

Senate Bill 291

By: Senators Unterman of the 45th, Wilkinson of the 50th, Hill of the 32nd, Dugan of the 30th, Hill of the 4th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 6 of Title 49 of the Official Code of Georgia Annotated,
2 relating to general provisions relative to services for the aging, so as to create the Georgia
3 Adult and Aging Services Agency; to provide for definitions; to provide for the creation of
4 the Georgia Adult and Aging Services Board; to provide for membership, powers, and duties;
5 to provide for an agency executive director; to provide for executive personnel; to provide
6 for transfer of property, personnel, and funding from the Department of Human Services and
7 the Division of Aging Services; to provide for further authorizations; to provide for receipt
8 of funds and appropriations; to provide for an annual report; to provide for related matters;
9 to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 1 of Chapter 6 of Title 49 of the Official Code of Georgia Annotated, relating to
13 general provisions relative to services for the aging, is amended by repealing Code Section
14 49-6-2, relating to the department designated state agency for federal programs for aging and
15 development and coordination of state, local, and interstate programs, in its entirety and by
16 enacting a new Code Section 49-6-2 to read as follows:

17 "49-6-2.

18 As used in this article, the term:

19 (1) 'Adult guardianship services' means the services provided by the agency to adults
20 when the local probate court has determined that the adult needs a guardian and appoints
21 the agency as the guardian of last resort.

22 (2) 'Adult services' means programs and services for adults, including but not limited to
23 programs and services authorized by the federal Older Americans Act of 1965 and other
24 state and federal laws, regulations, grants, initiatives, demonstration programs, and pilot

programs or supported through private initiatives that are provided by the agency, that are in addition to aging services.

(3) 'Agency' means the Georgia Adult and Aging Services Agency.

(4) 'Aging services' means those programs and services for older adults and persons with disabilities that are principally focused on home and community based services, including but not limited to programs and services authorized by the federal Older Americans Act of 1965 and other state and federal laws, regulations, grants, initiatives, demonstration programs, and pilot programs or supported through private initiatives that are provided by the agency.

(5) 'Alzheimer's and Related Dementias State Plan' means the comprehensive state plan that addresses Alzheimer's and related dementias developed by the Georgia Alzheimer's and Related Dementias State Plan Task Force as presented to the Georgia General Assembly in 2014.

(6) 'Board' means the Georgia Adult and Aging Services Board.

(7) 'Director' means the executive director of the agency selected by the board.

(8) 'Older adult' means an individual who is 60 years of age or older or who otherwise qualifies for aging services by the terms of the program, grant, or initiative under which the individual is being served.

(9) 'Person with disabilities' means an individual having a physical or mental impairment that substantially limits one or more of the major life activities.

(10) 'Regulations' means regulations made by the director with the approval of the board and promulgated in the manner prescribed by law."

SECTION 2.

Said article is further amended by repealing Code Section 49-6-3, relating to the powers of the department, in its entirety and by enacting a new Code Section 49-6-3 to read as follows:

(a) There is created the Georgia Adult and Aging Services Board. The board shall consist of seven members who work or have worked in the area of adult or aging services, who are recipients of adult or aging services, or who are eligible to receive services provided by the agency; provided, however, that two members shall be older adults.

(b) The members of the board shall be appointed as follows: two members shall be appointed by the Governor, two members shall be appointed by the Speaker of the House of Representatives, two members shall be appointed by the Lieutenant Governor and one member shall be appointed by the director. The first members shall be appointed to take office on July 1, 2014, for initial terms as follows: three such members shall be appointed for terms of one year, two such members shall be appointed for terms of two years, and two

such members shall be appointed for terms of three years. Thereafter, the successors shall be appointed by the respective appointing authority upon the expiration of the respective terms of office for terms of three years. All such members shall serve until their successors are appointed and qualified. Such members shall be eligible for reappointment to successive terms of office as members of the board.

66 (c) Vacancies in office shall be filled by appointment by the respective appointing
67 authority in the same manner as the appointment to the position on the board. An
68 appointment to fill a vacancy other than by expiration of a term of office shall be for the
69 balance of the unexpired term. If a vacancy remains unfilled for six months, the board
70 shall be authorized to fill the vacancy in accordance with the process described in this Code
71 section.

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

75 (e) There shall be a chairperson of the board elected by and from the membership of the
76 board who shall be the presiding officer of the board. The term of the chairperson shall be
77 established by rules of the board.

78 (f) A quorum for transacting business shall be determined by the members of the board.

