

House Bill 228 (COMMITTEE SUBSTITUTE)

By: Representatives Butler of the 18th, Harbin of the 118th, Cole of the 125th, Keen of the 179th, Oliver of the 83rd, and others

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.

31-2-3.

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

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

31-2-4.

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 Such rules, regulations, policies, procedures, and administrative orders shall remain in effect until amended, repealed, superseded, or nullified by the Department of Public and Behavioral Health by proper authority or as otherwise provided by law.

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

(c) All persons employed by the Department of Human Resources in capacities which relate to the functions transferred to the Department of Public and Behavioral Health 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~~ established to provide a mental health, developmental disability, and addictive disease system in this state pursuant to Title 37 and to safeguard and promote the health of the people of this state and is empowered to employ all legal means appropriate to that end. Illustrating, without limiting, the foregoing grant of authority, the department is empowered to:

- 117 (1) Provide epidemiological investigations and laboratory facilities and services in the detection and control of disease, disorders, and disabilities and to provide research, conduct investigations, and disseminate information concerning reduction in the incidence and proper control of disease, disorders, and disabilities;
- 121 (2) Forestall and correct physical, chemical, ~~and biological,~~ and psychological conditions 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 public assembly and to regulate persons, firms, and corporations engaged in the rental and service of portable chemical toilets;
- 126 (4) Isolate and treat persons afflicted with a communicable disease who are either unable or unwilling to observe the department's rules and regulations for the suppression of such disease and to establish, to that end, complete or modified quarantine, surveillance, or 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 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.

(2) All state departments, agencies, boards, bureaus, commissions, and authorities shall make available to the council access to records or data which are available in electronic format or, if electronic format is unavailable, in whatever format is available. The judicial 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.

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

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

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."

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.

SECTION 1-4.

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

SECTION 1-5.

879
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.

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.

1086
1087 Code Section 30-8-1 of the Official Code of Georgia Annotated, relating to the Governor's
1088 Council on Developmental Disabilities, is amended as follows:

1089 "30-8-1.

1090 (a) There is created the Governor's Georgia Council on Developmental Disabilities. The
1091 council shall serve as the designated state agency and state planning council for purposes
1092 of carrying out the provisions of Chapter 75 of Title 42 of the United States Code, as now
1093 or hereafter amended, relating to programs for persons with developmental disabilities.

1094 (b) The members of the council shall be appointed by the Governor from among the
1095 residents of the state, and the composition of the council shall comply with the membership
1096 requirements of Chapter 75 of Title 42 of the United States Code, as now or hereafter
1097 amended. The Governor shall consider appointing to the council persons representing a
1098 broad range of individuals with developmental disabilities and individuals interested in
1099 programs for the developmentally disabled. To the extent feasible, appointments to the
1100 council shall be made with a view toward equitable geographic, racial, and ethnic
1101 representation.

1102 (c) Each member shall serve for a term of four years or until a successor is appointed.
1103 Members shall be eligible to succeed themselves. Vacancies shall be filled in the same
1104 manner as original appointments. The council shall elect its own chairperson and such
1105 other officers as it deems necessary. The council may adopt rules and procedures and shall
1106 meet at the call of the chairperson.

1107 (d) The Governor's Georgia Council on Developmental Disabilities shall:

1108 (1) Develop and implement a state plan, which includes the specification of federal and
1109 state priority areas, to address on a state-wide and comprehensive basis the need for
1110 services, support, and other assistance for individuals with developmental disabilities and
1111 their families;

1112 (2) Monitor, review, and evaluate, not less than annually, the implementation and
1113 effectiveness of the plan;

1114 (3) Submit to the United States secretary of health and human services, through the
1115 Governor, such plan and periodic reports on the council's activities as the secretary finds
1116 necessary;

1117 (4) Receive, account for, and disburse funds paid to the state pursuant to the provisions
1118 of Chapter 75 of Title 42 of the United States Code, as now or hereafter amended, and
1119 as authorized by the approved state plan;

1120 (5) To the maximum extent feasible, review and comment on all plans in the state which
1121 relate to programs affecting persons with developmental disabilities;

1122 (6) Serve as an advocate for persons with developmental disabilities;

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

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

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

SECTION 1-15.

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

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

SECTION 1-16.

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

"31-5-2.

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

(b) Where hearing is required or afforded, notice thereof as provided in this Code section shall be given in person or by registered or certified mail or statutory overnight delivery to all interested parties; provided, however, in proceedings where the number of interested 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.

