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THIS SUPPLEMENT CONTAINS

Statutes:

All laws specifically codified by the General Assembly of the State of Georgia through the 2025 Regular Session of the General Assembly.

Annotations of Judicial Decisions:

Case annotations reflecting decisions posted to LexisNexis® through May 12, 2025. These annotations will appear in the following traditional reporter sources: Georgia Reports; Georgia Appeals Reports; Southeastern Reporter; Supreme Court Reporter; Federal Reporter; Federal Supplement; Federal Rules Decisions; Lawyers' Edition; United States Reports; and Bankruptcy Reporter.

Annotations of Attorney General Opinions:

Constructions of the Official Code of Georgia Annotated, prior Codes of Georgia, Georgia Laws, the Constitution of Georgia, and the Constitution of the United States by the Attorney General of the State of Georgia posted to LexisNexis® through May 12, 2025.

Other Annotations:

References to:

Emory Bankruptcy Developments Journal.
Emory International Law Review.
Emory Law Journal.
Georgia Journal of International and Comparative Law.
Georgia Law Review.
Georgia State University Law Review.
John Marshall Law Review.
Mercer Law Review.
Georgia State Bar Journal.
Georgia Journal of Intellectual Property Law.
American Jurisprudence, Second Edition.
American Jurisprudence, Pleading and Practice Forms Annotated.
American Jurisprudence, Proof of Facts.
American Jurisprudence, Trials.
Corpus Juris Secundum.
Uniform Laws Annotated.
American Law Reports, First through Seventh Series.
American Law Reports, Federal.

Tables:

In Volume 41, a Table Eleven-A comparing provisions of the 1976 Constitution of Georgia to the 1983 Constitution of Georgia and a Table Eleven-B comparing provisions of the 1983 Constitution of Georgia to the 1976 Constitution of Georgia.

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Indices:

A cumulative replacement index to laws codified in the 2025 supplement pamphlets and in the bound volumes of the Code.

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TITLE 37

MENTAL HEALTH

CHAPTER 1

GOVERNING AND REGULATION OF MENTAL HEALTH

ARTICLE 1
GENERAL PROVISIONS

37-1-1. Definitions.

As used in this title, the term:

(1) "Addictive disease" means a chronic, often relapsing, brain disease that causes compulsive alcohol or drug seeking and use despite harmful consequences to the individual who is addicted and to those around him or her.

(2) "Board" means the Board of Behavioral Health and Developmental Disabilities.

(3) "Commissioner" means the commissioner of behavioral health and developmental disabilities.

(4) "Community service board" means a public mental health, developmental disabilities, and addictive diseases board established pursuant to Code Section 37-2-6.

(5) "Consumer" means a natural person who has been or is a recipient of disability services.

(6) "County board of health" means a county board of health established in accordance with Chapter 3 of Title 31 and includes its duly authorized agents.

(7) "Department" means the Department of Behavioral Health and Developmental Disabilities and includes its duly authorized agents and designees.

(8) "Developmental disability" means a severe, chronic disability of an individual that:

(A) Is attributable to a significant intellectual disability, or any combination of a significant intellectual disability and physical impairments;

(B) Is manifested before the individual attains age 22;

(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; and

(vi) Capacity for independent living; 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.

(9) "Disability" means:

(A) Mental or emotional illness;

(B) Developmental disability; or

(C) Addictive disease.

(10) "Disability services" means services to the disabled or services which are designed to prevent or ameliorate the effect of a disability.

(11) "Disabled" means any person or persons having a disability.

(11.1) "Mental health care agent" means an agent appointed under a psychiatric advance directive in accordance with Chapter 11 of Title 37.

(12) "Mental illness" means a disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(13) "Mentally ill" means having a mental illness.

(14) "Peace officer" means any federal, city, or county police officer, any officer of the Georgia State Patrol, or any sheriff or deputy sheriff.

(15) "Penal offense" means a violation of a law of the United States, this state, or a political subdivision thereof for which the

offender may be confined in a state prison or a city or county jail or any other penal institution.

(16) "Physician" means any person duly authorized to practice medicine in this state under Chapter 34 of Title 43.

(16.1) "Psychiatric advance directive" means a written document voluntarily executed by an individual in accordance with the requirements of Code Section 37-11-9.

(17) "Psychologist" means any person duly licensed to practice psychology in this state under Chapter 39 of Title 43.

(18) "Regional board" means a regional board established in accordance with Code Section 37-2-4.1 as that Code section existed on June 30, 2002.

(19) "Regional coordinator" means an employee of the department who acts as the department's agent and designee to manage community services for consumers of disability services within a mental health, developmental disabilities, and addictive diseases region established in accordance with Code Section 37-2-3.

(20) "Regional office" means an office created pursuant to Code Section 37-2-4.1. Such office shall be an office of the department and serve as the entity for the administration of disability services in a region.

(21) "Regional planning board" means a planning board established in accordance with Code Section 37-2-4.1.

(22) "Regional services administrator" means an employee of the department who, under the supervision of the regional coordinator, manages the purchase or authorization of services, or both, for consumers of disability services, the assessment and coordination of services, and ongoing monitoring and evaluation of services provided within a region established in accordance with Code Section 37-2-3.

(23) "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 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.

(24) "Resident" means a person who is a legal resident of the State of Georgia.

(25) "State mental health facility" means, for purposes of this title and Title 31, a hospital, inpatient unit, or other institution operated by or under contract with the department for its operation, including the replacement or reorganization of the facility.

History.

Ga. L. 1958, p. 697, § 1; Ga. L. 1960, p. 837, § 1; Code 1933, § 88-501, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 1969, p. 505, § 1; Ga. L. 1978, p. 1789, § 1; Ga. L. 1982, p. 3, § 37; Ga. L. 1991, p. 1059, § 6; Ga. L. 1993, p. 1445, § 5; Ga. L. 1994, p. 97, § 37; Ga. L. 2002, p. 1324, §§ 1-6, 2-1; Ga. L. 2006, p. 310, § 2/HB 1223; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2016, p. 257, § 7/SB 319; Ga. L. 2022, p. 611, § 2-20/HB 752.

Amendments.

The 2022 amendment, effective July 1, 2022, added paragraphs (11.1) and (16.1).

Law reviews.

For article, "HB 752: Psychiatric Advance Directive Act," see 39 Ga. St. U.L. Rev. 191 (2022).

37-1-5. Department to succeed to applicable rules and regulations; transfer of rights, responsibilities, duties, personnel, and property.

JUDICIAL DECISIONS

County's suit barred by sovereign immunity. — In a suit between a county and state agency, the trial court properly ruled that sovereign immunity barred the county's breach of contract and injunctive relief claims since the county failed to show the agency was authorized by law to provide fire protection services, rendering the purported contract invalid, and the ruling that the contract did not apply to the agency did not violate the impairment clause since the county did not have a vested contractual right that was injuriously affected. Baldwin County v. Dep't of Behavioral Health & Developmental Disabilities, 371 Ga. App. 762, 903 S.E.2d 146, 2024 Ga. App. LEXIS 218 (2024).

37-1-7. Funding for new co-responder programs.

The state shall provide funding for a minimum of five new co-responder programs established pursuant to this title. Each such program shall have a minimum of one co-responder team.

History.

Code 1981, § 37-1-7, enacted by Ga. L. 2022, p. 26, § 4-7/HB 1013; Ga. L. 2024, p. 1052, § 6(29)/SB 448, effective July 1, 2024.

Effective date.

This Code section became effective July 1, 2022.

Amendments.

The 2024 amendment, effective July 1, 2024, part of an Act to revise, modernize, and correct the Code, substituted "this title" for "Title 37" at the end of the first sentence.

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

ARTICLE 2

POWERS AND DUTIES OF THE DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL DISABILITIES

37-1-20. Obligations of the Department of Behavioral Health and Developmental Disabilities.

The department 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 and treatment; recovery; and social, employment, housing, and community supports and services based on single or co-occurring diagnoses provided by the institutions, contractors, and programs under its control, management, or supervision;

(3) Plan for and implement the coordination of mental health, developmental disability, and addictive disease 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 the public and private providers of any of these services that 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) Ensure that providers of mental health, developmental disability, or addictive disease services coordinate with providers of primary and specialty health care so that treatment of conditions of the brain and the body can be integrated to promote recovery, health, and well-being;

(5) Have authority to contract, including performance based contracts which may include financial incentives or consequences based on the results achieved by a contractor as measured by output, quality, or outcome measures, 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 and 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;

(6) Establish and support programs for the training of professional

and technical personnel as well as regional advisory councils and community service boards;

(7) Have authority to conduct research into the causes and treatment of disability and into the means of effectively promoting mental health and addictive disease recovery;

(8) Assign specific responsibility to one or more units of the department 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;

(9) Establish a system for local administration of mental health, developmental disability, and addictive disease services in institutions and in the community;

(10) Make and administer budget allocations to fund the operation of mental health, developmental disabilities, and addictive diseases facilities and programs;

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

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

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

(14) Supervise the local office's exercise of its responsibility concerning funding and delivery of disability services;

(15) Supervise the local offices concerning the administration of grants, gifts, moneys, and donations for purposes pertaining to mental health, developmental disabilities, and addictive diseases;

(16) Supervise the administration of contracts with any hospital, community service board, or any public or private providers without regard to regional or state boundaries for the provision of disability services and in making and entering into all contracts necessary or incidental to the performance of the duties and functions of the department and the local offices;

(17) Regulate the delivery of care, including behavioral interventions and medication administration by licensed staff, or certified staff as determined by the department, within residential settings serving only persons who are receiving services authorized or financed, in whole or in part, by the department;

(18) Classify host homes for persons whose services are financially supported, in whole or in part, by funds authorized through the department. As used in this Code section, the term "host home" means a private residence in a residential area in which the occupant owner or lessee provides housing and provides or arranges for the provision of food, one or more personal services, supports, care, or treatment exclusively for one or two persons who are not related to the occupant owner or lessee by blood or marriage. A host home shall be occupied by the owner or lessee, who shall not be an employee of the same community provider that provides the host home services by contract with the department. The department shall approve and enter into agreements with community providers which, in turn, shall contract with host homes. The occupant owner or lessee shall not be the guardian of any person served, the conservator of the property of such person, the health care agent in such person's advance directive for health care, or the mental health care agent in such person's psychiatric advance directive. The placement determination for each person placed in a host home shall be made according to such person's choice as well as the individual needs of such person in accordance with the requirements of Code Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person;

(19) Provide guidelines for and oversight of host homes, which may include, but not be limited to, criteria to become a host home, requirements relating to physical plants and supports, placement procedures, and ongoing oversight requirements;

(20) Supervise the regular visitation of disability services facilities and programs in order to assure contracted providers are licensed and accredited by the designated agencies prescribed by the department, and in order to evaluate the effectiveness and appropriateness of the services, as such services relate to the health, safety, and welfare of service recipients, and to provide technical assistance to programs in delivering services;

(21) Establish a unit of the department which shall receive and consider complaints from individuals receiving services, make recommendations to the commissioner regarding such complaints, and ensure that the rights of individuals receiving services are fully protected. No later than October 1, 2023, and annually thereafter, such unit shall provide to the Office of Health Strategy and Coordination annual reports regarding such complaints;

(22) With respect to housing opportunities for persons with mental illness and co-occurring disorders:

(A) Coordinate the department's programs and services with other state agencies and housing providers;

(B) Facilitate partnerships with local communities;

(C) Educate the public on the need for supportive housing;

(D) Collect information on the need for supportive housing and monitor the benefit of such housing;

(E) Identify and determine best practices for the provision of services connected to housing; and

(F) No later than October 1, 2023, and annually thereafter, provide to the Office of Health Strategy and Coordination an annual status report regarding successful housing placements and unmet housing needs for the previous year and anticipated housing needs for the upcoming year;

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

(24) Assign specific responsibility to one or more units of the department for the development of programs designed to serve disabled infants, children, and youth. To the extent permitted by law, such units shall cooperate with the Georgia Department of Education, the University System of Georgia, the Technical College System of Georgia, the Department of Juvenile Justice, the Department of Early Care and Learning, the Department of Public Health, and community service boards in developing such programs. No later than October 1, 2023, and annually thereafter, such department shall provide to the Office of Health Strategy and Coordination annual reports regarding such programs;

(25) Have the right to designate private institutions as state institutions; to contract with such private institutions for such activities, in carrying out this title, as the department may deem necessary from time to time; and to exercise such supervision and cooperation in the operation of such designated private institutions as the department may deem necessary;

(26) Establish policies and procedures governing fiscal standards and practices of community service boards and their respective governing boards and no later than October 1, 2023, and annually thereafter, provide to the Office of Health Strategy and Coordination annual reports regarding the performance and fiscal status of each community service board;

(27) Coordinate the establishment and operation of a data base and network to serve as a comprehensive management information system for behavioral health, addictive diseases, and disability services and programs; and

(28) Establish the Multi-Agency Treatment for Children (MATCH) team within the department. The state MATCH team shall be composed of representatives from the Division of Family and Children Services of the Department of Human Services; the Department of Juvenile Justice; the Department of Early Care and Learning; the Department of Public Health; the Department of Community Health; the department; the Department of Education; the Office of the Child Advocate, and the Department of Corrections. The chairperson of the Behavioral Health Coordinating Council or his or her designee shall serve as the chairperson of the state MATCH team. The state MATCH team shall facilitate collaboration across state agencies to explore resources and solutions for complex and unmet treatment needs for children in this state and to provide for solutions, including both public and private providers, as necessary. The state MATCH team will accept referrals from local interagency children's committees throughout Georgia for children with complex treatment needs not met through the resources of their local community and custodians. The state agencies and entities represented on the state MATCH team shall coordinate with each other and take all reasonable steps necessary to provide for collaboration and coordination to facilitate the purpose of the state MATCH team.

History.

Code 1933, §§ 88-601, 88-602, 88-603, enacted by Ga. L. 1964, p. 499, § 1; Code 1933, § 88-603, enacted by Ga. L. 1976, p. 953, § 1; Ga. L. 1982, p. 3, § 37; Ga. L. 1987, p. 3, § 37; Ga. L. 1993, p. 1445, § 7; Ga. L. 2002, p. 1324, § 1-6; Ga. L. 2003, p. 558, §§ 5, 6; Ga. L. 2008, p. 263, § 2/SB 469; Ga. L. 2009, p. 8, § 37/SB 46; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2014, p. 309, § 1/SB 349; Ga. L. 2015, p. 1361, § 1/HB 512; Ga. L. 2022, p. 26, § 5-1/HB 1013; Ga. L. 2022, p. 611, § 2-21/HB 752.

Amendments.

The first 2022 amendment, effective July 1, 2022, added the second sentence in paragraph (21); deleted "and" from the end of subparagraph (22)(D), added "and" at the end of subparagraph (22)(E), added subparagraph (22)(F); rewrote paragraph (24); substituted "boards and no later than October 1, 2023, and annually thereafter, provide to the Office of Health Strategy and Coordination annual reports regarding the performance and fiscal status of each community service board;" for "boards; and" in paragraph (26); substituted "for behavioral health, addictive diseases, and disability services and programs; and" for "for disability services and programs." in paragraph (27); and added paragraph (28).

The second 2022 amendment, effective July 1, 2022, in paragraph (18), substituted "that" for "which" in the third sentence, substituted "shall contract" for "contract" in the fourth sentence, and rewrote the fifth sentence.

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

JUDICIAL DECISIONS

Type of harm statute designed to protect against. — Trial court erred by granting defendant summary judgment on the patient's mother's negligence per se claim because genuine issues of material fact remained, as O.C.G.A. § 37-1-20 authorized the Georgia Department of Behavioral Health and Developmental Disabilities to supervise physical care and treatment, regulate the delivery of care, and provide guidelines and oversight of homes, the patient, a developmentally disabled woman, was in the class of persons to be protected, and the type of harm that occurred, the failure to oversee the care of a developmentally disabled woman and the eventual death of that woman, was precisely the type of harm that the statute was designed to guard against. Amos v. Creative Consulting Services, Inc., 370 Ga. App. 676, 898 S.E.2d 856, 2024 Ga. App. LEXIS 72 (2024).

37-1-28. Conviction data.

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

(b) The department may receive from any law enforcement agency conviction data that is relevant to a person whom the department or its contractors is considering as a final selectee for employment in a position the duties of which involve direct care, treatment, custodial responsibilities, or any combination thereof for its clients.

(c) The department may receive from any law enforcement agency conviction data which is relevant to a person whom the department or its contractors is considering as a final selectee for employment in a position if, in the judgment of the employer, a final employment decision regarding the selectee can only be made by a review of conviction data in relation to the particular duties of the position and the security and safety of clients, the general public, or other employees.

(d) The department shall establish a uniform method of obtaining conviction data under subsection (a) of this Code section which shall be applicable to the department and its contractors. Such uniform method shall require the submission to the Georgia Crime Information Center of fingerprints and the records search fee in accordance with Code Section 35-3-35. Upon receipt thereof, the Georgia Crime Information Center shall promptly transmit fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall promptly conduct a search of its own records and records to which it has access. After receiving the fingerprints and fee, the Georgia Crime Information Center shall notify the department in writing of any derogatory finding, including, but not limited to, any conviction data regarding the fingerprint records check or if there is no such finding.

(e) All conviction data received shall be for the exclusive purpose of making employment decisions or decisions concerning individuals in the care of the department and shall be privileged and shall not be released or otherwise disclosed to any other person or agency. Immediately following the employment decisions or upon receipt of the conviction data, all such conviction data collected by the department or its agent shall be maintained by the department or agent pursuant to laws regarding and the rules or regulations of the Federal Bureau of Investigation and the Georgia Crime Information Center, as is applicable. Penalties for the unauthorized release or disclosure of any conviction data shall be as prescribed pursuant to laws regarding and rules or regulations of the Federal Bureau of Investigation and the Georgia Crime Information Center, as is applicable.

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

(g) The department shall be authorized to conduct a name or descriptor based check of any person's criminal history information, including arrest and conviction data, and other information from the Georgia Crime Information Center regarding any adult person who provides care or is in contact with persons under the care of the department without the consent of such person and without fingerprint comparison to the fullest extent permissible by federal and state law.

(h) If the department is participating in the program described in subparagraph (a)(1)(F) of Code Section 35-3-33, the Georgia Bureau of Investigation and the Federal Bureau of Investigation shall be authorized to retain fingerprints obtained pursuant to this Code section for such program and the department shall notify the individual whose fingerprints were taken of the parameters of such retention.

History.

Code 1981, § 37-1-28, enacted by Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2010, p. 286, § 3/SB 244; Ga. L. 2018, p. 507, § 2-11/SB 336; Ga. L. 2025, p. 727, § 3/SB 132, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, deleted the second sentence in subsection (b), which read: "The department may also receive conviction data which is relevant to a person whom the department or its contractors is considering as a final selectee for employment in a position if, in the judgment of the employer, a final employment decision regarding the selectee can only be made by a review of conviction data in relation to the particular duties of the position and the security and safety of clients, the general public, or other employees."; added subsection (c) and redesignated former subsections (c) through (g) as subsections (d) through (h), respectively.

Editor's notes.

Ga. L. 2025, p. 727, § 4/SB 132, not codified by the General Assembly, provides, in part, that this Act shall apply to any motions made or hearings or trials commenced on or after July 1, 2025.

ARTICLE 4

HEARINGS AND EVIDENCE

37-1-53. Classification of privileged materials.

Notwithstanding any other provision of law to the contrary, the department is authorized by regulation to classify as confidential and privileged documents, reports, and other information and data obtained by them from persons, firms, corporations, municipalities, counties, and other public authorities and political subdivisions where such matters relate to secret processes, formulas, and methods or where such matters were obtained or furnished on a confidential basis. All matters so classified shall not be subject to public inspection or discovery and shall not be subject to production or disclosure in any court of law or elsewhere until and unless the judge of the court of competent jurisdiction, after in camera inspection, determines that the public interest requires such production and disclosure or that such production and disclosure may be necessary in the interest of justice. This Code section shall not apply to clinical records maintained pursuant to Code Sections 37-3-166, 37-3-167, 37-4-125, 37-4-126, 37-7-166, and 37-7-167.

History.

Code 1933, § 88-306, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 1993, p. 1445, § 12; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2022, p. 352, § 37/HB 1428.

Amendments.

The 2022 amendment, effective May 2, 2022, part of an Act to revise, modernize, and correct the Code, substituted "This Code section" for "This subsection" at the beginning of the last sentence.

ARTICLE 6

BEHAVIORAL HEALTH REFORM AND INNOVATION COMMISSION

37-1-110. (Repealed effective December 31, 2026.) Legislative findings.

Editor's notes.

The catchline for this Code section is set out above to reflect the change in termination date specified in Code Section 37-1-116.

37-1-111. (Repealed effective December 31, 2026.) Commission created; "commission" defined.

Editor's notes.

The catchline for this Code section is set out above to reflect the change in termination date specified in Code Section 37-1-116.

37-1-112. (Repealed effective December 31, 2026.) Members; terms; officers; operational matters.

(a) The commission shall be composed of 30 members as follows:

(1) The following members appointed by the Governor:

(A) A chairperson;

(B) A psychiatrist who specializes in children and adolescents;

(C) A psychiatrist who specializes in adults;

(D) A health care provider with expertise in traumatic brain injuries;

(E) A state education official with broad experience in education policy;

(F) A chief executive officer of a mental health facility;

(G) A forensic psychologist;

(H) A local education official;

(I) A professional who specializes in substance abuse and addiction;

(J) An individual with lived experience having survived the disease of addiction who is a certified addiction recovery specialist; and

(K) An intellectual and developmental disabilities provider;

(2) The following members appointed by the President of the Senate:

(A) Two members of the Senate;

(B) A sheriff;

(C) A licensed clinical behavioral health professional;

(D) A behavioral health advocate;

(E) A representative of a community service board;

(F) An individual who has lost a member of his or her immediate family to drug overdose or fentanyl poisoning; and

(G) A leader of an intellectual and developmental disabilities advocacy organization;

(3) The following members appointed by the Speaker of the House of Representatives:

(A) Two members of the House of Representatives;

(B) A police chief;

(C) A licensed clinical behavioral health professional;

(D) A behavioral health advocate;

(E) A judge who presides in an accountability court, as defined in Code Section 15-1-18;

(F) A professional who is an executive director of an accredited Georgia nonprofit organization focused on addiction and recovery; and

(G) The parent of an individual with intellectual and developmental disabilities or an individual with intellectual and developmental disabilities; and

(4) The following members appointed by the Chief Justice of the Supreme Court of Georgia:

(A) One Justice of the Supreme Court of Georgia; and

(B) Two judges.

(b) Each nonlegislative member of the commission shall be appointed to serve for a term of two years or until his or her successor is duly appointed. Legislative members of the commission shall serve until completion of their current terms of office. Any member may be appointed to succeed himself or herself on the commission. If a member of the commission is an elected or appointed official, such member, or his or her designee, shall be removed from the commission if such member no longer serves as such elected or appointed official.

(c) The following members shall serve as nonvoting ex officio members of the commission:

(1) Commissioner of behavioral health and developmental disabilities or his or her designee;

(2) Commissioner of juvenile justice or his or her designee;

(3) Commissioner of corrections or his or her designee;

(4) Commissioner of community health or his or her designee;

(5) Commissioner of community supervision;

(6) Director of the Georgia Bureau of Investigation or his or her designee; and

(7) Director of the Division of Family and Children Services of the Department of Human Services or his or her designee.

(d) The commission may elect officers, other than the chairperson, as it deems necessary. The chairperson shall vote only to break a tie.

(e) The commission shall be attached for administrative purposes only to the Office of Planning and Budget. The Office of Planning and Budget and the Department of Behavioral Health and Developmental Disabilities shall provide staff support for the commission. The Office of Planning and Budget and the Department of Behavioral Health and Developmental Disabilities shall use any funds specifically appropriated to such office and department to support the work of the commission.

