  
2744 allocated costs of the transportation component of their services and take into consideration  
2745 various limitations on the expenditure of federal funds which may arise in any consolidated  
2746 or coordinated transportation system. No later than June 30, 1980, a preliminary  
2747 transportation plan shall be submitted by the department to the Human Relations and Aging  
2748 Committee of the House of Representatives and the Education and Youth, Aging, and  
2749 ~~Human Ecology~~ Committee of the Senate, which plan shall be revised and submitted to  
2750 such committees every two years thereafter.

2751 49-2-13.

2752 All divisions and sections within the department, in cooperation with the Department of  
2753 Transportation, shall identify those areas of the state where the general transportation needs  
2754 of the elderly and persons with disabilities are not and cannot be adequately served by bus  
2755 service and community service centers furnishing transportation. In further cooperation  
2756 with the Department of Transportation, the department shall identify alternatives for  
2757 meeting the transportation needs of these persons and shall report to the committees  
2758 specified in subsection (c) of Code Section 49-2-12 as required therein. Such alternative  
2759 means to be considered for providing for the transportation needs of these persons should  
2760 include, but shall not be limited to:

2761 (1) Contract service resulting from competitive bidding by private sector bus operators  
2762 operating under Article 1 of Chapter 7 of Title 46;

2763 (2) Contract service resulting from competitive bidding by taxi operators;

2764 (3) Negotiated fee basis with municipal and area-wide transportation systems serving the  
2765 general public; or

2766 (4) Any combination of ~~above~~ paragraphs (1) through (3) of this Code section.

2767 49-2-13.1.

2768 (a) The department may, when funds are available from the United States government for  
2769 such purposes, provide financial assistance with such funds, or such funds and state general  
2770 funds appropriated for these purposes, to private nonprofit corporations and associations  
2771 for the specific purpose of assisting them in providing transportation services meeting the

2772 special needs of the elderly or persons with disabilities, or both, for whom the department  
 2773 determines that the mass transportation services planned, designed, and carried out by local  
 2774 public bodies, agencies, and authorities are unavailable, insufficient, or inappropriate. Such  
 2775 financial assistance shall be subject to those terms, conditions, requirements, and  
 2776 restrictions as the department determines to be necessary or appropriate in order to carry  
 2777 out the purposes of this Code section.

2778 (b) In order to effectuate and enforce this Code section, the department is authorized to  
 2779 promulgate necessary rules and regulations and to prescribe conditions and procedures in  
 2780 order to assure compliance in carrying out the purposes of this Code section.

2781 49-2-14.

2782 (a) As used in this Code section, the term 'conviction data' means a record of a finding or  
 2783 verdict of guilty or a plea of guilty or a plea of nolo contendere with regard to any crime,  
 2784 regardless of whether an appeal of the conviction has been sought.

2785 (b) The department may receive from any law enforcement agency conviction data that is  
 2786 relevant to a person whom the department, its contractors, or a district or county health  
 2787 agency is considering as a final selectee for employment in a position the duties of which  
 2788 involve direct care, treatment, custodial responsibilities, or any combination thereof for its  
 2789 clients. The department may also receive conviction data which is relevant to a person  
 2790 whom the department, its contractors, or a district or county health agency is considering  
 2791 as a final selectee for employment in a position if, in the judgment of the employer, a final  
 2792 employment decision regarding the selectee can only be made by a review of conviction  
 2793 data in relation to the particular duties of the position and the security and safety of clients,  
 2794 the general public, or other employees. Further, the department or any licensed  
 2795 child-placing agency, designated by the department to assist it in preparing studies of  
 2796 homes in which children in its custody may be placed, may receive from any law  
 2797 enforcement agency conviction data that is relevant to any adult person who resides in a  
 2798 home where children in the custody of the department may be placed.

2799 (c) The department shall establish a uniform method of obtaining conviction data under  
 2800 subsection (a) of this Code section which shall be applicable to the department; and its  
 2801 ~~contractors, and any district or county health agency.~~ Such uniform method shall require  
 2802 the submission to the Georgia Crime Information Center of ~~two complete sets of~~  
 2803 ~~fingerprints and the records search fee~~ in accordance with Code Section 35-3-35. Upon  
 2804 receipt thereof, the Georgia Crime Information Center shall promptly transmit ~~one set of~~  
 2805 ~~fingerprints to the Federal Bureau of Investigation for a search of bureau records and an~~  
 2806 ~~appropriate report and shall retain the other set and~~ promptly conduct a search of its own  
 2807 records and records to which it has access. After receiving the fingerprints and fee, the



2808 Georgia Crime Information Center shall notify the department in writing of any derogatory  
2809 finding, including, but not limited to, any conviction data regarding the fingerprint records  
2810 check or if there is no such finding.

2811 (d) All conviction data received shall be for the exclusive purpose of making employment  
2812 decisions or decisions concerning children in the custody of the department or who are the  
2813 subjects of a child protective services referral, complaint, or investigation and shall be  
2814 privileged and shall not be released or otherwise disclosed to any other person or agency  
2815 except to any person or agency with a legal right to inspect the employment, department,  
2816 or licensed child-placing agency file. Immediately following the employment decisions  
2817 or upon receipt of the conviction data concerning any adult person who has contact with  
2818 a child who is the subject of a child protective services referral, complaint, or investigation  
2819 or who resides in a home where children in the custody of the department may be placed,  
2820 all such conviction data collected by the department or the licensed child-placing agency  
2821 shall be maintained by the department or child-placing agency pursuant to laws regarding  
2822 and the rules or regulations of the Federal Bureau of Investigation and the Georgia Crime  
2823 Information Center, as is applicable. Penalties for the unauthorized release or disclosure  
2824 of any conviction data shall be as prescribed pursuant to laws regarding and rules or  
2825 regulations of the Federal Bureau of Investigation and the Georgia Crime Information  
2826 Center, as is applicable.

2827 (e) Notwithstanding the provisions of subsection (c) of this Code section, when a  
2828 contractor to this department is a personal care home, the provisions of Code Sections  
2829 31-7-250 through 31-7-264 shall apply.

2830 (f) The department may promulgate written rules and regulations to implement the  
2831 provisions of this Code section.

2832 (g) The department may receive from any law enforcement agency criminal history  
2833 information, including arrest and conviction data, and any and all other information which  
2834 it may be provided pursuant to state or federal law which is relevant to any adult person  
2835 who resides in a home where children in the custody of the department have been or may  
2836 be placed or which is relevant to any adult person who resides in the home of or provides  
2837 care to a child who is the subject of a child protective services referral, complaint, or  
2838 investigation to the fullest extent permissible by federal and state law, including but not  
2839 limited to Public Law 92-544. The department shall establish a uniform method of  
2840 obtaining criminal history information under this subsection. Such method shall require  
2841 the submission to the Georgia Crime Information Center of ~~two complete sets of fingerprint~~  
2842 cards fingerprints together with any required records search fee in accordance with Code  
2843 Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall  
2844 promptly transmit ~~one set of~~ the fingerprints submitted by the department to the Federal

2845 Bureau of Investigation for a search of bureau records and an appropriate report and shall  
 2846 ~~retain the other set and~~ promptly conduct a search of its own records and records to which  
 2847 it has access. Such method shall also permit the submission of the names alone of such  
 2848 adult persons to the proper law enforcement agency when the department is considering  
 2849 placement of a child in exigent circumstances for a name based check of such adult  
 2850 person's criminal history information as maintained by the Georgia Crime Information  
 2851 Center and the Federal Bureau of Investigation. In such exigent circumstances, the  
 2852 department shall submit ~~two complete sets of fingerprint cards~~ fingerprints of those adult  
 2853 persons in the placement home, together with any required records search fee, to the  
 2854 Federal Bureau of Investigation within 15 calendar days of the date of the name based  
 2855 check on that person. ~~Fingerprint cards~~ The fingerprints shall be forwarded to the Federal  
 2856 Bureau of Investigation through the Georgia Crime Information Center in accordance with  
 2857 Code Section 35-3-35. Following the submission of such ~~fingerprint cards~~ fingerprints, the  
 2858 department may receive the criminal history information, including arrest and conviction  
 2859 data, relevant to such person. In the event that a child has been placed in exigent  
 2860 circumstances, a name based records search has been requested for any adult person of the  
 2861 placement household, and that adult refuses to provide fingerprints after being requested  
 2862 to do so by the department, the child shall be immediately removed from the placement  
 2863 household by the department, provided that the child is in the custody of the department.

2864 (h) The department shall be authorized to conduct a name or descriptor based check of any  
 2865 adult person's criminal history information, including arrest and conviction data, and other  
 2866 information from the Georgia Crime Information Center regarding any adult person who  
 2867 resides in a home where children in the custody of the department have been or may be  
 2868 placed or which is relevant to any adult person who resides in the home of or provides care  
 2869 to a child who is the subject of a child protective services referral, complaint, or  
 2870 investigation without the consent of such adult person and without fingerprint comparison  
 2871 to the fullest extent permissible by federal and state law.

2872 49-2-14.1.

2873 (a) As used in this Code section, the term:

2874 (1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of  
 2875 whether an appeal of the conviction has been sought.

2876 (2) 'Crime' means commission of the following offenses:

2877 (A) A violation of Code Section 16-5-1, relating to murder and felony murder;

2878 (B) A violation of Code Section 16-5-21, relating to aggravated assault;

2879 (C) A violation of Code Section 16-5-24, relating to aggravated battery;

2880 (D) A violation of Code Section 16-5-70, relating to cruelty to children;

- 2881 (E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of  
 2882 age or older;
- 2883 (F) A violation of Code Section 16-6-1, relating to rape;
- 2884 (G) A violation of Code Section 16-6-2, relating to aggravated sodomy;
- 2885 (H) A violation of Code Section 16-6-4, relating to child molestation;
- 2886 (I) A violation of Code Section 16-6-5, relating to enticing a child for indecent  
 2887 purposes;
- 2888 (J) A violation of Code Section 16-6-5.1, relating to sexual assault against persons in  
 2889 custody, detained persons, or patients in hospitals or other institutions;
- 2890 (K) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;
- 2891 (L) A violation of Code Section 16-8-41, relating to armed robbery;
- 2892 (M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of  
 2893 a disabled adult or elder person; or
- 2894 (N) Any other offense committed in another jurisdiction that, if committed in this state,  
 2895 would be deemed to be a crime listed in this paragraph without regard to its designation  
 2896 elsewhere.
- 2897 (3) 'Criminal record' means any of the following:
- 2898 (A) Conviction of a crime;
- 2899 (B) Arrest, charge, and sentencing for a crime where:
- 2900 (i) A plea of nolo contendere was entered to the charge;
- 2901 (ii) First offender treatment without adjudication of guilt pursuant to the charge was  
 2902 granted; or
- 2903 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;  
 2904 or
- 2905 (C) Arrest and being charged for a crime if the charge is pending, unless the time for  
 2906 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.
- 2907 (4) 'Facility' means a:
- 2908 (A) ~~Personal care home required to be licensed or permitted under Code Section~~  
 2909 ~~31-7-12;~~
- 2910 (B) ~~Private home care provider required to be licensed under Article 13 of Chapter 7~~  
 2911 ~~of Title 31;~~
- 2912 (C) ~~Community living arrangement subject to licensure under paragraph (16)(11) of~~  
 2913 ~~subsection (b) and subsection (c) of Code Section 37-1-20 49-2-6; or~~
- 2914 (D) ~~(B)~~ Child welfare agency required to be licensed under Code Section 49-5-12.
- 2915 (5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of  
 2916 Chapter 3 of Title 35.

- 2917 (6) 'GCIC information' means criminal history record information as defined in Code  
 2918 Section 35-3-30.
- 2919 (7) 'License' means the document issued by the department to authorize the facility to  
 2920 operate.
- 2921 (8) 'Owner' means any individual or any person affiliated with a corporation, partnership,  
 2922 or association with 10 percent or greater ownership interest in a facility providing care  
 2923 to persons under the license of the facility in this state and who:
- 2924 (A) Purports to or exercises authority of the owner in a facility;  
 2925 (B) Applies to operate or operates a facility;  
 2926 (C) Maintains an office on the premises of a facility;  
 2927 (D) Resides at a facility;  
 2928 (E) Has direct access to persons receiving care at a facility;  
 2929 (F) Provides direct personal supervision of facility personnel by being immediately  
 2930 available to provide assistance and direction during the time such facility services are  
 2931 being provided; or  
 2932 (G) Enters into a contract to acquire ownership of a facility.
- 2933 (9) 'Records check application' means ~~two sets of classifiable~~ fingerprints in such form  
 2934 and of such quality as prescribed by the Georgia Crime Information Center under  
 2935 standards adopted by the Federal Bureau of Investigation and a records search fee to be  
 2936 established by the department by rule and regulation, payable in such form as the  
 2937 department may direct to cover the cost of obtaining criminal background information  
 2938 pursuant to this Code section.
- 2939 (b) An owner with a criminal record shall not operate or hold a license to operate a facility,  
 2940 and the department shall revoke the license of any owner operating a facility or refuse to  
 2941 issue a license to any owner operating a facility if it determines that such owner has a  
 2942 criminal record; provided, however, that an owner who holds a license to operate a facility  
 2943 on or before June 30, 2007, shall not have his or her license revoked prior to a hearing  
 2944 being held before a hearing officer pursuant to Chapter 13 of Title 50, the 'Georgia  
 2945 Administrative Procedure Act.'
- 2946 (c)(1) Prior to approving any license for a new facility and periodically as established by  
 2947 the department by rule and regulation, the department shall require an owner to submit  
 2948 a records check application. The department shall establish a uniform method of  
 2949 obtaining an owner's records check application.
- 2950 (2)(A) Unless the department contracts pursuant to subparagraph (B) of this paragraph,  
 2951 the department shall transmit to the GCIC ~~both sets of~~ the fingerprints and ~~the~~ records  
 2952 search fee from each fingerprint records check application in accordance with Code  
 2953 Section 35-3-35. Upon receipt thereof, the GCIC shall promptly transmit ~~one set of the~~

2954 fingerprints to the Federal Bureau of Investigation for a search of bureau records and  
 2955 an appropriate report and shall ~~retain the other set and~~ promptly conduct a search of its  
 2956 records and records to which it has access. Within ten days after receiving fingerprints  
 2957 acceptable to the GCIC and the fee, the GCIC shall notify the department in writing of  
 2958 any criminal record or if there is no such finding. After a search of Federal Bureau of  
 2959 Investigation records and fingerprints and upon receipt of the bureau's report, the  
 2960 department shall make a determination about an owner's criminal record and shall  
 2961 notify the owner in writing as to the department's determination as to whether the owner  
 2962 has or does not have a criminal record.

2963 (B) The department may either perform criminal background checks under agreement  
 2964 with the GCIC or contract with the GCIC and appropriate law enforcement agencies  
 2965 which have access to GCIC and Federal Bureau of Investigation information to have  
 2966 those agencies perform for the department criminal background checks for owners. The  
 2967 department or the appropriate law enforcement agencies may charge reasonable fees  
 2968 for performing criminal background checks.

2969 (3)(A) The department's determination regarding an owner's criminal record, or any  
 2970 action by the department revoking or refusing to grant a license based on such  
 2971 determination, shall constitute a contested case for purposes of Chapter 13 of Title 50,  
 2972 the 'Georgia Administrative Procedure Act,' except that any hearing required to be held  
 2973 pursuant thereto may be held reasonably expeditiously after such determination or  
 2974 action by the department.

