

House Bill 498

By: Representatives Murphy of the 18<sup>th</sup>, Heard of the 89<sup>th</sup>, McBee of the 88<sup>th</sup> and Epps of the 131<sup>st</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 3 of Title 31 of the Official Code of Georgia Annotated, relating to county  
2 boards of health, so as to authorize a county board of health to contract with the Department  
3 of Human Resources; to amend Title 37 of the Official Code of Georgia Annotated, relating  
4 to mental health, so as to abolish the regional mental health, mental retardation, and  
5 substance abuse boards and planning units and to transfer functions and duties to the Division  
6 of Mental Health, Mental Retardation, and Substance Abuse of the Department of Human  
7 Resources; to provide for definitions; to change the provisions relating to the distribution of  
8 funds relating to disability services; to change the provisions relating to personnel status and  
9 benefits; to change the provisions relating to annual and biennial plans for disability services;  
10 to change the provisions relating to open meetings and records; to change the provisions  
11 relating to venue; to change the provisions relating to access to records; to change the  
12 provisions in the state ombudsman complaint process; to provide for conforming  
13 amendments; to provide for related matters; to repeal conflicting laws; and for other  
14 purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 style="text-align:center">**SECTION 1.**

17 Chapter 3 of Title 31 of the Official Code of Georgia Annotated, relating to county boards  
18 of health, is amended by striking in its entirety Code Section 31-3-12.1, relating to board of  
19 health contracts with regional boards and community mental health, mental retardation, and  
20 substance abuse service boards, and inserting in its place the following:

21 "31-3-12.1.

22 In addition to any other power authorized by law, the county governing authority may  
23 authorize the county board of health to enter into a contract with ~~a regional~~ the department  
24 or a community mental health, mental retardation, and substance abuse service board  
25 created under Chapter 2 of Title 37 to provide certain mental health, mental retardation,

1 and substance abuse services based on the contractual agreement between the parties.  
 2 Further, a county governing authority may authorize a county board of health, wherever  
 3 applicable, to serve as the community mental health, mental retardation, and substance  
 4 abuse service board, provided that the county governing authority, the board of health, and  
 5 any other affected county governing authority acts pursuant to subsection (e) of Code  
 6 Section 37-2-6. In the event that the county governing authority exercises the authority  
 7 granted by this Code section, Chapter 2 of Title 37, or Code Section 37-2-6, the county  
 8 board of health shall appoint a director for mental health, mental retardation, and substance  
 9 abuse or a supervisor of the specific service which is being provided by the county board  
 10 of health, whichever is applicable, who shall meet the requirements established by the  
 11 ~~regional mental health, mental retardation, and substance abuse service board~~ department.  
 12 The director for mental health, mental retardation, and substance abuse, or the service  
 13 supervisor, shall not be required to be a physician and shall be a person other than the  
 14 director of the county board of health appointed pursuant to Code Section 31-3-11. Further,  
 15 such director for mental health, mental retardation, and substance abuse or such supervisor  
 16 of the specific service shall report directly to the community service board or the county  
 17 board of health, whichever is applicable, and shall have no formal reporting relationship  
 18 with the director of the county board of health. If a county board of health exercises the  
 19 authority granted pursuant to this Code section and Chapter 2 of Title 37 to serve as a  
 20 community service board, the membership of the county board of health shall constitute  
 21 the community service board and, at any time that such members are exercising duties and  
 22 powers related to mental health, mental retardation, and substance abuse, the community  
 23 service board shall be an independent agency and shall operate in accordance with the  
 24 provisions of Title 37 as a community service board. Notwithstanding any provisions of  
 25 law to the contrary, a community service board and a county board of health which have  
 26 the same membership may contract with each other, provided that any such contract is  
 27 approved by the ~~appropriate regional board, as defined in Chapter 2 of Title 37,~~ department  
 28 prior to adoption."

29 **SECTION 2.**

30 Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by  
 31 striking paragraphs (1.1) and (6.2) of Code Section 37-1-1, relating to definitions, and  
 32 inserting in their respective places the following:

33 "(1.1) 'Community service board' means a public community mental health, mental  
 34 retardation, and substance abuse service board established pursuant to Code Section

1 37-2-6, which governs the provision of certain disability services not provided by other  
2 public or private providers under contract with the ~~regional board~~ department."

3 ~~"(6.2) 'Regional board' means a regional mental health, mental retardation, and substance~~  
4 ~~abuse board established in accordance with Code Section 37-2-4.1."~~

### 5 SECTION 3.

6 Said title is further amended by striking paragraphs (3), (4), (8), (9), and (12) of subsection  
7 (b) of Code Section 37-1-20, relating to the Division of Mental Health, Mental Retardation,  
8 and Substance Abuse and its powers and duties, and inserting in their respective places the  
9 following:

10 "(3) Have authority to contract for services with: public or private hospitals; hospital  
11 authorities; medical schools and training and educational institutions; departments and  
12 agencies of this state; ~~regional boards~~; county or municipal governments; any person,  
13 partnership, corporation, or association, whether public or private; the United States  
14 government or the government of any other state;

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

17 ~~"(8) Make and administer budget allocations to regional boards to fund the operation of~~  
18 ~~mental health, mental retardation, and substance abuse services in accordance with~~  
19 ~~approved regional programs and plans~~ Reserved;