History.

Code 1981, § 37-1-112, enacted by Ga. L. 2019, p. 614, § 1/HB 514; Ga. L. 2020, p. 493, § 37/SB 429; Ga. L. 2025, p. 764, § 1/SB 233, effective May 14, 2025.

Amendments.

The 2025 amendment, effective May 14, 2025, substituted "30" for "24" in subsection (a); deleted "and" at the end of subparagraph (a)(1)(H) and added subparagraphs (a)(1)(J) and (a)(1)(K), deleted "and" at the end of subparagraph (a)(2)(D) and added subparagraphs (a)(2)(F) and (a)(2)(G), deleted "and" at the end of subparagraphs (a)(3)(D) and (a)(3)(E), and added subparagraphs (a)(3)(F) and (a)(3)(G).

37-1-113. (Repealed effective December 31, 2026.) Meetings; prior approval of agenda; quorum; allowances and reimbursements.

Editor's notes.

The catchline for this Code section is set out above to reflect the change in termination date specified in Code Section 37-1-116.

37-1-114. (Repealed effective December 31, 2026.) Duties and powers; use of third parties.

Editor's notes.

The catchline for this Code section is set out above to reflect the change in termination date specified in Code Section 37-1-116.

37-1-114.1. (Repealed effective December 31, 2026.) Authority of commission.

The commission shall be authorized to:

(1) Collaborate with the Department of Behavioral Health and Developmental Disabilities regarding the assisted outpatient treatment program to develop fidelity protocols for grantees and a training and education program for use by the grantees to train and educate staff, community partners, and others; and provide consultation to the Department of Behavioral Health and Developmental Disabilities in the selection of an organization, entity, or consultant to perform research pursuant to Code Section 37-1-126 and in the development of rules and regulations pursuant to Code Section 37-1-127;

(2) Coordinate initiatives to assist local communities in keeping people with serious mental illness out of county and municipal jails and detention facilities, including juvenile detention and, facilitated by nationally recognized experts, to improve outcomes for individuals who have frequent contact with criminal justice, homeless, and behavioral health systems, termed "familiar faces," including, but not limited to:

(A) Serving as liaison to state and local leaders to inform policy and funding priorities;

(B) Developing a shared definition of "serious mental illness" in consultation with relevant mental health, judicial, and law enforcement officials and experts;

(C) Exploring funding options to implement universal screening upon admission into a county or municipal jail or detention facility;

(D) Developing proposed state guidelines, tools, and templates to facilitate sharing of information among state and local entities compliant with state and federal privacy laws;

(E) Adopting recommendations to promote the use of pre-arrest diversion strategies that reduce revocations and reduce unnecessary contact with the justice system;

(F) Developing a shared definition for "high utilization" in consultation with relevant behavioral health and criminal justice experts;

(G) Implementing improvements to data sharing across and between local and state agencies;

(H) Improving strategies to refer and connect individuals to needed community based health and social services, including addressing gaps in continuity of care;

(I) Expanding the use of and support for forensic peer monitors; and

(J) Analyzing best practices to address and ameliorate the increase in chronic homelessness among persons with behavioral health and substance abuse disorder, particularly the challenges of unsheltered homelessness, and formulating recommendations for policies and funding to address such issues, considering the best practices of other states and the permissible use of all available funding sources;

(3) Convene representatives from care management organizations, pediatric primary care physicians, family medicine physicians, pediatric hospitals, pharmacy benefits managers, other insurers, experts on early childhood mental health, and pediatric mental health and substance use disorder care professionals to examine:

(A) How to develop and implement a mechanism for Georgia's managed care program for children, youth, and young adults in foster care, children and youth receiving adoption assistance, and select youth involved in the juvenile justice system to meet the mental and behavioral health needs of such children, youth, and young adults;

(B) How to develop and implement a mechanism to provide adoptive caregivers with the support necessary to meet the mental and behavioral health needs of children and adolescents for the first 12 months after finalization of adoption;

(C) Best practices, potential cost savings, decreased administrative burdens, increased transparency regarding prescription drug costs, and impact on turnover on the mental health and substance use disorder professionals workforce; and

(D) Best practices for community mental health and substance use disorder services reimbursement, including payment structures and rates that cover the cost of service provision for outpatient care, high-fidelity wraparound services, and therapeutic foster care homes, within the bounds of federal regulatory guidance; and

(4) Establish advisory committees to evaluate specific issues, including:

(A) Identifying methods to create pathways of care, including physical, behavioral, and dental health care, for children and adolescents, regardless of an individual's specific insurance carrier or insurance coverage; and

(B) Developing and recommending a solution to ensure appropriate health care services and supports, including better care coordination, for pediatric patients residing in this state who have mental health or substance use disorders and who have had high utilization of emergency departments, crisis services, or psychiatric residential treatment facilities, for the purpose of streamlining care, improving outcomes, reducing return visits to emergency departments, and assisting case managers and clinicians in providing safe treatment while reducing fragmentation.

History.

Code 1981, § 37-1-114.1, enacted by Ga. L. 2022, p. 26, § 6-2/HB 1013.

Effective date.

This Code section became effective July 1, 2022.

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

37-1-115. (Repealed effective December 31, 2026.) Subcommittees.

(a) Except as otherwise provided in this Code section, the chairperson of the commission shall appoint members of the following subcommittees from among the membership of the commission and may also appoint up to two other noncommission-member persons as he or she may determine to be necessary as relevant to and consistent with this article:

(1) Children and Adolescent Behavioral Health;

(2) Addictive Diseases;

(3) Hospital and Short-Term Care Facilities;

(4) Mental Health Courts and Corrections; and

(5) Intellectual and Developmental Disabilities.

(b) The chairperson, at his or her discretion, may designate and appoint other subcommittees from among the membership of the commission and may also appoint up to two other noncommission-member persons as he or she may determine to be necessary as relevant to and consistent with this article.

History.

Code 1981, § 37-1-115, enacted by Ga. L. 2019, p. 614, § 1/HB 514; Ga. L. 2025, p. 764, § 2/SB 233, effective May 14, 2025.

Amendments.

The 2025 amendment, effective May 14, 2025, in subsection (a), substituted "Except as otherwise provided in this Code section, the" for "The" at the beginning and inserted "members of" following "appoint"; substituted "Addictive Diseases" for "Involuntary Commitment" in paragraph (a)(2), and substituted "Intellectual and Developmental Disabilities" for "Workforce and System Development" in paragraph (a)(5).

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

37-1-115.1. (Repealed effective December 31, 2026.) Exploration of community supervision strategies for individuals with mental illness.

The Mental Health Courts and Corrections Subcommittee of the Georgia Behavioral Health Reform and Innovation Commission shall continue its exploration of community supervision strategies for individuals with mental illnesses, including:

(1) Exploring opportunities to expand access to mental health specialized caseloads to reach a larger share of the supervision population with mental health needs, including prioritizing equitable access to specialized caseloads;

(2) Assessing the quality of mental health supervision and adherence to evidence based standards to determine how mental health supervision could be improved and identifying services, supports, and training that could equip law enforcement officers to more successfully engage with and reduce recidivism for individuals on community supervision;

(3) Assessing the availability of mental health treatment providers by supervision region to estimate accessability to treatment across the state; and

(4) Tracking qualitative and quantitative metrics on the outcomes of any changes made to community supervision strategies for indi-

viduals with mental illness to determine the effectiveness of such strategies.

History.
Code 1981, § 37-1-115.1, enacted by Ga. L. 2022, p. 26, § 4-8/HB 1013.

Effective date.
This Code section became effective July 1, 2022.

37-1-116. (Repealed effective December 31, 2026.) Abolishment and termination.

The commission shall be abolished and this article shall stand repealed on December 31, 2026.

History.
Code 1981, § 37-1-116, enacted by Ga. L. 2019, p. 614, § 1/HB 514; Ga. L. 2022, p. 26, § 6-3/HB 1013; Ga. L. 2025, p. 764, § 3/SB 233, effective May 14, 2025.

Amendments.
The 2022 amendment, effective July 1, 2022, substituted "June 30, 2025" for "June 30, 2023".

The 2025 amendment, effective May 14, 2025, substituted "December 31, 2026" for "June 30, 2025" at the end of this Code section.

Law reviews.
For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

ARTICLE 7

ASSISTED OUTPATIENT TREATMENT

Effective date.
This article became effective July 1, 2022.

37-1-120. Definitions.

As used in this article, the term:

(1) "Addictive disease" has the same meaning as in Code Section 37-1-1.

(2) "Assisted outpatient treatment" means involuntary outpatient care, pursuant to Article 3 of Chapter 3 of this title, provided in the context of a formalized, systematic effort led by a community service board or private provider in collaboration with other community partners, endeavoring to:

(A) Identify residents of the community service board's or private provider's service area who qualify as outpatients pursuant to Code Section 37-3-1;

(B) Establish procedures such that upon the identification of an individual believed to be an outpatient, a petition seeking involuntary outpatient care for the individual is filed in the probate court of the appropriate county;

(C) Provide evidence based treatment, rehabilitation, and case management services under an individualized service plan to each patient receiving involuntary outpatient care, focused on helping the patient maintain stability and safety in the community;

(D) Safeguard, at all stages of proceedings, the due process rights of respondents alleged to require involuntary outpatient care and patients who have been ordered to undergo involuntary outpatient care;

(E) Establish routine communications between the probate court and providers of treatment and case management such that for each patient receiving involuntary outpatient care, the court receives the clinical information it needs to exercise its authority appropriately and providers can leverage all available resources in motivating the patient to engage with treatment;

(F) Continually evaluate the appropriateness of each patient's individualized service plan throughout the period of involuntary outpatient care, and adjust the plan as warranted;

(G) Employ specific protocols to respond appropriately and lawfully in the event of a failure of or noncompliance with involuntary outpatient care;

(H) Partner with law enforcement agencies to provide an alternative to arrest, incarceration, and prosecution for individuals suspected or accused of criminal conduct who appear to qualify as outpatients pursuant to Code Section 37-3-1;

(I) Clinically evaluate each patient receiving involuntary outpatient care at the end of the treatment period to determine whether it is appropriate to seek an additional period of involuntary outpatient care or assist the patient in transitioning to voluntary care; and

(J) Ensure that upon transitioning to voluntary outpatient care at an appropriate juncture, each patient remains connected to the treatment services he or she continues to need to maintain stability and safety in the community.

(3) "Mental health or substance use disorder" means a mental illness or addictive disease.

(4) "Mental illness" has the same meaning as in Code Section 37-1-1.

History.

Code 1981, § 37-1-120, enacted by Ga. L. 2022, p. 26, § 3-1/HB 1013.

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

37-1-121. Grant program for implementation of assisted outpatient treatment.

The department shall establish and operate a grant program for the purpose of fostering the implementation and practice of assisted outpatient treatment in this state. The grant program shall aim to provide three years of funding, technical support, and oversight to five grantees, each comprising a collaboration between a community service board or private provider, a probate court or courts with jurisdiction in the corresponding service area, and a sheriff's office or offices with jurisdiction in the corresponding service area, which have demonstrated the ability with grant assistance to practice assisted outpatient treatment. Subject to appropriations, the funding, technical support, and oversight pursuant to the grant program shall commence no later than January 1, 2023, and shall terminate on December 31, 2025, or subject to the department's annual review of each grantee, whichever event shall first occur.

History.

Code 1981, § 37-1-121, enacted by Ga. L. 2022, p. 26, § 3-1/HB 1013.

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

37-1-122. Funding opportunity announcement; requirements; assistance; announcement of awards.

(a) No later than October 1, 2022, the department shall issue a funding opportunity announcement inviting any community service board or private provider, in partnership with a court or courts holding jurisdiction over probate matters in the corresponding service area, to submit a written application for funding pursuant to the assisted outpatient treatment grant program.

(b) The department shall develop and disclose in the funding opportunity announcement:

(1) A numerical scoring rubric to evaluate applications, which shall include a minimum score an application must receive to be potentially eligible for funding;

(2) A formula for determining the amount of funding for which a grantee shall be eligible, based on the size of the population to be served, consideration of existing resources, or both;

(3) A minimum percentage of a grant award that must be directed, and a maximum percentage of a grant award that may be directed, for purposes of enhancing the community based mental health services and supports provided to recipients of assisted outpatient treatment; and

(4) A minimum percentage of the total program budget that must be independently sourced by the applicant.

(c) The funding opportunity announcement shall require each application to include, in addition to any other information the department may choose to require:

(1) A detailed three-year program budget, including identification of the source or sources of the applicant's independent budget contribution;

(2) A plan to identify and serve a population composed of persons meeting the following criteria, including the number of patients anticipated to participate in the program over the course of each year of grant support:

(A) The person is 18 years of age or older;

(B) The person is suffering from a mental health or substance use disorder which has been clinically documented by a health care provider licensed to practice in Georgia;

(C) There has been a clinical determination by a physician or psychologist that the person is unlikely to survive safely in the community without supervision;

(D) The person has a history of lack of compliance with treatment for his or her mental health or substance use disorder, in that at least one of the following is true:

(i) The person's mental health or substance use disorder has, at least twice within the previous 36 months, been a substantial factor in necessitating hospitalization or the receipt of services in a forensic or other mental health unit of a correctional facility, not including any period during which such person was hospitalized or incarcerated immediately preceding the filing of the petition; or

(ii) The person's mental health or substance use disorder has resulted in one or more acts of serious and violent behavior toward himself or herself or others or threatens or attempts to cause serious physical injury to himself or herself or others within the preceding 48 months, not including any period in which such person was hospitalized or incarcerated immediately preceding the filing of the petition;

(E) The person has been offered an opportunity to participate in a treatment plan by the department, a state mental health facility, a community service board, or a private provider under contract with the department and such person continues to fail to engage in treatment;

(F) The person's condition is substantially deteriorating;

(G) Participation in the assisted outpatient treatment program would be the least restrictive placement necessary to ensure such person's recovery and stability;

(H) In view of the person's treatment history and current behavior, such person is in need of assisted outpatient treatment in order to prevent a relapse or deterioration that would likely result in grave disability or serious harm to himself or herself or others; and

(I) It is likely that the person may benefit from assisted outpatient treatment.

(3) For each element of assisted outpatient treatment, a statement of how the applicant proposes to incorporate such element into its own practice of assisted outpatient treatment;

(4) A commitment by the applicant that it shall honor the provisions of any legally enforceable psychiatric advance directive of any person receiving involuntary outpatient treatment;

(5) A description of the evidence based treatment services and case management model or models that the applicant proposes to utilize;

(6) A description of any dedicated staff positions the applicant proposes to establish;

(7) A letter of support from the sheriff of any county where the applicant proposes to provide assisted outpatient treatment;

(8) A flowchart representing the proposed assisted outpatient treatment process, from initial case referral to transition to voluntary care; and

(9) A description of the applicant's plans to establish a stakeholder workgroup, consisting of representatives of each of the agencies, entities, and communities deemed essential to the functioning of the assisted outpatient treatment program, for purposes of internal oversight and program improvement.

(d) The department shall not provide direct assistance or direct guidance to any potential applicant in developing the content of an application. Any questions directed to the department from potential applicants concerning the grant application process or interpretation of the funding opportunity announcement may only be entertained at a live webinar announced in advance in the funding opportunity announcement and open to all potential applicants, or may be submitted in writing and answered on a webpage disclosed in the funding opportunity announcement and freely accessible to any potential applicant.

(e) No later than December 31, 2022, the department shall publicly announce awards for funding support, subject to annual review, to the five applicants whose applications received the highest scores under the scoring rubric, provided that:

(1) The department shall seek to ensure, to the extent practical and consistent with other objectives, that at least three of the regions designated pursuant to Code Section 37-2-3 are represented among the five grantees. In pursuit of this goal, the department may in its discretion award a grant to a lower-scoring applicant over a higher-scoring applicant or may resolve a tie score in favor of an applicant that would increase regional diversity among the grantees; and

(2) In no case shall a grant be awarded to an applicant whose application has failed to attain the minimum required score as stated in the funding opportunity announcement. This requirement shall take precedence in the event that it comes into conflict with the requirement that a total of five grants be awarded.

History.

Code 1981, § 37-1-122, enacted by Ga. L. 2022, p. 26, § 3-1/HB 1013.

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

37-1-123. Technical assistance providers.

Throughout the term of the assisted outpatient treatment grant program, the department shall contract on an annual basis with an organization, entity, or consultant possessing expertise in the practice of assisted outpatient treatment to serve as a technical assistance provider to the grantees. Prior to the conclusion of each of the first two years of the assisted outpatient treatment grant program, the department, in consultation with the grantees, shall review the performance of the technical assistance provider and determine whether it is appropriate to seek to contract with the same technical assistance provider for the following year.

History.

Code 1981, § 37-1-123, enacted by Ga. L. 2022, p. 26, § 3-1/HB 1013.

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

37-1-124. Independent evaluations of the programs; sharing and reporting of information.

(a) Prior to the commencement of funding under the assisted outpatient grant program, the department shall contract with an independent organization, entity, or consultant possessing expertise in the evaluation of community based mental health programs and policy to evaluate:

(1) The effectiveness of the assisted outpatient grant program in reducing hospitalization and criminal justice interactions among vulnerable individuals with mental health or substance use disorders;

(2) The cost-effectiveness of the assisted outpatient grant program, including its impact on spending within the public mental health system on the treatment of individuals receiving assisted outpatient treatment and spending within the criminal justice system on the arrest, incarceration, and prosecution of such individuals;

(3) Differences in implementation of the assisted outpatient treatment model among the grantees and the impact of such differences on program outcomes;

(4) The impact of the assisted outpatient grant program on the mental health system at large, including any unintended impacts; and

(5) The perceptions of assisted outpatient treatment and its effectiveness among participating individuals, family members of participating individuals, mental health providers and program staff, and participating probate court judges.

(b) As a condition for participation in the grant program, the department shall require each grantee to agree to share such program information and data with the contracted research organization, entity, or consultant as the department may require, and to make reasonable accommodations for such organization, entity, or consultant to have access to the grant site and individuals. The department shall further ensure that the contracted research organization, entity, or consultant is able to perform its functions consistent with all state and federal restrictions on the privacy of personal health information.

(c) In contracting with the research organization, entity, or consultant, the department shall require such organization, entity, or consultant to submit a final report on the effectiveness of the assisted outpatient grant program to the Governor, the chairpersons of the House Committee on Health and the Senate Health and Human Services Committee, and the Office of Health Strategy and Coordination no later than December 31, 2025. The department may also require the organization, entity, or consultant to report interim or provisional findings to the department at earlier dates.

History.

Code 1981, § 37-1-124, enacted by Ga. L. 2022, p. 26, § 3-1/HB 1013; Ga. L. 2024, p. 1052, § 6(30)/SB 448, effective July 1, 2024.

Amendments.

The 2024 amendment, effective July 1, 2024, part of an Act to revise, modernize, and correct the Code, substituted "House Committee on Health" for "House Committee on Health and Human Services" in subsection (c).

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

37-1-125. Rules and regulations.

The department shall adopt and prescribe such rules and regulations as it deems necessary or appropriate to administer and carry out the grant program provided for in this article.

History.

Code 1981, § 37-1-125, enacted by Ga. L. 2022, p. 26, § 3-1/HB 1013.

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

CHAPTER 2

ADMINISTRATION OF MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, ADDICTIVE DISEASES, AND OTHER DISABILITY SERVICES

Article 1

General Provisions

Article 2

Administration of Mental Disability Services

Part 1

Office of Disability Services Ombudsman

ARTICLE 1

GENERAL PROVISIONS

37-2-4. Behavioral Health Coordinating Council; membership; meetings; obligations.

(a) There is created the Behavioral Health Coordinating Council. The council shall consist of the commissioner of behavioral health and developmental disabilities; the commissioner of early care and learning; the commissioner of community health; the commissioner of public health; the commissioner of human services; the commissioner of juvenile justice; the commissioner of corrections; the commissioner of veterans service; the commissioner of community supervision; the commissioner of community affairs; the commissioner of the Technical College System of Georgia; the Commissioner of Labor; the State School Superintendent; the chairperson of the State Board of Pardons and Paroles; a behavioral health expert employed by the University System of Georgia, designated by the chancellor of the university system; two members, appointed by the Governor; the ombudsman appointed pursuant to Code Section 37-2-32; the Child Advocate for the Protection of Children; an expert on early childhood mental health, appointed by the Governor; an expert on child and adolescent health, appointed by the Governor; a pediatrician, appointed by the Governor; an adult consumer of public behavioral health services, appointed by the Governor; a family member of a consumer of public behavioral health services, appointed by the Governor; a parent of a child receiving public behavioral health services, appointed by the Governor; a member of the House of Representatives, appointed by the Speaker of the House of Representatives; and a member of the Senate, appointed by the President of the Senate.

(b) The commissioner of behavioral health and developmental disabilities shall be the chairperson of the council. A vice chairperson and a secretary shall be selected by the members of the council from among its members as prescribed in the council's bylaws.

(c) Meetings of the council shall be held quarterly, or more frequently, on the call of the chairperson. Meetings of the council shall be held with no less than five days' public notice for regular meetings and with such notice as the bylaws may prescribe for special meetings. Each member shall be given written or electronic notice of all meetings. All meetings of the council shall be subject to the provisions of Chapter 14 of Title 50. Minutes or transcripts shall be kept of all meetings of the council and shall include a record of the votes of each member, specifying the yea or nay vote or absence of each member, on all questions and matters coming before the council, and minutes or transcripts of each meeting shall be posted on the state agency website of each council member designee. No member may abstain from a vote other than for reasons constituting disqualification to the satisfaction of a majority of a quorum of the council on a recorded vote. Except as provided in subsection (c.1) of this Code section, no member of the council shall be represented by a delegate or agent. Any member who misses three duly posted meetings of the council over the course of a calendar year shall be replaced by an appointee of the Governor unless the council chairperson officially excuses each such absence.

(c.1) The commissioner of behavioral health and developmental disabilities, the commissioner of early care and learning, the commissioner of community health, the commissioner of public health, the commissioner of human services, the commissioner of juvenile justice, the commissioner of corrections, the commissioner of veterans service, the commissioner of community supervision, the commissioner of community affairs, the commissioner of the Technical College System of Georgia, the Commissioner of Labor, the State School Superintendent, and the chairperson of the State Board of Pardons and Paroles shall each be authorized to be represented by a delegate or agent at any meeting of the council or subcommittee meeting. Any such delegate or agent shall be counted toward a quorum, shall have all voting privileges as the member's delegate or agent, and shall not be considered an absence of the member.

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

(e) The council shall:

(1) Develop solutions to the systemic barriers or problems to the delivery of behavioral health services by making recommendations in writing and publicly available that implement funding, policy changes, practice changes, and evaluation of specific goals designed

to improve delivery of behavioral health services, increase access to behavioral health services, and improve outcome for individuals, including children, adolescents, and adults, served by the various departments;

(2) Focus on specific goals designed to resolve issues for provision of behavioral health services that negatively impact individuals, including children, adolescents, and adults, serviced by the various departments;

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

(4) Establish common outcome measures that are to be utilized for and represented in the annual report to the council.

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

(2) All state departments, agencies, boards, bureaus, commissions, and authorities are authorized and required to 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.

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

(h)(1) The council shall submit annual reports no later than October 1 of its recommendations and evaluation of its implementation and any recommendations for funding to the Office of Health Strategy and Coordination, the Governor, the Speaker of the House of Representatives, and the President of the Senate.

(2) The recommendations developed by the council and the annual reports of the council shall be presented to the board of each member department for approval or review at least annually at a publicly scheduled meeting.