2975 (B) In a hearing held pursuant to subparagraph (A) of this paragraph or subsection (b)  
 2976 of this Code section, the hearing officer shall consider in mitigation the length of time  
 2977 since the crime was committed, the absence of additional criminal charges, the  
 2978 circumstances surrounding the commission of the crime, other indicia of rehabilitation,  
 2979 the facility's history of compliance with the regulations, and the owner's involvement  
 2980 with the licensed facility in arriving at a decision as to whether the criminal record  
 2981 requires the denial or revocation of the license to operate the facility. Where a hearing  
 2982 is required, at least 30 days prior to such hearing, the hearing officer shall notify the  
 2983 office of the prosecuting attorney who initiated the prosecution of the crime in question  
 2984 in order to allow the prosecutor to object to a possible determination that the conviction  
 2985 would not be a bar for the grant or continuation of a license as contemplated within this  
 2986 Code section. If objections are made, the hearing officer shall take such objections into  
 2987 consideration in considering the case.

2988 (4) ~~Neither the~~ The GCIC, the department, any law enforcement agency, ~~nor~~ and the  
 2989 employees of any such entities shall not be responsible for the accuracy of information  
 2990 nor have any liability for defamation, invasion of privacy, negligence, or any other claim

2991 in connection with any dissemination of information or determination based thereon  
 2992 pursuant to this Code section.

2993 (d) All information received from the Federal Bureau of Investigation or the GCIC shall  
 2994 be for the exclusive purpose of approving or denying the granting of a license to a new  
 2995 facility or the revision of a license of an existing facility when a new owner is proposed and  
 2996 shall not be released or otherwise disclosed to any other person or agency except to any  
 2997 person or agency with a legal right to inspect the facility. All such information collected  
 2998 by the department shall be maintained by the department pursuant to laws regarding and  
 2999 the rules or regulations of the Federal Bureau of Investigation and the GCIC, as is  
 3000 applicable. Penalties for the unauthorized release or disclosure of any such information  
 3001 shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal  
 3002 Bureau of Investigation and the GCIC, as is applicable.

3003 (e) The requirements of this Code section are supplemental to any requirements for a  
 3004 license imposed by Article 3 of Chapter 5 of this title or Article 11 of Chapter 7 of Title 31.

3005 (f) The department shall promulgate written rules and regulations to implement the  
 3006 provisions of this Code section.

3007 49-2-15.

3008 When any action is brought against the Department of Human ~~Resources~~ Services, the  
 3009 Board of Human ~~Resources~~ Services, the commissioner of human ~~resources~~ services, or  
 3010 any employee or agent thereof or when any action is brought in which the department could  
 3011 be held responsible for damages awarded in such action, it shall be the duty of the plaintiff  
 3012 to provide for service of notice of the pendency of such action by providing for service of  
 3013 a second original process, issued from the court in which the action is filed, upon the  
 3014 commissioner of human ~~resources~~ services personally or upon a person designated by the  
 3015 commissioner in writing to serve as agent for the acceptance of such service of process.  
 3016 The service of process in such action shall not be perfected until such second original  
 3017 process has been served as provided in this Code section. The provisions of this Code  
 3018 section shall be cumulative of any other requirements imposed by law for the service of  
 3019 process or notice.

3020 49-2-16.

3021 (a) There is created a Georgia Council for Welfare Administration. The objectives ~~for~~ of  
 3022 the council shall be:

3023 (1) To promote improvements in public welfare and social service programs of the  
 3024 Division of Family and Children Services within the Department of Human ~~Resources~~  
 3025 Services;

3026 (2) To provide a forum for the interchange of information relating to welfare and social  
3027 service programs; and

3028 (3) To promote with any organization exempt under Section 501(c)(4) of the United  
3029 States Internal Revenue Code of 1986 a more efficient public welfare delivery system for  
3030 the citizens of this state.

3031 (b) Membership in the council shall be open to persons actively employed in the Division  
3032 of Family and Children Services within the Department of Human ~~Resources~~ Services.

3033 (c) No state funds shall be appropriated for the benefit or use of the council.

3034 (d) The council is authorized to adopt bylaws which prescribe its organizational structure,  
3035 officers, terms and condition of office, meeting schedules, and such other organizational  
3036 procedures as are necessary for its lawful and effective functioning.

3037 (e) The commissioner of human ~~resources~~ services shall call the initial meeting of the  
3038 council at which time the council shall organize and select its officers.

3039 49-2-17.

3040 (a) This Code section shall be applicable to any agency, facility, institution, community  
3041 living arrangement, or entity subject to regulation by the department under Chapter 5 of  
3042 this title or paragraph (11) of subsection (b) of Code Section 49-2-6. For purposes of this  
3043 Code section, the term 'license' shall be used to refer to any license, permit, registration, or  
3044 commission issued by the department pursuant to the provisions of the law cited in this  
3045 subsection.

3046 (b) The department shall have the authority to take any of the actions enumerated in  
3047 subsection (c) of this Code section upon a finding that the applicant or licensee has:

3048 (1) Knowingly made any false statement of material information in connection with the  
3049 application for a license, or in statements made or on documents submitted to the  
3050 department as part of an inspection, survey, or investigation, or in the alteration or  
3051 falsification of records maintained by the agency, facility, institution, or entity;

3052 (2) Failed or refused to provide the department with access to the premises subject to  
3053 regulation or information pertinent to the initial or continued licensing of the agency,  
3054 facility, institution, or entity;

3055 (3) Failed to comply with the licensing requirements of this state; or

3056 (4) Failed to comply with any provision of this Code section.

3057 (c) When the department finds that any applicant or licensee has violated any provision  
3058 of subsection (b) of this Code section or laws, rules, regulations, or formal orders related  
3059 to the initial or continued licensing of the agency, facility, institution, or entity, the  
3060 department, subject to notice and opportunity for hearing, may take any of the following  
3061 actions:

- 3062 (1) Refuse to grant a license; provided, however, that the department may refuse to grant  
 3063 a license without holding a hearing prior to taking such action;
- 3064 (2) Administer a public reprimand;
- 3065 (3) Suspend any license for a definite period or for an indefinite period in connection  
 3066 with any condition which may be attached to the restoration of said license;
- 3067 (4) Prohibit any applicant or licensee from allowing a person who previously was  
 3068 involved in the management or control, as defined by rule, of any agency, facility,  
 3069 institution, or entity which has had its license or application revoked or denied within the  
 3070 past 12 months to be involved in the management or control of such agency, facility,  
 3071 institution, or entity;
- 3072 (5) Revoke any license;
- 3073 (6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for  
 3074 each violation of a law, rule, regulation, or formal order related to the initial or ongoing  
 3075 licensing of any agency, facility, institution, or entity; or
- 3076 (7) Limit or restrict any license as the department deems necessary for the protection of  
 3077 the public, including, but not limited to, restricting some or all services of or admissions  
 3078 into an agency, facility, institution, or entity for a time certain.
- 3079 In taking any of the actions enumerated in this subsection, the department shall consider  
 3080 the seriousness of the violation, including the circumstances, extent, and gravity of the  
 3081 prohibited acts, and the hazard or potential hazard created to the health or safety of the  
 3082 public.
- 3083 (d) The department may deny a license or otherwise restrict a license for any applicant  
 3084 who has had a license denied, revoked, or suspended within one year of the date of an  
 3085 application or who has transferred ownership or governing authority of an agency, facility,  
 3086 institution, or entity subject to regulation by the department within one year of the date of  
 3087 a new application when such transfer was made in order to avert denial, revocation, or  
 3088 suspension of a license.
- 3089 (e) With regard to any contested case instituted by the department pursuant to this Code  
 3090 section or other provisions of law which may now or hereafter authorize remedial or  
 3091 disciplinary grounds and action, the department may, in its discretion, dispose of the action  
 3092 so instituted by settlement. In such cases, all parties, successors, and assigns to any  
 3093 settlement agreement shall be bound by the terms specified therein and violation thereof  
 3094 by any applicant or licensee shall constitute grounds for any action enumerated in  
 3095 subsection (c) of this Code section.
- 3096 (f) The department shall have the authority to make public or private investigations or  
 3097 examinations inside or outside of this state to determine whether the provisions of this  
 3098 Code section or any other law, rule, regulation, or formal order relating to the licensing of



3099 any agency, facility, institution, or entity has been violated. Such investigations may be  
3100 initiated at any time, in the discretion of the department, and may continue during the  
3101 pendency of any action initiated by the department pursuant to subsection (c) of this Code  
3102 section.

3103 (g) For the purpose of conducting any investigation, inspection, or survey, the department  
3104 shall have the authority to require the production of any books, records, papers, or other  
3105 information related to the initial or continued licensing of any agency, facility, institution,  
3106 or entity.

3107 (h) Pursuant to the investigation, inspection, and enforcement powers given to the  
3108 department by this Code section and other applicable laws, the department may assess  
3109 against an agency, facility, institution, or entity reasonable and necessary expenses incurred  
3110 by the department pursuant to any administrative or legal action required by the failure of  
3111 the agency, facility, institution, or entity to fully comply with the provisions of any law,  
3112 rule, regulation, or formal order related to the initial or continued licensing. Assessments  
3113 shall not include attorney's fees and expenses of litigation, shall not exceed other actual  
3114 expenses, and shall only be assessed if such investigations, inspection, or enforcement  
3115 actions result in adverse findings, as finally determined by the department, pursuant to  
3116 administrative or legal action.

3117 (i) For any action taken or any proceeding held under this Code section or under color of  
3118 law, except for gross negligence or willful or wanton misconduct, the department, when  
3119 acting in its official capacity, shall be immune from liability and suit to the same extent that  
3120 any judge of any court of general jurisdiction in this state would be immune.

3121 (j) In an administrative or legal proceeding under this Code section, a person or entity  
3122 claiming an exemption or an exception granted by law, rule, regulation, or formal order has  
3123 the burden of proving this exemption or exception.

3124 (k) This Code section and all actions resulting from its provisions shall be administered  
3125 in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

3126 (l) The provisions of this Code section shall be supplemental to and shall not operate to  
3127 prohibit the department from acting pursuant to those provisions of law which may now  
3128 or hereafter authorize remedial or disciplinary grounds and action for the department. In  
3129 cases where those other provisions of law so authorize other disciplinary grounds and  
3130 actions, but this Code section limits such grounds or actions, those other provisions shall  
3131 apply.

3132 (m) The department is authorized to promulgate rules and regulations to implement the  
3133 provisions of this Code section.

3134 49-2-18.

3135 (a)(1) The commissioner may order the emergency relocation of patients or residents  
 3136 from a community living arrangement subject to licensure under paragraph (11) of  
 3137 subsection (b) of Code Section 49-2-6 when the commissioner has determined that the  
 3138 patients or residents are subject to an imminent and substantial danger.

3139 (2) When an order is issued under this subsection, the commissioner shall provide for:

3140 (A) Notice to the patient or resident, his or her next of kin or guardian, and his or her  
 3141 physician of the emergency relocation and the reasons therefor;

3142 (B) Relocation to the nearest appropriate community living arrangement; and

3143 (C) Other protection designed to ensure the welfare and, when possible, the desires of  
 3144 the patient or resident.

3145 (b)(1) The commissioner may order the emergency placement of a monitor in a  
 3146 community living arrangement subject to licensure under paragraph (11) of subsection  
 3147 (b) of Code Section 49-2-6 when one or more of the following conditions are present:

3148 (A) The community living arrangement is operating without a license;

3149 (B) The department has denied application for a license or has initiated action to  
 3150 revoke the existing license of the community living arrangement;

3151 (C) The community living arrangement is closing or plans to close and adequate  
 3152 arrangements for relocation of the patients or residents have not been made at least 30  
 3153 days before the date of closure; or

3154 (D) The health, safety, security, rights, or welfare of the patients or residents cannot  
 3155 be adequately assured by the community living arrangement.

3156 (2) A monitor may be placed, pursuant to this subsection, in a community living  
 3157 arrangement for no more than ten days, during which time the monitor shall observe  
 3158 conditions and compliance with any recommended remedial action of the department by  
 3159 the community living arrangement. The monitor shall report to the department. The  
 3160 monitor shall not assume any administrative responsibility within the community living  
 3161 arrangement nor shall the monitor be liable for any actions of the community living  
 3162 arrangement. The costs of placing a monitor in a community living arrangement shall be  
 3163 paid by the community living arrangement unless the order placing the monitor is  
 3164 determined to be invalid in a contested case proceeding under subsection (d) of this Code  
 3165 section, in which event the costs shall be paid by the state.

3166 (c)(1) The commissioner may order the emergency prohibition of admissions to a  
 3167 community living arrangement subject to licensure under paragraph (11) of subsection  
 3168 (b) of Code Section 49-2-6 when the community living arrangement has failed to correct  
 3169 a violation of departmental permit rules or regulations within a reasonable period of time,  
 3170 as specified in the department's corrective order, and the violation:

3171 (A) Could jeopardize the health and safety of the residents or patients in the  
 3172 community living arrangement if allowed to remain uncorrected; or

3173 (B) Is a repeat violation over a 12 month period, which is intentional or due to gross  
 3174 negligence.

3175 (2) Admission to a community living arrangement may be suspended until the violation  
 3176 has been corrected or until the department has determined that the community living  
 3177 arrangement has undertaken the action necessary to effect correction of the violation.

3178 (d) The commissioner may issue emergency orders pursuant to this Code section only if  
 3179 authorized by rules and regulations of the department. Unless otherwise provided in the  
 3180 order, an emergency order shall become effective immediately. The department shall hold  
 3181 a preliminary hearing within ten days following a request therefor by any community living  
 3182 arrangement affected by an emergency order. If at the preliminary hearing the order is  
 3183 determined by the department to be invalid, that order shall thereupon become void and of  
 3184 no effect. If at the preliminary hearing the order is determined by the department to be  
 3185 valid, that determination shall constitute a contested case under Chapter 13 of Title 50, the  
 3186 'Georgia Administrative Procedure Act,' and that order shall remain in effect until  
 3187 determined invalid in a proceeding regarding the contested case or until rescinded by the  
 3188 commissioner, whichever is earlier. For purposes of this subsection, an emergency order  
 3189 is valid only if the order is authorized to be issued under this Code section and rules and  
 3190 regulations relating thereto.

3191 (e) The powers provided by this Code section are cumulative of all other powers of the  
 3192 department, board, and commissioner.

## 3193 ARTICLE 2

3194 49-2-20.

3195 As used in this article, the term:

3196 (1) 'Inspection warrant' means a warrant authorizing a search or inspection of private  
 3197 property where such a search or inspection is one that is necessary for the enforcement  
 3198 of a residential child care licensing law.

3199 (2) 'Residential child care licensing law' means this chapter and Chapter 5 of this title  
 3200 and any rule or regulation duly promulgated thereunder.

3201 49-2-21.

3202 The commissioner or the commissioner's designee, in addition to other procedures now or  
 3203 hereafter provided, may obtain an inspection warrant under the conditions specified in this  
 3204 article. Such warrant shall authorize the commissioner or the commissioner's designee to

3205 conduct a search or inspection of property either with or without the consent of the person  
3206 whose property is to be searched or inspected if such search or inspection is one that is  
3207 elsewhere authorized under the rules and regulations duly promulgated pursuant to a  
3208 residential child care licensing law.

3209 49-2-22.

3210 (a) Inspection warrants shall be issued only by a judge of a court of record whose  
3211 territorial jurisdiction encompasses the property to be inspected.

3212 (b) The issuing judge shall issue the warrant when the judge is satisfied that the following  
3213 conditions are met:

3214 (1) The one seeking the warrant must establish under oath or affirmation that the  
3215 property to be inspected is to be inspected as a part of a legally authorized program of  
3216 inspection which includes that property or that there is probable cause for believing that  
3217 there is a condition, object, activity, or circumstance which legally justifies such an  
3218 inspection of that property; and

3219 (2) The issuing judge determines that the issuance of the warrant is authorized by this  
3220 article.