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

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

SECTION 1-24.

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

"33-24-28.

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

(b) A group hospital or medical expense insurance policy or hospital or medical service plan contract which provides that coverage of a dependent child of an employee or other member of the covered group shall terminate upon attainment of the limiting age for dependent children specified in the policy or contract shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of the child while the child is and continues to be both incapable of self-sustaining employment by reason of mental retardation developmental disability or physical disability as determined by the Department of Human Resources Public and Behavioral Health and chiefly dependent upon the employee or member for support and maintenance, provided proof of 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
Behavioral Health for these purposes), the American Diabetes Association, and the
1319 National Institutes of Health. Such rules and regulations shall be adopted in accordance
1320 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;

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

SECTION 1-27.

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

"37-1-20.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(13)(14)~~ Supervise the regional offices concerning the receipt and administration of grants, gifts, moneys, and donations for purposes pertaining to mental health, 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

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

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

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

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

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

SECTION 1-29.

1544 Said chapter is further amended by adding new Code sections to read as follows:

1545 "37-1-25.

1546 The department is authorized to purchase land or lands adjacent to or near lands now under
1547 the control of the department where, in the opinion of the department, the land is needed
1548 for the benefit of one of the institutions under its control and management, to pay for such
1549 land out of any funds which may be available for such purpose, and to take title to land so
1550 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 Code Section 37-1-70 of the Official Code of Georgia Annotated, relating to definitions
1564 relative to inspection warrants relative to mental health laws, is amended by revising as
1565 follows:

1566 "37-1-70.

1567 As used in this chapter, the term:

1568 (1) 'Inspection warrant' means a warrant authorizing a search or inspection of private
1569 property where such a search or inspection is one that is necessary for the enforcement
1570 of a 'public mental health law.'

1571 (2) 'Mental health law' means Code Sections 37-3-7, 37-3-8, and 37-4-4, Chapter 6 of
1572 this title, and any rule or regulation duly promulgated thereunder."

SECTION 1-31.

1573 Code Section 37-2-2 of the Official Code of Georgia Annotated, relating to definitions
1574 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."

SECTION 1-33.

1612 Said chapter is further amended by revising subsection (b) of Code Section 37-2-5.2, relating
1613 to duties and functions of regional planning boards, as follows:

1614 "(b) It is the express intent of this chapter to confer upon the regional offices as the
1615 administrative entities of the division the flexibility, responsibility, and authority necessary
1616 to enter into contracts on behalf of the division with a wide range of public and private
1617 providers to ensure that consumers are afforded cost-effective, locally based, and quality
1618 disability services. Under the supervision of the division, regional offices are specifically
1619 authorized to enter into contracts on behalf of the division directly with any county
1620 governing authority, any disability services organization created or designated by such
1621 county governing authority, any county board of health, any private or public provider, or
1622 any hospital for the provision of disability services."

SECTION 1-34.

1623 Code Section 37-2-6 of the Official Code of Georgia Annotated, relating to the creation of
1624 community mental health, developmental disabilities, and addictive diseases service boards,
1625 is amended by revising subsections (a), (b), and (b.1) as follows:

1626 "(a) Community service boards in existence on June 30, 2006, are re-created effective
1627 July 1, 2006, to provide mental health, developmental disabilities, and addictive diseases
1628 services. Such community service boards may enroll and contract with the department to
1629 become a provider of mental health, developmental disabilities, and addictive diseases
1630 services or health, recovery, housing, or other supportive services. Such boards shall be
1631 considered public agencies. Each community service board shall be a public corporation
1632 and an instrumentality of the state; provided, however, the liabilities, debts, and obligations
1633 of a community service board shall not constitute liabilities, debts, or obligations of the
1634 state or any county or municipal corporation and neither the state nor any county or
1635 municipal corporation shall be liable for any liability, debt, or obligation of a community
1636 service board. Each community service board re-created pursuant to this Code section is
1637 created for nonprofit and public purposes to exercise essential governmental functions.
1638 The re-creation of community service boards pursuant to this Code section shall not alter
1639 the provisions of Code Section 37-2-6.2 which shall apply to those re-created community
1640 service boards and their employees covered by that Code section and those employees'
1641 rights are retained.