20 (9) Coordinate in consultation with providers, professionals, and other experts the  
21 development of appropriate outcome measures for client centered service delivery  
22 systems and, in conjunction with and on behalf of ~~regional boards~~ and other providers,  
23 evaluate the efficacy of the state, ~~regional~~, and community service boards through the  
24 regular assessment of the impact of the programs upon individuals receiving treatment;"

25 "(12) Establish within the division ~~or under the jurisdiction of the regional boards or both~~  
26 a unit which shall receive and consider complaints from individuals receiving services,  
27 make recommendations to the director of the division regarding such complaints, and  
28 ensure that the rights of individuals receiving services are fully protected; and"

### 29 SECTION 4.

30 Said title is further amended by striking Code Section 37-1-23, relating to rules of practice  
31 and procedure, and inserting in its place the following:

1 "37-1-23.

2 The board is directed to prescribe rules of practice and procedure in order to implement this  
3 chapter. The department; and the division, ~~and the regional boards~~ are directed to make the  
4 board's and the department's rules available for distribution."

#### 5 **SECTION 5.**

6 Said title is further amended by striking paragraphs (2.1), (8), and (8.1) of Code Section  
7 37-2-2, relating to definitions, and inserting in their respective places the following:

8 "(2.1) 'Community service board' means a public community mental health, mental  
9 retardation, and substance abuse service board established pursuant to Code Section  
10 37-2-6, which governs the provision of certain public disability services not provided by  
11 other public or private providers under contract with the ~~regional board~~ department."

12 "~~(8) 'Regional board' means a regional mental health, mental retardation, and substance~~  
13 ~~abuse board established in accordance with Code Section 37-2-4.1.~~

14 ~~(8.1) 'Regional planning unit' or 'unit' means a regional mental health, mental retardation,~~  
15 ~~and substance abuse planning unit created under Code Section 37-2-4.1.~~

16 ~~(9)~~(8) 'Substance abuse' means the abuse of, addiction to, or dependence upon alcohol,  
17 narcotics, or other drugs."

#### 18 **SECTION 6.**

19 Said title is further amended by striking Code Section 37-2-3, relating to the designation of  
20 boundaries for mental health, mental retardation, and substance abuse regions and related  
21 matters, and inserting in its place the following:

22 "37-2-3.

23 (a) Based on recommendations of the State Commission on Mental Health, Mental  
24 Retardation, and Substance Abuse Service Delivery submitted to the Board of Human  
25 Resources pursuant to Code Section 37-2-34, the board shall designate boundaries for  
26 mental health, mental retardation, and substance abuse regions, ~~which shall serve as the~~  
27 ~~initial boundaries for establishment of the regional boards and units as prescribed in Code~~  
28 ~~Section 37-2-4.1.~~

29 (b) The division, ~~with input from the regional boards~~ and with the approval of the  
30 commissioner, shall designate Community Mental Health, Mental Retardation, and  
31 Substance Abuse Service Areas, which, effective July 1, 1994, shall serve as boundaries  
32 for the establishment and operation of community service boards within this state for the  
33 purpose of delivering certain disability services. For the period through June 30, 1995, and  
34 thereafter as the division deems appropriate, the boundaries for the areas and the operation

1 of community service boards shall be the same boundaries as the Community Mental  
 2 Health, Mental Retardation, and Substance Abuse Service Areas which were in effect as  
 3 of July 1, 1993. After July 1, 1995, the division, ~~with input from the regional boards,~~ shall  
 4 consider requests from a county or group of counties for recommended changes to the  
 5 boundaries of the community service boards.

6 (c) To the extent practicable, the boundaries for ~~regional boards and units~~ and community  
 7 service boards shall not subdivide any county unit or conflict with any districts established  
 8 by the department and the state relating to the planning for or delivery of health services.  
 9 In dividing the state into areas, the board, the department, and the division shall take into  
 10 consideration such factors as geographic boundaries, roads and other means of  
 11 transportation, population concentrations, city and county lines, other relevant community  
 12 services, and community economic and social relationships. Consideration shall also be  
 13 given to the existence of facilities and personnel available in the areas for the delivery of  
 14 disability services."

#### 15 **SECTION 7.**

16 Said title is further amended by striking subsection (b) of Code Section 37-2-4, relating to  
 17 the Governor's Advisory Council on Mental Health, Mental Retardation, and Substance  
 18 Abuse, and inserting in its place the following:

19 "(b) The Governor's council shall advise the Governor, the board, the department, and the  
 20 division as to the efficacy of the state disability services programs, the need for legislation  
 21 relating to the disabled, the need for expansion or reduction of specific disability services  
 22 programs, and the need for specific changes in the state disability services programs. The  
 23 Governor's council shall review and prepare written comments on proposed state plans and  
 24 on standards, rules, and regulations promulgated by the division. Such comments shall be  
 25 submitted to the director, the board, the commissioner of the department, and to any other  
 26 individual or agency deemed appropriate. The Governor's council shall further receive and  
 27 consider complaints and grievances submitted in writing by individuals, associations, or  
 28 agencies involved with the delivery or receipt of disability services and, if deemed  
 29 appropriate, shall make recommendations to the Governor, the board, the department, or  
 30 the division with respect to such complaints or grievances. The Governor's council shall  
 31 also provide guidance and assistance to the ~~regional boards,~~ hospitals, community service  
 32 boards, and other private or public providers in the performance of their duties."