3221 49-2-23.

3222 The inspection warrant shall be validly issued only if it meets the following requirements:

3223 (1) The warrant is attached to the affidavit required to be made in order to obtain the  
3224 warrant;

3225 (2) The warrant describes either directly or by reference to the affidavit the property  
3226 upon which the inspection is to occur and is sufficiently accurate that the executor of the  
3227 warrant and the owner or possessor of the property can reasonably determine from it the  
3228 property of which the warrant authorizes an inspection;

3229 (3) The warrant indicates the conditions, objects, activities, or circumstances which the  
3230 inspection is intended to check or reveal; and

3231 (4) The warrant refers in general terms to the statutory or regulatory provisions sought  
3232 to be enforced.

3233 49-2-24.

3234 No facts discovered or evidence obtained in an inspection conducted under authority of an  
3235 inspection warrant issued pursuant to this article shall be competent as evidence in any  
3236 criminal proceeding against any party.

3237 49-2-25.  
 3238 The Department of Human Services is empowered to institute appropriate proceedings for  
 3239 injunction in the courts of competent jurisdiction in this state for the purpose of enjoining  
 3240 a violation of any provision of a residential child care licensing law as now existing or as  
 3241 may be hereafter amended or of any regulation or order duly issued by the board or  
 3242 department. The department is also empowered to maintain action for injunction to abate  
 3243 any public nuisance which is injurious to the public health, safety, or comfort. Such  
 3244 actions may be maintained notwithstanding the fact that such violation also constitutes a  
 3245 crime and notwithstanding that other adequate remedies at law exist. Such actions may be  
 3246 instituted in the name of the department in the county in which a violation of any provision  
 3247 of this title occurs."

3248 **SECTION 2-2.**

3249 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3250 replacing "Department of Human Resources" wherever it occurs with "Department of Human  
 3251 Services":

- 3252 (1) Code Section 2-7-102, relating to grounds for denial, suspension, revocation, or  
 3253 modification of license, permit, or certification for use and application of pesticides;  
 3254 (2) Code Section 10-1-855, relating to referral procedures to provide intervention and  
 3255 assistance for elder or disabled persons;  
 3256 (3) Code Section 12-6-49.1, relating to denial or suspension of license for  
 3257 noncompliance with child support order;  
 3258 (4) Code Section 15-11-8, relating to expenses charged to county and payment by  
 3259 parents on court order;  
 3260 (5) Code Section 15-11-14, relating to emergency care and supervision of a child by the  
 3261 Department of Human Resources;  
 3262 (6) Code Section 15-11-15, relating to detainment of child in temporary protective  
 3263 custody of a physician;  
 3264 (7) Code Section 15-11-19, relating to the establishment of the Council of Juvenile Court  
 3265 Judges;  
 3266 (8) Code Section 15-11-55, relating to disposition of a deprived child;  
 3267 (9) Code Section 15-11-58, relating to reasonable efforts regarding reunification of  
 3268 family;  
 3269 (10) Code Section 15-11-71, relating to supervision fees for juvenile courts;  
 3270 (11) Code Section 15-11-103, relating to placement of a child following a termination  
 3271 order;

- 3272 (12) Code Section 15-11-171, relating to definitions relative to the "Georgia Child  
3273 Advocate for the Protection of Children Act";
- 3274 (13) Code Section 15-11A-4, relating to appointment of personnel to the Family Court  
3275 Division of the Superior Court of Fulton County;
- 3276 (14) Code Section 15-18-14, relating to appointment of prosecuting attorneys;
- 3277 (15) Code Section 18-4-131, relating to definitions relative to continuing garnishment  
3278 for family support;
- 3279 (16) Code Section 19-6-15, relating to child support in final verdict or decree;
- 3280 (17) Code Section 19-6-31, relating to definitions relative to income deduction orders;
- 3281 (18) Code Section 19-6-33.1, relating to the family support registry;
- 3282 (19) Code Section 19-6-51, relating to members of the Georgia Child Support  
3283 Commission;
- 3284 (20) Code Section 19-7-5, relating to reporting of child abuse;
- 3285 (21) Code Section 19-7-6, relating to reporting of juvenile drug use;
- 3286 (22) Code Section 19-7-22, relating to petitions for legitimation of child;
- 3287 (23) Code Section 19-7-40, relating to jurisdiction and administrative determination of  
3288 paternity;
- 3289 (24) Code Section 19-7-43, relating to petitions to establish paternity of a child;
- 3290 (25) Code Section 19-7-52, relating to whom support payments may be made;
- 3291 (26) Code Section 19-7-54, relating to motions to set aside determination of paternity;
- 3292 (27) Code Section 19-8-1, relating to definitions relative to adoption;
- 3293 (28) Code Section 19-8-5, relating to surrender or termination of parental or guardian's  
3294 rights where child to be adopted by a third party;
- 3295 (29) Code Section 19-8-23, relating to where records of adoption are kept;
- 3296 (30) Code Section 19-8-26, relating to how surrender of parental rights is executed;
- 3297 (31) Code Section 19-9-122, relating to delegation of authority for the care of a minor  
3298 child;
- 3299 (32) Code Section 19-9-129, relating to the power of attorney form for the care of a  
3300 minor child;
- 3301 (33) Code Section 19-10A-5, relating to investigating and reporting utilization of  
3302 provisions under the "Safe Place for Newborns Act of 2002";
- 3303 (34) Code Section 19-10A-6, relating to reimbursement of medical costs under the "Safe  
3304 Place for Newborns Act of 2002";
- 3305 (35) Code Section 19-11-3, relating to definitions relative to the "Child Support  
3306 Recovery Act";
- 3307 (36) Code Section 19-11-9.1, relating to duty to furnish information about obligor to the  
3308 Department of Human Resources;

- 3309 (37) Code Section 19-11-9.2, relating to duty of employers to report hiring or rehiring  
3310 of persons;
- 3311 (38) Code Section 19-11-9.3, relating to suspension or denial of license for  
3312 noncompliance with child support order;
- 3313 (39) Code Section 19-11-18, relating to collection procedures for child support payments  
3314 in arrears;
- 3315 (40) Code Section 19-11-30.1, relating to the computer based registry for financial  
3316 institutions with regard to the "Child Support Recovery Act";
- 3317 (41) Code Section 19-11-30.2, relating to definitions relative to the computer based  
3318 registry for financial institutions with regard to the "Child Support Recovery Act";
- 3319 (42) Code Section 19-11-30.3, relating to the responsibility of the Department of Human  
3320 Resources Bank Match Registry;
- 3321 (43) Code Section 19-11-58, relating to the Department of Human Resources designated  
3322 as the state information agency under the "Uniform Reciprocal Enforcement of Support  
3323 Act";
- 3324 (44) Code Section 19-11-102, relating to designated tribunals under the "Uniform  
3325 Interstate Family Support Act";
- 3326 (45) Code Section 19-11-110, relating to jurisdiction under the "Uniform Interstate  
3327 Family Support Act";
- 3328 (46) Code Section 19-11-127, relating to authority of district attorney to represent the  
3329 Department of Human Resources in a proceeding under the "Uniform Interstate Family  
3330 Support Act";
- 3331 (47) Code Section 19-11-129, relating to the Department of Human Resources as the  
3332 state information agency under the "Uniform Interstate Family Support Act";
- 3333 (48) Code Section 19-13-20, relating to definitions relative to family violence shelters;
- 3334 (49) Code Section 19-15-2, relating to child abuse protocol committees;
- 3335 (50) Code Section 19-15-3, relating to county multiagency child fatality review  
3336 committees;
- 3337 (51) Code Section 20-1A-60, relating to definitions relative to the Georgia Child Care  
3338 Council;
- 3339 (52) Code Section 20-2-133, relating to free public instruction for children in elementary  
3340 and secondary education;
- 3341 (53) Code Section 20-2-250, relating to projects to improve effectiveness in elementary  
3342 and secondary education;
- 3343 (54) Code Section 20-2-696, relating to duties of visiting teachers and attendance  
3344 officers;

- 3345 (55) Code Section 20-3-660, relating to creation of a program of postsecondary grants  
3346 for foster children and adopted children;
- 3347 (56) Code Section 29-4-2, relating to qualifications of guardians selected for adults;
- 3348 (57) Code Section 29-4-3, relating to order of preference in selection of guardians;
- 3349 (58) Code Section 29-9-10, relating to oath by a duly appointed delegate of the  
3350 Department of Human Resources;
- 3351 (59) Code Section 29-10-3, relating to qualifications and requirements of public  
3352 guardians;
- 3353 (60) Code Section 29-10-4, relating to registration of public guardians with the probate  
3354 court;
- 3355 (61) Code Section 29-10-10, relating to compensation of public guardians;
- 3356 (62) Code Section 29-10-11, relating to appropriation of funds for compensation of  
3357 public guardians in certain circumstances;
- 3358 (63) Code Section 30-1-5, relating to the definition of a "hearing impaired person";
- 3359 (64) Code Section 30-2-7, relating to compensation of workers in the Georgia Industries  
3360 for the Blind;
- 3361 (65) Code Section 30-5-3, relating to definitions relative to the "Disabled Adults and  
3362 Elder Persons Protection Act"
- 3363 (66) Code Section 30-5-10, relating to cooperative effort in development of programs  
3364 relating to the abuse and exploitation of persons 65 years of age or older;
- 3365 (67) Code Section 31-7-282, relating to collection and submission of health care data;
- 3366 (68) Code Section 31-8-52, relating to the establishment of a long-term care ombudsman  
3367 program;
- 3368 (69) Code Section 31-8-82, relating to reporting of abuse or exploitation of a resident of  
3369 a long-term care facility;
- 3370 (70) Code Section 31-8-116, relating to involuntary transfer of residents discharged from  
3371 a long-term care facility;
- 3372 (71) Code Section 31-8-192, relating to definitions relative to the "'Health Share'  
3373 Volunteers in Medicine Act";
- 3374 (72) Code Section 31-10-9.1, relating to social security account information of parents  
3375 with respect to vital records;
- 3376 (73) Code Section 34-8-199, relating to uncollected overissuance of food stamp coupons;
- 3377 (74) Code Section 39-4-1, relating to the definition of "appropriate public authority" with  
3378 respect to the Interstate Compact on the Placement of Children;
- 3379 (75) Code Section 39-4-2, relating to the definition of "appropriate authority in the  
3380 receiving state" with respect to the Interstate Compact on the Placement of Children;



- 3381 (76) Code Section 40-5-2, relating to keeping of records of applications for licenses and  
3382 information on licensees;
- 3383 (77) Code Section 40-5-25, relating to applications for instruction permits and drivers'  
3384 licenses;
- 3385 (78) Code Section 40-5-54.1, relating to denial or suspension of license for  
3386 noncompliance with child support order;
- 3387 (79) Code Section 42-9-58, relating to effect of state pardons and paroles laws on other  
3388 laws respecting parole and probation;
- 3389 (80) Code Section 43-1-19, relating to grounds for refusing to grant or revoking licenses  
3390 by a professional licensing board;
- 3391 (81) Code Section 43-27-5, relating to general powers and duties of the State Board of  
3392 Nursing Home Administrators;
- 3393 (82) Code Section 45-9-4, relating to the commissioner of administrative services to  
3394 purchase insurance or indemnity contracts;
- 3395 (83) Code Section 45-13-22, relating to distribution of Georgia Laws and journals of the  
3396 House of Representatives and Senate;
- 3397 (84) Code Section 46-4-152, relating to definitions relative to the "Natural Gas  
3398 Competition and Deregulation Act";
- 3399 (85) Code Section 46-4-158.3, relating to adequate and accurate consumer information  
3400 disclosure statements;
- 3401 (86) Code Section 48-7-29.15, relating to a tax credit for the adoption of a foster child;
- 3402 (87) Code Section 49-3-1, relating to establishment of county and district departments,  
3403 boards, and directors;
- 3404 (88) Code Section 49-3-3, relating to appointment of county director; bond of county  
3405 director;
- 3406 (89) Code Section 49-3-4, relating to appointment of staff, salaries, and power of the  
3407 commissioner of human resources to transfer employees;
- 3408 (90) Code Section 49-3-6, relating to functions of county departments of family and  
3409 children services;
- 3410 (91) Code Section 49-4-2, relating to definitions relative to public assistance;
- 3411 (92) Code Section 49-4-3, relating to establishment of categories of public assistance;
- 3412 (93) Code Section 49-4-6, relating to reserves, income, and resources to be disregarded  
3413 in determining eligibility for public assistance;
- 3414 (94) Code Section 49-4-8, relating to applications for public assistance;
- 3415 (95) Code Section 49-4-9, relating to investigation and record concerning application for  
3416 public assistance;

- 3417 (96) Code Section 49-4-14, relating to regulations as to records relating to public  
3418 assistance;
- 3419 (97) Code Section 49-4-36, relating to payment of assistance for needy individuals who  
3420 are 65 years of age or older after recipient moves to another county;
- 3421 (98) Code Section 49-4-54, relating to duties of county departments under the "Aid to  
3422 the Blind Act";
- 3423 (99) Code Section 49-4-56, relating to reexamination of recipient's eyesight under the  
3424 "Aid to the Blind Act";
- 3425 (100) Code Section 49-4-60, relating to payment of assistance for needy blind  
3426 individuals after recipient moves to another county;
- 3427 (101) Code Section 49-4-85, relating to payment of assistance for needy individuals who  
3428 are totally and permanently disabled after recipient moves to another county;
- 3429 (102) Code Section 49-4-153, relating to administrative hearings and appeals under  
3430 Medicaid;
- 3431 (103) Code Section 49-4-162, relating to the establishment of the Georgia Qualified  
3432 Long-term Care Partnership Program;
- 3433 (104) Code Section 49-4-171, relating to a hearing on the petition for a personal  
3434 representative to manage assistance payments;
- 3435 (105) Code Section 49-4-181, relating to definitions relative to temporary assistance for  
3436 needy families;
- 3437 (106) Code Section 49-4-183, relating to administration of the temporary assistance for  
3438 needy families program by the Department of Human Resources;
- 3439 (107) Code Section 49-4-190, relating to construction of the laws relating to the  
3440 temporary assistance for needy families program;
- 3441 (108) Code Section 49-5-4, relating to the coordination of other state departments,  
3442 agencies, officers, and employees for children and youth services;
- 3443 (109) Code Section 49-5-7, relating to development and administration of public child  
3444 welfare and youth services;
- 3445 (110) Code Section 49-5-8, relating to powers and duties of the Department of Human  
3446 Resources with respect to programs and protection for children and youth;
- 3447 (111) Code Section 49-5-12, relating to licensing and inspection of child welfare  
3448 agencies;
- 3449 (112) Code Section 49-5-41, relating to persons and agencies permitted access to child  
3450 abuse and deprivation records;
- 3451 (113) Code Section 49-5-41.1, relating to inspection and retention of records of juvenile  
3452 drug use;

- 3453 (114) Code Section 49-5-90, relating to definitions relative to emergency protection of  
 3454 children in certain institutions;
- 3455 (115) Code Section 49-5-130, relating to legislative findings and intent relative to the  
 3456 Governor's Office for Children and Families;
- 3457 (116) Code Section 49-5-154, relating to study of youth needs for delinquency  
 3458 prevention and community based services;
- 3459 (117) Code Section 49-5-180, relating to definitions relative to a central child abuse  
 3460 registry;
- 3461 (118) Code Section 49-5-281, relating to the bill of rights for foster parents;
- 3462 (119) Code Section 49-6-20, relating to the creation of the Council on Aging;
- 3463 (120) Code Section 49-6-60, relating to legislative intent for community care and  
 3464 services for the elderly;
- 3465 (121) Code Section 49-6-61, relating to definitions relative to community care and  
 3466 services for the elderly;
- 3467 (122) Code Section 49-6-72, relating to definitions relative to the "Georgia Family  
 3468 Caregiver Support Act";
- 3469 (123) Code Section 49-6-81, relating to the legislative intent of the "Adult Day Center  
 3470 for Aging Adults Licensure Act";
- 3471 (124) Code Section 49-6-82, relating to definitions relative to the "Adult Day Center for  
 3472 Aging Adults Licensure Act";
- 3473 (125) Code Section 50-5-136, relating to the powers and authority of the State Use  
 3474 Council; and
- 3475 (126) Code Section 50-27-55, relating to setoff of debt collection against lottery prizes  
 3476 applicable to prizes of \$5,000.00 or more.