1642 (b) Each community service board shall consist of members appointed by the governing
1643 authorities of the counties within the community service board area. Membership on such
1644 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

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

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

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

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

(4)(A) A person shall not be eligible to be appointed to or serve on a community 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 (iii) 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.

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

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

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

SECTION 1-36.

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

"37-5-3.

As used in this chapter, the term:

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

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

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

- (A) Is attributable to a mental, cognitive, or physical impairment, or any combination of mental, cognitive, and physical impairments;
- (B) Is manifested before the individual attains age 22 except in cases of traumatic brain injury when age is not a variable;
- (C) Is likely to continue indefinitely;
- (D) Results in substantial functional limitations in three or more of the following areas of major life activities:
 - (i) Self-care;
 - (ii) Receptive and expressive language;
 - (iii) Learning;
 - (iv) Mobility;
 - (v) Self-direction;
 - (vi) Capacity for independent living; and
 - (vii) Economic self-sufficiency; and
- (E) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance which are of lifelong or extended duration and are individually planned and coordinated.

SECTION 1-37.

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

"37-6-1.

As used in this chapter, the term:

(1) 'Day-care center' means any facility that is operated and maintained for and is qualified to furnish care and training to ~~mentally retarded~~ developmentally disabled individuals on less than a 24 hour basis.

(2) 'Mentally retarded Developmentally disabled individual' means any individual who is suffering from mental retardation a developmental disability.

(3) 'Mental retardation Developmental disability' means a state of subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior a severe, chronic disability of an individual that:

- (A) Is attributable to a mental, cognitive, or physical impairment, or any combination of mental, cognitive, and physical impairments;
- (B) Is manifested before the individual attains age 22 except in cases of traumatic brain injury when age is not a variable;
- (C) Is likely to continue indefinitely;
- (D) Results in substantial functional limitations in three or more of the following areas of major life activities:
 - (i) Self-care;
 - (ii) Receptive and expressive language;
 - (iii) Learning;
 - (iv) Mobility;
 - (v) Self-direction;
 - (vi) Capacity for independent living; and
 - (vii) Economic self-sufficiency; and
- (E) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance which are of lifelong or extended duration and are individually planned and coordinated.

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

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."

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."

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:

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

(G) The State Board of Pardons and Paroles with respect to restitution imposed on a person convicted of a crime and subject to the jurisdiction of the board; and

(H) The Department of Juvenile Justice with respect to restitution imposed on a juvenile for a delinquent act which would constitute a crime if committed by an adult.

(2) 'Debt' means any liquidated sum due and owing any claimant agency, which sum has accrued through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding judgment for the sum, any sum which is due and owing any person and is enforceable by the Department of Human Resources Services pursuant to subsection (b) of Code Section 19-11-8, or any sum of restitution or reparation due pursuant to a sentence imposed on a person convicted of a crime and sentenced to restitution or reparation and probation.

(3) 'Debtor' means any individual owing money to or having a delinquent account with any claimant agency, which obligation has not been adjudicated as satisfied by court order, set aside by court order, or discharged in bankruptcy.

(4) 'Refund' means the Georgia income tax refund which the department determines to be due any individual taxpayer."

SECTION 1-44.

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

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

(1) Shall provide that a provider of nursing home services in either a skilled care facility or an intermediate care facility shall be obligated to provide a recipient of medical assistance only semiprivate accommodations which meet the other requirements of appropriate regulations;

(2) Shall provide that at no time can more than 10 percent of a skilled care or intermediate care facility's rooms be used for Medicaid recipients for whom a private room supplementation has been made;

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

SECTION 1-45.

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

"49-5-220.

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

(1) Ensure a comprehensive mental health program consisting of early identification, prevention, and early intervention for every child in Georgia;

(2) Preserve the sanctity of the family unit;

(3) Prevent the unnecessary removal of children and adolescents with a severe emotional disturbance from their homes;

(4) Prevent the unnecessary placement of these children out of state;

(5) Bring those children home who through use of public funds are inappropriately 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.

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

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

- (1) The community mental health agency responsible for coordinating children's services;
- (2) The Division of Family and Children Services of the Department of ~~Human Resources~~ Services;
- (3) The Department of Juvenile Justice;
- (4) The Division of Public Health of the Department of ~~Human Resources~~ Public and Behavioral Health;
- (5) A member of the special education staff of the local education agency;
- (6) The Division of Rehabilitation Services of the Department of Labor."

SECTION 1-47.

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

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

PART II

Department of Human Services.