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

82 (h) In addition to the powers and duties set forth in this article, the board shall recommend
83 to the Governor and the General Assembly changes in state programs, statutes, policies,
84 budgets, and standards relating to aging services, the improvement of coordination among
85 state and local agencies that provide aging services, and the improvement of the condition
86 of citizens who are in need of the services of the agency."

SECTION 3.

88 Said article is further amended by repealing Code Section 49-6-4, relating to acceptance of
89 federal and other grants, gifts, bequests, or devises, in its entirety and by enacting a new
90 Code Section 49-6-4 to read as follows:

91 "49-6-4.

92 (a) The board shall select a director. The director shall have experience with adult or
93 aging services provided by the agency with particular, demonstrated experience with home
94 and community based services. The director shall serve at the pleasure of the board.

95 (b) In carrying out his or her duties under this article, the director shall:

- (1) Be authorized to convene one or more panels of experts to address various adult and aging issues, including but not limited to health, employment, volunteering, long-term care, home and community based services, protective services, caregiver support, adult education, transportation, and housing, and may consult with experts on aging issues;
- (2) Establish policies and procedures for the operation of the agency as the director finds necessary for the purposes of this article, including appropriate subordinate administrative units within the agency;
- (3) Establish personnel requirements and hire executive personnel, including a deputy director, chief financial officer, and chief operating officer, and other personnel as the director deems necessary for the efficient performance of all functions of the agency;
- (4) Prepare and submit to the board:

 - (A) The annual Alzheimer's and Related Dementias State Plan;
 - (B) Annual reports of activities and expenditures;
 - (C) Such plans for restructuring of the agency as the director determines appropriate for action by the board;
 - (D) Estimates of sums required for carrying out this article and the proposed budget request for comment by the board prior to the director's presentation to the Governor and General Assembly for their action;
 - (E) Such other actions as the director believes necessary for board approval;
 - (F) Prepare and present to the Governor, General Assembly, and their respective designees the agency's budget reports, requests, and any other financial information requested by the Governor, General Assembly, or their respective designees; and
 - (G) Prepare and submit certification for disbursement, in accordance with regulations, of funds available for carrying out the purposes of this article; and
- (5) Delegate to any executive officer or other employee of the agency such of the director's powers and duties, except the making of regulations and the appointment of executive personnel, as he or she finds necessary to carry out the purposes of this article."

SECTION 4.

Said article is further amended by repealing Code Section 49-6-5, relating to the creation of the Division of Aging Services within the department, in its entirety and by enacting a new Code Section 49-6-5 to read as follows:

"49-6-5.

(a)(1) The Georgia Adult and Aging Services Agency is created and established to perform the functions and assume the duties, powers, and authority exercised by the Division of Aging Services within the department on June 30, 2014. The agency established by this Code section shall have the functions, duties, powers, and

132 responsibilities assigned by the board and the commissioner and as assigned by or as
133 provided by law.

134 (2) The agency shall be assigned to the department for administrative purposes only, as
135 prescribed in Code Section 50-4-3 except that the agency shall not be subject to
136 paragraph (2) of subsection (a) and paragraph (4) of subsection (b) of said Code Section
137 providing for budget submission through the department. The agency shall submit its
138 budget separately and directly to the Governor and the General Assembly.

139 (3) On July 1, 2014, the powers, functions, duties, programs, institutions, and authority
140 of the agency relating to the former Division of Aging Services within the department
141 shall be transferred to the agency pursuant to this article. The agency shall take all
142 necessary steps to ensure continuity of services for the older adults and persons with
143 disabilities the agency serves during such transfer. The policy-making functions which
144 were vested in the department as they pertained to the Division of Aging Services shall
145 be vested in the agency effective July 1, 2014.

146 (b) The agency shall be administered by a director appointed pursuant to Code Section
147 49-6-4.

148 (c) Any proceedings or other matters pending before the Division of Aging Services of the
149 department on June 30, 2014, which relate to the functions transferred to the agency shall
150 be transferred to the agency on July 1, 2014.

151 (d) The agency shall assume possession and control of all records, papers, equipment,
152 supplies, office space, and all other tangible property possessed and controlled by the
153 department as of June 30, 2014, in the department administration of the Division of Aging
154 Services. All funds attributable to the Division of Aging Services and its programs from
155 state, federal, and any other public or private source shall be transferred to the agency on
156 July 1, 2014.

157 (e) On July 1, 2014, the agency shall receive custody of any state owned property in the
158 custody of the department on June 30, 2014, which pertains to the functions transferred
159 from the Division of Aging Services to the agency.