3477 **SECTION 2-3.**

3478 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3479 replacing "Board of Human Resources" wherever it occurs with "Board of Human Services":

- 3480 (1) Code Section 9-10-152, relating to grounds for continuance in any case pending in  
 3481 the courts of this state for attendance by a board member at meeting of Board of Human  
 3482 Resources;
- 3483 (2) Code Section 17-8-30, relating to grounds for granting of continuances in any case  
 3484 pending in the courts of this state for party or party's counsel in attendance as a board  
 3485 member at meeting of Board of Human Resources;
- 3486 (3) Code Section 19-11-5, relating to debt to state created by payment of public  
 3487 assistance under the "Child Support Recovery Act";
- 3488 (4) Code Section 19-15-4, relating to the Georgia Child Fatality Review Panel;

- 3489 (5) Code Section 30-5-6, relating to cooperation of other public agencies with the  
 3490 director of the Division of Aging Services of the Department of Human Resources under  
 3491 the "Disabled Adults and Elder Persons Protection Act";
- 3492 (6) Code Section 43-27-2, relating to creation of the State Board of Nursing Home  
 3493 Administrators;
- 3494 (7) Code Section 45-10-40, relating to prohibitions on contracting with state institutions;
- 3495 (8) Code Section 45-10-41, relating to penalty for profiting from contracts with state  
 3496 institutions generally;
- 3497 (9) Code Section 49-3-6, relating to functions of county departments of family and  
 3498 children services;
- 3499 (10) Code Section 49-4-11, relating to award and payment of public assistance to needy  
 3500 persons;
- 3501 (11) Code Section 49-4-12, relating to periodic redetermination of public assistance  
 3502 awards;
- 3503 (12) Code Section 49-4-54, relating to duties of county departments under the "Aid to  
 3504 the Blind Act";
- 3505 (13) Code Section 49-4-181, relating to definitions relative to temporary assistance for  
 3506 needy families;
- 3507 (14) Code Section 49-4-183, relating to administration of the temporary assistance for  
 3508 needy families program by the Department of Human Resources;
- 3509 (15) Code Section 49-5-12, relating to licensing and inspection of child welfare agencies;  
 3510 and
- 3511 (16) Code Section 49-6-62, relating to the establishment of community care unit in the  
 3512 Division of Aging Services of the Department of Human Resources.

3513

**SECTION 2-4.**

3514 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3515 replacing "commissioner of human resources" wherever it occurs with "commissioner of  
 3516 human services":

- 3517 (1) Code Section 19-8-16, relating to investigation by child-placing agency or other  
 3518 agent with respect to adoption;
- 3519 (2) Code Section 19-8-23, relating to where records of adoption are kept;
- 3520 (3) Code Section 19-11-9, relating to location of absent parents by the Department of  
 3521 Human Resources with respect to the "Child Support Recovery Act";
- 3522 (4) Code Section 19-11-11, relating to issuance of subpoenas by the Department of  
 3523 Human Resources with respect to the "Child Support Recovery Act";

- 3524 (5) Code Section 19-11-18, relating to collection procedures with respect to the "Child  
3525 Support Recovery Act";
- 3526 (6) Code Section 19-11-30.6, relating to reciprocal agreements with other states with  
3527 respect to the "Child Support Recovery Act";
- 3528 (7) Code Section 19-11-30.7, relating to construction of the "Child Support Recovery  
3529 Act";
- 3530 (8) Code Section 19-11-30.8, relating to annual reports with respect to the "Child  
3531 Support Recovery Act";
- 3532 (9) Code Section 19-11-30.9, relating to information subject to disclosure with respect  
3533 to the "Child Support Recovery Act";
- 3534 (10) Code Section 19-11-30.11, relating to fee on levied accounts with respect to the  
3535 "Child Support Recovery Act";
- 3536 (11) Code Section 20-1A-61, relating to the members of the Child Care Council;
- 3537 (12) Code Section 28-5-60, relating to creation of the Claims Advisory Board;
- 3538 (13) Code Section 30-1-5, relating to the definition of a "hearing impaired person";
- 3539 (14) Code Section 30-2-7, relating to compensation of workers in the Georgia Industries  
3540 for the Blind;
- 3541 (15) Code Section 31-8-53, relating to duties of the state long-term care ombudsman;
- 3542 (16) Code Section 43-27-2, relating to creation of the State Board of Nursing Home  
3543 Administrators;
- 3544 (17) Code Section 45-7-7, relating to compensation and allowances of certain public  
3545 officials not to be changed without giving public notice;
- 3546 (18) Code Section 45-9-4, relating to commissioner of administrative services to  
3547 purchase insurance or indemnity contracts insuring or indemnifying state officers,  
3548 officials, or employees against personal liability;
- 3549 (19) Code Section 49-3-3, relating to appointment of the director of each county board  
3550 of family and children services;
- 3551 (20) Code Section 49-3-4, relating to appointment of the staff of each county board of  
3552 family and children services;
- 3553 (21) Code Section 49-4-15.1, relating to examination of financial records in instances of  
3554 alleged fraud by recipients of food stamps and public assistance;
- 3555 (22) Code Section 49-4A-3, relating to the creation of the Department of Juvenile  
3556 Justice;
- 3557 (23) Code Section 49-5-90, relating to definitions relative to emergency protection of  
3558 children in certain institutions;
- 3559 (24) Code Section 49-8-3, relating to definitions relative to "The Economic  
3560 Rehabilitation Act of 1975";

- 3561 (25) Code Section 49-8-4, relating to administration of "The Economic Rehabilitation  
3562 Act of 1975";
- 3563 (26) Code Section 50-5-69, relating to state purchases without competitive bidding; and
- 3564 (27) Code Section 50-5-135, relating to the creation of the State Use Council.

3565 **SECTION 2-5.**

3566 The following Code sections of the Official Code of Georgia Annotated are amended by  
3567 replacing "Office of Aging" or "Office of Aging Section" wherever it occurs with "Division  
3568 of Aging Services":

- 3569 (1) Code Section 10-1-855, relating to referral procedures to provide intervention and  
3570 assistance for elder or disabled persons;
- 3571 (2) Code Section 49-6-5, relating to the creation of the Office of Aging Section within  
3572 the Department of Human Resources; and
- 3573 (3) Code Section 49-6-20, relating to the creation of the Council on Aging.

3574 **SECTION 2-6.**

3575 Code Section 10-1-395 of the Official Code of Georgia Annotated, relating to the  
3576 appointment and duties of the administrator and the creation of the Consumer Advisory  
3577 Board, is amended by revising subsection (a) as follows:

3578 "(a) The administrator shall be appointed by the Governor and shall serve at his pleasure.  
3579 The office of the administrator shall be attached to the office of the Governor for  
3580 administrative purposes only. The administrator shall perform all functions formerly  
3581 performed by the Consumer Services Unit of the Division of Special Programs of the  
3582 Department of Human Resources (now known as the Department of Human Services)."

3583 **SECTION 2-7.**

3584 Code Section 15-11-63 of the Official Code of Georgia Annotated, relating to commitment  
3585 of child 13 to 17 years of age to custody of Department of Corrections, is amended by  
3586 revising paragraph (2) of subsection (e) as follows:

- 3587 "(2) During the placement or any extension thereof:
- 3588 (A) After the expiration of the period provided in subparagraph (C) of paragraph (1) of  
3589 this subsection, the child shall not be released from intensive supervision without the  
3590 written approval of the commissioner of juvenile justice or such commissioner's  
3591 designated deputy;
- 3592 (B) While in a youth development center, the child may be permitted to participate in all  
3593 youth development center services and programs and shall be eligible to receive special  
3594 medical and treatment services, regardless of the time of confinement in the youth

3595 development center. After the first six months of confinement in a youth development  
 3596 center, a child may be eligible to participate in youth development center sponsored  
 3597 programs including community work programs and sheltered workshops under the  
 3598 general supervision of a youth development center staff outside of the youth development  
 3599 center; and, in cooperation and coordination with the Department of Human ~~Resources~~  
 3600 Services, the child may be allowed to participate in state sponsored programs for  
 3601 evaluation and services under the Division of Rehabilitation Services of the Department  
 3602 of Labor and the Division of Mental Health, Developmental Disabilities, and Addictive  
 3603 Diseases of the Department of ~~Human Resources~~ Public and Behavioral Health;  
 3604 (C) The child shall not be discharged from the custody of the Department of Juvenile  
 3605 Justice unless a motion therefor is granted by the court, which motion shall not be made  
 3606 prior to the expiration of one year of custody; and  
 3607 (D) Unless otherwise specified in the order, the Department of Juvenile Justice shall  
 3608 report in writing to the court not less than once every six months during the placement  
 3609 on the status, adjustment, and progress of the child; and"

#### 3610 SECTION 2-8.

3611 Code Section 19-13-32 of the Official Code of Georgia Annotated, relating to the  
 3612 membership, terms, filling of vacancies, and officers of the State Commission on Family  
 3613 Violence, is amended by revising paragraph (1) of subsection (a) as follows:  
 3614 "(1) Three ex officio members shall be the director of the Division of Family and Children  
 3615 Services of the Department of Human Services, the director of ~~Women's Health Services~~  
 3616 ~~in the division of public health~~ the Division of Public Health of the Department of ~~Human~~  
 3617 ~~Resources~~ Public and Behavioral Health, and the Attorney General;"

#### 3618 SECTION 2-9.

3619 Code Section 19-13-35 of the Official Code of Georgia Annotated, relating to automatic  
 3620 termination provisions of the State Commission on Family Violence, is repealed in its  
 3621 entirety.

#### 3622 SECTION 2-10.

3623 Code Section 19-15-1 of the Official Code of Georgia Annotated, relating to definitions  
 3624 relative to child abuse, is amended by revising paragraph (4) as follows:  
 3625 "(4) 'Child protection professional' means any person who is employed by the state or a  
 3626 political subdivision of the state as a law enforcement officer, school teacher, school  
 3627 administrator, or school counselor or who is employed to render services to children by  
 3628 the Department of Public and Behavioral Health or the Department of Human Resources

3629 Services or any county board of health or county department of family and children  
3630 services."

3631 **SECTION 2-11.**

3632 Code Section 20-1A-3 of the Official Code of Georgia Annotated, relating to the  
3633 commissioner and board of the Department of Early Care and Learning, is amended by  
3634 revising subsection (d) as follows:

3635 "(d) The board shall determine policies and promulgate rules and regulations for the  
3636 operation of the department including:

3637 (1) Functions formerly performed by the Office of School Readiness, including, but not  
3638 limited to, Even Start;

3639 (2) Functions transferred to the department from the Department of Human Resources  
3640 (now known as the Department of Human Services) relating to day-care centers, group  
3641 day-care homes, family day-care homes, and other functions as agreed upon by the  
3642 department and the Department of Human Resources (now known as the Department of  
3643 Human Services) in accordance with Code Section 20-1A-8;

3644 (3) Functions transferred to the department from the Georgia Child Care Council  
3645 pursuant to Code Section 20-1A-63; and

3646 (4) Functions relating to early childhood education programs transferred from the  
3647 Department of Education by agreement in accordance with Code Section 20-1A-17."

3648 **SECTION 2-12.**

3649 Code Section 20-1A-4 of the Official Code of Georgia Annotated, relating to the powers and  
3650 duties of the Department of Early Care and Learning, is amended by revising paragraph (8)  
3651 as follows:

3652 "(8) To perform any other functions as agreed upon between the department and the  
3653 Department of Human Resources (now known as the Department of Human Services),  
3654 pursuant to Code Section 20-1A-8;"

3655 **SECTION 2-13.**

3656 Code Section 20-1A-8 of the Official Code of Georgia Annotated, relating to the transfer of  
3657 functions, powers, personnel, equipment, and assets from Department of Human Resources  
3658 to the Department of Early Care and Learning, is amended by revising subsections (a) and  
3659 (b) as follows:

3660 "(a) Effective October 1, 2004, the department shall carry out all of the functions and  
3661 exercise all of the powers formerly held by the Department of Human Resources (now  
3662 known as the Department of Human Services) for the regulation and licensure of early care



3663 and education programs and any other functions as agreed upon by the department and the  
 3664 Department of Human Resources. Subject to subsection (c) of this Code section, all persons  
 3665 employed by and positions authorized for the Department of Human Resources to perform  
 3666 functions relating to the licensure and certification of early care and education programs  
 3667 and any other functions as agreed upon by the department and the Department of Human  
 3668 Resources on September 30, 2004, shall on October 1, 2004, be transferred to the  
 3669 department. All office equipment, furniture, and other assets in possession of the  
 3670 Department of Human Resources which are used or held exclusively or principally by  
 3671 personnel transferred under this subsection shall be transferred to the department on  
 3672 October 1, 2004.

3673 (b) Effective October 1, 2004, notwithstanding the advisory functions of the Georgia Child  
 3674 Care Council included in Code Section 20-1A-63, the department shall carry out the  
 3675 functions and exercise the powers formerly held by the Georgia Child Care Council under  
 3676 former Article 11 of Chapter 5 of Title 49. Subject to subsection (c) of this Code section,  
 3677 all persons employed by and positions authorized for the Georgia Child Care Council to  
 3678 perform functions relating to the recommendation of measures to improve the quality,  
 3679 availability, and affordability of child care in this state on September 30, 2004, shall on  
 3680 October 1, 2004, be transferred to the department. All office equipment, furniture, and  
 3681 other assets in possession of the Georgia Child Care Council or the Department of Human  
 3682 Resources, (now known as the Department of Human Services) which are used or held  
 3683 exclusively or principally by personnel transferred under this subsection shall be  
 3684 transferred to the department on October 1, 2004."

#### 3685 SECTION 2-14.

3686 Code Section 20-1A-9 of the Official Code of Georgia Annotated, relating to the authority  
 3687 to license and regulate day-care centers, group day-care homes, and family day-care homes  
 3688 transferred to the Department of Early Care and Learning, is amended as follows:

3689 "20-1A-9.

3690 The department shall succeed to all rights and responsibilities relating to licensure and  
 3691 regulation of day-care centers, group day-care homes, and family day-care homes,  
 3692 including such rules, regulations, policies, procedures, and pending and finalized  
 3693 administrative orders of the Department of Human Resources (now known as the  
 3694 Department of Human Services), the Georgia Child Care Council, and the Office of State  
 3695 Administrative Hearings, where applicable, which are in effect on September 30, 2004, and  
 3696 which relate to the functions transferred to the department pursuant to Code Section  
 3697 20-1A-8. Such rights, responsibilities, licenses issued pursuant to previous law, procedures,  
 3698 and orders shall remain in effect until amended, repealed, superseded, or nullified by the

3699 commissioner. Such rules, regulations, and policies shall remain in effect until amended,  
3700 repealed, superseded, or nullified by the board."