1 ~~(A) A member of the regional board which serves the region in which that community~~  
 2 ~~service board is included; or~~

3 ~~(B) An an employee of that community service board or employee or board member~~  
 4 ~~of any private or public group, organization, or service provider which contracts with~~  
 5 ~~or receives funds from that community service board.~~

6 ~~(2)(b) A person shall not be eligible to be appointed to or serve on a community service~~  
 7 ~~board if such person's spouse, parent, child, or sibling is a member of that community~~  
 8 ~~service board or a member, employee, or board member specified in subparagraph (A) or~~  
 9 ~~(B) of paragraph (1) of this subsection subsection (a) of this Code section. With respect to~~  
 10 ~~appointments by the same county governing authority, no person who has served a full~~  
 11 ~~term or more on a community service board may be appointed to a regional board until a~~  
 12 ~~period of at least two years have passed since the time such person served on the~~  
 13 ~~community service board, and no person who has served a full term or more on a regional~~  
 14 ~~board may be appointed to a community service board until a period of at least two years~~  
 15 ~~have passed since the time such person served on the regional board.~~

16 ~~(c) In making appointments to the regional board, the various county governing authorities~~  
 17 ~~shall ensure that appointments are reflective of the cultural and social characteristics,~~  
 18 ~~including gender, race, ethnic, and age characteristics, of the regional and county~~  
 19 ~~populations. The county governing authorities are further encouraged to ensure that each~~  
 20 ~~disability group is viably represented on the regional board, and in so doing the county~~  
 21 ~~governing authority may consider suggestions for appointments from clinical professional~~  
 22 ~~associations as well as advocacy groups, including but not limited to the Georgia Mental~~  
 23 ~~Health Consumer Network, the Georgia Parent Support Network, the Georgia Alliance for~~  
 24 ~~the Mentally Ill, the American Association for Retired Persons, Georgians for Children, the~~  
 25 ~~Association for Retarded Citizens, the Mental Health Association of Georgia, the Georgia~~  
 26 ~~Network for People with Mental Retardation/Developmental Disabilities, the Georgia~~  
 27 ~~Association for the Prevention and Treatment of Substance Abuse, and their local chapters~~  
 28 ~~and affiliates.~~

29 ~~(d) Initial appointments to the regional board shall be made by August 1, 1993. Initial~~  
 30 ~~terms of the regional board shall be established in bylaws adopted pursuant to paragraph~~  
 31 ~~(e) of this Code section. Thereafter, the term of a member of the board shall be for a period~~  
 32 ~~of three years and until the member's successor is appointed and qualified. A member may~~  
 33 ~~serve no more than two consecutive terms. The term of a regional board member shall~~  
 34 ~~terminate upon resignation, death, or inability to serve due to medical infirmity or other~~  
 35 ~~incapacity, or such other reasonable condition as the regional board may impose under their~~

1 ~~bylaws. Vacancies on the board shall be filled in the same manner as the original~~  
2 ~~appointment.~~

3 ~~(e) Prior to December 31, 1993, each regional board shall adopt bylaws governing its~~  
4 ~~operation and management. At a minimum, the bylaws shall provide for staggered initial~~  
5 ~~terms of the initial board, requirements for an annual meeting to elect officers, a~~  
6 ~~mechanism for ensuring that consumers of disability services and family members of~~  
7 ~~consumers constitute at least approximately one-half of the appointments to the board, and~~  
8 ~~a mechanism for ensuring that each disability service is equitably represented by~~  
9 ~~appointments to the board. Any board member who serves an initial term of less than three~~  
10 ~~years may be eligible to be reappointed for two full consecutive three-year terms. The~~  
11 ~~chair and vice chair of the regional board shall be elected from among the members of the~~  
12 ~~board, to serve a term of one year with the option of reelection for an additional one-year~~  
13 ~~term. The bylaws shall provide for any other officers and their means of selection, as well~~  
14 ~~as any necessary committees or subcommittees of the board. The bylaws may also provide~~  
15 ~~for the appointment by the regional board of an advisory committee or advisory committees~~  
16 ~~to work with the regional board in addressing various issues. Prior to their adoption by the~~  
17 ~~regional board, the bylaws shall be submitted to the division for review and approval. The~~  
18 ~~regional board must have the written approval of the director of the division prior to the~~  
19 ~~adoption of bylaws.~~

20 ~~(f) The regional board shall meet not less than once every two months, beginning on July~~  
21 ~~1 and continuing through the next June 30, which time frame shall be the fiscal year for~~  
22 ~~each regional board.~~

23 ~~(g) Each member of the regional board may, upon regional board approval, receive~~  
24 ~~reimbursement for actual expenses not to exceed the per diem allowed legislative members~~  
25 ~~of interim study committees of the General Assembly and the same mileage allowance for~~  
26 ~~use of a personal car as that received by all other state officials and employees or a travel~~  
27 ~~allowance of actual transportation cost if traveling by public carrier.~~

28 ~~(h) Each regional board which is composed of members who are appointed thereto by the~~  
29 ~~governing authority of only one county shall have a minimum of six members,~~  
30 ~~notwithstanding the provisions of subsection (b) of this Code section, which members shall~~  
31 ~~in all other respects be appointed as provided in this Code section."~~



1 to be used for the distribution of available state funds in excess of the minimum funding  
 2 amount. The minimum funding amount shall be determined, in part, based on consumer  
 3 service needs, service and program history, population based funding needs, infrastructure  
 4 mandates, program efficiency and effectiveness, geographic distances, and other factors  
 5 affecting the cost and level of service needs within each region.