(i) For purposes of this Code section, the term “behavioral health services” has the same meaning as “disability services” as defined in Code Section 37-1-1.

History.
Code 1933, § 88-611, enacted by Ga. L. 1976, p. 953, § 1; Ga. L. 1982, p. 3, § 37; Ga. L. 1986, p. 1213, § 1; Ga. L. 1993, p. 1445, § 16; Ga. L. 2002, p. 1324, § 1-7; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2010, p. 286, § 6/SB 244; Ga. L. 2011, p. 705, § 5-21/HB 214; Ga. L. 2015, p. 422, § 5-58/HB 310; Ga. L. 2015, p. 617, § 1/HB 288; Ga. L. 2019, p. 148, § 2-17/HB 186; Ga. L. 2022, p. 26, § 4-9/HB 1013; Ga. L. 2024, p. 166, § 1/HB 1344,

effective April 22, 2024; Ga. L. 2024, p. 190, § 1/SB 375, effective July 1, 2024.

Amendments.

The 2022 amendment, effective July 1, 2022, inserted "the commissioner of early care and learning;", "the commissioner of the Technical College System of Georgia;", "a behavioral health expert employed by the University System of Georgia, designated by the chancellor of the university system;", and "the Child Advocate for the Protection of Children; an expert on early childhood mental health, appointed by the Governor; an expert on child and adolescent health, appointed by the Governor; a pediatrician, appointed by the Governor;" in subsection (a); inserted "from among its members" in the second sentence in subsection (b); in subsection (c), inserted "or electronic" in the third sentence, added ", and minutes or transcripts of each meeting shall be posted on the state agency website of each council member designee" at the end of the fifth sentence, and added the last sentence; in paragraph (e)(1), inserted "in writing and publicly available" and substituted "delivery of behavioral health services, increase access to behavioral health services, and improve outcome for individuals, including children, adolescents, and adults," for "services delivery and outcome for individuals"; substituted "individuals, including children, adolescents, and adults, serviced by the various departments" for "individuals serviced by at least two departments" in paragraph (e)(2), inserted "and recommendations" in paragraph (e)(3), added "that are to be utilized for and represented in the annual report to the council" at the end of paragraph (e)(4); substituted "shall" for "may" in paragraph (f)(1); inserted "and any recommendations for funding" and ", the Governor, the Speaker of the House of Representatives, and the Lieutenant Governor" in paragraph (h)(1), and inserted "and the annual reports of the council" and "at a publicly scheduled meeting" in paragraph (h)(2).

The first 2024 amendment, effective April 22, 2024, added "Except as provided in subsection (c.1) of this Code section," at the beginning of the seventh sentence in subsection (c); and added subsection (c.1).

The second 2024 amendment, effective July 1, 2024, inserted "the commissioner of veterans service;" near the beginning of subsection (a) and substituted "President of the Senate" for "Lieutenant Governor" at the end of subsection (a) and paragraph (h)(1).

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

37-2-6. Community mental health, developmental disabilities, and addictive diseases service boards — Community service board creation; membership; participation of counties; transfer of powers and duties; alternate method of establishment; bylaws; reprisals prohibited.

(a) Community service boards in existence on June 30, 2014, are re-created effective July 1, 2014, to provide mental health, developmental disabilities, and addictive diseases services to children and adults. Such community service boards may enroll and contract with the department, the Department of Human Services, the Department of Public Health, or the Department of Community Health to become a provider of mental health, developmental disabilities, and addictive diseases services or health, recovery, housing, or other supportive services for children and adults. Such boards shall be considered public agencies. Each community service board shall be a public corporation and an instrumentality of the state; provided, however, that the liabilities, debts, and obligations of a community service board shall not constitute liabilities, debts, or obligations of the state or any county or municipal corporation and neither the state nor any county or municipal corporation shall be liable for any liability, debt, or obligation of a community service board. Each community service board re-created pursuant to this Code section is created for nonprofit and public purposes to exercise essential governmental functions. The re-creation of community service boards pursuant to this Code section shall not alter the provisions of Code Section 37-2-6.2 which shall apply to those re-created community service boards and their employees covered by that Code section and those employees' rights are retained.

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

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

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

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

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

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

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

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

(2) In addition to the members appointed pursuant to paragraph (1) of this subsection, the governing board of each community service board may appoint one additional member in order to address variation in the population sizes of counties or the financial contributions of counties within the community service board area. The bylaws of the community service board shall address the establishment of the additional governing board membership position, if established, and the purpose or purposes for which such position is created. The term of office of such additional member shall be the same as that of other members of the governing board of the community service board as provided in subsection (h) of this Code section;

(3) In addition to the members appointed pursuant to paragraphs (1) and (2) of this subsection, each governing board of a community service board shall have additional members who shall serve on such governing board while concurrently holding elective or appointive office and who shall be appointed by a county governing authority as follows:

(A) The number of elected or appointed officials serving on the governing board of a community service board shall be equal to one-third, defined herein as 33 percent or 0.33, of the number of the members of such board appointed in accordance with paragraph (1) of this subsection. In the event the calculation of such percentage yields a whole number and a fraction of a whole number, then the number of members to be appointed shall be equal to the nearest whole number; however, a fraction equal to 50 percent or greater shall be rounded to the next highest whole number;

(B) The governing authority of each county in the community service board area making the largest cash or in-kind financial contribution in descending order to the community service board in the county fiscal year immediately prior to the time of such appointment shall make one appointment of an elected or appointed official to the community service board until the number of such appointments required by this paragraph is reached. For community service boards whose community service board areas contains fewer counties than the number of appointments made pursuant to this paragraph, the membership appointments of elected or appointed officials to the governing board shall be made in the descending order prescribed in this paragraph and this method shall be repeated until all members who hold elective or appointive office are appointed to the governing board of the community service board. In the event that the number of such county governing authorities making a cash or in-kind financial contribution to the community service board does not result in the number of appointments required by this paragraph, the remaining appointment or appointments shall be made by the governing authority or authorities of the county or counties in the community service board area with the largest population in descending order according to the most recent United States decennial census until the number of appointments required by this paragraph is reached. For community service boards whose community service board area contains three or fewer counties, the membership appointments of elected or appointed officials to the governing board shall be made in the descending order prescribed in this paragraph and this method shall be repeated until all members who hold elective or appointive office are appointed to the governing board of the community service board. In the event there is no county in the community service board area where the governing authority made a cash or in-kind financial contribution to the community service board in the county fiscal year immediately prior to the time of such appointment, the appointments required by this paragraph shall be made by the governing authority or authorities of the county or counties in the community service board area with the largest population in descending order according to the most recent United States decennial census until the number of appointments required by this paragraph is reached;

(C) As used in this paragraph, the term “elective or appointive office” or “elected or appointed official” means:

(i) The elected chief executive officer, by whatever name called, of the county governing authority making the appointment to the governing board of the community service board;

(ii) An elected member of such county governing authority;

(iii) The county manager of such county governing authority where such position exists as defined in Code Section 36-5-22;

(iv) The sheriff of such county;

(v) The elected chief executive officer, by whatever named called, an elected member of the governing authority, or an appointed city manager of any municipality lying wholly or partially within such county;

(vi) A member of the board of education of such county or a member of the governing board of any municipal school system lying wholly or partially within such county;

(vii) The school superintendent of such county or the superintendent of any municipal school system lying wholly or partially within such county;

(viii) The appointed public safety commissioner, police chief, or fire chief of such county or any municipality lying wholly or partially within such county; or

(ix) Any other elected official from within such county;

(D) No member of the governing board of the community service board appointed pursuant to this paragraph shall continue to serve on the governing board if such member no longer holds the elective or appointive office which made him or her eligible for appointment to such board. The term of office of an elected official appointed to serve as a member of the governing board of a community service board shall be the same as such official's elective term of office. The term of office of an appointed official appointed to serve as a member of such governing board shall be the same as that of other members of such governing board; and

(E) As used in this paragraph, the term "in-kind financial contribution" means the most current dollar value of any physical facilities or buildings and equipment, including vehicles, of all kinds provided at no cost by the county governing authority for use by the community service board.

(4) Each community service board in existence on June 30, 2014, shall reconstitute the membership of its governing board in accordance with the provisions of paragraphs (2) and (3) of this subsection, effective July 1, 2014.

A community service board which increases or reduces the number of its members of its governing board in accordance with paragraphs (2) and (3) 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 members of its governing board shall designate which position or positions are to be eliminated and shall make reasonable efforts to eliminate any position or positions of governing board members whose terms expire on or before June 30, 2014; provided, however, that members serving on the governing board of a community service board whose terms do not expire on or before June 30, 2014, shall continue to serve out the terms of office to which they were appointed, regardless of whether this causes a governing board to temporarily exceed the maximum number of members. Any additional positions created in conformity with such paragraphs (2) and (3) may be filled on July 1, 2014, and the governing authority of a county that is otherwise authorized to appoint such additional member or members to the governing board of a community service board may do so no sooner than May 1, 2014, but any person so appointed shall not take office until July 1, 2014. If a position on such governing board of the community service board is not filled on July 1, 2014, a vacancy in that position shall be deemed to have occurred on that date. A governing board of the 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;

(5)(A) A person shall not be eligible to be appointed to or serve on a governing board of a community service board if such person is:

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

(ii) An employee or board member of a public or private entity which contracts with the department to provide mental health, developmental disabilities, and addictive diseases services within the community service board area served by that community service board;

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

(iv) A former employee of that community service board until a period of at least two years has passed since the time such person was employed by that community service board.

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

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

(b.1) A county governing authority may appoint a member of the county board of health to serve on the governing board of the community service board provided that such person meets the qualifications of paragraph (1) or (2) of subsection (b) of this Code section and such appointment does not violate the provisions of Chapter 10 of Title 45. For terms of office which begin July 1, 1994, or later, an employee of the Department of Human Resources (now known as the Department of Behavioral Health and Developmental Disabilities for these purposes) or an employee of a county board of health shall not serve on a governing board of a community service board. For terms of office which begin July 1, 2009, or later, an employee of the department, the Department of Human Services, the Department of Public Health, or the Department of Community Health or a board member of the respective boards of each department shall not serve on a governing board of a community service board.

(c) In making appointments to the governing board of a community service board, the county governing authorities shall ensure that such appointments are reflective of the cultural and social characteristics, including gender, race, ethnic, and age characteristics, of the community service board area and county populations. The county governing authorities are further encouraged to ensure that each disability group is represented on the governing board of the community service board, and in making such appointments the county governing authorities may consider suggestions from clinical professional associations as well as advocacy groups. For the purposes of this subsection, the term "advocacy groups" means any organizations or associations that advocate for, promote, or have an interest in disability services and are exempted as a charitable organization from federal income tax pursuant to Section 501(c) of the Internal Revenue Code; provided, however, that "advocacy groups" shall not mean paid providers of disability services or health services.

(c.1) A county governing authority in making appointments to the governing board of a community service board shall take into consideration that at least one member of the governing board of a community service board is an individual who is trained or certified in finance or accounting; provided, however, that if after a reasonable effort at recruitment there is no person trained or certified in finance or accounting within the community service board area who is willing and able to serve, the county governing authority may consider for appointment any other person having a familiarity with financial or accounting practices.

(d) Each county in which the governing authority of the county is authorized to appoint members to the governing board of the community service board shall participate with the board in the operation of the program through the community service board. All contractual obligations, including but not limited to real estate leases, rentals, and other property agreements, other duties, rights, and benefits of the mental health, developmental disabilities, and addictive diseases service areas in existence on June 30, 2014, shall continue to exist along with the new powers granted to the community service boards effective July 1, 2014.

(e) Notwithstanding any other provision of this chapter, a community service board may be constituted in a method other than that outlined in subsection (b) of this Code section if:

(1) A board of health of a county desiring to be the lead county board of health for that county submits a written agreement to the former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health and Developmental Disabilities) of the former Department of Human Resources before July 1, 1993, to serve as the community service board and to continue providing disability services in that county after July 1, 1994, and the governing authority for that county adopted a resolution stating its desire to continue the provision of disability services through its board of health after July 1, 1994, and submitted a copy of such resolution to the former division before July 1, 1993; or

(2)(A) The lead county board of health for a community mental health, mental retardation, and substance abuse service area, as designated by the former Division of Mental Health, Developmental Disabilities, and Addictive Diseases (now known as the Department of Behavioral Health and Developmental Disabilities) of the former Department of Human Resources on July 15, 1993, but which area excludes any county which meets the requirements of paragraph (1) of this subsection, submitted a written agreement to the former division and to all counties within such service area to serve as the community service board for that area and to continue providing disability services after July 1, 1994, which agreement was submitted between July 31, 1993, and December 31, 1993; and

(B) Each county governing authority which is within the service area of a lead county board of health which has submitted an agreement pursuant to subparagraph (A) of this paragraph adopted a resolution stating its desire to continue the provision of disability services through such lead county board of health after July 1, 1994, and submitted a copy of that resolution to the former division, the regional board, and the lead county board of health between July 31, 1993, and December 31, 1993; and

(3) The lead county board of health qualifying as such under paragraph (1) or (2) of this subsection agrees in writing to appoint a director for mental health, mental retardation, and substance abuse other than the director of the county board of health as stipulated in Code Section 31-3-12.1, to appoint an advisory council on mental health, mental retardation, and substance abuse consisting of consumers, families of consumers, and representatives from each of the counties within the boundaries of the community service board, and to comply with all other provisions relating to the delivery of disability services pursuant to this chapter.

(f) If the conditions enumerated in subsection (e) of this Code section are not met prior to or on December 31, 1993, a community service board as provided in subsection (b) shall be established and appointed by January 31, 1994, to govern the provision of disability services within the boundaries of the community service board. Such community service board shall have the authority to adopt bylaws and undertake organizational and contractual activities after January 31, 1994; provided, however, that the community service board established pursuant to this Code section may not begin providing services to clients until July 1, 1994.

(g) If a community service board is established pursuant to paragraph (2) of subsection (e) of this Code section, such community service board must operate as established at least until June 30, 1996; provided, however, that in each fiscal year following June 30, 1996, the counties included under the jurisdiction of such a community service board may vote to reconstitute the community service board pursuant to the provisions of subsection (b) of this Code section by passage of a resolution by a majority of the county governing authorities within the jurisdiction of the community service board prior to January 1, 1997, or each year thereafter.

(h) The governing board of each community service board shall adopt bylaws and operational policies and guidelines in conformity with the provisions of this chapter. Those bylaws shall address governing board appointment procedures, initial terms of governing board members, the staggering of terms, quorum, a mechanism for ensuring that consumers of disability services and family members of consumers constitute no less than 50 percent of the governing board members appointed pursuant to paragraphs (1) and (2) of subsection (b) of this Code section, and a mechanism for ensuring equitable representation of the various disability groups. A quorum for the transaction of any business and for the exercise of any power or function of the governing board of the community service board shall consist of a majority of the total number of filled governing board member positions appointed pursuant to subsection (b) of this Code section. A vote of the majority of such quorum shall be the act of the governing board of the community service board except where the bylaws of the community service board may require a greater vote. The regular term of office for each member of the governing board of a community service board shall be three years. Vacancies on such governing board shall be filled in the same manner as the original appointment. For purposes of this subsection, "equitable representation of the various disability groups" means that consumers and family members of such consumers who constitute no less than 50 percent of the governing board members holding membership pursuant to paragraphs (1) and (2) of subsection (b) of this Code section shall be appointed so as to assure that an equal number of such members to the fullest extent possible represents mental health, developmental disabilities, and addictive diseases interests.

(i) The governing board of each community service board which is composed of members who are appointed thereto by the governing authority of only one county shall have a minimum of seven and no more than nine members, not including any additional members appointed pursuant to paragraphs (2) and (3) of subsection (b) of this Code section, notwithstanding the provisions of subsection (b) of this Code section, which members in all other respects shall be appointed as provided in this Code section.

(j) No governing board member, officer, or employee of a community service board who has authority to take, direct others to take, recommend, or approve any personnel action shall take or threaten action against any employee of a community service board as a reprisal for making a complaint or disclosing information concerning the possible existence of any activity constituting fraud, waste, or abuse in or relating to the programs, operations, or client services of the community service board, to the governing board of the community service board, to a member of the General Assembly, or to the department unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity. Any action taken in violation of this subsection shall give the public employee a right to have such action set aside in a proceeding instituted in the superior court.

(k) A member of a governing board of a community service board who after notice that such member has failed to complete any required training prescribed by the department pursuant to paragraph (6) of Code Section 37-1-20 continues such failure for 30 days may be removed from office by the remaining members of the governing board of the community service board.

(l) A member of a governing board of a community service board may resign from office by giving written notice to the executive director of the community service board. The resignation is irrevocable after delivery to such executive director but shall become effective upon the date on which the notice is received or on the effective date given by the member in the notice, whichever date is later. The executive director, upon receipt of the resignation, shall give notice of the resignation to the remaining members of the governing board of the community service board and to the chief executive officer or governing authority of the county that appointed the member.

(m) The office of a member of a governing board of a community service board shall be vacated upon such member's resignation, death, or inability to serve due to medical infirmity or other incapacity, removal by the community service board as authorized in this Code section, or upon such other reasonable condition as the community service board may impose under its bylaws.

(n) Each member of the governing board of a community service board shall comply with the code of ethics for members of boards, commissions, and authorities as set forth in Code Section 45-10-3. A governing board member who fails to comply with such code may be subject to removal from office by the remaining members of the governing board of the community service board or by the commissioner as authorized in Code Section 37-2-10. The governing board of the community service board shall revise the bylaws of the community service board adopted in accordance with subsection (h) of this Code section to reflect the requirements of this subsection.

(o) A member of the governing board of a community service board shall have a fiduciary responsibility to avoid any conflict of interest in a manner that is consistent with the declarations found in Code Section 45-10-2. When such governing board is to decide an issue about which a member has an unavoidable conflict of interest, such member shall absent herself or himself from not only the vote, but also from any deliberation on such issue. Members of the governing board of a community service board shall not use their positions to obtain employment with or contracts from the community service board, its funding sources, or its suppliers of goods and services for themselves, family members, or close associates. Should such member desire such employment, such member shall first resign. No person who has served as a member of the governing board of a community service board may be employed by that community service board, either directly or by contract, until a period of at least two years has passed since the time such person served as a member of the governing board of that community service board. A governing board member or a member of the governing board member's family may obtain disability or health services from the community service board in the ordinary course of the community service board's provision of such disability or health services on the same terms and under the same conditions applicable to any member of the public. An individual governing board member shall not exercise individual authority over the community service board's operations, affairs, property, or personnel, except when such member's action is explicitly permitted by action of the governing board of the community service board by policy or by resolution. The governing board of the community service board shall revise the bylaws of the community service board adopted in accordance with subsection (h) of this Code section to reflect the requirements of this subsection.

(p) A member of a governing board of a community service board may not enter upon the duties of office until such member takes the following oath of office:

STATE OF GEORGIA
COUNTY OF ___________

I, ________________________, do solemnly swear or affirm that I will truly perform the duties of a member of the governing board of the ________________________ Community Service Board to the best of my ability.

I do further swear or affirm:
(1) That I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof;
(2) That I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I am by the laws of the State of Georgia prohibited from holding;
(3) That I am otherwise qualified to hold said office according to the Constitution and the laws of Georgia; and
(4) That I will support the Constitution of the United States and this state.

____
Signature of member of
the governing board of the
________________________ Community Service Board

____
Typed name of member of
the governing board of the
______________________ Community Service Board

Sworn and subscribed
before me this ______ day
of ____________, ______.

(SEAL)

History.

Code 1933, § 88-607, enacted by Ga. L. 1976, p. 953, § 1; Ga. L. 1986, p. 1213, § 1; Ga. L. 1993, p. 1445, § 16; Ga. L. 1994, p. 437, § 4; Ga. L. 1999, p. 860, § 1; Ga. L. 2002, p. 1324, §§ 1-7, 2-3; Ga. L. 2006, p. 310, § 5/HB 1223; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2010, p. 878, § 37/HB 1387; Ga. L. 2011, p. 705, § 5-22/HB 214; Ga. L. 2014, p. 309, § 4/SB 349; Ga. L. 2016, p. 864, § 37/HB 737; Ga. L. 2022, p. 26, § 5-2/HB 1013.

Amendments.

The 2022 amendment, effective July 1, 2022, in subsection (a), added "to children and adults" at the end of the first sentence and added "for children and adults" at the end of the second sentence.

37-2-6.1. Community service boards — Executive director, staff, budget, facilities; powers and duties; exemption from state and local taxation.

(a)(1) The governing board of each community service board shall employ an executive director to serve as its chief executive officer and shall prescribe the duties thereof. The selection of the executive director and all terms of compensation shall be set by the governing board of each community service board and shall be subject to review and approval by the commissioner prior to any offer of employment or at any point thereafter where the terms of compensation are proposed to be substantially altered. Such contracts shall be reviewed by the commissioner every five years. Further, the commissioner shall be required to review and approve the selection of the executive director of each community service board for adherence to minimum qualifications for the position as prescribed by the department. The executive director shall direct the day-to-day operations of the community service board. Such executive director shall be appointed and removed by the community service board pursuant to this subsection and shall appoint other necessary staff pursuant to an annual budget adopted by the board, which budget shall provide for securing appropriate facilities, sites, and professionals necessary for the provision of disability and health services. Notwithstanding any other provision of law to the contrary, the governing board of the community service board may delegate any power, authority, duty, or function to its executive director or other staff. The executive director or other staff is authorized to exercise any power, authority, duty, or function on behalf of the governing board of the community service board.

(2) The executive director or any full-time or part-time employee of a community service board shall have a responsibility to avoid any conflict of interest in a manner that is consistent with the declarations found in Code Section 45-10-21. Such employees shall not transact any business with that community service board as prohibited in Code Section 45-10-23 unless any such transaction falls under the exceptions granted in Code Section 45-10-25. Transactions that fall under such exceptions shall be disclosed to the governing board of the community service board in the manner as such governing board shall determine and yearly to the State Ethics Commission as prescribed in Code Section 45-10-26. The governing board of the community service board shall promulgate policies and procedures governing executive director and employee conflicts of interest and establish a code of ethics for the executive director and employees of the community service board.