SECTION 2-1.

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

2252

"CHAPTER 1

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.

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

(b) Any other provisions of this Code section to the contrary notwithstanding, any such reorganization plan shall provide for a county department of family and children services, a county board of family and children services, and a county director of family and children 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,

shall contain appropriate language, to be determined by the state revenue commissioner, offering the taxpayer the opportunity to contribute to the Home Delivered Meals, Transportation Services for the Elderly, and Preschool Children with Special Needs Fund established in subsection (c) of this Code section by either donating all or any part of any tax refund due, by authorizing a reduction in the refund check otherwise payable, or by contributing any amount over and above any amount of tax owed by adding that amount to the taxpayer's payment. The instructions accompanying the income tax return form shall contain a description of the purposes for which this fund was established and the intended use of moneys received from the contributions. Each taxpayer required to file a state income tax return who desires to contribute to such fund may designate such contribution as provided in this Code section on the appropriate income tax return form.

(2) The Department of Revenue shall determine annually the total amount so contributed, shall withhold therefrom a reasonable amount for administering this voluntary contribution program, and shall transmit the balance to the department for deposit in the fund established in subsection (c) of this Code section; provided, however, the amount retained for administrative costs, including implementation costs, shall not exceed \$50,000.00 per year. If, in any tax year, the administrative costs of the Department of Revenue for collecting contributions pursuant to this Code section exceed the sum of such contributions, the administrative costs which the Department of Revenue is authorized to withhold from such contributions shall not exceed the sum of such contributions.

CHAPTER 2

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;

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

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

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

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

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

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

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

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

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

(N) Any other offense committed in another jurisdiction that, if committed in this state, would be deemed to be a crime listed in this paragraph without regard to its designation elsewhere.

(3) 'Criminal record' means any of the following:

(A) Conviction of a crime;

(B) Arrest, charge, and sentencing for a crime where:

(i) A plea of nolo contendere was entered to the charge;

(ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; or

(iii) Adjudication or sentence was otherwise withheld or not entered on the charge; or

(C) Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

(4) 'Facility' means a:

(A) ~~Personal care home required to be licensed or permitted under Code Section 31-7-12;~~

~~(B) Private home care provider required to be licensed under Article 13 of Chapter 7 of Title 31;~~

~~(C) Community living arrangement subject to licensure under paragraph (16)(11) of subsection (b) and subsection (c) of Code Section 37-1-20 49-2-6; or~~

~~(D)(B) Child welfare agency required to be licensed under Code Section 49-5-12.~~

(5) 'GCIC' means the Georgia Crime Information Center established under Article 2 of 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:

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

(2) Administer a public reprimand;

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

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

(5) Revoke any license;

(6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$1,000.00 per day for each violation of a law, rule, regulation, or formal order related to the initial or ongoing licensing of any agency, facility, institution, or entity; or

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

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

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

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

(f) The department shall have the authority to make public or private investigations or examinations inside or outside of this state to determine whether the provisions of this Code section or any other law, rule, regulation, or formal order relating to the licensing of

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

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

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

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

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

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

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

(m) The department is authorized to promulgate rules and regulations to implement the 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:

- (A) Notice to the patient or resident, his or her next of kin or guardian, and his or her physician of the emergency relocation and the reasons therefor;
- (B) Relocation to the nearest appropriate community living arrangement; and
- (C) Other protection designed to ensure the welfare and, when possible, the desires of 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:

- (A) The community living arrangement is operating without a license;
- (B) The department has denied application for a license or has initiated action to revoke the existing license of the community living arrangement;
- (C) The community living arrangement is closing or plans to close and adequate arrangements for relocation of the patients or residents have not been made at least 30 days before the date of closure; or
- (D) The health, safety, security, rights, or welfare of the patients or residents cannot be adequately assured by the community living arrangement.

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

- (A) Could jeopardize the health and safety of the residents or patients in the community living arrangement if allowed to remain uncorrected; or
- (B) Is a repeat violation over a 12 month period, which is intentional or due to gross negligence.

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

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

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

ARTICLE 2

49-2-20.

As used in this article, the term:

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

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

49-2-21.

The commissioner or the commissioner's designee, in addition to other procedures now or hereafter provided, may obtain an inspection warrant under the conditions specified in this 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.

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

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.

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.

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)."

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."

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."

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;"

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."

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."

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.

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."

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."

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."

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.

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

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:

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

SECTION 2-29.