6 ~~(2)~~(b) The division shall establish guidelines to ensure that funding is allocated to  
 7 community service boards and local services based on client population, past and future  
 8 service delivery needs and capabilities, and in consideration of special needs populations,  
 9 such as homeless and transient populations. The division shall ensure that funds are  
 10 allocated based primarily on services to clients and in compliance with all federal, state,  
 11 and regulatory requirements.

12 ~~(3)~~(c) The division, in compliance with the provisions of the appropriations Act and other  
 13 applicable laws, is authorized to move funds to and between community and institutional  
 14 programs based on need, and the division shall ensure that ~~the regional boards develop~~  
 15 appropriate allocation and accounting mechanisms are developed to move funds in a  
 16 planned and rational manner between hospitals, community service boards, and other  
 17 providers based on client needs and utilization."

## 18 SECTION 11.

19 Said title is further amended by striking Code Section 37-2-5.2, relating to regional boards  
 20 and their duties and functions and related matters, and inserting in its place the following:

21 "37-2-5.2.

22 (a) ~~Each regional board~~ The division shall have the following duties and functions:

23 (1) To prepare, in consultation with consumers and families, community programs,  
 24 hospitals, other public and private providers, and appropriate advisory and advocacy  
 25 groups, an annual plan and mechanism for the funding and provision of all disability  
 26 services in the each region. ~~The plan shall be submitted to the division at a time and in~~  
 27 ~~the manner specified by the division so as to ensure that the plan is a basis for the annual~~  
 28 ~~appropriations request. The division shall provide technical and professional expertise to~~  
 29 ~~the regional board upon request.~~ Such plan may include, by way of illustration without  
 30 limitation, the following:

31 (A) An estimate categorized by age group of the number of citizens residing in ~~the~~  
 32 each region who require disability services and an estimate of the range of services  
 33 needed for these citizens;

34 (B) A description of all facilities and programs, both public and private, which are  
 35 available or which should be developed to provide adequate disability services in ~~the~~  
 36 each area;

1 (C) An analysis of the ~~regional~~ availability of professional and other staff personnel  
 2 trained in providing disability services in each region and, if necessary, a proposal for  
 3 recruitment and retention;

4 (D) A list of all public and private providers currently providing or available to provide  
 5 disability services in ~~the~~ each region;

6 (E) A description in order of priority of all proposed programs and disability services  
 7 to be provided in ~~the~~ each region, and the funds associated with the provision of these  
 8 services, which description shall specifically address the interrelationship of programs  
 9 and services and the mechanisms for ensuring effective client transition between and  
 10 among such programs and services;

11 (F) A comprehensive plan for regular meetings, consultations, and coordinated  
 12 planning efforts with and among all service providers, such as community programs,  
 13 hospitals, and private contractors, and professionals in ~~the~~ each region, which plan shall  
 14 at a minimum address appropriate methods for sharing resources and expertise among  
 15 service providers and professionals, mechanisms for resolving conflicts and resource  
 16 allocation problems, and a process for ensuring ongoing dialogue among all providers  
 17 regarding the most effective ways of meeting individual and community client needs;

18 (G) An analysis of the opportunities for coordination of disability services with other  
 19 ~~regional boards~~, agencies, and organizations as required in Code Section 37-2-9, which  
 20 analysis shall include an overview of those specialized services and programs offered  
 21 in ~~other regions~~ each region which may provide the most cost-effective means of  
 22 meeting specific client needs; and therefore would be utilized by in a ~~regional board~~  
 23 region which did not have such specialized services or programs;

24 ~~(H) A statement of the anticipated administrative and operating budget for the regional~~  
 25 ~~board, the executive director, and the staff of the unit;~~

26 ~~(H)~~ (H) A detailed financial plan showing the costs of providing necessary disability  
 27 services and all sources of revenue in each region; and

28 ~~(I)~~ (I) A consumer satisfaction survey conducted during the previous year in a manner  
 29 consistent with policies established by the division;

30 (2) To provide, as funds become available, for client assessment and service  
 31 authorization and coordination for each client receiving services within ~~the~~ each region  
 32 or funded by the ~~regional board~~ department;

33 (3) To exercise responsibility and authority within ~~the~~ each region in all matters relating  
 34 to the funding and delivery of disability services; ~~provided, however, that with the~~  
 35 ~~exception of services authorized under paragraph (2) of this subsection the regional board~~  
 36 ~~may not engage in the direct delivery of goods or services to individual consumers and~~

1 ~~is prohibited from providing on its own, without the use of an agent or agents, any direct~~  
2 ~~disability services to consumers;~~