160 (f) Prior to July 1, 2014, the Office of Planning and Budget shall calculate, in consultation
161 with the department and the Division of Aging Services, the amount of all funds of, or
162 attributable to, the Division of Aging Services and its programs from any source that is
163 used to provide administrative or other services within the department. The amount
164 calculated shall be transferred to the agency on July 1, 2014.

165 (g) All officers, employees, and agents of the Division of Aging Services who, on June 30,
166 2014, are engaged in the performance of a function or duty which shall be vested in the
167 agency on July 1, 2014, by this article, shall be automatically transferred to the agency on
168 July 1, 2014. An equivalent number of positions or funds of the department which provide

169 administrative support to the Division of Aging Services shall be transferred to the agency
170 on July 1, 2014. Such persons shall be subject to the employment practices and policies
171 of the agency on and after July 1, 2014, but shall receive compensation and benefits
172 consistent with the compensation and benefits of other employees of the department
173 holding positions substantially the same as the transferred employees; the compensation
174 and benefits of such transferred employees shall not be reduced. Employees who are
175 subject to the rules of the State Personnel Board and who are transferred to the agency shall
176 retain all existing rights under such rules. Accrued annual and sick leave shall be retained
177 by such employees as employees of the agency. The department shall be responsible for
178 payment of the accrued Fair Labor Standards Act compensatory time possessed by such
179 employees. Such accrued compensatory time shall be used by or paid to such employees
180 prior to July 1, 2014.

181 (h)(1) The agency is the designated state unit for purposes of administering the Older
182 Americans Act of 1965 and related programs and services, the Alzheimer's and Related
183 Dementias State Plan, long-term services and supports, adult guardianship services
184 provided by the Division of Aging Services, all other services provided by the Division
185 of Aging Services, and all other programs and services appropriate to the agency.

186 (2) The agency shall conform to federal standards in all respects necessary for receiving
187 federal grants, and the director is authorized and empowered to effect such changes as
188 may, from time to time, be necessary in order to comply with such standards.

189 (3) The agency shall take all necessary steps to secure at a minimum the same level of
190 benefits provided pursuant to relevant federal statutes and appropriations received by the
191 Division of Aging Services of the department prior to June 30, 2014. The department
192 shall also amend the Alzheimer's and Related Dementias State Plan if necessary to meet
193 federal funding requirements.

194 (4) The agency is authorized to employ, on a full-time or part-time basis, such medical,
195 psychiatric, social work, supervisory, institutional, and other professional personnel and
196 such clerical and other employees as may be necessary to discharge the duties of the
197 agency under this article. The agency is also authorized to contract for such professional
198 services as may be necessary.

199 (5) Classified employees of the agency under this article shall in all instances be
200 employed and dismissed in accordance with rules and regulations of the State Personnel
201 Board.

202 (i) The agency shall succeed to all rules, regulations, policies, procedures, and
203 administrative orders of the department which are in effect on June 30, 2014, and which
204 relate to the functions of the Division of Aging Services. Such rules, regulations, policies,

205 procedures, and administrative orders shall remain in effect until amended, repealed,
206 superseded, or nullified by proper authority or as otherwise provided by law.

207 (j) The rights, privileges, entitlements, and duties of parties to contracts, leases,
208 agreements, and other transactions entered into before July 1, 2014, by the department or
209 the Division of Aging Services pertaining to the Division of Aging Services shall continue
210 to exist, and none of such rights, privileges, entitlements, and duties are impaired or
211 diminished by reason of the transfer of the functions to the agency provided for in this
212 article. In all such instances, the agency shall be substituted for the department or the
213 Division of Aging Services, and the agency shall succeed to the rights, privileges,
214 entitlements, and duties under such contracts, leases, agreements, and other transactions.

215 (k) The agency shall design service delivery regions as appropriate to the programs and
216 services it administers and shall be exempt from Code Section 50-4-7.

217 (l)(1) The agency shall oversee the independent operation of the long-term care
218 ombudsman program through the office of the state long-term care ombudsman.

219 (2) The long-term care ombudsman shall be hired by the director and shall act
220 independently of the director, agency, and board.

221 (3) The agency shall support the office of the state long-term care ombudsman with
222 administrative functions.

223 (4) Determination and implementation of policies and procedures and other substantive
224 operations of the long-term care ombudsman program shall be the responsibility of the
225 office of the state long-term care ombudsman and shall be separate and independent of
226 the director, agency, and board."

227 SECTION 5.

228 Said article is further amended by repealing Code Section 49-6-6, relating to the annual
229 report, in its entirety and by enacting a new Code Section 49-6-6 to read as follows:

230 "49-6-6.