(b) The governing board of each community service board or each community service board, under the jurisdiction of its governing board, shall perform duties, responsibilities, and functions and may exercise power and authority described in this subsection as follows:

(1) The governing board of each community service board shall adopt bylaws for the conduct of its affairs and the affairs of their respective community service boards; provided, however, that the governing board of a community service board shall meet at least quarterly, and that all such meetings and any bylaws shall be open to the public, as otherwise required under Georgia law;

(2) The governing board of each community service board shall be required to review and approve the annual budget of the community service board and shall be required to establish the general policies related to such budget to be followed by the community service board;

(3) Each community service board shall provide an adequate range of disability services as prescribed by the department;

(4) Each community service board may make and enter into all contracts necessary and incidental to the performance of its duties and functions;

(5) Each community service board may acquire by purchase, gift, lease, or otherwise and may own, hold, improve, use, and sell, convey, exchange, transfer, lease, sublease, and dispose of real and personal property of every kind and character, or any interest therein, for its corporate purposes;

(6) Each community service board may contract to utilize the services of the Department of Administrative Services, the state auditor, or any other agency of state, local, or federal government;

(7) Each community service board may provide, either independently or through contract with appropriate state or local governmental entities, the following benefits to its employees, their dependents, and survivors, in addition to any compensation or other benefits provided to such persons:

(A) Retirement, pension, disability, medical, and hospitalization benefits, through the purchase of insurance or otherwise, but medical and hospitalization benefits may only be provided through the Department of Community Health under the same conditions as provided for such benefits to state employees, and the Department of Community Health shall so provide if requested;

(B) Life insurance coverage and coverage under federal old age and survivors' insurance programs;

(C) Sick leave, annual leave, and holiday leave; and

(D) Any other similar benefits including, but not limited to, death benefits;

(8) Each community service board may cooperate with all units of local government in the counties where the community service board provides services as well as neighboring regions and with the programs of other departments, agencies, and regional commissions and regional planning boards;

(9) Each community service board shall establish and maintain a personnel program for its employees and fix the compensation and terms of compensation of its employees; provided, however, that each community service board shall comply with the provisions of Chapter 20 of Title 45, for so long as and to the extent that each employee of such board remains subject to the rules and regulations of the State Personnel Board or as otherwise provided by law;

(10) Each community service board may receive and administer grants, gifts, contracts, moneys, and donations for purposes pertaining to the delivery of disability services or of health services;

(11) Each community service board may establish fees for the provision of disability services or health services according to the terms of contracts entered into with the department, Department of Human Services, Department of Public Health, or Department of Community Health, as appropriate; provided, however, that all fees collected shall be used solely in accordance with the statutory nonprofit and public purposes of community service boards as prescribed in this article;

(12) Each community service board may accept appropriations, loans of funds, facilities, equipment, and supplies from local governmental entities in the counties where the community service board provides services;

(13) Each member of the governing board of a community service board may, upon approval of the executive director, receive reimbursement for actual expenses incurred in carrying out the duties of such office; provided, however, that such reimbursement shall not exceed the rates and allowances set for state employees by the Office of Planning and Budget or the mileage allowance for use of a personal car as that received by all other state officials and employees or a travel allowance of actual transportation cost if traveling by public carrier;

(14) The governing board of each community service board shall elect a chairperson and vice chairperson from among its membership. The governing board members shall also elect a secretary and treasurer from among its membership or may designate the executive director of the community service board to serve in one or both offices. Such officers shall serve for such terms as shall be prescribed in the bylaws of the community service board or until their respective successors are elected and qualified. No governing board member shall hold more than one office of the governing board of a community service board; except that the same person may serve as secretary and treasurer. The bylaws of the governing board of a community service board shall provide for any other officers of such board and the means of their selection, the terms of office of the officers, and an annual meeting to elect officers;

(15) Each community service board may have a seal and alter it;

(16) Each community service board may establish fees, rates, rents, and charges for the use of facilities of the community service board for the provision of disability services or of health services, in accordance with the terms of contracts entered into with the department, Department of Human Services, Department of Public Health, or Department of Community Health, as appropriate;

(17) Each community service board may borrow money for any business purpose and may incur debt, liabilities, and obligations for any business purpose. A debt, liability, or obligation incurred by a community service board shall not be considered a debt, liability, or obligation of the state or any county or any municipality or any political subdivision of the state. A community service board may not borrow money as permitted by this Code section if the highest aggregate annual debt service requirements of the then current fiscal year or any subsequent year for outstanding borrowings of the

community service board, including the proposed borrowing, exceed 15 percent of the total revenues of the community service board in its fiscal year immediately preceding the fiscal year in which such debt is to be incurred. Interest paid upon such borrowings shall be exempt from taxation by the state or its political subdivisions. A state contract with a community service board shall not be used or accepted as security or collateral for a debt, liability, or obligation of a community service board without the prior written approval of the commissioner;

(18) Each community service board, to the extent authorized by law and the contract for the funds involved, may carry forward without lapse fund balances and establish operating, capital, and debt reserve accounts from revenues and grants derived from state, county, and all other sources; and

(19) Each community service board may operate, establish, or operate and establish facilities deemed by the community service board as necessary and convenient for the administration, operation, or provision of disability services or of health services by the community service board and may construct, reconstruct, improve, alter, repair, and equip such facilities to the extent authorized by state and federal law.

(c) Nothing shall prohibit a community service board from contracting with any county governing authority, private or other public provider, or hospital for the provision of disability services or of health services.

(d) Each community service board exists for nonprofit and public purposes, and it is found and declared that the carrying out of the purposes of each community service board is exclusively for public benefit and its property is public property. Thus, no community service board shall be required to pay any state or local ad valorem, sales, use, or income taxes.

(e) A community service board shall not have the power to tax, the power to issue general obligation bonds or revenue bonds or revenue certificates, or the power to financially obligate the state or any county or any municipal corporation.

(f) A community service board shall not operate any facility for profit. A community service board may fix fees, rents, rates, and charges that are reasonably expected to produce revenues, which, together with all other funds of the community service board, will be sufficient to administer, operate, and provide the following:

(1) Disability services or health services;

(2) The cost of acquiring, constructing, equipping, maintaining, repairing, and operating its facilities; and

(3) The creation and maintenance of reserves sufficient to meet principal and interest payments due on any obligation of the community service board.

(g) Each community service board may provide reasonable reserves for the improvement, replacement, or expansion of its facilities and services. Reserves under this subsection shall be subject to the limitations in paragraph (17) of subsection (b) of this Code section.

(h) Each county and municipal corporation of this state is authorized to convey or lease property of such county or municipal corporation to a community service board for its public purposes. Any property conveyed or leased to a community services board by a county or municipal corporation shall be operated by such community service board in accordance with this chapter and the terms of the community service board's agreements with the county or municipal corporation providing such conveyance or lease.

(i) Each community service board and any entity created or formed by such community service board pursuant to subsection (j) of this Code section shall keep books of account reflecting all funds received, expended, and administered by the community service board in accordance with generally accepted accounting principles. The community service board and an entity created or formed by such community service board, if any, pursuant to subsection (j) of this Code section shall assure the inclusion in its annual audit any information or procedures required by the department. The community service board and an entity created or formed by such community service board, if any, pursuant to subsection (j) of this Code section shall rotate audit firms at least once every five years. Copies of the annual audit and all findings shall be submitted to the department and the governing board of the community service board, or in the case of an entity created or formed by the community service board, if any, to the governing board of the community service board, the governing board of such entity, and the department within 60 days of completion of the audit.

(j) Subject to the approval of the commissioner and the governing board of the community service board, a community service board may create, form, or become a member of a nonprofit corporation, limited liability company, or other nonprofit entity, the voting membership of which shall be limited to community service boards, governmental entities, nonprofit corporations, or a combination thereof, if such entity is created for purposes that are within the powers of the community service board, for the cooperative functioning of its members, or a combination thereof; provided, however, that no funds provided pursuant to a contract between the department and the community service board may be used in the formation or operation of the nonprofit corporation, limited liability company, or other nonprofit entity. No community service board, whether or not it exercises the power authorized by this subsection, shall be relieved of compliance with Chapter 14 of Title 50, relating to open and public meetings, and Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless otherwise provided by law. The provisions of this subsection relating to the approval of the commissioner to the contrary notwithstanding, nothing in this subsection shall prohibit a community service board from creating, forming, or becoming a member of a national, regional, or state trade association or business league as defined for tax exempt purposes by the United States Internal Revenue Service for the benefit of member community service boards and similar organizations.

(k) No community service board shall employ or retain in employment, either directly or indirectly through contract, any person who is receiving a retirement benefit from the Employees' Retirement System of Georgia except in accordance with the provisions of Code Section 47-2-112; provided, however, that any such person who is employed as of July 1, 2004, may continue to be employed.

(l) A community service board may join or form and operate, either directly or indirectly, one or more networks of community service boards, disability or health service professionals, and other providers of disability services or health services to arrange for the provision of disability services or health services through such networks; to contract either directly or through such networks with the Department of Community Health to provide services to Medicaid beneficiaries; to provide disability services or health services in an efficient and cost-effective manner on a prepaid, capitation, or other reimbursement basis; and to undertake other disability or health services related managed care activities. For purposes of this subsection only and notwithstanding Code Section 33-3-3 or any other provision of law, a community service board shall be permitted to and shall comply with the requirements of Chapter 20A of Title 33 to the extent that such requirements apply to the activities undertaken by the community service board or by a community service board under this subsection or subsection (j) of this Code section. No community service board, whether or not it exercises the powers authorized by this subsection, shall be relieved of compliance with Article 4 of Chapter 18 of Title 50, relating to inspection of public records, unless otherwise provided by law. Any licensed health care provider shall be eligible to apply to become a participating provider under such a plan or network that provides coverage for health care, disability services, or health services which are within the lawful scope of the provider's license, but nothing in this Code section shall be construed to require any such plan or network to provide coverage for any specific health care, disability service, or health service.

History.

Code 1981, § 37-2-6.1, enacted by Ga. L. 1993, p. 1445, § 16; Ga. L. 1994, p. 437, § 5; Ga. L. 2002, p. 1324, §§ 1-7, 2-4, 2-5; Ga. L. 2004, p. 150, § 1; Ga. L. 2006, p. 310, § 6/HB 1223; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2009, p. 745, § 2/SB 97; Ga. L. 2010, p. 878, § 37/HB 1387; Ga. L. 2011, p. 705, § 5-23/HB 214; Ga. L. 2012, p. 446, § 2-58/HB 642; Ga. L. 2014, p. 309, § 5/SB 349; Ga. L. 2015, p. 5, § 37/HB 90; Ga. L. 2015, p. 385, § 7-1/HB 252; Ga. L. 2016, p. 864, § 37/HB 737; Ga. L. 2020, p. 474, § 1/SB 176; Ga. L. 2023, p. 608, § 8/HB 572, effective July 1, 2023.

Amendments.

The 2023 amendment, effective July 1, 2023, substituted "to the State Ethics Commission" for "to the Georgia Government Transparency and Campaign Finance Commission" in the third sentence of paragraph (a)(2).

37-2-6.5. Cessation of operations by community service board; notification; continuation of operations by successor board, county board of health, or outside manager.

(a) By joint action of the membership of a community service board created pursuant to Code Section 37-2-6 and the governing authority of each county within the community service board area, such community service board may cease operations; provided, however, that such community service board shall notify the commissioner at least 90 days in advance of the meeting of the community service board in which such action is to be taken. Such joint action shall indicate the date on which the community service board shall cease operations.

(b) Upon receipt of notification that a community service board intends to cease operations, the commissioner shall notify the chairperson and executive director of such community service board and the governing authority of each county within the community service board area of such board that:

(1) The department, after securing the approval of the Governor, intends to appoint a manager or management team to manage and operate the programs and services of the community service board in accordance with the provisions of paragraph (1) of subsection (c) of Code Section 37-2-10 until the department shall determine:

(A) That such community service board should continue in operation, provided one or more members appointed to such board in accordance with subsection (b) of Code Section 37-2-6 shall be removed in accordance with subparagraph (c)(3)(H) of Code Section 37-2-10, and the department, acting on behalf of the membership of the community service board, nominates a successor to a removed member and advises the county governing authority that appointed such removed member to appoint a successor;

(B) That all of the members of such community service board appointed in accordance with subsection (b) of Code Section 37-2-6 shall be removed and such community service board shall be reconstituted; and that the department shall assist the county governing authorities in making appointments to the new community service board; or

(C) In the case where the membership of such community service board is the membership of a county board of health designated in accordance with Code Section 31-3-12.1 or subsection (e) of Code Section 37-2-6, that the entire membership of the community service board should be removed and the membership of the community service board be reconstituted in accordance with subsection (b) of Code Section 37-2-6;

(2) The department, with the approval of the commissioner, intends to redesignate the boundaries of the community service board area served by such board pursuant to subsection (b) of Code Section 37-2-3 by expanding the boundaries of a community service board area served by another community service board to include the counties in the community service board area served by the community service board that intends to cease operations so that the community service board serving such area may assume responsibility for the provision of disability services within such counties;

(3) The department intends to request pursuant to Code Section 31-3-12.1 that the governing authority of a county within the community service board area of such board authorize the membership of the board of health of such county to serve as the membership of such community service board; or

(4) The department, after securing the approval of the Governor, intends to appoint a manager or management team to manage and operate the programs and services of the community service board until such time as arrangements can be made to secure one or more alternate service providers to assume responsibility for the provision of services previously provided by the community service board.

(c) If a community service board ceases operation and is succeeded by another community service board pursuant to paragraph (2), a county board of health pursuant to paragraph (3), or a manager or management team pursuant to paragraph (4) of subsection (b) of this Code section, the department shall make a determination about the disposition of all assets, equipment, and resources purchased with state or federal funding in the possession of the predecessor community service board.

(d) If a community service board ceases operation and one or more alternate service providers assume responsibility for the provision of services previously provided by the community service board pursuant to paragraph (4) of subsection (b) of this Code section, the department shall petition the superior court of the county in which the principal office of that community service board was located for appointment of a receiver of the assets of the community service board for the protection of the board's creditors and the public. The receiver shall be authorized to marshal and sell or transfer assets of the board, and, after payment of the costs, expenses, and approved fees of the proceeding, to pay the liabilities of the community service board. The court shall then decree that the board be dissolved. Upon completion of the liquidation, any surplus remaining after paying all costs of the liquidation shall be distributed, as determined by the court, to the agencies, entities, or providers providing disability services in the community service board area formerly served by the community service board which ceased operations. At no time shall any community service board upon ceasing operations convey any of its property, except as may be otherwise authorized by a superior court in this subsection, to any private person, association, or corporation.

History.

Code 1981, § 37-2-6.5, enacted by Ga. L. 2006, p. 310, § 7/HB 1223; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2010, p. 878, § 37/HB 1387; Ga. L. 2014, p. 309, § 7/SB 349; Ga. L. 2025, p. 1029, § 37(1)/SB 153, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, part of an Act to revise, modernize, and correct the Code, deleted "paragraph (1) of" following "pursuant to" in paragraph (b)(2).

37-2-7. [Reserved] Formulation and publication of state plan for disability services.

History.

Code 1933, § 88-606, enacted by Ga. L. 1976, p. 953, § 1; Ga. L. 1986, p. 1213, § 1; Ga. L. 1993, p. 1445, § 16; Ga. L. 1999, p. 860, § 2; Ga. L. 2002, p. 1324, § 1-7; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2010, p. 838, § 10/SB 388; repealed by Ga. L. 2024, p. 166, § 2/HB 1344, effective April 22, 2024.

Editor's notes.

Ga. L. 2024, p. 166, § 2/HB 1344, reserved the designation of this Code section, effective April 22, 2024.

37-2-11. Allocation of available funds for services; recipients to meet minimum standards; accounting for fees generated by providers; discrimination in providing services prohibited.

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

(b) Fees generated, if any, by hospitals, community service boards, and other private and public providers, providing services under contract or purview of the department, shall be reported to the department and applied wherever appropriate against the cost of providing, and increasing the quantity and quality of, disability services; provided, however, that income to a community service board derived from fees may be used to further the purposes of such community service board as found in Code Section 37-2-6.1, subject to appropriations. The department shall be responsible for developing procedures to properly account for the collection, remittance, and reporting of generated fees. The department shall work with the community service boards and other public or private providers to develop an appropriate mechanism for accounting for the funds and resources contributed to local disability services by counties and municipalities within the area. Such contributions are not required to be submitted to either the community service boards or the department; however, appropriate documentation and accounting entries shall make certain that the county or municipality is credited, and if necessary compensated, appropriately for such contribution of funds or resources.

(c) No person shall be denied disability services provided by the state as defined in this chapter based on age, gender, race, ethnic origin, or inability to pay; provided, however, unless otherwise prohibited by law or contract, providers of disability services may deny nonemergency disability services to any person who is able to pay, but who refuses to pay. The department shall develop a state-wide sliding fee scale for the provision of disability services and shall promulgate standards that define emergency disability services and refusal to pay.

History.

Code 1933, § 88-612, enacted by Ga. L. 1976, p. 953, § 1; Ga. L. 1986, p. 1213, § 1; Ga. L. 1993, p. 1445, § 16; Ga. L. 2002, p. 1324, § 1-7; Ga. L. 2006, p. 310, § 9/HB 1223; Ga. L. 2009, p. 453, § 3-1/HB 228; Ga. L. 2025, p. 1029, § 37(2)/SB 153, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, part of an Act to revise, modernize, and correct the Code, substituted “Code Section 37-2-6.1,” for “Code Section 37-3-6.1,” in subsection (b).

ARTICLE 2

ADMINISTRATION OF MENTAL DISABILITY SERVICES

PART 1

OFFICE OF DISABILITY SERVICES OMBUDSMAN

37-2-30. Definitions.

As used in this article, the term:

(1) “Advance directive for health care” means a written document

voluntarily executed by a patient in accordance with the requirements of Code Section 31-32-5.

(2) "Clinical record" means a written record pertaining to an individual consumer and shall include all medical records, progress notes, charts, admission and discharge data, and all other information which is recorded by a services provider or other entities responsible for a consumer's care and treatment under this chapter and which pertains to the consumer's hospitalization, treatment, or habilitation.

(3) "Consumer" means a natural person who has been or is a recipient of disability services as defined in Code Section 37-1-1 and shall include natural persons who are seeking disability services.

(4) "Durable power of attorney for health care" means a written document voluntarily executed by an individual creating a health care agency in accordance with Chapter 36 of Title 31, as such chapter existed on and before June 30, 2007.

(5) "Estate representative" means an executor, executrix, administrator, or administratrix of the estate of a deceased consumer.

(6) "Guardian" shall have the same meaning as provided in Code Section 29-1-1.

(7) "Health care agent" means an agent under a durable power of attorney for health care, a health care agent under an advance directive for health care, or a mental health care agent under a psychiatric advance directive.

(8) "Office" means the office of disability services ombudsman created pursuant to subsection (a) of Code Section 37-2-31.

(9) "Ombudsman" means the disability services ombudsman appointed as provided for in Code Section 37-2-32.

(9.1) "Psychiatric advance directive" means a written document voluntarily executed by a patient in accordance with the requirements of Code Section 37-11-9.

(10) "Rights" means such rights as provided by statute, rule, or regulation for a consumer of a services provider.

(11) "Services provider" means a public or private person, corporation, or business which provides disability services operated by the division, under letter of agreement with the division, or under contract with the division.

(12) "Safety" means freedom from physical harm.

(13) “Well-being” means quality of life of a consumer, including the environment of care.

History.

Code 1981, § 37-2-30, enacted by Ga. L. 2008, p. 133, § 3/HB 535; Ga. L. 2009, p. 453, § 3-11/HB 228; Ga. L. 2022, p. 611, § 2-22/HB 752.

Amendments.

The 2022 amendment, effective July 1, 2022, in paragraph (7), substituted “health care, a health care agent” for “health care or health care agent” and added “, or a mental health care agent under a psychiatric advance directive” at the end; and added paragraph (9.1).

Law reviews.

For article, “HB 752: Psychiatric Advance Directive Act,” see 39 Ga. St. U.L. Rev. 191 (2022).

ARTICLE 3

ADULT RESIDENTIAL MENTAL HEALTH PROGRAMS

Effective date.

This article becomes effective January 1, 2026.

37-2-70. (Effective January 1, 2026.) Definitions.

As used in this article, the term:

(1) “Adult residential mental health program” means a program licensed by the department under Article 7 of Chapter 3 of this title.

(2) “Applicant” means any individual affiliated with a partnership, corporation, association, or individuals or groups of individuals submitting an application to operate an adult residential mental health program, community living arrangement, drug abuse treatment and education program, or narcotic treatment program.

(3) “Community living arrangement” means a group home licensed by the department under Chapter 13 of this title.

(4) “Drug abuse treatment and education program” means a treatment program licensed by the department under Article 1 of Chapter 5 of Title 26.

(5) “License” means the official permit issued by the department on or after January 1, 2026; provided, however, that such term shall also include an official permit issued by the Department of Community Health on December 31, 2025.

(6) “Licensee” means any person holding a license issued by the department to operate an adult residential mental health program, community living arrangement, drug abuse treatment and education program, or narcotic treatment program.

(7) “Narcotic treatment program” means a treatment program licensed by the department under Article 2 of Chapter 5 of Title 26.

History.
Code 1981, § 37-2-70, enacted by Ga. L. 2025, p. 177, § 3-1/HB 584, effective January 1, 2026.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 2025, the subsection (a) designation was deleted as there is no subsection (b) in this Code section.

37-2-71. (Effective January 1, 2026.) Fee schedule for licensure.

The department shall establish by rule adopted pursuant to Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," a schedule of fees for licensure activities for adult residential mental health programs, community living arrangements, drug treatment and education programs, and narcotic treatment programs required to be licensed by the department. Such schedules shall be determined in a manner so as to help defray the costs incurred by the department, but in no event to exceed such costs, both direct and indirect, in providing such licensure activities. Such fees may be annually adjusted by the department but shall not be increased by more than the annual rate of inflation as measured by the Consumer Price Index as reported by the Bureau of Labor Statistics of the United States Department of Labor. All fees paid thereunder shall be paid into the general fund of the State of Georgia. It is the intent of the General Assembly that the proceeds from all fees imposed pursuant to this Code section be used to support and improve the quality of licensing services provided by the department.

History.
Code 1981, § 37-2-71, enacted by Ga. L. 2025, p. 177, § 3-1/HB 584, effective January 1, 2026.

37-2-72. (Effective January 1, 2026.) Findings and actions by department.

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

(1) Knowingly made any false statement of material information in connection with the application for a license, or in statements made or on documents submitted to the department as part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program;

(2) Failed or refused to provide the department with access to the premises subject to regulation or information pertinent to the initial or continued licensing of the adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program;

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

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

(b) When the department finds that any applicant or licensee has violated any provision of subsection (a) of this Code section or laws, rules, regulations, or formal orders related to the initial or continued licensing of an adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program, the department, subject to notice and opportunity for hearing, may take any of the following 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 such 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 adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program 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 program or arrangement;

(5) Revoke any license;

(6) Impose a fine of up to $2,000.00 per day for each violation of a law, rule, regulation, or formal order related to the initial or ongoing licensing of any applicant or licensee, up to a total of $40,000.00; 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 adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program 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 potentional hazard created to the health or safety of the public.

(c) The department may deny a license or otherwise restrict a license from 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 adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program 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 or to avert the payment of fines assessed by the department pursuant to this Code section.

(d) 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 (b) of this Code section.

(e) 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 adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program 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 (b) of this Code section.

(f) 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 adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program.

(g) 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 adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program reasonable and necessary expenses incurred by the department pursuant to any administrative or legal action required by the failure of such program or arrangement 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 investigation, inspection, or enforcement actions result in adverse findings, as finally determined by the department, pursuant to administrative or legal action.

(h) 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.

(i) 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 such exemption or exception.

(j) 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."

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

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

History.
Code 1981, § 37-2-72, enacted by Ga. L. 2025, p. 177, § 3-1/HB 584, effective January 1, 2026.

37-2-73. (Effective January 1, 2026.) Emergency relocation of residents; monitoring; emergency orders; additional powers.

(a)(1) The commissioner may order the emergency relocation of residents from an adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program subject to licensure by the department when he or she has determined that the 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 resident and his or her next of kin or guardian of the emergency relocation and the reasons therefor;

(B) Relocation to the nearest appropriate adult residential mental health program, community living arrangement, drug treatment and education program, narcotic treatment program, or other appropriate setting; and

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

(b)(1) The commissioner may order the emergency placement of a monitor in an adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program, subject to licensure by the department, when one or more of the following conditions are present:

(A) The adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program is operating without a permit or a license;

(B) The department has denied application for a permit or a license or has initiated action to revoke the existing permit or license of the licensee;

(C) The adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program is closing or plans to close and adequate arrangements for relocation of the 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 residents cannot be adequately assured by the adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program.

(2) A monitor may be placed, pursuant to this subsection, in an adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program for no more than ten days, during which time the monitor shall observe conditions and compliance with any recommended remedial action of the department. The monitor shall report to the department. The monitor shall not assume any administrative responsibility within the adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program, nor shall the monitor be liable for any actions of the licensee. The costs of placing a monitor in an adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program shall be paid by the licensee 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.