3 (4) To receive and administer grants, gifts, moneys, and donations for purposes  
4 pertaining to the mental health, mental retardation, substance abuse, and other disability  
5 services;

6 (5) To make contracts with any hospital, community service board, or other public or  
7 private providers without regard to regional or state boundaries for the provision of  
8 disability services, and to make and enter into all contracts necessary or incidental to the  
9 performance of duties and functions of the ~~regional board and the unit~~ division;

10 (6) To encourage the development, ~~in cooperation with the division,~~ of private and public  
11 providers of programs and disability services which respond to the needs of consumers  
12 and families of consumers within ~~the~~ each region;

13 (7) To submit annual reports to ~~the division,~~ the Governor's council; and such other  
14 agencies or individuals deemed appropriate, which reports shall evaluate the efficiency  
15 and effectiveness of disability services in ~~the~~ each region;

16 (8) To serve as the representative of the citizens of ~~the~~ each area in regard to disability  
17 services;

18 (9) To receive and consider complaints and grievances submitted in writing by  
19 individuals, associations, or agencies involved with the delivery or receipt of disability  
20 services and, if deemed appropriate, to seek resolution, through processes which may  
21 include impartial mediation and alternate dispute resolution, of such complaints and  
22 grievances with the appropriate hospital, community service board, or other private or  
23 public provider of service;

24 (10) To assure the highest achievable level of public awareness and understanding of  
25 both available and needed disability services; and

26 (11) To visit regularly disability services facilities and programs which serve ~~the~~ each  
27 region in order to evaluate the effectiveness and appropriateness of the facilities and  
28 programs in delivering services.

29 (b) In addition to its duties and functions, ~~each regional board~~ the division shall also have  
30 the following power and authority:

31 (1) To utilize the services of ~~the Department of Administrative Services, the State Merit~~  
32 ~~System of Personnel Administration, the state auditor, or any other~~ agency of state, local,  
33 or federal government;

34 (2) To participate with ~~other regional boards, the division, the department,~~ local, state,  
35 or federal government agencies, educational institutions, and public and private  
36 organizations in the coordination of planning, research, service development, and  
37 evaluation activities;

1 (3) To work cooperatively with all units of county and local government, including the  
2 county boards of health, within ~~the~~ each region;

3 (4) To establish goals and objectives, ~~not inconsistent with those established by the~~  
4 ~~division and the development,~~ for its each region; and

5 (5) To participate in the establishment and operation of a data base and network;  
6 ~~coordinated by the division,~~ to serve as a comprehensive management information system  
7 for disability services and programs.

8 (c) It is the express intent of this chapter to confer upon the ~~regional board~~ division  
9 through the department the flexibility and authority necessary to contract with a wide range  
10 of public and private providers to ensure that clients are afforded cost-effective, locally  
11 based, and quality disability services. ~~Regional boards are~~ The division is specifically  
12 authorized to contract directly with any county governing authority, or any disability  
13 services organization created or designated by such county governing authority, any county  
14 board of health, any private or public provider, or any hospital for the provision of  
15 disability services. Such contracts may be made directly between the ~~regional board~~  
16 division and the contractor and shall not be required to go through the community service  
17 board.

18 ~~(d) The regional board may delegate any power, authority, duty, or function to its~~  
19 ~~executive director or other staff. The executive director or other staff is authorized to~~  
20 ~~exercise any such power, authority, duty, or function on behalf of the regional board.~~

21 ~~(e) Each regional board shall keep books of account reflecting all funds received,~~  
22 ~~expended, and administered by the regional board which shall be independently audited,~~  
23 ~~by an auditor approved by the division, at least once in each fiscal year. The auditor's~~  
24 ~~report shall be presented to the regional board, the division, and any other interested~~  
25 ~~parties. The books of account shall be kept in a standard, uniform format to be determined~~  
26 ~~by the state auditor and the department. Each regional board shall update its books of~~  
27 ~~account on at least a quarterly basis and shall present the quarterly update to the division~~  
28 ~~and any other interested parties. The division shall conduct a performance audit of each~~  
29 ~~regional board at least once every three years."~~

## 30 SECTION 12.

31 Said title is further amended by striking subsection (a) of Code Section 37-2-6, relating to  
32 the creation of community mental health, mental retardation, and substance abuse service  
33 boards and related matters, and inserting in its place the following:

34 "(a) There shall be created community mental health, mental retardation, and substance  
35 abuse service boards, in conformity with the areas established pursuant to ~~the~~ subsection  
36 (b) of Code Section 37-2-3, which shall govern publicly funded programs for the purpose

1 of providing certain disability services not provided by other public or private providers  
 2 under contract with the ~~regional board~~ department. The programs shall be governed by the  
 3 community service boards, which shall be established as public agencies."