3701 **SECTION 2-15.**

3702 Code Section 24-9-101, of the Official Code of Georgia Annotated, relating to definitions  
3703 relative to use of sign language and intermediary interpreter in administrative and judicial  
3704 proceedings, is amended by revising paragraph (2) as follows:

3705 "(2) 'Department' means the Department of ~~Human Resources~~ Labor."

3706 **SECTION 2-16.**

3707 Chapter 4 of Title 31 of the Official Code of Georgia Annotated, relating to the Council on  
3708 Maternal and Infant Health, is repealed in its entirety and reserved.

3709 **SECTION 2-17.**

3710 Code Section 31-8-51 of the Official Code of Georgia Annotated, relating to definitions  
3711 relative to the long-term care ombudsman, is amended by adding a new paragraph to read as  
3712 follows:

3713 "(1.1) 'Department' means the Department of Human Services."

3714 **SECTION 2-18.**

3715 Code Section 31-8-60 of the Official Code of Georgia Annotated, relating to retaliation  
3716 against a resident of a long-term care facility and prohibition against interference with the  
3717 ombudsman, is amended as follows:

3718 "31-8-60.

3719 No person shall discriminate or retaliate in any manner against any resident or relative or  
3720 guardian of a resident, any employee of a long-term care facility, or any other person  
3721 because of the making of a complaint or providing of information in good faith to the state  
3722 ombudsman or community ombudsman. No person shall willfully interfere with the state  
3723 ombudsman or community ombudsman in the performance of his or her official duties.

3724 Code Sections ~~31-2-6~~ 49-2-17 and 31-5-8 shall apply fully to any violation of this article."

3725 **SECTION 2-19.**

3726 Code Section 31-8-81 of the Official Code of Georgia Annotated, relating to definitions  
3727 relative to reporting abuse or exploitation of residents in long-term care facilities, is amended  
3728 by adding a new paragraph to read as follows:

3729 "(1.1) 'Department' means the Department of Human Services."

**SECTION 2-20.**

3730

3731 Code Section 34-15-2 of the Official Code of Georgia Annotated, relating to the July 2001  
 3732 transfer of the Division of Rehabilitation Services to the Department of Labor, is amended  
 3733 by revising subsection (a) as follows:

3734 "(a) The Division of Rehabilitation Services within the Department of Human Resources  
 3735 (now known as the Department of Human Services), including the disability adjudication  
 3736 section and the Roosevelt Warm Springs Institute for Rehabilitation, is transferred to the  
 3737 Department of Labor on July 1, 2001, and that division shall become the Division of  
 3738 Rehabilitation Services of the Department of Labor on July 1, 2001. The functions, duties,  
 3739 programs, institutions, and authority of the Division of Rehabilitation Services which were  
 3740 vested in the Department of Human Resources on June 30, 2001, are vested in the  
 3741 Department of Labor effective July 1, 2001. The division shall be administered by a  
 3742 director appointed by the Commissioner. The policy-making functions which were vested  
 3743 in the Board of Human Resources (now known as the Board of Human Services) or the  
 3744 Department of Human Resources pertaining to the Division of Rehabilitation Services are  
 3745 vested in the Commissioner of Labor effective July 1, 2001."

**SECTION 2-21.**

3746

3747 Code Section 40-2-86.21 of the Official Code of Georgia Annotated, relating to special  
 3748 license plates promoting certain beneficial projects and supporting certain worthy agencies,  
 3749 funds, or nonprofit corporations, is amended by revising paragraphs (14) and (33) of  
 3750 subsection (o) as follows:

3751 "(14) A special license plate for the Thanks Mom and Dad Fund. The funds raised by the  
 3752 sale of this special license plate shall be disbursed to the Department of Human Resources  
 3753 Services to address the key needs of the state's older population or a nonprofit corporation  
 3754 organized to serve the needs of the state's older population."

3755 "(33) A special license plate supporting programs for the treatment of autism. The funds  
 3756 raised by the sale of this special license plate shall be disbursed to the Department of  
 3757 Human Resources Services for the support of programs for the treatment of autism in  
 3758 Georgia."

**SECTION 2-22.**

3759

3760 Code Section 43-26-51 of the Official Code of Georgia Annotated, relating to the purpose  
 3761 of the "Georgia Qualified Medication Aide Act," is amended as follows:

3762 "43-26-51.

3763 The purpose of this article is to protect, promote, and preserve the public health, safety, and  
 3764 welfare through the delegation of certain activities performed by registered professional  
 3765 nurses and licensed practical nurses to persons who are certified as qualified medication  
 3766 aides and who are employed by and working in community living arrangements established  
 3767 by the Department of Human Resources Services pursuant to ~~paragraphs (15) and (16)~~  
 3768 paragraph (11) of subsection (b) of Code Section ~~37-1-20~~ 49-2-6."

3769 **SECTION 2-23.**

3770 Code Section 43-26-52 of the Official Code of Georgia Annotated, relating to definitions  
 3771 relative to the "Georgia Qualified Medication Aide Act," is amended by revising paragraph  
 3772 (3) as follows:

3773 "(3) 'Community living arrangement' means any residence, whether operated for profit or  
 3774 not for profit, which undertakes through its ownership or management to provide or  
 3775 arrange for the provision of daily personal services, support, care, or treatment exclusively  
 3776 for two or more adults who are not related to the owner or administrator by blood or  
 3777 marriage which is established by the Department of Human Resources Services pursuant  
 3778 to ~~paragraph (16)~~ (11) of subsection (b) of Code Section ~~37-1-20~~ 49-2-6 and whose  
 3779 services are financially supported, in whole or part, by funds authorized through the  
 3780 ~~Division of Mental Health, Developmental Disabilities, and Addictive Diseases of the~~  
 3781 ~~Department of Human Resources~~ Department of Human Services. A community living  
 3782 arrangement is also referred to as a 'residence.'"

3783 **SECTION 2-24.**

3784 Code Section 45-20-90 of the Official Code of Georgia Annotated, relating to definitions  
 3785 relative to random drug testing of public employees in high-risk jobs, is amended by revising  
 3786 paragraph (2) as follows:

3787 "(2) 'Established drug test' means the collection and testing of bodily fluids administered  
 3788 in a manner equivalent to that required by the Mandatory Guidelines for Federal  
 3789 Workplace Drug Testing Programs (HHS Regulations 53 Fed. Reg. 11979, et seq., as  
 3790 amended) or other professionally valid procedures approved by the ~~commissioner of~~  
 3791 ~~human resources~~ State Personnel Board."

3792 **SECTION 2-25.**

3793 Code Section 46-1-5 of the Official Code of Georgia Annotated, relating to duties of the  
 3794 Department of Human Resources with regard to assistance to low or fixed income consumers  
 3795 of gas and electric service, is amended as follows:

3796 "46-1-5.  
 3797 By March 2, 1982, the Department of Human Resources (now known as the Department  
 3798 of Human Services) shall develop a program to identify those low or fixed income  
 3799 consumers of gas and electric utility service who, in the department's opinion, should  
 3800 benefit from public assistance in paying their bills for gas and electric service. The  
 3801 department shall also establish an efficient and economical method for distributing to such  
 3802 consumers all public assistance funds which will be made available, whether by  
 3803 appropriations of state or federal funds, grants, or otherwise. All gas and electric utilities  
 3804 shall cooperate fully with the department in developing and implementing its program.  
 3805 Nothing in this Code section shall limit the commission's authority to order regulatory  
 3806 alternatives which assist low or fixed income ratepayers."

3807 **SECTION 2-26.**

3808 Code Section 49-4-154 of the Official Code of Georgia Annotated, relating to powers and  
 3809 duties retained by the Department of Human Resources with respect to Medicaid, is amended  
 3810 as follows:

3811 "49-4-154.

3812 (a) The status, position, and rights of persons transferred from the Department of Human  
 3813 Resources (now known as the Department of Human Services) to the Department of  
 3814 Medical Assistance pursuant to Ga. L. 1977, p. 384 shall not be affected by the transfer,  
 3815 in and of itself; and such persons shall retain, inter alia, all rights of rank or grade; rights  
 3816 to vacation, sick pay, and leave; rights under any retirement plan; and any other rights  
 3817 under any law or administrative policy.

3818 (b) The Department of Human Resources (now known as the Department of Human  
 3819 Services) shall retain, in accordance with terms of the state plan, the functions, and all  
 3820 tangible things and employees relating thereto, of:

3821 (1) Establishing and maintaining certain standards for certain institutions and agencies  
 3822 seeking to become or remain providers and shall finally determine and certify whether  
 3823 such institutions and agencies meet such standards;

3824 (2) Determining and certifying the eligibility of certain applicants for and recipients of  
 3825 medical assistance; and

3826 (3) Prescribing regulations to require that applicants for medical assistance be given clear  
 3827 and easily understandable notice that all books, papers, records, and memoranda of the  
 3828 provider relating to the provision of medical assistance to the applicant will be made  
 3829 available, upon request, to the commissioner of medical assistance or his representative  
 3830 and that, by accepting medical assistance, the applicant thereby consents to the providing

3831 of such books, papers, records, and memoranda to the commissioner of medical  
3832 assistance or his representative."

3833 **SECTION 2-27.**

3834 Code Section 49-4-155 of the Official Code of Georgia Annotated, relating to the  
3835 Department of Community Health succeeding to existing rules, regulations, policies,  
3836 procedures, and administrative orders with respect to Medicaid, is amended as follows:

3837 "49-4-155.

3838 The Department of Community Health shall succeed to all the rules, regulations, policies,  
3839 procedures, and administrative orders of the Department of Human Resources (now known  
3840 as the Department of Human Services) transferred to the Department of Medical Assistance  
3841 pursuant to the previously existing provisions of this Code section and that are in effect on  
3842 June 30, 1999, and shall further succeed to any rights, privileges, entitlements, obligations,  
3843 and duties of the Department of Human Resources (now known as the Department of  
3844 Human Services) that are in effect on June 30, 1999, to which the Department of Medical  
3845 Assistance succeeded pursuant to the previously existing provisions of Code Section  
3846 49-4-156."

3847 **SECTION 2-28.**

3848 Code Section 49-4A-5 of the Official Code of Georgia Annotated, relating to transfer of  
3849 functions and employees of the Division of Youth Services, is amended by revising  
3850 subsection (b) as follows:

3851 "(b) Any employees of the Department of Juvenile Justice who became so employed by  
3852 virtue of their transfer from the Division of Youth Services of the Department of Human  
3853 Resources (now known as the Department of Human Services) on June 30, 1992, shall  
3854 retain their compensation and benefits and such may not be reduced. Transferred  
3855 employees who were subject to the State Merit System of Personnel Administration shall  
3856 retain all existing rights under the State Merit System of Personnel Administration.  
3857 Retirement rights of such transferred employees existing under the Employees' Retirement  
3858 System of Georgia or other public retirement systems on July 1, 1992, shall not be impaired  
3859 or interrupted by the transfer of such employees and membership in any such retirement  
3860 system shall continue in the same status possessed by the transferred employees on June  
3861 30, 1992. Accrued annual and sick leave possessed by said employees on June 30, 1992,  
3862 shall be retained by said employees as employees of the department."

3863 **SECTION 2-29.**

3864 Code Section 49-5-60 of the Official Code of Georgia Annotated, relating to definitions  
3865 relative to employees' record checks for day-care centers, is amended by revising paragraph  
3866 (1) as follows:

3867 "(1) 'Center' means a ~~child-caring institution or child-placing agency~~ child welfare  
3868 agency, as defined in subsection (a) of Code Section 49-5-12, which is required to be  
3869 licensed or registered under Article 1 of this chapter."

3870 **SECTION 2-30.**

3871 Code Section 49-5-69.1 of the Official Code of Georgia Annotated, relating to fingerprint  
3872 and preliminary records check for foster homes, is amended as follows:

3873 "49-5-69.1.

3874 (a) No licensed ~~child-placing agency~~ child welfare agency, as defined in ~~this chapter~~  
3875 subsection (a) of Code Section 49-5-12, shall place a child in a foster care home unless the  
3876 foster parent or parents of the home and other adult persons that reside in the home or  
3877 provide care to children placed in the home have received a satisfactory preliminary  
3878 records check determination. Additionally, no child shall continue to be placed in such  
3879 foster care home unless the foster parent or parents also subsequently receive a satisfactory  
3880 fingerprint records check determination. A ~~child-placing agency~~ child welfare agency or  
3881 any applicant for a license for such an agency shall be required to submit to the department  
3882 a preliminary records check application and a records check application for the foster  
3883 parent or parents of any foster care home used by the agency and a preliminary records  
3884 check application for any other adult persons that reside in the home or provide care to  
3885 children placed in the home. In lieu of such applications, the agency or license applicant  
3886 may submit evidence, satisfactory to the department, that within the immediately preceding  
3887 12 months such foster parent or parents or other adult persons have received a satisfactory  
3888 fingerprint records check determination or a satisfactory preliminary records check  
3889 determination.

3890 (b) After receiving or obtaining the fingerprint records check determinations or the  
3891 preliminary records check determinations, the department shall notify in writing the agency  
3892 or license applicant as to each person for whom an application was received regarding  
3893 whether the department's determinations were satisfactory or unsatisfactory. If any such  
3894 determinations are unsatisfactory, such homes shall not be used by the ~~child-placing agency~~  
3895 child welfare agency as foster care homes.

3896 (c) The department shall have the authority to take any of the actions enumerated in  
3897 subsection (c) of Code Section ~~31-2-6~~ 49-2-17 if a licensed ~~child-placing agency~~ child

3898 welfare agency or an applicant for such a license violates any provision of this Code  
3899 section.

3900 (d) An executive director of a ~~child-placing agency~~ child welfare agency that uses a foster  
3901 care home with a foster parent or parents or other adult persons referenced in this Code  
3902 section whom the executive director knows or should reasonably know to have a criminal  
3903 record shall be guilty of a misdemeanor.

3904 (e) In addition to any other requirement established by law, the submission of fingerprints  
3905 shall be a prerequisite to the issuance of a license or authorization for the operation of a  
3906 foster home or to serve as foster parents as provided in this article. Such fingerprints shall  
3907 be used for the purposes of fingerprint checks by the Georgia Crime Information Center  
3908 and the Federal Bureau of Investigation."

3909 **SECTION 2-31.**

3910 Code Section 49-6-84 of the Official Code of Georgia Annotated, relating to the authority  
3911 of the Department of Human Resources to promulgate rules and regulations under the "Adult  
3912 Day Center for Aging Adults Licensure Act," is amended as follows:

3913 "49-6-84.

3914 The department is authorized to promulgate rules and regulations to implement this article  
3915 utilizing the public rule-making process to elicit input from consumers, providers, and  
3916 advocates. The department is further authorized to issue, deny, suspend, or revoke licenses  
3917 or take other enforcement actions against licensees or applicants as provided in Code  
3918 Section ~~31-2-6~~ 49-2-17. All rules and regulations and any enforcement actions initiated  
3919 by the department shall comply with the requirements of Chapter 13 of Title 50, the  
3920 'Georgia Administrative Procedure Act.'"