(c)(1) The commissioner may order the emergency prohibition of admissions to an adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program when such licensee has failed to correct a violation of departmental permit rules or regulations within a reasonable period of time, as specified in the department's corrective order, and the violation:

(A) Could jeopardize the health and safety of the residents 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 new residents may be suspended until the violation has been corrected or until the department has determined that the licensee 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 any such order, an emergency order shall become effective immediately. The department shall provide an opportunity for a preliminary hearing within ten days following a request therefor by any adult residential mental health program, community living arrangement, drug treatment and education program, or narcotic treatment program affected by an emergency order. If, at the preliminary hearing, the order is determined by the department to be invalid, such order shall thereupon become void and of no effect. If, at the preliminary hearing, the order is determined by the department to be valid, such determination shall constitute a contested case under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," and such 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 shall be in addition to all other powers of the department, board, and commissioner.

History.
Code 1981, § 37-2-73, enacted by Ga. L. 2025, p. 177, § 3-1/HB 584, effective January 1, 2026.

CHAPTER 3

EXAMINATION, TREATMENT, ETC., FOR MENTAL ILLNESS

ARTICLE 1

GENERAL PROVISIONS

37-3-1. Definitions.

As used in this chapter, the term:

(.1) “Available outpatient treatment” means outpatient treatment, either public or private, available in the patient’s community, including but not limited to supervision and support of the patient by family, friends, or other responsible persons in that community. Outpatient treatment at state expense shall be available only within the limits of state funds specifically appropriated therefor.

(1) “Chief medical officer” means the physician with overall responsibility for patient treatment at any facility receiving patients under this chapter or a physician appointed in writing as the designee of such chief medical officer.

(2) “Clinical record” means a written record pertaining to an individual patient and shall include all medical records, progress notes, charts, admission and discharge data, and all other information which is recorded by a facility or other entities responsible for a patient’s care and treatment under this chapter and which pertains to the patient’s hospitalization and treatment. Such other informa-

tion as may be required by rules and regulations of the board shall also be included.

(3) "Community mental health center" means an organized program for the care and treatment of the mentally ill operated by a community service board or other appropriate public provider.

(4) "Court" means:

(A) In the case of an individual who is 17 years of age or older, the probate court of the county of residence of the patient or the county in which such patient is found. Notwithstanding Code Section 15-9-13, in any case in which the judge of such court is unable to hear a case brought under this chapter within the time required for such hearing or is unavailable to issue the order specified in subsection (b) of Code Section 37-3-41, such judge shall appoint a person to serve and exercise all the jurisdiction of the probate court in such case. Any person so appointed shall be a member of the State Bar of Georgia and shall be otherwise qualified for his duties by training and experience. Such appointment may be made on a case-by-case basis or by making a standing appointment of one or more persons. Any person receiving such standing appointment shall serve at the pleasure of the judge making the appointment or his successor in office to hear such cases if and when necessary. The compensation of a person so appointed shall be as agreed upon by the judge who makes the appointment and the person appointed with the approval of the governing authority of the county for which such person is appointed and shall be paid from the county funds of said county. All fees collected for the services of such appointed person shall be paid into the general funds of the county served; or

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

(5) "Emergency receiving facility" means a facility designated by the department to receive patients under emergency conditions as provided in Part 1 of Article 3 of this chapter.

(6) "Evaluating facility" means a facility designated by the department to receive patients for psychiatric evaluation as provided in Part 2 of Article 3 of this chapter.

(7) "Facility" means any state owned or state operated hospital, community mental health center, or other facility utilized for the diagnosis, care, treatment, or hospitalization of persons who are mentally ill; any facility operated or utilized for such purpose by the United States Department of Veterans Affairs or other federal

agency; and any other hospital or facility within the State of Georgia approved for such purpose by the department.

(8) "Full and fair hearing" or "hearing" means a proceeding before a hearing examiner under Code Section 37-3-83 or Code Section 37-3-93 or before a court as defined in paragraph (4) of this Code section. The hearing may be held in a regular courtroom or in an informal setting, in the discretion of the hearing examiner or the court, but the hearing shall be recorded electronically or by a qualified court reporter. The patient shall be provided with effective assistance of counsel. If the patient cannot afford counsel, the court shall appoint counsel for him or the hearing examiner shall have the court appoint such counsel; provided, however, that the patient shall have the right to refuse in writing the appointment of counsel, in the discretion of the hearing examiner or the court. The patient shall have the right to confront and cross-examine witnesses and to offer evidence. The patient shall have the right to subpoena witnesses and to require testimony before the hearing examiner or in court in person or by deposition from any physician upon whose evaluation the decision of the hearing examiner or the court may rest. The patient shall have the right to obtain a continuance for any reasonable time for good cause shown. The hearing examiner and the court shall apply the rules of evidence applicable in civil cases. The burden of proof shall be upon the party seeking treatment of the patient. The standard of proof shall be by clear and convincing evidence. At the request of the patient, the public may be excluded from the hearing. The patient may waive his right to be present at the hearing, in the discretion of the hearing examiner or the court. The reason for the action of the court or hearing examiner in excluding the public or permitting the hearing to proceed in the patient's absence shall be reflected in the record.

(9) "Individualized service plan" means a proposal developed during a patient's stay in a facility and which is specifically tailored to the individual patient's treatment needs. Each plan shall clearly include the following:

(A) A statement of treatment goals or objectives, based upon and related to a proper evaluation, which can be reasonably achieved within a designated time interval;

(B) Treatment methods and procedures to be used to obtain these goals, which methods and procedures are related to these goals and which include a specific prognosis for achieving these goals;

(C) Identification of the types of professional personnel who will carry out the treatment and procedures, including appropriate medical or other professional involvement by a physician or other health professional properly qualified to fulfill legal requirements mandated under state and federal law;

(D) Documentation of patient involvement and, if applicable, the patient's accordance with the service plan; and

(E) A statement attesting that the chief medical officer has made a reasonable effort to meet the plan's individualized treatment goals in the least restrictive environment possible closest to the patient's home community.

(9.1) "Inpatient" means a person who is mentally ill and:

(A)(i) Who presents a substantial risk of imminent harm to that person or others, as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical injury to that person or other persons; or

(ii) Who is so unable to care for that person's own physical health and safety as to create an imminently life-endangering crisis; and

(B) Who is in need of involuntary inpatient treatment.

(9.2) "Inpatient treatment" or "hospitalization" means a program of treatment for mental illness within a hospital facility setting.

(9.3) "Involuntary treatment" means inpatient or outpatient treatment which a patient is required to obtain pursuant to this chapter.

(10) "Least restrictive alternative," "least restrictive environment," or "least restrictive appropriate care and treatment" means that which is the least restrictive available alternative, environment, or care and treatment, respectively, within the limits of state funds specifically appropriated therefor.

(11) Reserved.

(12) "Mentally ill person requiring involuntary treatment" means a mentally ill person who is an inpatient or an outpatient.

(12.1) "Outpatient" means a person who is mentally ill and:

(A) Who is capable of surviving safely in the community with available resources or supervision from family, friends, or others;

(B) Who, based on their psychiatric condition or history, is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness to self or others; and

(C) Whose current mental status or the nature of their illness limits or negates their ability to make an informed decision to seek voluntarily or to comply with recommended treatment.

(12.2) "Outpatient treatment" means a program of treatment for mental illness outside a hospital facility setting which includes, without being limited to, medication and prescription monitoring, individual or group therapy, day or partial programming activities, case management services, and other services to alleviate or treat the patient's mental illness so as to maintain the patient's semi-independent functioning and to prevent the patient's becoming an inpatient.

(13) "Patient" means any mentally ill person who seeks treatment under this chapter or any person for whom such treatment is sought.

(14) "Private facility" means any hospital facility that is a proprietary hospital or a hospital operated by a nonprofit corporation or association approved for the purposes of this chapter, as provided herein, or any hospital facility operated by a hospital authority created pursuant to the "Hospital Authorities Law," Article 4 of Chapter 7 of Title 31.

(14.1) "Psychologist" means a licensed psychologist who meets the criteria of training and experience as a health service provider psychologist as provided in Code Section 31-7-162.

(15) "Representatives" means the persons appointed as provided in Code Section 37-3-147 to receive notice of the proceedings for voluntary or involuntary treatment.

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

(16.1) "Traumatic brain injury" means a traumatic insult to the brain and its related parts resulting in organic damage thereto which may cause physical, intellectual, emotional, social, or vocational changes in a person. It shall also be recognized that a person having a traumatic brain injury may have organic damage or physical or social disorders, but for the purposes of this chapter, traumatic brain injury shall not be considered mental illness.

(17) "Treatment" means care, diagnostic and therapeutic services, including the administration of drugs, and any other service for the treatment of an individual.

(18) "Treatment facility" means a facility designated by the department to receive patients for psychiatric treatment as provided in Code Sections 37-3-80 through 37-3-84.

History.

Ga. L. 1958, p. 697, § 1; Ga. L. 1960, p. 837, § 1; Code 1933, § 88-501, enacted by Ga. L. 1964, p. 499, § 1; Ga. L. 1969, p.

505, § 1; Ga. L. 1978, p. 1789, § 1; Ga. L. 1979, p. 723, §§ 1-3; Ga. L. 1982, p. 3, § 37; Ga. L. 1986, p. 1098, § 1; Ga. L. 1989, p. 1566, § 3; Ga. L. 1990, p. 45, § 1; Ga. L. 1991, p. 1059, § 8; Ga. L. 1992, p. 1902, § 1; Ga. L. 1993, p. 1445, § 17.1; Ga. L. 2002, p. 1324, §§ 1-9, 1-10; Ga. L. 2009, p. 453, § 3-12/HB 228; Ga. L. 2010, p. 286, § 8/SB 244; Ga. L. 2022, p. 26, § 3-2/HB 1013.

Amendments.

The 2022 amendment, effective July 1, 2022, rewrote subparagraphs (12.1)(A) through (12.1)(C) which read: "(A) Who is not an inpatient but who, based on the person's treatment history or current mental status, will require outpatient treatment in order to avoid predictably and imminently becoming an inpatient;

"(B) Who because of the person's current mental status, mental history, or nature of the person's mental illness is unable voluntarily to seek or comply with outpatient treatment; and

"(C) Who is in need of involuntary treatment."

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

37-3-4. Immunity from liability for actions taken in good faith compliance with admission and discharge provisions of chapter; immunity not applicable to failure to meet standard of care in provision of treatment.

Any hospital or any physician, psychologist, peace officer, attorney, or health official, or any hospital official, agent, or other person employed by a private hospital or at a facility operated by the state, by a political subdivision of the state, or by a hospital authority created pursuant to Article 4 of Chapter 7 of Title 31, who acts in good faith in compliance with the transport, admission, and discharge provisions of this chapter shall be immune from civil or criminal liability for his or her actions in connection with the transport of a patient to a physician or facility, the admission of a patient to a facility, or the discharge of a patient from a facility; provided, however, that nothing in this Code section shall be construed to relieve any hospital or any physician, psychologist, peace officer, attorney, or health official, or any hospital official, agent, or other person employed by a private hospital or at a facility operated by the state, by a political subdivision of the state, or by a hospital authority created pursuant to Article 4 of Chapter 7 of Title 31, from liability for failing to meet the applicable standard of care in the provision of treatment to a patient. The immunity from civil liability provided in this Code section in connection with the transport of a patient to a physician or a facility shall apply only to injury or damages incurred by such patient or his or her personal representative.

History.

Code 1933, § 88-502.18, enacted by Ga. L. 1969, p. 505, § 1; Code 1933, § 88-502.23, enacted by Ga. L. 1978, p. 1789, § 1; Ga. L. 1981, p. 996, § 3; Ga. L. 2011, p. 346, § 2/HB 343; Ga. L. 2022, p. 722, § 3/SB 403.

Amendments.

The 2022 amendment, effective July 1, 2022, substituted "transport, admission, and discharge" for "admission and discharge", inserted "the transport of a patient to a physician or facility,", substituted "facility, or the discharge" for "facility or the discharge", and added the second sentence.

Editor's notes.

Ga. L. 2022, p. 722, § 1/SB 403, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Georgia Behavioral Health and Peace Officer Co-Responder Act.'"

Ga. L. 2022, p. 722, § 2/SB 403, not codified by the General Assembly, provides: "The General Assembly finds that:

"(1) Demands on peace officers include responding to emergencies involving individuals with a mental or emotional illness, developmental disability, or addictive disease, without the benefit of a behavioral health specialist being present;

"(2) The presence of a behavioral health specialist exponentially decreases the risk of escalation;

"(3) The absence of a behavioral health specialist may result in the arrest of individuals whose conduct would be more effectively treated and stabilized in a behavioral health setting rather than a jail or prison;

"(4) Law enforcement agencies throughout Georgia frequently report that jails and prisons are becoming revolving door behavioral health hospitals of last resort;

"(5) Several law enforcement agencies in Georgia have established co-responder programs and formed co-responder partnerships with local community service boards. Community service boards provide support during emergency responses and provide follow-up services to help stabilize the individual in crisis and prevent relapse;

"(6) Combining the expertise of peace officers and behavioral health specialists to de-escalate behavioral health crises prevents unnecessary incarceration of individuals with a mental or emotional illness, developmental disability, or addictive disease and instead links those in crisis to services that promote stability and reduce the likelihood of recurrence, decreases the costs incurred by prisons and jails to incarcerate such individuals, and increases the ability of peace officers outside of the co-responder teams to focus on serious crimes; and

"(7) It is in the best interest of the state to establish the framework for a statewide co-responder model to include emergency response co-responder teams and post-emergency behavioral health services."

ARTICLE 2

HOSPITALIZATION AND TREATMENT OF VOLUNTARY PATIENTS

37-3-20. Admission of voluntary patients; consent of parent or guardian to treatment; giving notice of rights to patient at time of admission.

(a) The chief medical officer of any facility may receive for observation and diagnosis any patient 12 years of age or older making application therefor, any patient under 18 years of age for whom such application is made by his or her parent or guardian, any patient who has a psychiatric advance directive and for whom such application is made by his or her mental health care agent, and any patient who has been declared legally incompetent and for whom such application is made by his or her guardian. If found to show evidence of mental illness and to be suitable for treatment, such person may be given care and treatment at such facility; and such person may be detained by such facility until discharged pursuant to Code Section 37-3-21 or 37-3-22.

The parents or guardian of a minor child must give written consent to such treatment. An individualized service plan shall be developed for such person as soon as possible.

(b) Any individual voluntarily admitted to a facility under this Code section shall be given notice of his or her rights under this chapter at the time of admission.

History.

Ga. L. 1952, p. 94, § 1; Ga. L. 1958, p. 697, § 2; Ga. L. 1960, p. 837, § 2; Code 1933, § 88-502, enacted by Ga. L. 1964, p. 499, § 1; Code 1933, § 88-503.1, enacted by Ga. L. 1969, p. 505, § 1; Ga. L. 1978, p. 1789, § 1; Ga. L. 2022, p. 611, § 2-23/HB 752.

Amendments.

The 2022 amendment, effective July 1, 2022, in the first sentence in subsection (a), substituted "his or her parent" for "his parent" and "his or her guardian" for "his guardian", and inserted "any patient who has a psychiatric advance directive and for whom such application is made by his or her mental health care agent,"; and in subsection (b), substituted "his or her rights" for "his rights" and deleted "his" preceding "admission".

Law reviews.

For article, "HB 752: Psychiatric Advance Directive Act," see 39 Ga. St. U.L. Rev. 191 (2022).

ARTICLE 3

EXAMINATION, HOSPITALIZATION, AND TREATMENT OF INVOLUNTARY PATIENTS

Part 1

Emergency Receiving Facilities for Examination of Persons Apprehended Pursuant to Physician's Certificate, Court Order, etc.

37-3-42. Emergency admission of persons arrested for penal offenses; report by officer; entry of report into clinical record.

(a)(1) A peace officer may take any person to a physician within the county or an adjoining county for emergency examination by the physician, as provided in Code Section 37-3-41, or directly to an emergency receiving facility if (i) the person is committing a penal offense, and (ii) the peace officer has probable cause for believing that the person is a mentally ill person requiring involuntary treatment. The peace officer need not formally tender charges against the individual prior to taking the individual to a physician or an emergency receiving facility under this Code section. The peace officer shall execute a written report detailing the circumstances under which the person was taken into custody; and this report shall be made a part of the patient's clinical record.

(2) A peace officer may take any person to an emergency receiving facility if: (i) the peace officer has probable cause to believe that the

person is a mentally ill person requiring involuntary treatment; and (ii) the peace officer has consulted either in-person or via telephone or telehealth with a physician, as provided in Code Section 37-3-41, and the physician authorizes the peace officer to transport the individual for an evaluation. To authorize transport for evaluation, the physician shall determine, based on facts available regarding the person's condition, including the report of the peace officer and the physician's communications with the person or witnesses, that there is probable cause to believe that the person needs an examination to determine if the person requires involuntary treatment. The peace officer shall execute a written report detailing the circumstances under which the person is detained; and this report shall be made a part of the patient's clinical record.

(b) Any psychologist may perform any act specified by this Code section to be performed by a physician. Any reference in any part of this chapter to a physician acting under this Code section shall be deemed to refer equally to a psychologist acting under this Code section. For purposes of this subsection, the term "psychologist" means any person authorized under the laws of this state to practice as a licensed psychologist.

History.

Code 1933, § 88-504.3, enacted by Ga. L. 1969, p. 505, § 1; Ga. L. 1978, p. 1789, § 1; Ga. L. 1981, p. 996, § 4; Ga. L. 1987, p. 3, § 37; Ga. L. 2022, p. 26, § 3-3/HB 1013.

Amendments.

The 2022 amendment, effective July 1, 2022, redesignated subsection (a) as paragraph (a)(1); in paragraph (a)(1), substituted "(i)" and "(ii)" for "(1)" and "(2)", respectively; and added paragraph (a)(2).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2022, "is" was inserted in the last sentence of paragraph (a)(2).

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

ARTICLE 4

PLACEMENT, TRANSFER, AND TRANSPORTATION OF PATIENTS GENERALLY

37-3-101. Transportation of patients generally.

(a) The governing authority of the county where the patient is found or located shall arrange for initial emergency transport of a patient to an emergency receiving facility. Except as otherwise authorized under subsection (b) of this Code section, the governing authority of the county of the patient's residence shall arrange for all required transportation for mental health purposes subsequent to the initial transport. The type of vehicle employed shall be in the discretion of the governing authority of the county, provided that, whenever possible, marked vehicles normally used for the transportation of criminals or those accused of crimes shall not be used for the transportation of patients. The court shall, upon the request of the community mental health center, order the sheriff to transport the patient in such manner as the patient's condition demands. At any time the community mental health center is satisfied that the patient can be transported safely by family members or friends, such private transportation shall be encouraged and authorized. In nonemergency situations, no female patient shall be transported at any time without another female in attendance who is not a patient, unless such female patient is accompanied by her husband, father, adult brother, or adult son.

(b) Notwithstanding the provisions of subsection (a) of this Code section, when a patient is under the care of a facility, the facility shall have the discretion to determine the type of vehicle to safely transport the patient and to arrange for such transportation without the need to obtain the prior approval of the governing authority of the county of the patient's residence, the court, or the community mental health center. This subsection shall not prevent the facility from requesting and receiving transportation services from the governing authority of the county of the patient's residence and shall not relieve the county sheriff of the duty of providing transportation. Persons providing transportation are authorized to transport a patient from a sending facility to a receiving facility but shall not release the patient under any circumstances except into the custody of the receiving facility. The use of physical restraints to ensure the safe transport of the patient shall comply with the requirements of Code Section 37-3-165. When transportation is not provided by the county sheriff, the expense of such transportation shall not be billed to the county governing authority but may be billed to the patient and, unless agreed to in writing by the facility, shall not be billed to or considered an obligation of the facility.

(c) Notwithstanding subsections (a) or (b) of this Code section, for initial transports to an emergency receiving facility initiated by a peace officer pursuant to Code Section 37-3-42, the emergency receiving facility shall coordinate all subsequent transports with the law enforcement agency employing such peace officer or a qualified private nonemergency transport provider or ambulance service.

History.

Ga. L. 1958, p. 697, § 8; Ga. L. 1960, p. 837, § 8; Code 1933, § 88-508, enacted by Ga. L. 1964, p. 499, § 1; Code 1933, § 88-502.14, enacted by Ga. L. 1969, p. 505, § 1; Code 1933, § 88-502.17, enacted by Ga. L. 1978, p. 1789, § 1; Ga. L. 1993, p. 1445, § 17.3; Ga. L. 2002, p. 1067, § 1; Ga. L. 2022, p. 26, § 3-4/HB 1013.

Amendments.

The 2022 amendment, effective July 1, 2022, added subsection (c).

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

ARTICLE 6

RIGHTS AND PRIVILEGES OF PATIENTS, THEIR REPRESENTATIVES, ETC., GENERALLY

Part 1

General Provisions

37-3-147. Representatives and guardians ad litem; notification provisions; duration and scope of guardianship ad litem.

(a) At the time a person who has mental illness is admitted to any facility under this chapter or as soon thereafter as reasonably possible given the person's condition or mental state at the time of admission, such facility shall use diligent efforts to secure the names and addresses of at least two representatives, which names and addresses shall be entered in the person's clinical record.

(b) The patient may designate one representative; the second representative or, in the absence of designation of one representative by the patient, both representatives shall be selected by the facility. If the facility is to select both representatives, it must make one selection from among the following persons in the order of listing: the patient's mental health care agent, legal guardian, spouse, adult child, parent, attorney, adult next of kin, or adult friend, provided that, in the case of a patient whose representative or representatives have been appointed by the court under Code Section 37-3-62, the facility shall not select a different representative. The second representative shall also be selected from the above list but without regard to the order of listing, provided that the second representative shall not be the person who filed the petition to have the patient admitted to the facility.

(c) If the facility is unable to secure at least two representatives after diligent search or if the department is the guardian of the patient, that fact shall be entered in the patient's clinical record and the facility shall apply to the court in the county of the patient's residence for the appointment of a guardian ad litem, which guardian ad litem shall not be the department. On application of any person or on its own motion, the court may also appoint a guardian ad litem for a patient for whom two representatives have been named whenever the appointment of a guardian ad litem is deemed necessary for protection of the patient's rights. Such guardian ad litem shall also act as representative of the patient and shall have the powers granted to representatives by this chapter.

(d) At any time notice is required by this chapter to be given to the patient's representatives, such notice shall be served on the representatives designated under this Code section. The patient's guardian ad litem, if any, shall likewise be served. Unless otherwise provided, notice may be served in person or by first-class mail. When notice is served by mail, a record shall be made of the date of mailing and shall be placed in the patient's clinical record. Service shall be completed upon mailing.

(e) At any time notice is required by this chapter to be given to the patient, the date on which notice is given shall be entered on the patient's clinical record. If the patient is unable to comprehend the written notice, a reasonable effort shall be made to explain the notice to him or her.

(f) At the time a court enters an order pursuant to this chapter, such order and notice of the date of entry of the order shall be served on the patient and his or her representatives as provided in subsection (d) of this Code section.

(g) Notice of an involuntary patient's admission to a facility shall be given to his or her representatives in writing. If such involuntary admission is to an emergency receiving facility, notice shall also be given by that facility to the patient's representatives by telephone or in person as soon as possible.

(h) In every instance in which a court shall appoint a guardian ad litem for any person pursuant to the terms of this chapter, such guardianship shall be for the limited purpose stated in the order of the court and shall expire automatically after 90 days or after a lesser time stated in the order. The responsibility of the guardian ad litem shall not extend beyond the specific purpose of the appointment.

History.