231 (a) The agency shall constitute the designated state agency to handle all programs of the
232 federal government relating to the aging and requiring acts within this state which are not
233 the specific responsibility of another state agency under provisions of federal or state law.
234 Authority is conferred upon the agency to accept and disburse any funds available or which
235 might become available pursuant to the purposes set out in this article.

236 (b) The agency shall study, investigate, promote, plan, and execute a program to meet the
237 present and future needs of older adults of this state, and it shall receive the cooperation of
238 all other state departments and agencies in carrying out a coordinated program.

239 (c) It shall also be the duty of the agency to encourage and assist in the development of
240 programs for older adults in the counties, towns, and cities of this state. The agency shall

241 consult and cooperate with public and private agencies, county and municipal officers and
242 agencies, and any federal or state agency or officer for the purpose of promoting
243 coordination between state and local plans and programs and between state and interstate
244 plans and programs for older adults.

245 (d) The agency shall provide such adult services as the Governor or General Assembly
246 shall determine appropriate to the agency, including adult guardianship services."

247 **SECTION 6.**

248 Said article is further amended by repealing Code Section 49-6-7, relating to the funds for

249 expenses, in its entirety and by enacting a new Code Section 49-6-7 to read as follows:

250 "49-6-7.

251 The agency is authorized to:

252 (1) Promote the health of and medical services for older adults by working with
253 professional associations, hospitals, and institutions;

254 (2) Promote the rehabilitation of incapacitated adults and older adults;

255 (3) Establish a state-wide coordinated program with participation of employers,
256 employee's organizations, and state and local agencies to promote greater and more
257 suitable employment opportunities for older adults;

258 (4) Establish a program of research and education on housing by either public or private
259 means as well as by the establishment of self-sustaining cooperative dwelling projects for
260 older adults;

261 (5) Plan and promote recreational facilities for older adults;

262 (6) Develop a program of education designed for older adults on subjects of particular
263 concern to them;

264 (7) Encourage further research in the colleges and universities of this state on problems
265 of older adults;

266 (8) Encourage training of personnel to handle problems of older adults;

267 (9) Promote community education in the problems of older adults through institutions,
268 publications, radio, television, and the press;

269 (10) Provide consultation to communities and groups developing state-wide or local
270 services for older adults;

271 (11) Provide consultation to the various departments of state government concerning
272 matters relating to older adults;

273 (12) Inquire into and make recommendations to the appropriate agencies, public or
274 private, on any matter affecting the behavior, care, or welfare of older adults;

275 (13) Enlist the aid of public and private agencies concerned with the welfare of older
276 adults and study and report on the functions and facilities of governmental agencies and
277 institutions charged with the care, control, protection, and rehabilitation of older adults;
278 (14) Serve as a communications clearing-house for information in the large and complex
279 fields of human relationships with respect to older adults;
280 (15) Conduct or participate financially in conducting demonstration projects with
281 counties, municipalities, or public or private agencies concerned with problems of older
282 adults; and
283 (16) Appoint such committees as it deems necessary for carrying out the purposes of this
284 article. Members of such committees shall not be entitled to compensation."

SECTION 7.

286 Said article is further amended by adding five new Code sections to read as follows:

287 "49-6-8.

The agency is authorized to utilize funds made available from appropriations by Congress, gifts or grants from private sources, appropriations by the General Assembly, or transfer of funds from other state agencies or departments, including funds from the Home Delivered Meals, Transportation Services for the Elderly, and Preschool Children with Special Needs Fund provided for in Code Section 49-1-7, provided that such special funding relates to providing adult and aging services.

294 49-6-9.

The agency may receive and accept on behalf of the state any grant or grant-in-aid from the federal government or any grant, gift, bequest, or devise from any other source and title shall pass to the state unless otherwise specified by the grantor.

298 49-6-10.

It shall be the duty of the agency to submit an annual report to the Governor and to notify the General Assembly of such report on or before January 1 of each year. Such report shall set forth the results of the agency's studies, accomplishments, and recommendations, if any, for legislation. The agency shall not be required to distribute copies of the annual report to the members of the General Assembly but shall notify the members of the availability of the report in the manner which it deems to be most effective and efficient.

305 49-6-11.

All expenses incurred in administering and carrying this article into effect shall be paid out of funds appropriated by the General Assembly for such purpose or out of such other funds as may be made available.

309 49-6-12.

The director is authorized and empowered, with the approval of the board, to accept and use gifts made unconditionally, by will or otherwise, for carrying out the purposes of this article. Gifts made under such conditions as are proper and consistent with this article may be so accepted and shall be held, invested, reinvested, and used in accordance with the conditions of the gift."

SECTION 8.

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