3921 **SECTION 2-32.**

3922 Code Section 50-5-136 of the Official Code of Georgia Annotated, relating to the powers and  
3923 authority of the State Use Council, is amended by revising paragraph (4) of subsection (b)  
3924 as follows:

3925 "(4) To oversee and assist in the development of guidelines for the certification of  
3926 community based rehabilitation programs and training centers in the State of Georgia. The  
3927 intent of these guidelines shall be to evaluate the qualifications and capabilities of  
3928 community based rehabilitation programs and training centers interested in certification;  
3929 to determine criteria for quality, efficiency, timeliness, and cost effectiveness in the  
3930 production of goods, wares, merchandise, and services to be procured under the state use  
3931 plan and purchased by the State of Georgia; and to establish a certification process which  
3932 shall enable community based rehabilitation programs and training centers qualified under



3933 this process to compete in procurement activities provided for by this part. All community  
 3934 based rehabilitation programs and training centers which are certified by the commissioner  
 3935 of human resources (now known as the commissioner of human services) as of February 8,  
 3936 1994, shall not have to undergo the certification evaluation and approval process until 24  
 3937 months from February 8, 1994;"

### 3938 PART III

#### 3939 Department of Community Health.

#### 3940 SECTION 3-1.

3941 Chapter 5A of Title 31 of the Official Code of Georgia Annotated, relating to the Department  
 3942 of Community Health, is amended by adding a new Code section to read as follows:

3943 "31-5A-5.1.

3944 (a) The powers, functions, and duties of the Department of Human Resources as they  
 3945 existed on June 30, 2009, relating to regulatory services are transferred to the Department  
 3946 of Community Health effective July 1, 2009.

3947 (b) The Department of Community Health shall succeed to all rules, regulations, policies,  
 3948 procedures, and administrative orders of the Department of Human Resources that are in  
 3949 effect on June 30, 2009, or scheduled to go into effect on or after July 1, 2009, and which  
 3950 relate to the functions transferred to the Department of Community Health pursuant to  
 3951 subsection (a) of this Code section and shall further succeed to any rights, privileges,  
 3952 entitlements, obligations, and duties of the Department of Human Resources that are in  
 3953 effect on June 30, 2009, which relate to the functions transferred to the Department of  
 3954 Community Health pursuant to subsection (a) of this Code section. Such rules, regulations,  
 3955 policies, procedures, and administrative orders shall remain in effect until amended,  
 3956 repealed, superseded, or nullified by the Department of Community Health by proper  
 3957 authority or as otherwise provided by law.

3958 (c) The rights, privileges, entitlements, and duties of parties to contracts, leases,  
 3959 agreements, and other transactions entered into before July 1, 2009, by the Department of  
 3960 Human Resources which relate to the functions transferred to the Department of  
 3961 Community Health pursuant to subsection (a) of this Code section shall continue to exist;  
 3962 and none of these rights, privileges, entitlements, and duties are impaired or diminished by  
 3963 reason of the transfer of the functions to the Department of Community Health. In all such  
 3964 instances, the Department of Community Health shall be substituted for the Department  
 3965 of Human Resources, and the Department of Community Health shall succeed to the rights  
 3966 and duties under such contracts, leases, agreements, and other transactions.

3967 (d) All persons employed by the Department of Human Resources in capacities which  
 3968 relate to the functions transferred to the Department of Community Health pursuant to  
 3969 subsection (a) of this Code section on June 30, 2009, shall, on July 1, 2009, become  
 3970 employees of the Department of Community Health in similar capacities, as determined  
 3971 by the commissioner of community health. Such employees shall be subject to the  
 3972 employment practices and policies of the Department of Community Health on and after  
 3973 July 1, 2009, but the compensation and benefits of such transferred employees shall not be  
 3974 reduced as a result of such transfer. Employees who are subject to the rules of the State  
 3975 Personnel Board and thereby under the State Merit System of Personnel Administration  
 3976 and who are transferred to the department shall retain all existing rights under the State  
 3977 Merit System of Personnel Administration. Retirement rights of such transferred  
 3978 employees existing under the Employees' Retirement System of Georgia or other public  
 3979 retirement systems on June 30, 2009, shall not be impaired or interrupted by the transfer  
 3980 of such employees and membership in any such retirement system shall continue in the  
 3981 same status possessed by the transferred employees on June 30, 2009. Accrued annual and  
 3982 sick leave possessed by said employees on June 30, 2009, shall be retained by said  
 3983 employees as employees of the Department of Community Health."

3984

### SECTION 3-2.

3985 The following Code sections of the Official Code of Georgia Annotated are amended by  
 3986 replacing "Department of Human Resources" wherever it occurs with "Department of  
 3987 Community Health":

- 3988 (1) Code Section 15-21-142, relating to the establishment of the Brain and Spinal Injury  
 3989 Trust Fund Commission;
- 3990 (2) Code Section 26-4-172, relating to license requirements under the "Nuclear Pharmacy  
 3991 Law";
- 3992 (3) Code Section 26-5-3, relating to definitions relative to the "Drug Abuse Treatment and  
 3993 Education Act";
- 3994 (4) Code Section 31-7-133, relating to confidentiality of review organization's records;
- 3995 (5) Code Section 31-7-172, relating to definitions relative to hospice care;
- 3996 (6) Code Section 31-7-175, relating to the administration of the article of the "Georgia  
 3997 Hospice Law";
- 3998 (7) Code Section 31-18-4, relating to the duties of the Brain and Spinal Injury Trust Fund  
 3999 Commission;
- 4000 (8) Code Section 31-22-2, relating to licenses to operate clinical laboratories;
- 4001 (9) Code Section 31-23-3, relating to hospitals or medical schools which may operate eye  
 4002 banks;

- 4003 (10) Code Section 31-24-4, relating to labeling of containers of blood under "The Blood  
4004 Labeling Act";
- 4005 (11) Code Section 33-29-3.2, relating to individual accident and sickness insurance  
4006 coverage for mammograms, Pap smears, and prostate specific antigen tests;
- 4007 (12) Code Section 33-30-4.2, relating to group accident and sickness insurance coverage  
4008 for mammograms, Pap smears, and prostate specific antigen tests;
- 4009 (13) Code Section 33-44-3, relating to the creation of the Georgia High Risk Health  
4010 Insurance Plan;
- 4011 (14) Code Section 34-9-415, relating to testing under drug-free workplace programs;
- 4012 (15) Code Section 36-62-2, relating to definitions relative to the "Development Authorities  
4013 Law";
- 4014 (16) Code Section 42-1-12, relating to the state sexual offender registry;
- 4015 (17) Code Section 42-1-13, relating to the Sexual Offender Registration Review Board;
- 4016 (18) Code Section 43-27-1, relating to definitions relative to nursing home administrators;
- 4017 (19) Code Section 49-4-152.3, relating to reuse of unit dosage drugs under Medicaid; and
- 4018 (20) Code Section 50-26-4, relating to definitions relative to the "Georgia Housing and  
4019 Finance Authority Act."

4020

**SECTION 3-3.**

4021 The following Code sections of the Official Code of Georgia Annotated are amended by  
4022 replacing "Board of Human Resources" wherever it occurs with "Board of Community  
4023 Health":

- 4024 (1) Code Section 31-7-304, relating to fees on private home care providers; and
- 4025 (2) Code Section 31-22-1, relating to definitions relative to clinical laboratories.

4026

**SECTION 3-4.**

4027 The following Code sections of the Official Code of Georgia Annotated are amended by  
4028 replacing "commissioner of human resources" wherever it occurs with "commissioner of  
4029 community health":

- 4030 (1) Code Section 31-7-176.1, relating to determination or pronouncement of death of a  
4031 patient in hospice care;
- 4032 (2) Code Section 31-8-32, relating to determination of indigency for hospital care for  
4033 nonresidents;
- 4034 (3) Code Section 31-8-43, relating to determination of indigency for hospital care for  
4035 pregnant women;
- 4036 (4) Code Section 33-20B-3.1, relating to health maintenance organizations' expansion  
4037 into rural areas;

- 4038 (5) Code Section 33-21-3, relating to grounds and procedure for issuance or denial of  
 4039 certificate of authority for a health maintenance organization;
- 4040 (6) Code Section 33-21-5, relating to suspension or revocation of certificate of authority  
 4041 for a health maintenance organization;
- 4042 (7) Code Section 33-21-15, relating to filing of annual reports by health maintenance  
 4043 organizations;
- 4044 (8) Code Section 33-21-17, relating to examinations of health maintenance organizations  
 4045 and providers;
- 4046 (9) Code Section 33-21-18, relating to adoption of rules and regulations generally  
 4047 relative to health maintenance organizations;
- 4048 (10) Code Section 33-21-20, relating to conduct of hearings generally relative to health  
 4049 maintenance organizations;
- 4050 (11) Code Section 33-21-21, relating to authority of commissioner of human resources  
 4051 to contract for making of recommendations required by health maintenance organizations  
 4052 laws;
- 4053 (12) Code Section 33-21-27, relating to enforcement of health maintenance organizations  
 4054 laws; and
- 4055 (13) Code Section 42-1-13, relating to the Sexual Offender Registration Review Board.

4056 **SECTION 3-5.**

4057 The following Code sections of the Official Code of Georgia Annotated are amended by  
 4058 replacing "Code Section 31-2-6" wherever it occurs with "Code Section 31-5A-10":

- 4059 (1) Code Section 25-2-40, relating to smoke detectors required in new dwellings and  
 4060 dwelling units;
- 4061 (2) Code Section 31-7-2.1, relating to rules and regulations relative to regulation of  
 4062 hospitals and related institutions;
- 4063 (3) Code Section 31-7-302, relating to rules and regulations relative to private home care  
 4064 providers;
- 4065 (4) Code Section 31-11-9, relating to enforcement of emergency medical services laws;
- 4066 (5) Code Section 31-44-11, relating to the authority of the Department of Human  
 4067 Resources to deal with violations of renal disease facilities laws; and
- 4068 (6) Code Section 49-4-153 relating to administrative hearings and appeals under  
 4069 Medicaid.

**SECTION 3-6.**

Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to unfair or deceptive practices in consumer transactions which are deemed unlawful, is amended by revising paragraphs (26) and (30) of subsection (b) as follows:

"(26) With respect to any individual or facility providing personal care services:

(A) Any person or entity not duly licensed or registered as a personal care home formally or informally offering, advertising to, or soliciting the public for residents or referrals;

(B) Any personal care home, as defined in subsection (a) of Code Section 31-7-12, offering, advertising, or soliciting the public to provide services:

(i) Which are outside the scope of personal care services; and

(ii) For which it has not been specifically authorized.

Nothing in this subparagraph prohibits advertising by a personal care home for services authorized by the Department of ~~Human Resources~~ Community Health under a waiver or variance pursuant to subsection (b) of Code Section ~~31-2-4~~ 31-5A-11;

(C) For purposes of this paragraph, 'personal care' means protective care and watchful oversight of a resident who needs a watchful environment but who does not have an illness, injury, or disability which requires chronic or convalescent care including medical and nursing services.

The provisions of this paragraph shall be enforced following consultation with the Department of ~~Human Resources~~ Community Health which shall retain primary responsibility for issues relating to licensure of any individual or facility providing personal care services;"

"(30) With respect to any individual or facility providing home health services:

(A) For any person or entity not duly licensed by the Department of ~~Human Resources~~ Community Health as a home health agency to regularly hold itself out as a home health agency; or

(B) For any person or entity not duly licensed by the Department of ~~Human Resources~~ Community Health as a home health agency to utilize the words 'home health' or 'home health services' in any manner including but not limited to advertisements, brochures, or letters. Unless otherwise prohibited by law, nothing in this subparagraph shall be construed to prohibit persons or entities from using the words 'home health' or 'home health services' in conjunction with the words 'equipment,' 'durable medical equipment,' 'pharmacy,' 'pharmaceutical services,' 'prescription medications,' 'infusion therapy,' or 'supplies' in any manner including but not limited to advertisements, brochures, or letters. An unlicensed person or entity may advertise under the category 'home health

4106 services' in any advertising publication which divides its advertisements into categories,  
4107 provided that:

4108 (i) The advertisement is not placed in the category with the intent to mislead or  
4109 deceive;

4110 (ii) The use of the advertisement in the category is not part of an unfair or deceptive  
4111 practice; and

4112 (iii) The advertisement is not otherwise unfair, deceptive, or misleading.

4113 For purposes of this paragraph, the term 'home health agency' shall have the same  
4114 definition as contained in Code Section 31-7-150, as now or hereafter amended. The  
4115 provisions of this paragraph shall be enforced by the administrator in consultation with  
4116 the Department of ~~Human Resources~~ Community Health; provided, however, that the  
4117 administrator shall not have any responsibility for matters or functions related to the  
4118 licensure of home health agencies;"

#### 4119 **SECTION 3-7.**

4120 Code Section 31-5A-4 of the Official Code of Georgia Annotated, relating to powers, duties,  
4121 functions, and responsibilities of the Department of Community Health, is amended by  
4122 revising paragraph (3) of subsection (d) as follows:

4123 ~~"(3) The Office of Women's Health shall have a full-time executive director appointed~~  
4124 ~~by the commissioner and shall be provided with staff personnel, office and meeting~~  
4125 ~~facilities, and other necessary items by the department. The council shall meet upon the~~  
4126 ~~call of its chairperson, the board, or the commissioner."~~

#### 4127 **SECTION 3-8.**

4128 Code Section 31-5A-4 of the Official Code of Georgia Annotated, relating to powers, duties,  
4129 functions, and responsibilities of the Department of Community Health, is amended by  
4130 revising subsection (f) as follows:

4131 "(f) In addition to its other powers, duties, and functions, the department:

4132 (1) Shall be the lead agency in coordinating and purchasing health care benefit plans for  
4133 state and public employees, dependents, and retirees and may also coordinate with the  
4134 board of regents for the purchase and administration of such health care benefit plans for  
4135 its members, employees, dependents, and retirees;

4136 (2) Is authorized to plan and coordinate medical education and physician workforce  
4137 issues;

4138 ~~(3) Is authorized to convene at least quarterly a state agency coordinating committee~~  
4139 ~~comprised of the commissioners, directors, chairpersons, or their designees, of the~~  
4140 ~~following agencies involved in health related activities: the Department of Human~~

Resources, including the ~~Division of Public Health, the Division of Mental Health, Developmental Disabilities, and Addictive Diseases, and the Division of Aging Services thereof, the Department of Juvenile Justice, the Department of Corrections, the Insurance Department, the State Merit System of Personnel Administration, the State Board of Workers' Compensation, and the Governor's Office of Planning and Budget.~~ The board of regents may also designate a person to serve on the coordinating committee. The committee will convene for the purposes of planning and coordinating health issues that have interagency considerations. The commissioner of the department will serve as the chairperson of the state agency coordinating committee and will report to the Governor the activities, findings, and recommendations of the committee;

~~(4)~~ Shall investigate the lack of availability of health insurance coverage and the issues associated with the uninsured population of this state. In particular, the department is authorized to investigate the feasibility of creating and administering insurance programs for small businesses and political subdivisions of the state and to propose cost-effective solutions to reducing the numbers of uninsured in this state;

~~(5)~~ Shall study and recommend any additional functions needed to carry out the purposes of the department, including the creation of a consumer medical advocate. Such recommendations shall be made to the Governor and General Assembly by December 31, 1999;

~~(6)~~(4) Is authorized to appoint a health care work force policy advisory committee to oversee and coordinate work force planning activities;

~~(7)~~(5) Is authorized to solicit and accept donations, contributions, and gifts and receive, hold, and use grants, devises, and bequests of real, personal, and mixed property on behalf of the state to enable the department to carry out its functions and purposes; ~~and~~

~~(8)~~(6) Is authorized to award grants, as funds are available, to hospital authorities and hospitals for public health purposes, pursuant to Code Sections 31-7-94 and 31-7-94.1; and

(7) Shall make provision for meeting the cost of hospital care of persons eligible for public assistance to the extent that federal matching funds are available for such expenditures for hospital care. To accomplish this purpose, the department is authorized to pay from funds appropriated for such purposes the amount required under this paragraph into a trust fund account which shall be available for disbursement for the cost of hospital care of public assistance recipients. The commissioner, subject to the approval of the Office of Planning and Budget, on the basis of the funds appropriated in any year, shall estimate the scope of hospital care available to public assistance recipients and the approximate per capita cost of such care. Monthly payments into the trust fund for hospital care shall be made on behalf of each public assistance recipient and such

4178 payments shall be deemed encumbered for assistance payable. Ledger accounts reflecting  
 4179 payments into and out of the hospital care fund shall be maintained for each of the  
 4180 categories of public assistance established under Code Section 49-4-3. The balance of  
 4181 state funds in such trust fund for the payment of hospital costs in an amount not to exceed  
 4182 the amount of federal funds held in the trust fund by the department available for  
 4183 expenditure under this paragraph shall be deemed encumbered and held in trust for the  
 4184 payment of the costs of hospital care and shall be rebudgeted for this purpose on each  
 4185 quarterly budget required under the laws governing the expenditure of state funds. The  
 4186 state auditor shall audit the funds in the trust fund established under this paragraph in the  
 4187 same manner that any other funds disbursed by the department are audited."