#### 4 **SECTION 13.**

5 Said title is further amended by striking paragraphs (4), (5), and (6) of subsection (b) of Code  
 6 Section 37-2-6, relating to the creation of community mental health, mental retardation, and  
 7 substance abuse service boards and related matters, and inserting in their respective places  
 8 the following:

9 "(4) The county governing authority shall appoint a consumer of disability services, a  
 10 family member of a consumer, an advocate for disability services, or a local leader or  
 11 businessperson with an interest in mental health, mental retardation, and substance abuse;  
 12 provided, however, that for counties with more than one appointment, the county  
 13 governing authority shall seek to ensure that such appointments represent various groups  
 14 and disability services; and

15 (5) The chief executive or a designee of the chief executive of each county governing  
 16 authority or municipal governing authority which contributes funding or resources which  
 17 equal or exceed one-half of 1 percent of the budget allocation from the ~~regional board~~  
 18 department for disability services within the area governed by the community service  
 19 board shall serve as an ex officio, voting member of the community service board; ~~and~~  
 20 ~~(6) A member of the regional board may not also serve as a member of the community~~  
 21 ~~service board."~~

#### 22 **SECTION 14.**

23 Said title is further amended by striking subsection (h) of Code Section 37-2-6, relating to  
 24 the creation of community mental health, mental retardation, and substance abuse service  
 25 boards and related matters, and inserting in its place the following:

26 "(h) Each community service board shall be responsible for adopting bylaws and  
 27 operational policies and guidelines in conformity with procedures established by the  
 28 division ~~and the regional board~~. Those bylaws shall address board appointment  
 29 procedures, initial terms of board members, the staggering of terms, a mechanism for  
 30 ensuring that consumers of disability services and family members of consumers constitute  
 31 a majority of the appointed board members, and a mechanism for ensuring equitable  
 32 representation of the various disability groups. The regular term of office for each  
 33 community service board member shall be two years. Vacancies on such board shall be  
 34 filled in the same manner as the original appointment."



1 a ~~regional board~~ shall retain, in that later employment position, all such rights and  
 2 benefits. Such rights and benefits shall also be retained by any person who is employed  
 3 on June 30, 1994, by the division, a hospital thereof, or a county board of health for  
 4 which such person provides services pursuant to this title, ~~or a regional board~~ and who  
 5 later becomes employed, without any break in service, by a community service board."

6 "(b) As to those persons employed by the division; or a hospital thereof; ~~or a regional~~  
 7 ~~board~~ on June 30, 1994, any termination from state employment after that date of any such  
 8 person who is a member of the classified service shall not result from the anticipated or  
 9 actual employment or utilization by:

10 (1) The department;

11 ~~(2) A regional board;~~

12 ~~(3)~~(2) A community service board;

13 ~~(4)~~(3) A hospital; or

14 ~~(5)~~(4) Any private provider of disability services

15 of any person who is not an employee of the state or a political subdivision thereof to  
 16 perform the duties and functions of such terminated state personnel unless such termination  
 17 and utilization is the result of a reduction in appropriations for such duties or functions or  
 18 is the result of a reduction in force caused by any other state department or agency which  
 19 has ceased to contract with the department for the services which had been provided by the  
 20 terminated state personnel."

## 21 SECTION 17.

22 Said title is further amended by striking Code Section 37-2-7, relating to a state plan for  
 23 disability services, and inserting in its place the following:

24 "37-2-7.

25 (a) The division shall formulate and publish biennially a state plan for disability services  
 26 which shall take into account the disability services plans ~~submitted by the regional boards~~  
 27 as required by Code Section 37-2-5.2. The state disability services plan shall be  
 28 comprehensive and shall include public and private institutional and community services  
 29 to the disabled. In developing the state plan, the division shall request input from the  
 30 ~~regional boards~~, the community service boards, hospitals, and other public and private  
 31 providers. The plan shall include an overview of current services and programs and shall  
 32 also present information on future program, service, educational, and training needs.

33 (b) The plan shall address ways of eliminating, to the extent possible, detrimental delays  
 34 and interruptions in the administration of disability services when moving an individual  
 35 from one element of service to another in order to ensure continuity of care and treatment  
 36 for persons receiving such services.

1 (b.1)(1) The plan shall include state-wide guidelines for short-term and long-term  
 2 planning lists for the provision of requested disability services for persons whose  
 3 disability is mental retardation or another neurologically disabling condition which  
 4 requires treatment similar to that for the mentally retarded, when such services are not  
 5 available at the time of such request. The guidelines shall provide for the commencement  
 6 of services, as soon as practicable but no later than 180 days following a request, to such  
 7 persons who are placed on a short-term planning list. The guidelines shall also include  
 8 criteria under which a person named on a planning list may obtain priority to receive the  
 9 requested services when they become available and under which such persons not named  
 10 on a planning list may receive requested services in emergencies.

11 (2) The plan shall include state-wide guidelines for a registry of persons who have been  
 12 diagnosed with mental retardation or another neurologically disabling condition which  
 13 requires treatment similar to that for the mentally retarded and wish to make such  
 14 diagnosis known to the division ~~and regional boards~~, but who have not yet requested  
 15 disability services. The requirements of this subsection shall become effective only when  
 16 funds are specifically appropriated for the purposes of this subsection in an appropriations  
 17 Act making specific reference to this subsection.

18 (c) The plan shall further set forth the proposed annual budget of the division ~~and the~~  
 19 ~~regional boards~~ taking into account all financial data supplied pursuant to subparagraph  
 20 ~~(a)(1)(F)~~ (a)(1)(H) of Code Section 37-2-5.2.