Code 1933, § 88-502.15, enacted by Ga. L. 1969, p. 505, § 1; Ga. L. 1971, p. 623, § 1; Ga. L. 1971, p. 784, § 1; Code 1933, § 88-502.19, enacted by Ga. L. 1971, p. 807, § 1; Code 1933, § 88-502.18, enacted by Ga. L. 1978, p. 1789, § 1; Ga. L. 1995, p. 10, § 37; Ga. L. 2016, p. 313, § 3/SB 271; Ga. L. 2017, p. 774, § 37/HB 323; Ga. L. 2022, p. 611, § 2-24/HB 752.

Amendments.

The 2022 amendment, effective July 1, 2022, inserted "mental health care agent," in the second sentence of subsection (b); added "or her" at the end of subsection (e); and inserted "or her" near the middle of subsection (f) and in the first sentence of subsection (g).

Law reviews.

For article, "HB 752: Psychiatric Advance Directive Act," see 39 Ga. St. U.L. Rev. 191 (2022).

37-3-148. Right of patients or representatives to petition for writ of habeas corpus and for judicial protection of rights and privileges granted by this chapter.

(a) At any time and without notice, a person detained by a facility or a mental health care agent, legal guardian, relative, or friend on behalf of such person may petition, as provided by law, for a writ of habeas corpus to question the cause and legality of detention and to request any court of competent jurisdiction on its own initiative to issue a writ for release, provided that, in the case of any such petition for the release of a person detained in a facility pursuant to a court order under Code Section 17-7-130 or 17-7-131, a copy of the petition along with proper certificate of service shall also be served upon the presiding judge of the court ordering such detention and the prosecuting attorney for such court, which service may be made by certified mail or statutory overnight delivery, return receipt requested.

(b) A patient or his representatives may file a petition in the appropriate court alleging that the patient is being unjustly denied a right or privilege granted by this chapter or that a procedure authorized by this chapter is being abused. Upon the filing of such a petition, the court shall have the authority to conduct a judicial inquiry and to issue appropriate orders to correct any abuse under this chapter.

History.

Ga. L. 1958, p. 697, § 18; Ga. L. 1960, p. 837, § 17; Code 1933, § 88-517, enacted by Ga. L. 1964, p. 499, § 1; Code 1933, § 88-502.11, enacted by Ga. L. 1969, p. 505, § 1; Code 1933, § 88-502.14, enacted by Ga. L. 1978, p. 1789, § 1; Ga. L. 1980, p. 678, § 2; Ga. L. 1984, p. 22, § 37; Ga. L. 2000, p. 1589, § 3; Ga. L. 2022, p. 611, § 2-25/HB 752.

Amendments.

The 2022 amendment, effective July 1, 2022, substituted “a mental health care agent, legal guardian, relative, or friend” for “a relative or friend” in subsection (a).

Law reviews.

For article, “HB 752: Psychiatric Advance Directive Act,” see 39 Ga. St. U.L. Rev. 191 (2022).

37-3-150. Right to appeal orders of probate court, juvenile court, or hearing examiner; payment of costs of appeal; right to subsequent appeal; right to legal counsel on appeal.

The patient, the patient’s representatives, or the patient’s attorney may appeal any order of the probate court or hearing officer rendered in a proceeding under this chapter to the superior court of the county in which the proceeding was held, except as otherwise provided in Article 6 of Chapter 9 of Title 15, and may appeal any order of the juvenile court rendered in a proceeding under this chapter to the Court of Appeals or the Supreme Court. The appeal to the superior court shall be made in the same manner as appeals from the probate court to the superior court, except that the appeal shall be heard before the court sitting without a jury as soon as practicable but not later than 30 days following the date on which the appeal is filed with the clerk of the superior court. The appeal from the order of the juvenile court to the Court of Appeals or the Supreme Court shall be as provided by law but shall be heard as expeditiously as possible. The patient must pay all costs upon filing any appeal authorized under this Code section or must make an affidavit that he or she is unable to pay costs. The patient shall retain all rights of review of any order of the superior court, the Court of Appeals, or the Supreme Court, as provided by law. The patient shall have a right to counsel or, if unable to afford counsel, shall have counsel appointed for the patient by the court. The appeal rights provided to the patient, the patient's representatives, or the patient's attorney in this Code section are in addition to any other appeal rights which the parties may have, and the provision of the right for the patient, the patient's representatives, or the patient's attorney to appeal does not deny the right to the Department of Behavioral Health and Developmental Disabilities to appeal under the general appeal provisions of Code Section 5-3-4.

History.

Code 1933, § 88-502.16, enacted by Ga. L. 1969, p. 505, § 1; Code 1933, § 88-502.19, enacted by Ga. L. 1978, p. 1789, § 1; Ga. L. 1986, p. 982, § 11; Ga. L. 1994, p. 1072, § 1; Ga. L. 1995, p. 10, § 37; Ga. L. 2009, p. 453, § 3-2/HB 228; Ga. L. 2016, p. 883, §§ 3-13, 3-14/HB 927; Ga. L. 2022, p. 767, § 2-27/HB 916.

Amendments.

The 2022 amendment, effective July 1, 2023, substituted "Code Section 5-3-4" for "Code Sections 5-3-2 and 5-3-3" at the end of this Code section. See Editor's notes for applicability.

Editor's notes.

Ga. L. 2022, p. 767, § 3-1/HB 916, not codified by the General Assembly, makes this Code section applicable to petitions for review filed in superior or state court on or after July 1, 2023.

JUDICIAL DECISIONS

Appellate jurisdiction. — Pretermitting whether the appellant's notice of appeal was timely, the superior court lacked jurisdiction to hear the appeal of the Office of State Administrative Hearings (OSAH) decision because under O.C.G.A. § 37-3-150 appeals from the Probate Court of Muscogee County lay in the Court of Appeal of Georgia, Third Division and the superior court lacked jurisdiction to consider the appeal of the OSAH decision. Spence v. Dep't of Behavioral Health & Developmental Disabilities, 359 Ga. App. 603, 859 S.E.2d 565, 2021 Ga. App. LEXIS 246 (2021).

Part 2

Rights and Privileges as to Manner of Care and Treatment and as to Maintenance and Release of Clinical Records

37-3-166. Treatment of clinical records; when release permitted; scope of privileged communications; liability for disclosure; notice to sheriff of discharge.

(a) A clinical record for each patient shall be maintained. Authorized release of the record shall include but not be limited to examination of the original record, copies of all or any portion of the record, or disclosure of information from the record, except for matters privileged under the laws of this state. Such examination shall be conducted on hospital premises at reasonable times determined by the facility. The clinical record shall not be a public record and no part of it shall be released except:

(1) When the chief medical officer of the facility where the record is kept deems it essential for continued treatment, a copy of the record or parts thereof may be released to physicians or psychologists when and as necessary for the treatment of the patient;

(2) A copy of the record may be released to any person or entity designated in writing by the patient or, if appropriate, the parent of a minor, the legal guardian of an adult or minor, or a person to whom legal custody of a minor patient has been given by order of a court;

(2.1) A copy of the record of a deceased patient or deceased former patient may be released to or in response to a valid subpoena of a coroner or medical examiner under Chapter 16 of Title 45, except for matters privileged under the laws of this state;

(3) When a patient is admitted to a facility, a copy of the record or information contained in the record from another facility, community mental health center, or private practitioner may be released to the admitting facility. When the service plan of a patient involves transfer of that patient to another facility, community mental health center, or private practitioner, a copy of the record or information contained in the record may be released to that facility, community mental health center, or private practitioner;

(4) A copy of the record or any part thereof may be disclosed to any employee or staff member of the facility when it is necessary for the proper treatment of the patient;

(5) A copy of the record shall be released to the patient's attorney if the attorney so requests and the patient, or the patient's legal guardian, consents to the release;

(6) In a bona fide medical emergency, as determined by a physician treating the patient, the chief medical officer may release a copy of the record to the treating physician or to the patient's psychologist;

(7) At the request of the patient, the patient's legal guardian, or the patient's attorney, the record shall be produced by the entity having custody thereof at any hearing held under this chapter;

(8) A copy of the record shall be produced in response to a valid subpoena or order of any court of competent jurisdiction, except for matters privileged under the laws of this state;

(8.1) A copy of the record may be released to the legal representative of a deceased patient's estate, except for matters privileged under the laws of this state;

(9) Notwithstanding any other provision of law to the contrary, a law enforcement officer in the course of a criminal investigation may be informed as to whether a person is or has been a patient in a state facility, as well as the patient's current address, if known;

(10) Notwithstanding any other provision of law to the contrary, a law enforcement officer in the course of investigating the commission of a crime on the premises of a facility covered by this chapter or against facility personnel or a threat to commit such a crime may be informed as to the circumstances of the incident, including whether the individual allegedly committing or threatening to commit a crime is or has been a patient in the facility, and the name, address, and last known whereabouts of any alleged patient perpetrator; and

(11) A copy of the record of a deceased patient or deceased former patient may be released to the Maternal Mortality Review Committee established under Chapter 2A of Title 31, except for matters privileged under the laws of this state.

(b) In connection with any hearing held under this chapter, any physician, including any psychiatrist, or any psychologist who is treating or who has treated the patient shall be authorized to give evidence as to any matter concerning the patient, including evidence as to communications otherwise privileged under Code Section 24-5-501, 24-12-1, or 43-39-16.

(c) Any disclosure authorized by this Code section or any unauthorized disclosure of confidential or privileged patient information or communications shall not in any way abridge or destroy the confidential or privileged character thereof, except for the purpose for which such authorized disclosure is made. Any person making a disclosure authorized by this Code section shall not be liable to the patient or any other person, notwithstanding any contrary provision of Code Section 24-5-501, 24-12-1, or 43-39-16.

(d) When a sheriff transports an adult involuntary patient to a facility, that sheriff may request in writing that a notice of such patient's discharge be given to the sheriff; and such notice shall be provided if such patient or the patient's guardian consents in writing to the disclosure or if, in its discretion, the court ordering the involuntary treatment provides for such notice in the order issued pursuant to Code Section 37-3-81.1.

History.

Ga. L. 1958, p. 697, § 19; Ga. L. 1960, p. 837, § 18; Code 1933, § 88-518, enacted by Ga. L. 1964, p. 499, § 1; Code 1933, § 88-502.10, enacted by Ga. L. 1969, p. 505, § 1; Code 1933, § 88-502.12, enacted by Ga. L. 1978, p. 1789, § 1; Ga. L. 1979, p. 723, §§ 4, 5; Ga. L. 1981, p. 985, § 1; Ga. L. 1987, p. 3, § 37; Ga. L. 1991, p. 1059, §§ 21, 22; Ga. L. 1994, p. 1072, § 2; Ga. L. 2011, p. 99, § 53/HB 24; Ga. L. 2025, p. 172, § 3/HB 89, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, deleted "and" at the end of paragraph (a)(9), substituted "; and" for a period at the end of paragraph (a)(10), and added paragraph (a)(11).

ARTICLE 7

ADULT RESIDENTIAL MENTAL HEALTH SERVICES LICENSING

Effective date.

This article became effective July 1, 2022. See the Editor's notes for Code Section 37-3-206 for funding contingency impacting the effective date of that provision.

37-3-200. Short title.

This article shall be known and may be cited as the "Adult Residential Mental Health Services Licensing Act."

History.

Code 1981, § 37-3-200, enacted by Ga. L. 2022, p. 587, § 1/HB 1069.

37-3-201. Purpose.

The purpose of this article is to provide for the classification and systematic evaluation, licensure, and monitoring of residential programs designed for the treatment and therapeutic recovery of adult persons with a primary diagnosis or assessment of a psychotic disorder, mood disorder, anxiety disorder, dissociative disorder, obsessive-compulsive disorder, adjustment disorder, personality disorder, or trauma and stress related disorder; to ensure that every governing body which operates an adult residential mental health program is licensed to do so; and to meet the rehabilitative and recovery needs and supports of persons who have mental illnesses while safeguarding their individual liberties as well as public safety.

History.

Code 1981, § 37-3-201, enacted by Ga. L. 2022, p. 587, § 1/HB 1069.

37-3-202. (Effective until January 1, 2026.) Definitions.

As used in this article, the term:

(1) "Adult residential mental health program" means a subacute residential alternative service of four or more residential beds authorized to provide psychiatric services for mentally ill persons 18 years of age or older that operates 24 hours per day, 7 days per week to provide intensive short-term noninstitutional treatment to individuals who are temporarily in need of a 24-hour-per-day supportive therapeutic setting for prevention of or transition from or after acute psychiatric hospitalization. Such term shall not include crisis stabi-

lization units, as defined in Code Section 37-1-29; community living arrangements, as defined by the Department of Behavioral Health and Developmental Disabilities; mental health programs conducted by accountability courts; or residential beds operated by a state or local public entity.

(2) "Applicant" means any individual affiliated with a partnership, corporation, association, or individuals or groups of individuals submitting an application to operate an adult residential mental health program under this article.

(3) "Department" means the Department of Community Health.

(4) "Governing body" means the partnership, corporation, limited liability company, association, or person or group of persons who maintains and controls the adult residential mental health program and who is legally responsible for its operation.

(5) "License" means the official permit issued by the department which authorizes the holder to operate an adult residential mental health program.

(6) "Licensee" means any person holding a license issued by the department under this article.

(7) "Mentally ill person" means a person who has significant deficits in functioning affecting social and family relationships, work, self-care, educational goals, or legal involvements due to his or her primary diagnosis or assessment of a psychotic disorder, mood disorder, anxiety disorder, dissociative disorder, obsessive-compulsive disorder, adjustment disorder, personality disorder, or trauma and stress related disorder as listed in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5) or the World Health Organization's *International Classification of Diseases*, in effect as of July 1, 2022, or as the department may further define such term by rule and regulation.

History.
Code 1981, § 37-3-202, enacted by Ga. L. 2022, p. 587, § 1/HB 1069.

Delayed effective date.
Code Section 37-3-202 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

37-3-202. (Effective January 1, 2026.) Definitions.

As used in this article, the term:

(1) "Adult residential mental health program" means a subacute residential alternative service of four or more residential beds authorized to provide psychiatric services for mentally ill persons 18 years

of age or older that operates 24 hours per day, 7 days per week to provide intensive short-term noninstitutional treatment to individuals who are temporarily in need of a 24-hour-per-day supportive therapeutic setting for prevention of or transition from or after acute psychiatric hospitalization. Such term shall not include crisis stabilization units, as defined in Code Section 37-1-29; community living arrangements, as defined in Code Section 37-13-1; mental health programs conducted by accountability courts; or residential beds operated by a state or local public entity.

(2) "Applicant" means any individual affiliated with a partnership, corporation, association, or individuals or groups of individuals submitting an application to operate an adult residential mental health program under this article.

(3) "Department" means the Department of Behavioral Health and Developmental Disabilities.

(4) "Governing body" means the partnership, corporation, limited liability company, association, or person or group of persons who maintains and controls the adult residential mental health program and who is legally responsible for its operation.

(5) "License" means the official permit issued by the department which authorizes the holder to operate an adult residential mental health program.

(6) "Licensee" means any person holding a license issued by the department under this article.

(7) "Mentally ill person" means a person who has significant deficits in functioning affecting social and family relationships, work, self-care, educational goals, or legal involvements due to his or her primary diagnosis or assessment of a psychotic disorder, mood disorder, anxiety disorder, dissociative disorder, obsessive-compulsive disorder, adjustment disorder, personality disorder, or trauma and stress related disorder as listed in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* (DSM-5) or the World Health Organization's *International Classification of Diseases*, in effect as of July 1, 2022, or as the department may further define such term by rule and regulation.

History.

Code 1981, § 37-3-202, enacted by Ga. L. 2022, p. 587, § 1/HB 1069; Ga. L. 2025, p. 177, § 3-2/HB 584, effective January 1, 2026.

Delayed effective date.

Code Section 37-3-202 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The 2025 amendment, effective January 1, 2026, in paragraph (1), substituted “as defined in Code Section 37-13-1” for “as defined by the Department of Behavioral Health and Developmental Disabilities” in the last sentence; and, in paragraph (3), substituted “Department of Behavioral Health and Development Disabilities.” for “Department of Community Health.”

37-3-203. Classification of residential programs.

The department is authorized to classify all adult residential mental health programs within the state according to the character and range of services provided.

History.

Code 1981, § 37-3-203, enacted by Ga. L. 2022, p. 587, § 1/HB 1069.

37-3-204. Regulations establishing minimum standards.

The department shall create and promulgate minimum standards of quality and services for each designated class of programs. At least the following areas shall be covered in the rules and regulations:

(1) Admission criteria which at a minimum must require a referral from either an inpatient psychiatric hospital that is discharging a patient to an adult residential mental health program or a determination by a qualified psychiatrist that admission is required to provide stabilization, treatment, and care of the condition but an inpatient admission to a psychiatric hospital is not required; and length of stay criteria which at a minimum shall be redetermined on a periodic basis through a mental health evaluation to include treatment goals and progress from the initial admission. Such mental health evaluation shall determine medical necessity for continued stay in the residential program with a maximum length of stay of six months unless an individual case waiver is approved by the department;

(2) Adequate and safe buildings or housing facilities where programs are offered and standards for emergency conditions relating to them;

(3) Adequate equipment for the delivery of adult residential mental health programs;

(4) Standards for sufficient trained staff or staff with prior experience who are competent in the duties they are to perform which, at a minimum, shall include a psychiatrist or other physician when the psychiatrist is unavailable, a registered professional nurse or advanced practice registered nurse, appropriately trained clinical case management staff to facilitate care and safe discharge planning, and mental health technicians or other similarly trained paraprofession-

als or certified peer specialists at a ratio of not less than one to 12 patients or greater as assessed needs and history of the patient population indicates;

(5) The content and quality of services to be provided;

(6) Requirements for intake, discharge, and aftercare of mentally ill persons; financial relationships or arrangements with patients of the program; and visitation of patients;

(7) Referral arrangements to other appropriate agencies or facilities, including a process and adequate staff to facilitate transfer of a patient to a licensed general or specialty hospital authorized to provide inpatient medical or psychiatric services;

(8) Maintenance of adequate records on each mentally ill person treated or advised;

(9) Standards for the storage, administration, and dispensing of prescribed medications to patients in programs licensed under this article, in accordance with guidelines established by the United States Drug Enforcement Administration and the Georgia Board of Pharmacy;

(10) Permission for the use of therapeutic modalities and complementary services beneficial to the treatment of and supports for adult mentally ill persons;

(11) Permission and standards for the regulation or control and provision of food and other nutrition in each setting or classification of an adult residential mental health program;

(12) Standards for protection of patient rights while resident in a program and internal grievance procedures;

(13) Standards for the ethics and integrity of the staff, owners, and governing body of the program;

(14) Standards to ensure protection of the resident and the community at large in the event a resident poses a risk of potential harm to self or others; and

(15) Standards and procedures for incident reports to the department in the event of the occurrence of major incidents and provision for appropriate departmental actions and appeal thereof.

History.

Code 1981, § 37-3-204, enacted by Ga. L. 2022, p. 587, § 1/HB 1069.

37-3-205. (Effective until January 1, 2026.) Regulatory and licensing authority.

(a) The department is authorized and directed to create and promulgate all rules and regulations necessary for the implementation of this article no later than January 1, 2025.

(b) 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 31-2-8.

(c) 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."

History.

Code 1981, § 37-3-205, enacted by Ga. L. 2022, p. 587, § 1/HB 1069; Ga. L. 2024, p. 382, § 1/HB 1083, effective April 23, 2024.

Delayed effective date.

Code Section 37-3-205 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

Amendments.

The 2024 amendment, effective April 23, 2024, substituted "January 1, 2025" for "July 1, 2023" at the end of subsection (a).

37-3-205. (Effective January 1, 2026.) Regulatory and licensing authority.

(a) The department is authorized and directed to create and promulgate all rules and regulations necessary for the implementation of this article no later than January 1, 2025.

(b) The department is further authorized to issue, deny, suspend, or revoke a license or take other enforcement actions against a licensee or applicant as provided in Article 3 of Chapter 2 of this title.

(c) 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."

History.

Code 1981, § 37-3-205, enacted by Ga. L. 2022, p. 587, § 1/HB 1069; Ga. L. 2024, p. 382, § 1/HB 1083, effective April 23, 2024; Ga. L. 2025, p. 177, § 3-3/HB 584, effective January 1, 2026.

Delayed effective date.

Code Section 37-3-205 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The 2024 amendment, effective April 23, 2024, substituted "January 1, 2025" for "July 1, 2023" at the end of subsection (a).

The 2025 amendment, effective January 1, 2026, rewrote subsection (b), which read: "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 31-2-8."

37-3-206. (Effective until January 1, 2026.) Licensing requirement; funding contingency.

(a) On and after July 1, 2025, no governing body shall operate an adult residential mental health program without having a valid license or provisional license issued pursuant to this article; provided, however, that hospitals licensed in accordance with Chapter 7 of Title 31 are exempt from this article unless the hospital is operating an adult residential mental health program that is separate and distinct from the licensed hospital.

(b) This Code section shall become effective only upon the effective date of a specific appropriation of funds for purposes of this article, as expressed in a line item making specific reference to this article in a General Appropriations Act enacted by the General Assembly.

History.

Code 1981, § 37-3-206, enacted by Ga. L. 2022, p. 587, § 1/HB 1069, effective May 19, 2023; Ga. L. 2024, p. 382, § 2/HB 1083, effective April 23, 2024.

Delayed effective date.

Code Section 37-3-206 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

Amendments.

The 2024 amendment, effective April 23, 2024, substituted "July 1, 2025" for "January 1, 2024" near the beginning of subsection (a).

Editor's notes.

Ga. L. 2022, p. 587, § 1/HB 1069, as reflected in subsection (b) of this Code section, provides that this Code section becomes effective only when funds are specifically appropriated for the purposes of the Act in an Appropriations Act making specific reference to this Act. Funds were appropriated at the 2023 session of the General Assembly.

37-3-206. (Effective January 1, 2026.) Licensing requirement; funding contingency.

(a) On and after January 1, 2026, no governing body shall operate an adult residential mental health program without having a valid license or provisional license issued pursuant to this article; provided, however, that hospitals licensed in accordance with Chapter 7 of Title 31 are exempt from this article unless the hospital is operating an adult residential mental health program that is separate and distinct from the licensed hospital.

(b) This Code section shall become effective only upon the effective date of a specific appropriation of funds for purposes of this article, as expressed in a line item making specific reference to this article in a General Appropriations Act enacted by the General Assembly.

History.

Code 1981, § 37-3-206, enacted by Ga. L. 2022, p. 587, § 1/HB 1069, effective May 19, 2023; Ga. L. 2024, p. 382, § 2/HB 1083, effective April 23, 2024; Ga. L. 2025, p. 177, § 3-4/HB 584, effective January 1, 2026.

Delayed effective date.

Code Section 37-3-206 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The 2024 amendment, effective April 23, 2024, substituted "July 1, 2025" for "January 1, 2024" near the beginning of subsection (a).

The 2025 amendment, effective January 1, 2026, substituted "January 1, 2026" for "July 1, 2025" in subsection (a).

Editor's notes.

Ga. L. 2022, p. 587, § 1/HB 1069, as reflected in subsection (b) of this Code section, provides that this Code section becomes effective only when funds are specifically appropriated for the purposes of the Act in an Appropriations Act making specific reference to this Act. Funds were appropriated at the 2023 session of the General Assembly.

37-3-207. Applications; proof of compliance.

(a) Application for a license to operate an adult residential mental health program shall be submitted by the governing body to the department in the manner prescribed in the department's rules and regulations and shall contain a comprehensive outline of the program to be offered by the applicant.

(b) Proof of compliance with all applicable federal and state laws for the handling and dispensing of medications, and all state and local health, safety, sanitation, building, and zoning codes shall be attached to the application submitted to the department.

History.

Code 1981, § 37-3-207, enacted by Ga. L. 2022, p. 587, § 1/HB 1069.