### 4188 SECTION 3-9.

4189 Chapter 5A of Title 31 of the Official Code of Georgia Annotated, relating to the Department  
 4190 of Community Health, is amended by adding new Code sections to read as follows:

4191 "31-5A-9.

4192 (a) As used in this Code section, the term:

4193 (1) 'Conviction' means a finding or verdict of guilty or a plea of guilty regardless of  
 4194 whether an appeal of the conviction has been sought.

4195 (2) 'Crime' means commission of the following offenses:

4196 (A) A violation of Code Section 16-5-1, relating to murder and felony murder;

4197 (B) A violation of Code Section 16-5-21, relating to aggravated assault;

4198 (C) A violation of Code Section 16-5-24, relating to aggravated battery;

4199 (D) A violation of Code Section 16-5-70, relating to cruelty to children;

4200 (E) A violation of Code Section 16-5-100, relating to cruelty to a person 65 years of  
 4201 age or older;

4202 (F) A violation of Code Section 16-6-1, relating to rape;

4203 (G) A violation of Code Section 16-6-2, relating to aggravated sodomy;

4204 (H) A violation of Code Section 16-6-4, relating to child molestation;

4205 (I) A violation of Code Section 16-6-5, relating to enticing a child for indecent  
 4206 purposes;

4207 (J) A violation of Code Section 16-6-5.1, relating to sexual assault against persons in  
 4208 custody, detained persons, or patients in hospitals or other institutions;

4209 (K) A violation of Code Section 16-6-22.2, relating to aggravated sexual battery;

4210 (L) A violation of Code Section 16-8-41, relating to armed robbery;

4211 (M) A violation of Code Section 30-5-8, relating to abuse, neglect, or exploitation of  
 4212 a disabled adult or elder person; or



- 4213 (N) Any other offense committed in another jurisdiction that, if committed in this state,  
 4214 would be deemed to be a crime listed in this paragraph without regard to its designation  
 4215 elsewhere.
- 4216 (3) 'Criminal record' means any of the following:
- 4217 (A) Conviction of a crime;
- 4218 (B) Arrest, charge, and sentencing for a crime where:
- 4219 (i) A plea of nolo contendere was entered to the charge;
- 4220 (ii) First offender treatment without adjudication of guilt pursuant to the charge was  
 4221 granted; or
- 4222 (iii) Adjudication or sentence was otherwise withheld or not entered on the charge;  
 4223 or
- 4224 (C) Arrest and being charged for a crime if the charge is pending, unless the time for  
 4225 prosecuting such crime has expired pursuant to Chapter 3 of Title 17.
- 4226 (4) 'Facility' means a:
- 4227 (A) Personal care home required to be licensed or permitted under Code Section  
 4228 31-7-12; or
- 4229 (B) Private home care provider required to be licensed under Article 13 of Chapter 7  
 4230 of Title 31.
- 4231 (5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of  
 4232 Chapter 3 of Title 35.
- 4233 (6) 'GCIC information' means criminal history record information as defined in Code  
 4234 Section 35-3-30.
- 4235 (7) 'License' means the document issued by the department to authorize the facility to  
 4236 operate.
- 4237 (8) 'Owner' means any individual or any person affiliated with a corporation, partnership,  
 4238 or association with 10 percent or greater ownership interest in a facility providing care  
 4239 to persons under the license of the facility in this state and who:
- 4240 (A) Purports to or exercises authority of the owner in a facility;
- 4241 (B) Applies to operate or operates a facility;
- 4242 (C) Maintains an office on the premises of a facility;
- 4243 (D) Resides at a facility;
- 4244 (E) Has direct access to persons receiving care at a facility;
- 4245 (F) Provides direct personal supervision of facility personnel by being immediately  
 4246 available to provide assistance and direction during the time such facility services are  
 4247 being provided; or
- 4248 (G) Enters into a contract to acquire ownership of a facility.

4249 (9) 'Records check application' means fingerprints in such form and of such quality as  
4250 prescribed by the Georgia Crime Information Center and under standards adopted by the  
4251 Federal Bureau of Investigation and a records search fee to be established by the  
4252 department by rule and regulation, payable in such form as the department may direct to  
4253 cover the cost of obtaining criminal background information pursuant to this Code  
4254 section.

4255 (b) An owner with a criminal record shall not operate or hold a license to operate a facility,  
4256 and the department shall revoke the license of any owner operating a facility or refuse to  
4257 issue a license to any owner operating a facility if it determines that such owner has a  
4258 criminal record; provided, however, that an owner who holds a license to operate a facility  
4259 on or before June 30, 2007, shall not have his or her license revoked prior to a hearing  
4260 being held before a hearing officer pursuant to Chapter 13 of Title 50, the 'Georgia  
4261 Administrative Procedure Act.'

4262 (c)(1) Prior to approving any license for a new facility and periodically as established by  
4263 the department by rule and regulation, the department shall require an owner to submit  
4264 a records check application. The department shall establish a uniform method of  
4265 obtaining an owner's records check application.

4266 (2)(A) Unless the department contracts pursuant to subparagraph (B) of this paragraph,  
4267 the department shall transmit to the GCIC the fingerprints and records search fee from  
4268 each fingerprint records check application in accordance with Code Section 35-3-35.  
4269 Upon receipt thereof, the GCIC shall promptly transmit the fingerprints to the Federal  
4270 Bureau of Investigation for a search of bureau records and an appropriate report and  
4271 shall promptly conduct a search of its records and records to which it has access.  
4272 Within ten days after receiving fingerprints acceptable to the GCIC and the fee, the  
4273 GCIC shall notify the department in writing of any criminal record or if there is no such  
4274 finding. After a search of Federal Bureau of Investigation records and fingerprints and  
4275 upon receipt of the bureau's report, the department shall make a determination about an  
4276 owner's criminal record and shall notify the owner in writing as to the department's  
4277 determination as to whether the owner has or does not have a criminal record.

4278 (B) The department may either perform criminal background checks under agreement  
4279 with the GCIC or contract with the GCIC and appropriate law enforcement agencies  
4280 which have access to GCIC and Federal Bureau of Investigation information to have  
4281 those agencies perform for the department criminal background checks for owners. The  
4282 department or the appropriate law enforcement agencies may charge reasonable fees  
4283 for performing criminal background checks.

4284 (3)(A) The department's determination regarding an owner's criminal record, or any  
4285 action by the department revoking or refusing to grant a license based on such

4286 determination, shall constitute a contested case for purposes of Chapter 13 of Title 50,  
4287 the 'Georgia Administrative Procedure Act,' except that any hearing required to be held  
4288 pursuant thereto may be held reasonably expeditiously after such determination or  
4289 action by the department.

4290 (B) In a hearing held pursuant to subparagraph (A) of this paragraph or subsection (b)  
4291 of this Code section, the hearing officer shall consider in mitigation the length of time  
4292 since the crime was committed, the absence of additional criminal charges, the  
4293 circumstances surrounding the commission of the crime, other indicia of rehabilitation,  
4294 the facility's history of compliance with the regulations, and the owner's involvement  
4295 with the licensed facility in arriving at a decision as to whether the criminal record  
4296 requires the denial or revocation of the license to operate the facility. Where a hearing  
4297 is required, at least 30 days prior to such hearing, the hearing officer shall notify the  
4298 office of the prosecuting attorney who initiated the prosecution of the crime in question  
4299 in order to allow the prosecutor to object to a possible determination that the conviction  
4300 would not be a bar for the grant or continuation of a license as contemplated within this  
4301 Code section. If objections are made, the hearing officer shall take such objections into  
4302 consideration in considering the case.

4303 (4) Neither the GCIC, the department, any law enforcement agency, nor the employees  
4304 of any such entities shall be responsible for the accuracy of information nor have any  
4305 liability for defamation, invasion of privacy, negligence, or any other claim in connection  
4306 with any dissemination of information or determination based thereon pursuant to this  
4307 Code section.

4308 (d) All information received from the Federal Bureau of Investigation or the GCIC shall  
4309 be for the exclusive purpose of approving or denying the granting of a license to a new  
4310 facility or the revision of a license of an existing facility when a new owner is proposed and  
4311 shall not be released or otherwise disclosed to any other person or agency except to any  
4312 person or agency with a legal right to inspect the facility. All such information collected  
4313 by the department shall be maintained by the department pursuant to laws regarding and  
4314 the rules or regulations of the Federal Bureau of Investigation and the GCIC, as is  
4315 applicable. Penalties for the unauthorized release or disclosure of any such information  
4316 shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal  
4317 Bureau of Investigation and the GCIC, as is applicable.

4318 (e) The requirements of this Code section are supplemental to any requirements for a  
4319 license imposed by Article 3 of Chapter 5 of Title 49 or Article 11 of Chapter 7 of this title.

4320 (f) The department shall promulgate written rules and regulations to implement the  
4321 provisions of this Code section.

4322 31-5A-10.

4323 (a) This Code section shall be applicable to any agency, center, facility, institution, drug  
 4324 abuse treatment and education program, or entity subject to regulation by the department  
 4325 under Chapters 7, 22, 23, and 44 of this title; Chapter 5 of Title 26; and Article 7 of  
 4326 Chapter 6 of Title 49. For purposes of this Code section, the term 'license' shall be used to  
 4327 refer to any license, permit, registration, or commission issued by the department pursuant  
 4328 to the provisions of the law cited in this subsection.

4329 (b) The department shall have the authority to take any of the actions enumerated in  
 4330 subsection (c) of this Code section upon a finding that the applicant or licensee has:

4331 (1) Knowingly made any false statement of material information in connection with the  
 4332 application for a license, or in statements made or on documents submitted to the  
 4333 department as part of an inspection, survey, or investigation, or in the alteration or  
 4334 falsification of records maintained by the agency, facility, institution, or entity;

4335 (2) Failed or refused to provide the department with access to the premises subject to  
 4336 regulation or information pertinent to the initial or continued licensing of the agency,  
 4337 facility, institution, or entity;

4338 (3) Failed to comply with the licensing requirements of this state; or

4339 (4) Failed to comply with any provision of this Code section.

4340 (c) When the department finds that any applicant or licensee has violated any provision  
 4341 of subsection (b) of this Code section or laws, rules, regulations, or formal orders related  
 4342 to the initial or continued licensing of the agency, facility, institution, or entity, the  
 4343 department, subject to notice and opportunity for hearing, may take any of the following  
 4344 actions:

4345 (1) Refuse to grant a license; provided, however, that the department may refuse to grant  
 4346 a license without holding a hearing prior to taking such action;

4347 (2) Administer a public reprimand;

4348 (3) Suspend any license for a definite period or for an indefinite period in connection  
 4349 with any condition which may be attached to the restoration of said license;

4350 (4) Prohibit any applicant or licensee from allowing a person who previously was  
 4351 involved in the management or control, as defined by rule, of any agency, facility,  
 4352 institution, or entity which has had its license or application revoked or denied within the  
 4353 past 12 months to be involved in the management or control of such agency, facility,  
 4354 institution, or entity;

4355 (5) Revoke any license;

4356 (6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for  
 4357 each violation of a law, rule, regulation, or formal order related to the initial or ongoing  
 4358 licensing of any agency, facility, institution, or entity, except that no fine may be imposed

4359 against any nursing facility, nursing home, or intermediate care facility which is subject  
 4360 to intermediate sanctions under the provisions of 42 U.S.C. Section 1396r(h)(2)(A), as  
 4361 amended, whether or not those sanctions are actually imposed; or

4362 (7) Limit or restrict any license as the department deems necessary for the protection of  
 4363 the public, including, but not limited to, restricting some or all services of or admissions  
 4364 into an agency, facility, institution, or entity for a time certain.

4365 In taking any of the actions enumerated in this subsection, the department shall consider  
 4366 the seriousness of the violation, including the circumstances, extent, and gravity of the  
 4367 prohibited acts, and the hazard or potential hazard created to the health or safety of the  
 4368 public.

4369 (d)(1) With respect to any facility classified as a nursing facility, nursing home, or  
 4370 intermediate care home, the department may not take an action to fine or restrict the  
 4371 license of any such facility based on the same act, occurrence, or omission for which:

4372 (A) The facility has received an intermediate sanction under the provisions of 42  
 4373 U.S.C. Section 1396r(h)(2)(A), as amended, or 42 U.S.C. Section 1395i-3(h)(2)(B); or

4374 (B) Such facility has been served formal notice of intent to take such a sanction which  
 4375 the department based on administrative review or any other appropriate body based on  
 4376 administrative or judicial review determines not to impose; provided, however, that  
 4377 nothing in this subsection shall prohibit the department from utilizing the provisions  
 4378 authorized under subsection (f) of this Code section.

4379 (2) When any civil monetary penalty is recommended and imposed against such facility,  
 4380 and the department does not resurvey the facility within 48 hours after the date by which  
 4381 all items on a plan of correction submitted by the facility are to be completed, the accrual  
 4382 of any resulting civil monetary penalties shall be suspended until the facility is  
 4383 resurveyed by the department.

4384 (3) If the department resurveys such facility beyond 48 hours after the final date for  
 4385 completion of all items on the plan of correction submitted by the facility, and the facility  
 4386 is not in substantial compliance with the applicable standards, any civil monetary  
 4387 penalties imposed shall relate back to the date on which such penalties were suspended.

4388 (4) Notwithstanding the provisions of paragraphs (2) and (3) of this subsection, nothing  
 4389 contained in said paragraphs shall be construed as requiring the state survey agency to act  
 4390 in violation of applicable federal law, regulations, and guidelines.

4391 (e) The department may deny a license or otherwise restrict a license for any applicant  
 4392 who has had a license denied, revoked, or suspended within one year of the date of an  
 4393 application or who has transferred ownership or governing authority of an agency, facility,  
 4394 institution, or entity subject to regulation by the department within one year of the date of

4395 a new application when such transfer was made in order to avert denial, revocation, or  
4396 suspension of a license.

4397 (f) With regard to any contested case instituted by the department pursuant to this Code  
4398 section or other provisions of law which may now or hereafter authorize remedial or  
4399 disciplinary grounds and action, the department may, in its discretion, dispose of the action  
4400 so instituted by settlement. In such cases, all parties, successors, and assigns to any  
4401 settlement agreement shall be bound by the terms specified therein, and violation thereof  
4402 by any applicant or licensee shall constitute grounds for any action enumerated in  
4403 subsection (c) of this Code section.

4404 (g) The department shall have the authority to make public or private investigations or  
4405 examinations inside or outside of this state to determine whether the provisions of this  
4406 Code section or any other law, rule, regulation, or formal order relating to the licensing of  
4407 any agency, facility, institution, or entity has been violated. Such investigations may be  
4408 initiated at any time, in the discretion of the department, and may continue during the  
4409 pendency of any action initiated by the department pursuant to subsection (c) of this Code  
4410 section.