21 (d) The plan shall be submitted to the department, the Governor, the General Assembly,  
 22 the Governor's council, ~~the regional boards~~, the hospitals, the community service boards,  
 23 and any other public or private provider requesting a copy of the plan.

24 (e) At such time as the state plan is submitted, the division shall further submit an analysis  
 25 of services provided, programs instituted, progress made, and the extent of implementation  
 26 of the previous biennial plan. Such analysis shall measure the effectiveness and the  
 27 efficiency of the methods of delivering services which ameliorate or prevent disability and  
 28 restore health. This analysis shall further address the efforts of the division in coordinating  
 29 services in accordance with Code Section 37-2-9."

### 30 SECTION 18.

31 Said title is further amended by striking Code Section 37-2-9, relating to coordination of  
 32 disability services, and inserting in its place the following:

33 "37-2-9.

34 To the maximum extent possible, disability services provided by the division, ~~and the~~  
 35 ~~regional boards~~, hospitals, community service boards, and other public and private  
 36 providers shall be coordinated with related activities of the department and judicial,

1 correctional, educational, social, and other health service agencies and organizations, both  
2 private and public."

### 3 SECTION 19.

4 Said title is further amended by striking Code Section 37-2-9.1, relating to compliance by  
5 regional boards and community service boards with laws as to open meetings and inspection  
6 of records and related matters, and inserting in its place the following:

7 "37-2-9.1.

8 (a) Each ~~regional board~~ and community service board shall comply with the provisions of  
9 Chapter 14 of Title 50, relating to open and public meetings, and Article 4 of Chapter 18  
10 of Title 50, relating to inspection of public records, except where records or proceedings  
11 are expressly made confidential pursuant to other provisions of the law.

12 (b) Each ~~regional board~~, hospital, and community service board and other public and  
13 private providers are authorized to establish one or more advisory boards for the purpose  
14 of ensuring coordination with various agencies and organizations and providing  
15 professional and other expert guidance."

### 16 SECTION 20.

17 Said title is further amended by striking Code Section 37-2-11, relating to allocation of funds  
18 for services and related matters, and inserting in its place the following:

19 "37-2-11.

20 (a) It is the goal of the State of Georgia that every citizen be provided an adequate level  
21 of disability care through a unified system of disability services. To this end, the  
22 department through the division shall, to the maximum extent possible, allocate funds  
23 available for services so as to provide an adequate disability services program available to  
24 all citizens of this state. In funding and providing disability services, the division ~~and the~~  
25 ~~regional boards~~ shall ensure that all providers, public or private, meet minimum standards  
26 of quality and competency as established by the department and the division.

27 (b) Fees generated, if any, by hospitals, community service boards, and other private and  
28 public providers, providing services under contract or purview of the ~~regional board~~  
29 division, shall be reported to the ~~regional board~~ division and applied wherever appropriate  
30 against the cost of providing, and increasing the quantity and quality of, disability services.  
31 The ~~regional boards with guidance from the~~ division shall be responsible for developing  
32 procedures to properly account for the collection, remittance, and reporting of generated  
33 fees. The ~~regional boards~~ division shall work with the community service boards and other  
34 public or private providers to develop an appropriate mechanism for accounting for the  
35 funds and resources contributed to local disability services by counties and municipalities

1 within the area. Such contributions are not required to be submitted to either the  
 2 community service board or the ~~regional board~~ division; however, appropriate  
 3 documentation and accounting entries shall make certain that the county or municipality  
 4 is credited, and if necessary compensated, appropriately for such contribution of funds or  
 5 resources."

6 **SECTION 21.**

7 Said title is further amended by striking subsections (a) and (b) of Code Section 37-2-11.1,  
 8 relating to venue in actions against regional boards or community service boards, and  
 9 inserting in their respective places the following:

10 "(a) Venue for the purpose of any action against a ~~regional board~~ or community service  
 11 board shall be the county in which the principal office of such ~~regional board~~ or community  
 12 ~~program~~ service board is located. For purposes of this Code section, 'principal office' shall  
 13 be defined as the facility which houses the executive director or other such top  
 14 administrator for the ~~regional~~ or community service board.

15 (b) ~~In any legal proceeding, a regional board and the regional unit shall be considered a~~  
 16 ~~unit of the division and shall be afforded the assistance of legal counsel from the Attorney~~  
 17 ~~General~~ Reserved."

18 **SECTION 22.**

19 Said title is further amended by striking Code Section 37-2-11.2, relating to access by the  
 20 Department of Human Resources or regional board to records of any program receiving  
 21 public funds and related matters, and inserting in its place the following:

22 "37-2-11.2.

23 (a) Notwithstanding any other law to the contrary, to ensure the quality and integrity of  
 24 patient and client care, any program receiving any public funds from, or subject to  
 25 licensing, certification, or facility approval by, the Department of Human Resources ~~or a~~  
 26 ~~regional board~~ shall be required to provide the department ~~or the appropriate regional board~~  
 27 ~~or both~~, upon request, complete access to, including but not limited to authorization to  
 28 examine and reproduce, any records required to be maintained in accordance with  
 29 contracts, standards, or rules and regulations of the Department of Human Resources or  
 30 pursuant to the provisions of this title.