37-3-208. Provisional licensing; terms.

(a) The department may issue a provisional license effective for a period not to exceed 90 days to each applicant who has substantially complied with all requirements for a regular license. Provisional licenses shall be renewed in the discretion of the department only in cases of extreme hardship and in no case for longer than 90 days.

(b) The obligations and conditions of a provisional license shall be the same as those of a regular license except as otherwise provided for in this article.

(c) The duration limits included in subsection (a) of this Code section shall not apply to one-time provisional licenses issued by the department pursuant to Code Section 37-3-208.1.

History.

Code 1981, § 37-3-208, enacted by Ga. L. 2022, p. 587, § 1/HB 1069.

37-3-208.1. (Effective until January 1, 2026.) One-time provisional license.

Between July 1, 2022, and June 30, 2025, the department shall be authorized to grant a one-time provisional license for an adult residential mental health program to an existing licensed personal care home that substantially complies with the requirements of this article for a period not to extend beyond June 30, 2025.

History.

Code 1981, § 37-3-208.1, enacted by Ga. L. 2022, p. 587, § 1/HB 1069; Ga. L. 2024, p. 382, § 3/HB 1083, effective April 23, 2024.

Delayed effective date.

Code Section 37-3-208.1 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

Amendments.

The 2024 amendment, effective April 23, 2024, substituted “June 30, 2025” for “December 31, 2023” near the beginning and at the end of this Code section.

37-3-208.1. (Effective January 1, 2026.) One-time provisional license.

Between July 1, 2022, and December 31, 2025, the Department of Community Health shall be authorized to grant a one-time provisional license for an adult residential mental health program to an existing licensed personal care home that substantially complies with the requirements of this article for a period not to extend beyond December 31, 2025.

History.

Code 1981, § 37-3-208.1, enacted by Ga. L. 2022, p. 587, § 1/HB 1069; Ga. L. 2024, p. 382, § 3/HB 1083, effective April 23, 2024; Ga. L. 2025, p. 177, § 3-5/HB 584, effective January 1, 2026.

Delayed effective date.

Code Section 37-3-208.1 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The 2025 amendment, effective January 1, 2026, substituted “and December 31, 2025, the Department of Community Health” for “and June 30, 2025, the department” near the beginning and substituted “December 31, 2025” for “June 30, 2025” at the end.

37-3-209. Proof of accreditation.

The department may accept proof of accreditation by a nationally recognized healthcare accreditation body, in accordance with specific standards, as evidence of compliance with one or more departmental requirements for issuance or renewal of a license or provisional license.

History.

Code 1981, § 37-3-209, enacted by Ga. L. 2022, p. 587, § 1/HB 1069.

37-3-210. Nontransferable licensing.

The department shall issue a license to a governing body for any adult residential mental health program which meets all the rules and regulations for the class of license applied for. The license shall be nontransferable for a change of location or governing body.

History.

Code 1981, § 37-3-210, enacted by Ga. L. 2022, p. 587, § 1/HB 1069.

37-3-211. (Effective until January 1, 2026.) Denial, suspension or revocation of license.

(a) The department is authorized to deny, suspend, or revoke a license issued under this chapter for a violation of this chapter or a rule or regulation adopted under this chapter or to take other disciplinary actions against licensees as provided in Code Section 31-2-8.

(b) The denial, suspension, or revocation of a license by the department shall be a contested case for purposes of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

History.

Code 1981, § 37-3-211, enacted by Ga. L. 2022, p. 587, § 1/HB 1069.

Delayed effective date.

Code Section 37-3-211 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

37-3-211. (Effective January 1, 2026.) Denial, suspension or revocation of license.

(a) The department is authorized to deny, suspend, or revoke a license issued under this chapter for a violation of this chapter or a rule or regulation adopted under this chapter or to take other disciplinary actions against a licensee as provided in Article 3 of Chapter 2 of this title.

(b) The denial, suspension, or revocation of a license by the department shall be a contested case for purposes of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

History.

Code 1981, § 37-3-211, enacted by Ga. L. 2022, p. 587, § 1/HB 1069; Ga. L. 2025, p. 177, § 3-6/HB 584, effective January 1, 2026.

Delayed effective date.

Code Section 37-3-211 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The 2025 amendment, effective January 1, 2026, substituted "against a licensee as provided in Article 3 of Chapter 2 of this title" for "against licensees as provided in Code Section 31-2-8" at the end of subsection (a).

37-3-212. Confidentiality of records and names of mentally ill persons seeking treatment.

For the purpose of providing more effective treatment and rehabilitation, the records and name of any mentally ill person who seeks or obtains treatment, therapeutic advice, or counsel from any adult residential mental health program licensed under this article shall be confidential and shall not be revealed except to the extent authorized in writing by the mentally ill person affected or his or her guardian or custodian; furthermore, any communication by such mentally ill person to an authorized employee of any holder of a license shall be deemed confidential; provided, however, that, except for matters privileged under other laws of this state, the records of such person and information about such person shall be produced in response to a valid court order of any court of competent jurisdiction after a full and fair show-cause hearing and in response to a departmental request for access for licensing purposes when such request is accompanied by a written statement that no record of patient identifying information will be made. The protections in this Code section and other provisions of state or federal law of an individual client's identity or communications to the clinical staff of any adult residential mental health program licensed under this article shall not prohibit the use of de-identified data relating to such clients for clinical or programmatic research or education or in presentations about the programs offered by a licensee under this article. Subject to and in compliance with the limitations of any state or federal privacy laws, the department may require at reasonable intervals, and each licensee shall furnish, copies of summary records of each mentally ill person treated or advised pursuant to an adult residential mental health program.

History.
Code 1981, § 37-3-212, enacted by Ga. L. 2022, p. 587, § 1/HB 1069.

37-3-213. On-site inspections.

The department shall conduct periodic on-site inspection of each adult residential mental health program licensed in this state. Such inspection shall include, but shall not be limited to, the premises, staff, persons in care, and documents pertinent to the continued licensing of such adult residential mental health program so that the department may determine whether a provider is operating in compliance with licensing requirements. Each licensee shall permit authorized department representatives to enter upon and inspect any and all premises upon or in which a program is to be conducted, for which a license has been applied, or for which a license has been issued so that verification of compliance with all relevant laws or regulations can be made.

History.
Code 1981, § 37-3-213, enacted by Ga. L. 2022, p. 587, § 1/HB 1069.

37-3-214. Role of disability services ombudsman.

The powers of the disability services ombudsman established in Part 1 of Article 2 of Chapter 2 of this title shall include oversight of patients of adult residential mental health programs established by this article, with all attendant powers and functions specified by law for such ombudsman.

History.
Code 1981, § 37-3-214, enacted by Ga. L. 2022, p. 587, § 1/HB 1069.

37-3-215. (Effective until January 1, 2026.) Unlicensed residential mental health program; penalty.

(a) On and after July 1, 2025, a facility shall be deemed to be an "unlicensed adult residential mental health program" if it is unlicensed and not exempt from licensure under this article and:

(1) The facility is providing services and is operating as an adult residential mental health program;

(2) The facility is held out as or represented as providing services and operating as an adult residential mental health program; or

(3) The facility represents itself as a licensed adult residential mental health program.

(b) Any unlicensed adult residential mental health program may be assessed by the department, after opportunity for hearing in accordance with the provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," a civil penalty in the amount of $100.00 per bed per day for each day of violation. The department shall send a notice by certified mail or statutory overnight delivery stating that licensure is required and the department's intent to impose a civil penalty. Such notice shall be deemed to be constructively received on the date of the first attempt to deliver such notice by the United States Postal Service. The department shall take no action to collect such civil penalty until after opportunity for a hearing.

(c) In addition to other remedies available to the department, the civil penalty authorized by subsection (b) of this Code section shall be doubled if the owner or operator continues to operate the unlicensed adult residential mental health program after receipt of notice pursuant to subsection (b) of this Code section.

(d) The owner or operator of an unlicensed adult residential mental health program who is assessed a civil penalty in accordance with this Code section may have review of such civil penalty by appeal to the superior court in the county in which the action arose or to the Superior Court of Fulton County.

(e) Any person who owns or operates an adult residential mental health program in violation of this Code section shall be guilty of a misdemeanor for a first violation, unless such violation is in conjunction with a violation of Article 8 of Chapter 5 of Title 16, in which case such person shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than five years. Upon conviction for a second or subsequent such violation, such person shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than ten years.

History.

Code 1981, § 37-3-215, enacted by Ga. L. 2022, p. 587, § 1/HB 1069; Ga. L. 2024, p. 382, § 4/HB 1083, effective April 23, 2024.

Delayed effective date.

Code Section 37-3-215 is set out twice in this Code. This version is effective until January 1, 2026. For version effective January 1, 2026, see the following version.

Amendments.

The 2024 amendment, effective April 23, 2024, substituted "July 1, 2025" for "January 1, 2024" near the beginning of subsection (a).

37-3-215. (Effective January 1, 2026.) Unlicensed residential mental health program; penalty.

(a) On and after January 1, 2026, a program shall be deemed to be an "unlicensed adult residential mental health program" if it is unlicensed and not exempt from licensure under this article and:

(1) The program is providing services and is operating as an adult residential mental health program;

(2) The program is held out as or represented as providing services and operating as an adult residential mental health program; or

(3) The program represents itself as a licensed adult residential mental health program.

(b) Any unlicensed adult residential mental health program may be assessed by the department, after opportunity for hearing in accordance with the provisions of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," a civil penalty in the amount of $100.00 per bed per day for each day of violation. The department shall send a notice by certified mail or statutory overnight delivery stating that licensure is required and the department's intent to impose a civil penalty. Such notice shall be deemed to be constructively received on the date of the first attempt to deliver such notice by the United States Postal Service. The department shall take no action to collect such civil penalty until after opportunity for a hearing.

(c) In addition to other remedies available to the department, the civil penalty authorized by subsection (b) of this Code section shall be doubled if the program owner or operator continues to operate the unlicensed adult residential mental health program after receipt of notice pursuant to subsection (b) of this Code section.

(d) The program owner or operator of an unlicensed adult residential mental health program who is assessed a civil penalty in accordance with this Code section may appeal such civil penalty to the superior court in the county in which the action arose or to the Superior Court of Fulton County.

(e) Any person who owns or operates an adult residential mental health program in violation of this Code section shall be guilty of a misdemeanor for a first violation, unless such violation is in conjunction with a violation of Article 8 of Chapter 5 of Title 16, in which case such person shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than five years. Upon conviction for a second or subsequent such violation, such person shall be guilty of a felony and, upon conviction, shall be punished by imprisonment for not less than one nor more than ten years.

History.

Code 1981, § 37-3-215, enacted by Ga. L. 2022, p. 587, § 1/HB 1069; Ga. L. 2024, p. 382, § 4/HB 1083, effective April 23, 2024; Ga. L. 2025, p. 177, § 3-7/HB 584, effective January 1, 2026.

Delayed effective date.

Code Section 37-3-215 is set out twice in this Code. This version is effective January 1, 2026. For version effective until January 1, 2026, see the preceding version.

Amendments.

The 2024 amendment, effective April 23, 2024, substituted “July 1, 2025” for “January 1, 2024” near the beginning of subsection (a).

The 2025 amendment, effective January 1, 2026, substituted “On and after January 1, 2026, a program shall” for “On and after July 1, 2025, a facility shall” at the beginning of subsection (a) and substituted “The program” for “The facility” at the beginning of paragraphs (a)(1), (a)(2), and (a)(3); in subsection (c), inserted “program” following “doubled if the” and deleted a comma following “mental health program”; and, in subsection (d), inserted “program” at the beginning and substituted “may appeal such civil penalty to the superior court” for “may have review of such civil penalty by appeal to the superior court”.

CHAPTER 4

HABILITATION OF THE DEVELOPMENTALLY DISABLED GENERALLY

ARTICLE 5

RIGHTS AND PRIVILEGES OF DEVELOPMENTALLY DISABLED PERSONS UNDERGOING HABILITATION, THEIR REPRESENTATIVES, ETC., GENERALLY

Part 1

General Provisions

37-4-107. Appointment of client representatives and guardians ad litem; notification provisions; duration and scope of guardianship ad litem.

(a) At the time a client is admitted to any facility under this chapter, that facility shall make diligent efforts to secure the names and addresses of at least two representatives, which names and addresses shall be entered in the client's clinical record.

(b) The client may designate one representative; the second representative or, in the absence of designation of one representative by the client, both representatives shall be selected by the facility. If the facility is to select both representatives, it must make one selection from among the following persons in the order of listing: the client's mental health care agent, legal guardian, spouse, adult child, parent, attorney, adult next of kin, or adult friend. The second representative shall also be selected from the above list but without regard to the order of listing, provided that the second representative shall not be the person who filed the petition seeking an order for the client to receive services from the department.

(c) If the facility is unable to secure at least two representatives after diligent search or if the department is the guardian of the client, that fact shall be entered in the client's clinical record and the facility shall apply to the court in the county of the client's residence for the appointment of a guardian ad litem, which guardian ad litem shall not be the department. On application of any person or on its own motion, the court may also appoint a guardian ad litem for a client for whom two representatives have been named whenever the appointment of a guardian ad litem is deemed necessary for protection of the client's rights. Such guardian ad litem shall act as representative of the client on whom notice is to be served under this chapter and shall have the powers granted to representatives by this chapter.

(d) At any time notice is required by this chapter to be given to the client's representatives, such notice shall be served on the representatives designated under this Code section. The client's guardian ad litem, if any, shall likewise be served. Unless otherwise provided, notice may be served in person or by first-class mail. When notice is served by mail, a record shall be made of the date of mailing and shall be placed in the client's clinical record. Service shall be completed upon mailing.

(e) At any time notice is required by this chapter to be given to the client, the date on which notice is given shall be entered on the client's clinical record. If the client is unable to comprehend a written notice, a reasonable effort shall be made to explain the notice to him or her.

(f) At the time a court enters an order pursuant to this chapter, such order and notice of the date of entry of the order shall be served on the client and his or her representatives as provided in subsection (d) of this Code section.

(g) Notice of a client's admission to a facility shall be given to his or her representatives in writing.

(h) In every instance in which a court shall appoint a guardian ad litem for any person pursuant to the terms of this chapter, such guardianship shall be for the limited purpose stated in the order of the court and shall expire automatically after 90 days or after a lesser time stated in the order. The responsibility of the guardian ad litem shall not extend beyond the specific purpose of the appointment.

History.

Code 1933, § 88-2503.18, enacted by Ga. L. 1978, p. 1826, § 1; Ga. L. 2012, p. 775, § 37/HB 942; Ga. L. 2022, p. 611, § 2-26/HB 752.

Amendments.

The 2022 amendment, effective July 1, 2022, inserted "mental health care agent," in the second sentence of subsection (b); added "or her" at the end of subsection (e); and inserted "or her" in subsections (f) and (g).

Law reviews.

For article, "HB 752: Psychiatric Advance Directive Act," see 39 Ga. St. U.L. Rev. 191 (2022).

37-4-108. Right of clients or representatives to petition for writ of habeas corpus and for judicial protection of rights and privileges granted by chapter.

(a) At any time and without notice, a person detained by a facility or a mental health care agent, legal guardian, relative, or friend on behalf of such person may petition as provided by law for a writ of habeas corpus to question the cause and legality of detention and to request any court of competent jurisdiction on its own initiative to issue a writ for release, provided that in the case of any such petition for the release of a person detained in a facility pursuant to a court order under Code Section 17-7-130 or 17-7-131, a copy of the petition, along with proper certificate of service, shall also be served upon the presiding judge of the court ordering such detention and the prosecuting attorney for such court, which service may be made by certified mail or statutory overnight delivery, return receipt requested.

(b) A client or his or her representatives may file a petition in the appropriate court alleging that the client is being unjustly denied a right or privilege granted by this chapter or that a procedure authorized by this chapter is being abused. An oral statement by a client or his or her representatives to any staff member or other service provider alleging that the client's rights or privileges under this chapter are being violated shall be immediately transmitted to the superintendent, the regional state hospital administrator, or the administrative head of the facility responsible for the client's treatment or the other person in charge of the client's habilitation plan, who shall assist the client in preparing his or her petition under this Code section. Upon the filing of such a petition, the court shall have the authority to conduct a judicial inquiry and to issue appropriate orders to correct any abuse under this chapter.

History.

Code 1933, §§ 88-2503.14, 88-2505, enacted by Ga. L. 1978, p. 1826, § 1; Ga. L. 1980, p. 678, § 3; Ga. L. 2000, p. 1589, § 3; Ga. L. 2002, p. 1324, § 1-13; Ga. L. 2022, p. 611, § 2-27/HB 752.

Amendments.

The 2022 amendment, effective July 1, 2022, substituted "a mental health care agent, legal guardian, relative, or friend" for "a relative or friend" in subsection (a).

Law reviews.

For article, "HB 752: Psychiatric Advance Directive Act," see 39 Ga. St. U.L. Rev. 191 (2022).

37-4-110. Appeal rights of clients, their representatives, or attorneys; payment of costs of appeal; right of client to subsequent appeal and to legal counsel on appeal.

The client, the client's representatives, or the client's attorney may appeal any order of the probate court or administrative law judge rendered in a proceeding under this chapter to the superior court of the county in which the proceeding was held, except as otherwise provided in Article 6 of Chapter 9 of Title 15, and may appeal any order of the juvenile court rendered in a proceeding under this chapter to the Court of Appeals or the Supreme Court. The appeal to the superior court shall be made in the same manner as appeals from the probate court to the superior court, except that the appeal shall be heard before the court sitting without a jury as soon as practicable but not later than 30 days following the date on which the appeal is filed with the clerk of the superior court. The appeal from the order of the juvenile court to the Court of Appeals or the Supreme Court shall be as provided by law but shall be heard as expeditiously as possible. The client must pay all costs upon filing any appeal authorized under this Code section or must make an affidavit that he or she is unable to pay costs. The client shall retain all rights of review of any order of the superior court, the Court of Appeals, or the Supreme Court as provided by law. The client shall have a right to counsel or, if unable to afford counsel, shall have counsel appointed for the client by the court. The appeal rights provided to the client, the client's representatives, or the client's attorney in this Code section are in addition to any other appeal rights which the parties may have, and the provision of the right for the client, the client's representatives, or the client's attorney to appeal does not deny the right to the Department of Behavioral Health and Developmental Disabilities to appeal under the general appeal provisions of Code Section 5-3-4.

History.

Code 1933, § 88-2503.19, enacted by Ga. L. 1978, p. 1826, § 1; Ga. L. 1986, p. 982, § 12; Ga. L. 1994, p. 1072, § 3; Ga. L. 1995, p. 10, § 37; Ga. L. 2009, p. 453, § 3-2/HB 228; Ga. L. 2011, p. 337, § 8/HB 324; Ga. L. 2016, p. 883, §§ 3-13, 3-14/HB 927; Ga. L. 2022, p. 767, § 2-28/HB 916.

Amendments.

The 2022 amendment, effective July 1, 2023, substituted "Code Section 5-3-4" for "Code Sections 5-3-2 and 5-3-3" at the end of this Code section. See Editor's notes for applicability.

Editor's notes.

Ga. L. 2022, p. 767, § 3-1/HB 916, not codified by the General Assembly, makes this Code section applicable to petitions for review filed in superior or state court on or after July 1, 2023.

CHAPTER 7

HOSPITALIZATION AND TREATMENT OF ALCOHOLICS, DRUG DEPENDENT INDIVIDUALS, AND DRUG ABUSERS

ARTICLE 1

GENERAL PROVISIONS

37-7-1. Definitions.

As used in this chapter, the term:

(1) "Alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages or who uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted.

(2) "Alcoholic beverages" means alcoholic spirits, liquors, wines, beers, and every liquid or fluid, patented or not, containing alcoholic spirits, wine, or beer or any other liquid or fluid containing alcohol in any form and producing intoxication in any form or to any degree.

(3) "Alcoholic, drug dependent individual, or drug abuser requiring involuntary treatment" means a person who is an inpatient or an outpatient.

(3.1) "Available outpatient treatment" means outpatient treatment, either public or private, available in the patient's community, including but not limited to supervision and support of the patient by family, friends, or other responsible persons in that community. Outpatient treatment at state expense shall be available only within the limits of state funds specifically appropriated therefor.

(4) "Chief medical officer" means the physician with overall responsibility for patient treatment at any facility receiving patients under this chapter or a physician appointed in writing as the designee of such chief medical officer.

(5) "Clinical record" means a written record pertaining to an individual patient and shall include all medical records, progress notes, charts, admission and discharge data, and all other information which is recorded by a facility which pertains to the patient's hospitalization and treatment. Such other information as may be required by rules and regulations of the board shall also be included.

(6) "Community mental health center" means an organized program for the care and treatment of alcoholics, drug dependent individuals, or drug abusers operated by a community service board or other appropriate public provider.

(7) "Court" means:

(A) In the case of an individual who is 17 years of age or older, the probate court for the county of residence of the patient or the county in which such patient is found. Notwithstanding Code

Section 15-9-13, in any case in which the judge of the probate court is unable to hear a case brought under this chapter within the time required for such hearing or is unavailable to issue the order specified in subsection (b) of Code Section 37-7-41, the judge shall appoint a person to serve and exercise all the jurisdiction of the probate court in such case. Any person so appointed shall be a member of the State Bar of Georgia and be otherwise qualified for his duties by training and experience. Such appointment may be made on a case-by-case basis or by making a standing appointment of one or more persons. Any person receiving such a standing appointment shall serve at the pleasure of the judge making the appointment or his successor in office to hear such cases if and when necessary. The compensation of a person so appointed shall be as agreed upon by the judge who makes the appointment and the person appointed and as approved by the governing authority of the county for which such person is appointed and shall be paid from the county funds of the county. All fees collected for the services of such appointed person shall be paid into the general funds of the county served; or

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

(8) “Drug dependent individual” or “drug abuser” means a person who habitually lacks self-control as to the use of opium, heroin, morphine, or any derivative or synthetic drug of that group, barbiturates, other sedatives, tranquilizers, amphetamines, lysergic acid diethylamide or other hallucinogens, or any drug, dangerous drug, narcotic drug, marijuana, or controlled substance, as defined in Article 2 or Article 3 of Chapter 13 of Title 16 or Chapter 3 of Title 26; or a person who uses such drugs to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted; provided, however, that no person shall be deemed a drug dependent individual or abuser solely by virtue of his taking, according to directions, any such drugs pursuant to a lawful prescription issued by a physician in the course of professional treatment for legitimate medical purposes.

(9) “Emergency receiving facility” means a facility designated by the department to receive patients under emergency conditions as provided in Part 1 of Article 3 of this chapter.

(10) “Evaluating facility” means a facility designated by the department to receive patients for evaluation as provided in Part 2 of Article 3 of this chapter.

(11) “Facility” means any state owned or state operated hospital, community mental health center, or other facility utilized for the

diagnosis, care, treatment, or hospitalization of persons who are alcoholics, drug dependent individuals, or drug abusers and any other hospital or facility within the State of Georgia approved for such purpose by the department.