4411 (h) For the purpose of conducting any investigation, inspection, or survey, the department  
4412 shall have the authority to require the production of any books, records, papers, or other  
4413 information related to the initial or continued licensing of any agency, facility, institution,  
4414 or entity.

4415 (i) Pursuant to the investigation, inspection, and enforcement powers given to the  
4416 department by this Code section and other applicable laws, the department may assess  
4417 against an agency, facility, institution, or entity reasonable and necessary expenses incurred  
4418 by the department pursuant to any administrative or legal action required by the failure of  
4419 the agency, facility, institution, or entity to fully comply with the provisions of any law,  
4420 rule, regulation, or formal order related to the initial or continued licensing. Assessments  
4421 shall not include attorney's fees and expenses of litigation, shall not exceed other actual  
4422 expenses, and shall only be assessed if such investigations, inspection, or enforcement  
4423 actions result in adverse findings, as finally determined by the department, pursuant to  
4424 administrative or legal action.

4425 (j) For any action taken or any proceeding held under this Code section or under color of  
4426 law, except for gross negligence or willful or wanton misconduct, the department, when  
4427 acting in its official capacity, shall be immune from liability and suit to the same extent that  
4428 any judge of any court of general jurisdiction in this state would be immune.

4429 (k) In an administrative or legal proceeding under this Code section, a person or entity  
4430 claiming an exemption or an exception granted by law, rule, regulation, or formal order has  
4431 the burden of proving this exemption or exception.

4432 (l) This Code section and all actions resulting from its provisions shall be administered in  
4433 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

4434 (m) The provisions of this Code section shall be supplemental to and shall not operate to  
4435 prohibit the department from acting pursuant to those provisions of law which may now  
4436 or hereafter authorize remedial or disciplinary grounds and action for the department. In  
4437 cases where those other provisions of law so authorize other disciplinary grounds and  
4438 actions, but this Code section limits such grounds or actions, those other provisions shall  
4439 apply.

4440 (n) The department is authorized to promulgate rules and regulations to implement the  
4441 provisions of this Code section.

4442 31-5A-11.

4443 (a) The department is authorized to adopt and promulgate rules and regulations to effect  
4444 prevention, abatement, and correction of situations and conditions which, if not promptly  
4445 checked, would militate against the health of the people of this state. Such rules and  
4446 regulations shall be adapted to the purposes intended, within the purview of the powers and  
4447 duties imposed upon the department.

4448 (b) The department upon application or petition may grant variances and waivers to  
4449 specific rules and regulations which establish standards for facilities or entities regulated  
4450 by the department as follows:

4451 (1) The department may authorize departure from the literal requirements of a rule or  
4452 regulation by granting a variance upon a showing by the applicant or petitioner that the  
4453 particular rule or regulation that is the subject of the variance request should not be  
4454 applied as written because strict application would cause undue hardship. The applicant  
4455 or petitioner additionally must show that adequate standards affording protection of  
4456 health, safety, and care exist and will be met in lieu of the exact requirements of the rule  
4457 or regulation in question;

4458 (2) The department may dispense entirely with the enforcement of a rule or regulation  
4459 by granting a waiver upon a showing by the applicant or petitioner that the purpose of the  
4460 rule or regulation is met through equivalent standards affording equivalent protection of  
4461 health, safety, and care;

4462 (3) The department may grant waivers and variances to allow experimentation and  
4463 demonstration of new and innovative approaches to delivery of services upon a showing  
4464 by the applicant or petitioner that the intended protections afforded by the rule or  
4465 regulation which is the subject of the request are met and that the innovative approach has  
4466 the potential to improve service delivery;

4467 (4) Waivers or variances which affect an entire class of facilities may only be approved  
 4468 by the Board of Community Health and shall be for a time certain, as determined by the  
 4469 board. A notice of the proposed variance or waiver affecting an entire class of facilities  
 4470 shall be made in accordance with the requirements for notice of rule making in Chapter  
 4471 13 of Title 50, the 'Georgia Administrative Procedure Act'; or

4472 (5) Variances or waivers which affect only one facility in a class may be approved or  
 4473 denied by the department and shall be for a time certain, as determined by the  
 4474 department. The department shall maintain a record of such action and shall make this  
 4475 information available to the board and all other persons who request it.

4476 (c) The department may exempt classes of facilities from regulation when, in the  
 4477 department's judgment, regulation would not permit the purpose intended or the class of  
 4478 facilities is subject to similar requirements under other rules and regulations. Such  
 4479 exemptions shall be provided in rules and regulations promulgated by the board."

#### 4480 **SECTION 3-10.**

4481 Code Section 31-6-21.1 of the Official Code of Georgia Annotated, relating to procedures  
 4482 for rule making by the Department of Community Health, is amended by adding a new  
 4483 subsection to the end of the Code section to read as follows:

4484 "(j) This Code section shall apply only to rules adopted pursuant to this chapter."

#### 4485 **SECTION 3-11.**

4486 Code Section 31-7-2.2 of the Official Code of Georgia Annotated, relating to determination  
 4487 that patients or residents in an institution, community living arrangement, or treatment  
 4488 program are in danger, is amended as follows:

4489 "31-7-2.2.

4490 (a)(1) The commissioner may order the emergency relocation of patients or residents  
 4491 from an institution subject to licensure under this chapter, ~~a community living~~  
 4492 ~~arrangement subject to licensure under paragraph (16) of subsection (b) and subsection~~  
 4493 ~~(c) of Code Section 37-1-20~~; or a drug abuse treatment and education program subject to  
 4494 licensure under Chapter 5 of Title 26 when the commissioner has determined that the  
 4495 patients or residents are subject to an imminent and substantial danger.

4496 (2) When an order is issued under this subsection, the commissioner shall provide for:

4497 (A) Notice to the patient or resident, his or her next of kin or guardian, and his or her  
 4498 physician of the emergency relocation and the reasons therefor;

4499 (B) Relocation to the nearest appropriate institution, ~~community living arrangement,~~  
 4500 or drug abuse treatment and education program; and



4501 (C) Other protection designed to ensure the welfare and, when possible, the desires of  
4502 the patient or resident.

4503 (b)(1) The commissioner may order the emergency placement of a monitor in an  
4504 institution subject to licensure under this chapter, ~~a community living arrangement~~  
4505 ~~subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code~~  
4506 ~~Section 37-1-20~~; or a drug abuse treatment and education program subject to licensure  
4507 under Chapter 5 of Title 26 when one or more of the following conditions are present:

4508 (A) The institution, ~~community living arrangement~~, or drug abuse treatment and  
4509 education program is operating without a permit or a license;

4510 (B) The department has denied application for a permit or a license or has initiated  
4511 action to revoke the existing permit or license of the institution, ~~community living~~  
4512 ~~arrangement~~; or drug abuse treatment and education program;

4513 (C) The institution, ~~community living arrangement~~, or drug abuse treatment and  
4514 education program is closing or plans to close and adequate arrangements for relocation  
4515 of the patients or residents have not been made at least 30 days before the date of  
4516 closure; or

4517 (D) The health, safety, security, rights, or welfare of the patients or residents cannot  
4518 be adequately assured by the institution, ~~community living arrangement~~, or drug abuse  
4519 treatment and education program.

4520 (2) A monitor may be placed, pursuant to this subsection, in an institution, ~~community~~  
4521 ~~living arrangement~~, or drug abuse treatment and education program for no more than ten  
4522 days, during which time the monitor shall observe conditions and compliance with any  
4523 recommended remedial action of the department by the institution, ~~community living~~  
4524 ~~arrangement~~, or drug abuse treatment and education program. The monitor shall report  
4525 to the department. The monitor shall not assume any administrative responsibility within  
4526 the institution, ~~community living arrangement~~, or drug abuse treatment and education  
4527 program nor shall the monitor be liable for any actions of the institution, ~~community~~  
4528 ~~living arrangement~~, or drug abuse treatment and education program. The costs of placing  
4529 a monitor in an institution, ~~community living arrangement~~, or drug abuse treatment and  
4530 education program shall be paid by the institution, ~~community living arrangement~~, or  
4531 drug abuse treatment and education program unless the order placing the monitor is  
4532 determined to be invalid in a contested case proceeding under subsection (d) of this Code  
4533 section, in which event the costs shall be paid by the state.

4534 (c)(1) The commissioner may order the emergency prohibition of admissions to an  
4535 institution subject to licensure under this chapter, ~~a community living arrangement~~  
4536 ~~subject to licensure under paragraph (16) of subsection (b) and subsection (c) of Code~~  
4537 ~~Section 37-1-20~~; or program subject to licensure under Chapter 5 of Title 26 when an

4538 ~~such~~ institution, ~~community living arrangement~~, or drug abuse treatment and education  
 4539 program has failed to correct a violation of departmental permit rules or regulations  
 4540 within a reasonable period of time, as specified in the department's corrective order, and  
 4541 the violation:

4542 (A) Could jeopardize the health and safety of the residents or patients in the institution;  
 4543 ~~community living arrangement~~, or drug abuse treatment and education program if  
 4544 allowed to remain uncorrected; or

4545 (B) Is a repeat violation over a 12 month period, which is intentional or due to gross  
 4546 negligence.

4547 (2) Admission to an institution, ~~community living arrangement~~, or drug abuse treatment  
 4548 and education program may be suspended until the violation has been corrected or until  
 4549 the department has determined that the institution, ~~community living arrangement~~, or  
 4550 drug abuse treatment and education program has undertaken the action necessary to effect  
 4551 correction of the violation.

4552 (d) The commissioner may issue emergency orders pursuant to this Code section only if  
 4553 authorized by rules and regulations of the department. Unless otherwise provided in the  
 4554 order, an emergency order shall become effective immediately. The department shall hold  
 4555 a preliminary hearing within ten days following a request therefor by any institution;  
 4556 ~~community living arrangement~~, or drug abuse treatment and education program affected  
 4557 by an emergency order. If at the preliminary hearing the order is determined by the  
 4558 department to be invalid, that order shall thereupon become void and of no effect. If at the  
 4559 preliminary hearing the order is determined by the department to be valid, that  
 4560 determination shall constitute a contested case under Chapter 13 of Title 50, the 'Georgia  
 4561 Administrative Procedure Act,' and that order shall remain in effect until determined  
 4562 invalid in a proceeding regarding the contested case or until rescinded by the  
 4563 commissioner, whichever is earlier. For purposes of this subsection, an emergency order  
 4564 is valid only if the order is authorized to be issued under this Code section and rules and  
 4565 regulations relating thereto.

4566 (e) The powers provided by this Code section are cumulative of all other powers of the  
 4567 department, board, and commissioner."

### 4568 SECTION 3-12.

4569 Code Section 31-7-12 of the Official Code of Georgia Annotated, relating to regulation of  
 4570 personal care homes, is amended by revising paragraph (1) of subsection (a) as follows:

4571 "(1) 'Personal care home' means any dwelling, whether operated for profit or not, which  
 4572 undertakes through its ownership or management to provide or arrange for the provision  
 4573 of housing, food service, and one or more personal services for two or more adults who

4574 are not related to the owner or administrator by blood or marriage. This term shall not  
 4575 include host homes, as defined in paragraph ~~(16)~~(12) of subsection (b) of Code Section  
 4576 ~~37-1-20~~ 49-2-6."

4577 **SECTION 3-13.**

4578 Code Section 31-8-2 of the Official Code of Georgia Annotated, relating to definitions  
 4579 relative to hospital care for the indigent generally, is amended by adding a new paragraph to  
 4580 read as follows:

4581 "(0.5) 'Department' means the Department of Community Health."

4582 **SECTION 3-14.**

4583 Code Section 31-8-31 of the Official Code of Georgia Annotated, relating to definitions  
 4584 relative to hospital care for nonresident indigents, is amended by adding a new paragraph to  
 4585 read as follows:

4586 "(2.5) 'Department' means the Department of Community Health."

4587 **SECTION 3-15.**

4588 Code Section 31-8-41 of the Official Code of Georgia Annotated, relating to definitions  
 4589 relative to hospital care for pregnant women, is amended by adding a new paragraph to read  
 4590 as follows:

4591 "(1.1) 'Department' means the Department of Community Health."

4592 **SECTION 3-16.**

4593 Code Section 31-22-1 of the Official Code of Georgia Annotated, relating to definitions  
 4594 relative to clinical laboratories, is amended by adding a new paragraph to read as follows:

4595 "(2.1) 'Department' means the Department of Community Health."

4596 **SECTION 3-17.**

4597 Code Section 31-23-1 of the Official Code of Georgia Annotated, relating to definitions  
 4598 relative to eye banks, is amended by adding a new paragraph to read as follows:

4599 "(0.5) 'Department' means the Department of Community Health."

4600 **SECTION 3-18.**

4601 Code Section 31-24-2 of the Official Code of Georgia Annotated, relating to definitions  
 4602 relative to blood labeling, is amended by adding a new paragraph to read as follows:

4603 "(1.1) 'Department' means the Department of Community Health."

4604

**SECTION 3-19.**

4605

Code Section 31-44-1 of the Official Code of Georgia Annotated, relating to definitions relative to renal disease facilities, is amended by adding new paragraphs to read as follows:

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4607

"(0.1) 'Board' means the Board of Community Health."

4608

"(0.5) 'Department' means the Department of Community Health."

4609

**SECTION 3-20.**

4610

Code Section 33-21-20.1 of the Official Code of Georgia Annotated, relating to regulation of health maintenance organizations by the commissioner of human resources, is amended as follows:

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"33-21-20.1.

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On May 13, 2004, all health maintenance organizations meeting the requirements of subsection (b.1) of Code Section 33-21-3 shall not be subject to regulation by the commissioner of human resources (now known as the commissioner of community health for these purposes). Upon the Commissioner of Insurance's determination that a health maintenance organization no longer meets the requirements of subsection (b.1) of Code Section 33-21-3, the Commissioner shall immediately notify the commissioner of ~~human resources~~ community health; and such health maintenance organization shall be subject to regulation by the commissioner of ~~human resources~~ community health until such time as it again meets the requirements of subsection (b.1) of Code Section 33-21-3 as determined by the Commissioner of Insurance."

4624

**SECTION 3-21.**

4625

Code Section 33-45-3 of the Official Code of Georgia Annotated, relating to certificates of authority required for operation of continuing care facilities, is amended as follows:

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"33-45-3.

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Nothing in this title or chapter shall be deemed to authorize any provider of a continuing care facility to transact any insurance business other than that of continuing care insurance or otherwise to engage in any other type of insurance unless it is authorized under a certificate of authority issued by the department under this title. Nothing in this chapter shall be construed so as to interfere with the jurisdiction of ~~the Department of Human Resources~~, the Department of Community Health; or any other regulatory body exercising authority over continuing care providers."

**SECTION 3-22.**

Code Section 50-13-42 of the Official Code of Georgia Annotated, relating to applicability of the "Georgia Administrative Procedure Act," is amended by revising subsection (a) as follows:

"(a) In addition to those agencies expressly exempted from the operation of this chapter under paragraph (1) of Code Section 50-13-2, this article shall not apply to the Commissioner of Agriculture, the Public Service Commission, the ~~Health Planning Review Board~~ Certificate of Need Appeal Panel, or the Department of Community Health or to the Department of Labor with respect to unemployment insurance benefit hearings conducted under the authority of Chapter 8 of Title 34. Such exclusion does not prohibit such office or agencies from contracting with the Office of State Administrative Hearings on a case-by-case basis."

**PART IV**

Effective Date and Repealer.

**SECTION 4-1.**

This Act shall become effective on July 1, 2009.

**SECTION 4-2.**

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