31 (b) Records obtained pursuant to subsection (a) of this Code section shall not be  
 32 considered public records and shall not be released by the department ~~or any regional board~~  
 33 unless otherwise specifically authorized by law."

1 **SECTION 23.**

2 Said title is further amended by striking paragraphs (5) and (6) of Code Section 37-2-30,  
3 relating to definitions, and inserting in their respective places the following:

4 "(5) 'Service recipient' means a person with a disability who receives or is eligible to  
5 receive disability services from a services provider which provides disability services in  
6 a ~~regional board district~~ region in which the program is operated.

7 (6) 'Services provider' means a community service board or state or local governmental  
8 entity, ~~but not a regional board,~~ which provides disability services to service recipients  
9 in a ~~regional board district~~ region in which the program is operated or which contracts for  
10 the provision of those services or any person, corporation, or business which provides  
11 disability services to service recipients in a ~~regional board district~~ region in which the  
12 program is operated."

13 **SECTION 24.**

14 Said title is further amended by striking Code Section 37-2-32, relating to a community  
15 ombudsman program, and inserting in its place the following:

16 "37-2-32.

17 The state ombudsman shall contract with one or more nonprofit corporations to operate a  
18 community ombudsman program in one or more ~~regional board districts~~ regions in this  
19 state. A nonprofit corporation shall not be eligible for such contract unless that corporation  
20 has experience in complaint resolution for service recipients and secures as community  
21 ombudsmen only such persons as are certified as such by the state ombudsman. The state  
22 ombudsman may certify community ombudsmen and such certified ombudsmen shall have  
23 the powers and duties set forth in this article. The state ombudsman shall require such  
24 community ombudsmen to receive appropriate training as determined and approved by the  
25 state ombudsman prior to certification."

26 **SECTION 25.**

27 Said title is further amended by striking Code Section 37-2-36, relating to investigations, and  
28 inserting in its place the following:

29 "37-2-36.

30 (a) Following an investigation, the state ombudsman or community ombudsman may  
31 report his or her opinions or recommendations to the party or parties affected thereby and  
32 shall attempt to resolve the complaint using, whenever possible, informal techniques of  
33 mediation, conciliation, and persuasion. With respect to a complaint against the services  
34 provider, the ombudsman may first notify the administrator or person in charge of that  
35 provider in writing and give such person a reasonable opportunity to correct any alleged

1 defect. If so notified and the administrator or person in charge fails to take corrective action  
 2 after a reasonable amount of time or if the defect seriously threatens the safety or  
 3 well-being of any service recipient, the state ombudsman or community ombudsman may  
 4 refer the complaint to the ~~appropriate regional board~~ division and any other appropriate  
 5 agency.

6 (b) Complaints or conditions adversely affecting service recipients which cannot be  
 7 resolved in the manner described in subsection (a) of this Code section shall, whenever  
 8 possible, be referred by the state ombudsman or community ombudsman to the ~~appropriate~~  
 9 ~~regional board~~ division and any other appropriate agency.

10 (c) A community ombudsman shall not disclose to the public, either directly or indirectly,  
 11 the identity of any services provider which is the subject of an investigation unless and  
 12 until the matter has been reviewed by the office of the state ombudsman and the matter has  
 13 been referred to the ~~appropriate regional board~~ division and any other appropriate  
 14 governmental agency for action."

#### 15 **SECTION 26.**

16 Said title is further amended by striking Code Section 37-2-39, relating to preparation and  
 17 distribution of written notice of program and related matters, and inserting in its place the  
 18 following:

19 "37-2-39.

20 The state ombudsman shall prepare and distribute to each services provider in the state and  
 21 ~~regional board in which the program is operated~~ the division a written notice describing the  
 22 program and the procedure to follow in making a complaint, including the address and  
 23 telephone number of the state ombudsman and community ombudsman. The administrator  
 24 or person in charge of such provider shall give the written notice required by this Code  
 25 section to each service recipient who receives disability services from such provider and  
 26 his or her legally appointed guardian, if any, upon first providing such services. The  
 27 administrator or person in charge shall also post such written notice in conspicuous public  
 28 places in the facility, premises, or property in which disability services are provided in  
 29 accordance with procedures provided by the state ombudsman and shall give such notice  
 30 to any service recipient and his or her legally appointed guardian, if any, who did not  
 31 receive it upon the service recipient's first receiving disability services. The failure to  
 32 provide the notices required by this Code section shall be a ground upon which the director  
 33 of the division may impose the civil penalty authorized by paragraph (2) of subsection (c)  
 34 of Code Section 37-2-40 under the conditions specified in subsection (d) of Code Section  
 35 37-2-40."

**SECTION 27.**

1  
2 Said title is further amended by striking subsections (b) and (d) of Code Section 37-2-40,  
3 relating to discrimination or retaliation and sanctions, and inserting in their respective places  
4 the following:

5 "(b) A member of a ~~regional board~~ or community service board who violates subsection  
6 (a) of this Code section shall be subject to permanent removal from such board by the  
7 director of the division."

8 "(d) An action against a member of a ~~regional board~~, community service board, or services  
9 provider under this Code section shall be a contested case within Article 1 of Chapter 13  
10 of Title 50, relating to administrative procedure."

**SECTION 28.**

11  
12 All laws and parts of laws in conflict with this Act are repealed.