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

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

SECTION 2-30.

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

"49-5-69.1.

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

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

(c) The department shall have the authority to take any of the actions enumerated in 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."

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.

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

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;"

PART III

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.

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

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

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

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

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.

4070
4071 Code Section 10-1-393 of the Official Code of Georgia Annotated, relating to unfair or
4072 deceptive practices in consumer transactions which are deemed unlawful, is amended by
4073 revising paragraphs (26) and (30) of subsection (b) as follows:

4074 "(26) With respect to any individual or facility providing personal care services:
4075 (A) Any person or entity not duly licensed or registered as a personal care home
4076 formally or informally offering, advertising to, or soliciting the public for residents or
4077 referrals;
4078 (B) Any personal care home, as defined in subsection (a) of Code Section 31-7-12,
4079 offering, advertising, or soliciting the public to provide services:
4080 (i) Which are outside the scope of personal care services; and
4081 (ii) For which it has not been specifically authorized.

4082 Nothing in this subparagraph prohibits advertising by a personal care home for services
4083 authorized by the Department of ~~Human Resources~~ Community Health under a waiver
4084 or variance pursuant to subsection (b) of Code Section ~~31-2-4~~ 31-5A-11;

4085 (C) For purposes of this paragraph, 'personal care' means protective care and watchful
4086 oversight of a resident who needs a watchful environment but who does not have an
4087 illness, injury, or disability which requires chronic or convalescent care including
4088 medical and nursing services.

4089 The provisions of this paragraph shall be enforced following consultation with the
4090 Department of ~~Human Resources~~ Community Health which shall retain primary
4091 responsibility for issues relating to licensure of any individual or facility providing
4092 personal care services;"

4093 "(30) With respect to any individual or facility providing home health services:
4094 (A) For any person or entity not duly licensed by the Department of ~~Human Resources~~
4095 Community Health as a home health agency to regularly hold itself out as a home
4096 health agency; or

4097 (B) For any person or entity not duly licensed by the Department of ~~Human Resources~~
4098 Community Health as a home health agency to utilize the words 'home health' or 'home
4099 health services' in any manner including but not limited to advertisements, brochures,
4100 or letters. Unless otherwise prohibited by law, nothing in this subparagraph shall be
4101 construed to prohibit persons or entities from using the words 'home health' or 'home
4102 health services' in conjunction with the words 'equipment,' 'durable medical equipment,'
4103 'pharmacy,' 'pharmaceutical services,' 'prescription medications,' 'infusion therapy,' or
4104 'supplies' in any manner including but not limited to advertisements, brochures, or
4105 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~~

4141 Resources, including the Division of Public Health, the Division of Mental Health,
4142 Developmental Disabilities, and Addictive Diseases, and the Division of Aging Services
4143 thereof, the Department of Juvenile Justice, the Department of Corrections, the Insurance
4144 Department, the State Merit System of Personnel Administration, the State Board of
4145 Workers' Compensation, and the Governor's Office of Planning and Budget. The board
4146 of regents may also designate a person to serve on the coordinating committee. The
4147 committee will convene for the purposes of planning and coordinating health issues that
4148 have interagency considerations. The commissioner of the department will serve as the
4149 chairperson of the state agency coordinating committee and will report to the Governor
4150 the activities, findings, and recommendations of the committee;

4151 (4) Shall investigate the lack of availability of health insurance coverage and the issues
4152 associated with the uninsured population of this state. In particular, the department is
4153 authorized to investigate the feasibility of creating and administering insurance programs
4154 for small businesses and political subdivisions of the state and to propose cost-effective
4155 solutions to reducing the numbers of uninsured in this state;

4156 (5) Shall study and recommend any additional functions needed to carry out the purposes
4157 of the department, including the creation of a consumer medical advocate. Such
4158 recommendations shall be made to the Governor and General Assembly by December 31,
4159 1999;

4160 (6)(4) Is authorized to appoint a health care work force policy advisory committee to
4161 oversee and coordinate work force planning activities;

4162 (7)(5) Is authorized to solicit and accept donations, contributions, and gifts and receive,
4163 hold, and use grants, devises, and bequests of real, personal, and mixed property on
4164 behalf of the state to enable the department to carry out its functions and purposes; and

4165 (8)(6) Is authorized to award grants, as funds are available, to hospital authorities and
4166 hospitals for public health purposes, pursuant to Code Sections 31-7-94 and 31-7-94.1;
4167 and

4168 (7) Shall make provision for meeting the cost of hospital care of persons eligible for
4169 public assistance to the extent that federal matching funds are available for such
4170 expenditures for hospital care. To accomplish this purpose, the department is authorized
4171 to pay from funds appropriated for such purposes the amount required under this
4172 paragraph into a trust fund account which shall be available for disbursement for the cost
4173 of hospital care of public assistance recipients. The commissioner, subject to the approval
4174 of the Office of Planning and Budget, on the basis of the funds appropriated in any year,
4175 shall estimate the scope of hospital care available to public assistance recipients and the
4176 approximate per capita cost of such care. Monthly payments into the trust fund for
4177 hospital care shall be made on behalf of each public assistance recipient and such

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

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;

(J) A violation of Code Section 16-6-5.1, relating to sexual assault against persons in 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;

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

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

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

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."

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:

"31-7-2.2.

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

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

- (A) Notice to the patient or resident, his or her next of kin or guardian, and his or her physician of the emergency relocation and the reasons therefor;
- (B) Relocation to the nearest appropriate institution, ~~community living arrangement~~, 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."

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."

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."

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."

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."

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."

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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 "

(b.5) Department means the Department of Community Health.

SECTION 3-18.

4601 Code Section 51-24-2 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.

SECTION 3-19.

4604 Code Section 31-44-1 of the Official Code of Georgia Annotated, relating to definitions
4605 relative to renal disease facilities, is amended by adding new paragraphs to read as follows:
4606 "(0.1) 'Board' means the Board of Community Health."
4607 "(0.5) 'Department' means the Department of Community Health."

SECTION 3-20.

4609 Code Section 33-21-20.1 of the Official Code of Georgia Annotated, relating to regulation
4610 of health maintenance organizations by the commissioner of human resources, is amended
4611 as follows:
4612 "33-21-20.1.
4613 On May 13, 2004, all health maintenance organizations meeting the requirements of
4614 subsection (b.1) of Code Section 33-21-3 shall not be subject to regulation by the
4615 commissioner of human resources (now known as the commissioner of community health
4616 for these purposes). Upon the Commissioner of Insurance's determination that a health
4617 maintenance organization no longer meets the requirements of subsection (b.1) of Code
4618 Section 33-21-3, the Commissioner shall immediately notify the commissioner of human
4619 resources community health; and such health maintenance organization shall be subject to
4620 regulation by the commissioner of human resources community health until such time as
4621 it again meets the requirements of subsection (b.1) of Code Section 33-21-3 as determined
4622 by the Commissioner of Insurance."

SECTION 3-21.

4624 Code Section 33-45-3 of the Official Code of Georgia Annotated, relating to certificates of
4625 authority required for operation of continuing care facilities, is amended as follows:
4626 "33-45-3.
4627 Nothing in this title or chapter shall be deemed to authorize any provider of a continuing
4628 care facility to transact any insurance business other than that of continuing care insurance
4629 or otherwise to engage in any other type of insurance unless it is authorized under a
4630 certificate of authority issued by the department under this title. Nothing in this chapter
4631 shall be construed so as to interfere with the jurisdiction of ~~the Department of Human~~
4632 ~~Resources~~, the Department of Community Health; or any other regulatory body exercising
4633 authority over continuing care providers."

4635

SECTION 3-22.

4636 Code Section 50-13-42 of the Official Code of Georgia Annotated, relating to applicability
4637 of the "Georgia Administrative Procedure Act," is amended by revising subsection (a) as
4638 follows:

4639 "(a) In addition to those agencies expressly exempted from the operation of this chapter
4640 under paragraph (1) of Code Section 50-13-2, this article shall not apply to the
4641 Commissioner of Agriculture, the Public Service Commission, the ~~Health Planning Review~~
4642 ~~Board Certificate of Need Appeal Panel~~, or the Department of Community Health or to the
4643 Department of Labor with respect to unemployment insurance benefit hearings conducted
4644 under the authority of Chapter 8 of Title 34. Such exclusion does not prohibit such office
4645 or agencies from contracting with the Office of State Administrative Hearings on a
4646 case-by-case basis."

4647

PART IV

4648

Effective Date and Repealer.

4649

SECTION 4-1.

4650 This Act shall become effective on July 1, 2009.

4651

SECTION 4-2.

4652 All laws and parts of laws in conflict with this Act are repealed.