(12) "Full and fair hearing" or "hearing" means a proceeding before a hearing examiner under Code Section 37-7-83 or Code Section 37-7-93 or before a court as defined in paragraph (7) of this Code section. The hearing may be held in a regular courtroom or in an informal setting, in the discretion of the hearing examiner or the court, but the hearing shall be recorded electronically or by a qualified court reporter. The patient shall be provided with effective assistance of counsel. If the patient cannot afford counsel, the court shall appoint counsel for him or the hearing examiner shall have the court appoint such counsel; provided, however, that the patient shall have the right to refuse in writing the appointment of counsel, in the discretion of the hearing examiner or the court. The patient shall have the right to confront and cross-examine witnesses and to offer evidence. The patient shall have the right to subpoena witnesses and to require testimony before the hearing examiner or in court in person or by deposition from any physician upon whose evaluation the decision of the hearing examiner or the court may rest. The patient shall have the right to obtain a continuance for any reasonable time for good cause shown. The hearing examiner and the court shall apply the rules of evidence applicable in civil cases. The burden of proof shall be upon the party seeking treatment of the patient. The standard of proof shall be by clear and convincing evidence. At the request of the patient, the public may be excluded from the hearing. The patient may waive his right to be present at the hearing, in the discretion of the hearing examiner or the court. The reason for the action of the court or hearing examiner in excluding the public or permitting the hearing to proceed in the patient's absence shall be reflected in the record.

(13) "Incapacitated by alcohol or drugs" means that a person, as a result of the use of alcoholic beverages, any drug, or any other substances listed in paragraph (8) of this Code section, exhibits life-threatening levels of intoxication, withdrawal, or imminent danger thereof, or acute medical problems; or is under the influence of alcoholic beverages or drugs or any other substances listed in paragraph (8) of this Code section to the extent that the person is incapable of caring for himself or protecting himself due to the continued consumption or use thereof.

(14) "Individualized treatment plan" means a proposal developed during a patient's stay in a facility and which is specifically tailored to the individual patient's treatment needs. Each plan shall clearly include the following:

(A) A statement of treatment goals or objectives based upon and related to a proper evaluation, which can be reasonably achieved within a designated time interval;

(B) Treatment methods and procedures to be used to obtain these goals, which methods and procedures are related to these goals and which include a specific prognosis for achieving these goals;

(C) Identification of the types of professional personnel who will carry out the treatment and procedures, including appropriate medical or other professional involvement by a physician or other health professional properly qualified to fulfill legal requirements mandated under state and federal law;

(D) Documentation of patient involvement and, if applicable, the patient's accordance with the treatment plan; and

(E) A statement attesting that the chief medical officer has made a reasonable effort to meet the plan's individualized treatment goals in the least restrictive environment possible closest to the patient's home community.

(14.1) "Inpatient" means a person who is an alcoholic, a drug dependent individual, or a drug abuser and:

(A)(i) Who presents a substantial risk of imminent harm to that person or others, as manifested by either recent overt acts or recent expressed threats of violence which present a probability of physical injury to that person or other persons; or

(ii) Who is incapacitated by alcoholic beverages, drugs, or any other substances listed in paragraph (8) of this Code section on a recurring basis; and

(B) Who is in need of involuntary inpatient treatment.

(14.2) "Inpatient treatment" or "hospitalization" means a program of treatment for alcoholics, drug dependent individuals, or drug abusers within a hospital facility setting.

(14.3) "Involuntary treatment" means inpatient or outpatient treatment which a patient is required to obtain pursuant to this chapter.

(15) "Least restrictive alternative," "least restrictive alternative placement," "least restrictive environment," or "least restrictive appropriate care and treatment" means that which is the least restrictive available alternative, placement, environment, or care and treatment, respectively, within the limits of state funds specifically appropriated therefor.

(15.1) "Outpatient" means a person who is an alcoholic, drug dependent individual, or drug abuser and:

(A) Who is capable of surviving safely in the community with available resources or supervision from family, friends, or others;

(B) Who, based on their mental condition or behavioral history, is in need of treatment in order to prevent further disability or deterioration that would predictably result in dangerousness to self or others; and

(C) Whose current mental status or the nature of their addictive disease limits or negates their ability to make an informed decision to seek voluntarily or to comply with recommended treatment.

(15.2) "Outpatient treatment" means a program of treatment for alcoholics, drug dependent individuals, or drug abusers outside a hospital facility setting which includes, without being limited to, medication and prescription monitoring, individual or group therapy, day or partial programming activities, case management services, and other services to alleviate or treat the patient's lack of self-control regarding the use of alcoholic beverages, drugs, or any other substances listed in paragraph (8) of this Code section so as to maintain the patient's semi-independent functioning and to prevent the patient's becoming an inpatient.

(16) "Patient" means any alcoholic, drug dependent individual, or drug abuser who seeks treatment under this chapter or any person for whom such treatment is sought.

(17) "Private facility" means any hospital facility that is a proprietary hospital or a hospital operated by a nonprofit corporation or association approved for the purposes of this chapter and a hospital facility operated by a hospital authority created pursuant to Article 4 of Chapter 7 of Title 31.

(17.1) "Psychologist" means a licensed psychologist who meets the criteria of training and experience as a health service provider psychologist as provided in Code Section 31-7-162.

(17.2) "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 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.

(18) "Representatives" means the persons appointed as provided in Code Section 37-7-147 to receive notice of the proceedings for voluntary or involuntary treatment.

(19) "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 patients under this chapter or an individual appointed as the designee of such superintendent.

(20) "Treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation, and career counseling, which may be extended to alcoholics, intoxicated persons, drug dependent individuals, and drug abusers.

(21) "Treatment facility" means a facility designated by the department to receive patients for treatment as provided in Part 3 of Article 3 of this chapter.

History.

Code 1933, § 88-401, enacted by Ga. L. 1978, p. 1856, § 1; Ga. L. 1979, p. 744, §§ 1-3; Ga. L. 1982, p. 3, § 37; Ga. L. 1983, p. 3, § 28; Ga. L. 1986, p. 1098, § 6; Ga. L. 1991, p. 1059, § 27; Ga. L. 1992, p. 6, § 37; Ga. L. 1992, p. 1902, § 15; Ga. L. 1993, p. 1445, § 17.7; Ga. L. 2002, p. 1324, § 1-15; Ga. L. 2009, p. 453, § 3-19/HB 228; Ga. L. 2022, p. 26, § 3-5/HB 1013.

Amendments.

The 2022 amendment, effective July 1, 2022, rewrote subparagraphs (15.1)(A) through (15.1)(C), which read: "(A) Who is not an inpatient but who, based on the person's treatment history or recurrent lack of self-control regarding the use of alcoholic beverages, drugs, or any other substances listed in paragraph (8) of this Code section, will require outpatient treatment in order to avoid predictably and imminently becoming an inpatient;

"(B) Who because of the person's current mental state and recurrent lack of self-control regarding the use of alcoholic beverages, drugs, or any other substances listed in paragraph (8) of this Code section or nature of the person's alcoholic behavior or drug dependency or drug abuse is unable voluntarily to seek or comply with outpatient treatment; and

"(C) Who is in need of involuntary treatment."

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

37-7-5. Immunity from liability for actions taken in good faith compliance with admission and discharge provisions of chapter.

Any physician, psychologist, peace officer, attorney, or health official, or any hospital official, agent, or other person employed by a private hospital or at a facility operated by the state, by a political subdivision of the state, or by a hospital authority created pursuant to Article 4 of Chapter 7 of Title 31, who acts in good faith in compliance with the transport, admission, and discharge provisions of this chapter shall be immune from civil or criminal liability for his actions in connection with the transport of a patient to a physician or facility, the admission of a patient to a facility, or the discharge of a patient from a facility. The immunity from civil liability provided in this Code section in connection with the transport of a patient to a physician or a facility shall apply only to injury or damages incurred by such patient or his or her personal representative.

History.

Code 1933, § 88-402.23, enacted by Ga. L. 1978, p. 1856, § 1; Ga. L. 1981, p. 996, § 1; Ga. L. 2022, p. 722, § 4/SB 403.

Amendments.

The 2022 amendment, effective July 1, 2022, substituted "transport, admission, and discharge" for "admission and discharge", substituted "the transport of a patient to a physician or facility, the admission of a patient to a facility, or the discharge" for "the admission of a patient to a facility or the discharge", and added the second sentence.

Editor's notes.

Ga. L. 2022, p. 722, § 1/SB 403, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Georgia Behavioral Health and Peace Officer Co-Responder Act.'"

Ga. L. 2022, p. 722, § 2/SB 403, not codified by the General Assembly, provides: "The General Assembly finds that:

"(1) Demands on peace officers include responding to emergencies involving individuals with a mental or emotional illness, developmental disability, or addictive disease, without the benefit of a behavioral health specialist being present;

"(2) The presence of a behavioral health specialist exponentially decreases the risk of escalation;

"(3) The absence of a behavioral health specialist may result in the arrest of individuals whose conduct would be more effectively treated and stabilized in a behavioral health setting rather than a jail or prison;

"(4) Law enforcement agencies throughout Georgia frequently report that jails and prisons are becoming revolving door behavioral health hospitals of last resort;

"(5) Several law enforcement agencies in Georgia have established co-responder programs and formed co-responder partnerships with local community service boards. Community service boards provide support during emergency responses and provide follow-up services to help stabilize the individual in crisis and prevent relapse;

"(6) Combining the expertise of peace officers and behavioral health specialists to de-escalate behavioral health crises prevents unnecessary incarceration of individuals with a mental or emotional illness, developmental disability, or addictive disease and instead links those in crisis to services that promote stability and reduce the likelihood of recurrence, decreases the costs incurred by prisons and jails to incarcerate such individuals, and increases the ability of peace officers outside of the co-responder teams to focus on serious crimes; and

"(7) It is in the best interest of the state to establish the framework for a statewide co-responder model to include emergency response co-responder teams and post-emergency behavioral health services."

ARTICLE 3

EXAMINATION, HOSPITALIZATION, AND TREATMENT OF INVOLUNTARY PATIENTS

PART 1

EMERGENCY RECEIVING FACILITIES FOR EXAMINATION OF PERSONS APPREHENDED PURSUANT TO PHYSICIAN'S CERTIFICATE OR COURT ORDER

37-7-42. Emergency admission of persons arrested for penal offenses; report by officer; entry of report into clinical record.

(a)(1) A peace officer may take any person to a physician within the county or an adjoining county for emergency examination by the physician, as provided in Code Section 37-7-41, or directly to an emergency receiving facility if the person is committing a penal offense and the peace officer has probable cause for believing that the person is an alcoholic, a drug dependent individual, or a drug abuser requiring involuntary treatment. The peace officer need not formally tender charges against the individual prior to taking the individual to a physician or an emergency receiving facility under this Code section. The peace officer shall execute a written report detailing the circumstances under which the person was taken into custody; and this report shall be made a part of the patient's clinical record.

(2) A peace officer may take any person to an emergency receiving facility if: (i) the peace officer has probable cause to believe that the person is an alcoholic, a drug dependent individual, or a drug abuser requiring involuntary treatment; and (ii) the peace officer has consulted either in-person or via telephone or telehealth with a physician, as provided in Code Section 37-7-41, and the physician authorizes the peace officer to transport the individual for an evaluation. To authorize transport for evaluation, the physician shall determine, based on facts available regarding the person's condition, including the report of the peace officer and the physician's communications with the person or witnesses, that there is probable cause to believe that the person needs an examination to determine if the person requires involuntary treatment. The peace officer shall execute a written report detailing the circumstances under which the person is detained; and this report shall be made a part of the patient's clinical record.

(b) Any psychologist may perform any act specified by this Code section to be performed by a physician. Any reference in any part of this chapter to a physician acting under this Code section shall be deemed to refer equally to a psychologist acting under this Code section. For purposes of this subsection, the term “psychologist” means any person authorized under the laws of this state to practice as a licensed psychologist.

History.

Code 1933, § 88-404.3, enacted by Ga. L. 1978, p. 1856, § 1; Ga. L. 1981, p. 996, § 2; Ga. L. 1987, p. 3, § 37; Ga. L. 2022, p. 26, § 3-6/HB 1013.

Amendments.

The 2022 amendment, effective July 1, 2022, designated the existing provisions of subsection (a) as paragraph (a)(1), and added paragraph (a)(2).

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2022, “is” was inserted in the last sentence of paragraph (a)(2).

Law reviews.

For article, “HB 1013: Georgia Mental Health Parity Act,” see 39 Ga. St. U.L. Rev. 145 (2022).

ARTICLE 4

PLACEMENT, TRANSFER, AND TRANSPORTATION OF PATIENTS GENERALLY

37-7-101. Transportation of patients generally.

(a) The governing authority of the county where the patient is found or located shall arrange for initial emergency transport of the patient to an emergency receiving facility. Except as otherwise authorized under subsection (b) of this Code section, the governing authority of the county of the patient’s residence shall arrange for all required transportation for mental health purposes subsequent to the initial transport. The type of vehicle employed shall be in the discretion of the governing authority of the county, provided that, whenever possible, marked vehicles normally used for the transportation of criminals or those accused of crimes shall not be used for the transportation of patients. The court shall, upon the request of the community mental health center, order the sheriff to transport the patient in such manner as the patient’s condition demands. At any time the community mental health center is satisfied that the patient can be transported safely by family members or friends, such private transportation shall be encouraged and authorized. In nonemergency situations, no female patient shall be transported at any time without another female in attendance who is not a patient, unless such female patient is accompanied by her husband, father, adult brother, or adult son.

(b) Notwithstanding the provisions of subsection (a) of this Code section, when a patient is under the care of a facility, the facility shall have the discretion to determine the type of vehicle to safely transport the patient and to arrange for such transportation without the need to obtain the prior approval of the governing authority of the county of the patient’s residence, the court, or the community mental health center.

This subsection shall not prevent the facility from requesting and receiving transportation services from the governing authority of the county of the patient's residence and shall not relieve the county sheriff of the duty of providing transportation. Persons providing transportation are authorized to transport a patient from a sending facility to a receiving facility but shall not release the patient under any circumstances except into the custody of the receiving facility. The use of physical restraints to ensure the safe transport of the patient shall comply with Code Section 37-7-165. When transportation is not provided by the county sheriff, the expense of such transportation shall not be billed to the county governing authority but may be billed to the patient and, unless agreed to in writing by the facility, shall not be billed to or considered an obligation of the facility.

(c) Notwithstanding subsections (a) or (b) of this Code section, for initial transports to an emergency receiving facility initiated by a peace officer pursuant to Code Section 37-7-42, the emergency receiving facility shall coordinate all subsequent transports with the law enforcement agency employing such peace officer or a qualified private nonemergency transport provider or ambulance service.

History.

Code 1933, § 88-402.17, enacted by Ga. L. 1978, p. 1856, § 1; Ga. L. 1993, p. 1445, § 17.9; Ga. L. 2002, p. 1067, § 3; Ga. L. 2022, p. 26, § 3-7/HB 1013.

Amendments.

The 2022 amendment, effective July 1, 2022, added subsection (c).

Law reviews.

For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

ARTICLE 6

RIGHTS AND PRIVILEGES OF PATIENTS, THEIR REPRESENTATIVES, AND OTHERS GENERALLY

Part 1

General Provisions

37-7-147. Appointment of patient representatives and guardians ad litem; notice provisions; duration and scope of guardianship ad litem.

(a) At the time a patient is admitted to any facility under this chapter, that facility shall use diligent efforts to secure the names and addresses of at least two representatives, which names and addresses shall be entered in the patient's clinical record.

(b) The patient may designate one representative; the second representative or, in the absence of designation of one representative by the patient, both representatives shall be selected by the facility. If the facility is to select both representatives, it must make one selection from among the following persons in the order of listing: the patient's mental health care agent, legal guardian, spouse, adult child, parent, attorney, adult next of kin, or adult friend, provided that, in the case of a patient whose representative or representatives have been appointed by the court under Code Section 37-7-62, the facility shall not select a different representative. The second representative shall also be selected from the above list but without regard to the order of listing, provided that the second representative shall not be the person who filed the petition to have the patient admitted to the facility.

(c) If the facility is unable to secure at least two representatives after diligent search or if the department is the guardian of the patient, that fact shall be entered in the patient's clinical record and the facility shall apply to the court in the county of the patient's residence for the appointment of a guardian ad litem, which guardian ad litem shall not be the department. On application of any person or on its own motion, the court may also appoint a guardian ad litem for a patient for whom two representatives have been named whenever the appointment of a guardian ad litem is deemed necessary for protection of the patient's rights. Such guardian ad litem shall also act as representative of the patient and shall have the powers granted to representatives by this chapter.

(d) At any time notice is required by this chapter to be given to the patient's representatives, such notice shall be served on the representatives designated under this Code section. The patient's guardian ad litem, if any, shall likewise be served. Unless otherwise provided, notice may be served in person or by first-class mail. When notice is served by mail, a record shall be made of the date of mailing and shall be placed in the patient's clinical record. Service shall be completed upon mailing.

(e) At any time notice is required by this chapter to be given to the patient, the date on which notice is given shall be entered on the patient's clinical record. If the patient is unable to comprehend the written notice, a reasonable effort shall be made to explain the notice to him or her.

(f) At the time a court enters an order pursuant to this chapter, such order and notice of the date of entry of the order shall be served on the patient and his or her representatives as provided in subsection (d) of this Code section.

(g) Notice of an involuntary patient's admission to a facility shall be given to his or her representatives in writing. If such involuntary admission is to an emergency receiving facility, notice shall also be given by that facility to the patient's representatives by telephone or in person as soon as possible.

(h) In every instance in which a court shall appoint a guardian ad litem for any person pursuant to the terms of this chapter, such guardianship shall be for the limited purpose stated in the order of the court and shall expire automatically after 90 days or after a lesser time stated in the order. The responsibility of the guardian ad litem shall not extend beyond the specific purpose of the appointment.

History.

Code 1933, § 88-402.18, enacted by Ga. L. 1978, p. 1856, § 1; Ga. L. 2022, p. 611, § 2-28/HB 752.

Amendments.

The 2022 amendment, effective July 1, 2022, inserted "mental health care agent," in the second sentence of subsection (b); substituted "first-class" for "first class" in the second sentence of subsection (d); added "or her" at the end of subsection (e); and inserted "or her" in subsection (f) and in the first sentence of subsection (g).

Law reviews.

For article, "HB 752: Psychiatric Advance Directive Act," see 39 Ga. St. U.L. Rev. 191 (2022).

37-7-148. Rights of patients or representatives to petition for writ of habeas corpus and for judicial protection of rights and privileges granted by this chapter.

(a) At any time and without notice, a person detained by a facility, a mental health care agent named in such person's psychiatric advance directive, a legal guardian of such person, or a relative or friend on behalf of such person may petition, as provided by law, for a writ of habeas corpus to question the cause and legality of detention and to request any court of competent jurisdiction on its own initiative to issue a writ for release, provided that, in the case of any such petition for the release of a person detained in a facility pursuant to a court order under Code Section 17-7-130 or 17-7-131, a copy of the petition along with proper certificate of service shall also be served upon the presiding judge of the court ordering such detention and the prosecuting attorney for such court, which service may be made by certified mail or statutory overnight delivery, return receipt requested.

(b) A patient or his or her representatives may file a petition in the appropriate court alleging that the patient is being unjustly denied a right or privilege granted by this chapter or that a procedure authorized by this chapter is being abused. Upon the filing of such a petition, the court shall have the authority to conduct a judicial inquiry and to issue appropriate orders to correct any abuse under this chapter.

History.

Code 1933, § 88-406.2, enacted by Ga. L. 1971, p. 273, § 1; Code 1933, § 88-402.14, enacted by Ga. L. 1978, p. 1856, § 1; Ga. L. 1980, p. 678, § 1; Ga. L. 2000, p. 1589, § 3; Ga. L. 2022, p. 611, § 2-29/HB 752.

Amendments.

The 2022 amendment, effective July 1, 2022, inserted ", a mental health care agent named in such person's psychiatric advance directive, a legal guardian of such person," near the beginning of subsection (a); and inserted “or her” in the first sentence in subsection (b).

Law reviews.

For article, “HB 752: Psychiatric Advance Directive Act,” see 39 Ga. St. U.L. Rev. 191 (2022).

37-7-150. Right to appeal orders of probate court, juvenile court, or hearing examiner; payment of costs of appeal; right of patient to subsequent appeal; right of patient to legal counsel on appeal.

The patient, the patient’s representatives, or the patient’s attorney may appeal any order of the probate court or hearing officer rendered in a proceeding under this chapter to the superior court of the county in which the proceeding was held, except as otherwise provided in Article 6 of Chapter 9 of Title 15, and may appeal any order of the juvenile court rendered in a proceeding under this chapter to the Court of Appeals or the Supreme Court. The appeal to the superior court shall be made in the same manner as appeals from the probate court to the superior court, except that the appeal shall be heard before the court sitting without a jury as soon as practicable but not later than 30 days following the date on which the appeal is filed with the clerk of the superior court. The appeal from the order of the juvenile court to the Court of Appeals or the Supreme Court shall be as provided by law but shall be heard as expeditiously as possible. The patient must pay all costs upon filing any appeal authorized under this Code section or must make an affidavit that he or she is unable to pay costs. The patient shall retain all rights of review of any order of the superior court, the Court of Appeals, or the Supreme Court, as provided by law. The patient shall have a right to counsel or, if unable to afford counsel, shall have counsel appointed for the patient by the court. The appeal rights provided to the patient, the patient’s representatives, or the patient’s attorney in this Code section are in addition to any other appeal rights which the parties may have, and the provision of the right for the patient, the patient’s representatives, or the patient’s attorney to appeal does not deny the right to the Department of Behavioral Health and Developmental Disabilities to appeal under the general appeal provisions of Code Section 5-3-4.

History.

Code 1933, § 88-402.19, enacted by Ga. L. 1978, p. 1856, § 1; Ga. L. 1986, p. 982, § 13; Ga. L. 1994, p. 1072, § 5; Ga. L. 1995, p. 10, § 37; Ga. L. 2009, p. 453, § 3-2/HB 228; Ga. L. 2016, p. 883, §§ 3-13, 3-14/HB 927; Ga. L. 2022, p. 767, § 2-29/HB 916.

Amendments.

The 2022 amendment, effective July 1, 2023, substituted “Code Section 5-3-4” for “Code Sections 5-3-2 and 5-3-3” at the end of this Code section. See Editor’s notes for applicability.

Editor’s notes.

Ga. L. 2022, p. 767, § 3-1/HB 916, not

codified by the General Assembly, makes this Code section applicable to petitions for review filed in superior or state court on or after July 1, 2023.

Part 2

Rights and Privileges as to Manner of Care and Treatment and as to Maintenance and Release of Clinical Records

37-7-167. Right of patient to examine his records and to request correction of inaccuracies; promulgation of rules and regulations; judicial supervision of files and records relating to proceedings under this chapter.

(a) Except as provided in subsection (b) of Code Section 37-7-162, every patient shall have the right to examine all medical records kept in the patient's name by the department or the facility where the patient was hospitalized or treated.

(b) Every patient shall have the right to request that any inaccurate information found in his medical record be corrected.

(c) The board shall promulgate reasonable rules and regulations to implement subsections (a) and (b) of this Code section. Nothing contained in this Code section shall be construed to require the deletion of information by the department nor constrain the department from destroying patient records after a reasonable passage of time.

(d) Notwithstanding paragraphs (7) and (8) of subsection (a) of Code Section 15-9-37, all files and records of a court in a proceeding under this chapter shall remain sealed and shall be open to inspection only upon order of the court issued after notice to the patient and subject to the provisions of Code Section 37-7-166 pertaining to the medical portions of the record, provided that the court may refer to such files and records in any subsequent proceeding under this chapter concerning the same patient, on condition that the files and records of such subsequent proceeding will then be sealed in accordance with this subsection. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, but without personal identifying information and under whatever conditions upon their use and distribution that the court may deem proper; and the court may punish by contempt any violations of those conditions. Otherwise, inspection of the sealed files and records may be permitted only by an order of the court upon petition by the person who is the subject of the records and only by those persons named in the order.

History.
Code 1933, § 88-402.13, enacted by Ga. L. 1978, p. 1856, § 1; Ga. L. 2025, p. 1029, § 37(3)/SB 153, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, part of an Act to revise, modernize, and correct the Code, inserted "of subsection (a)" following "paragraphs (7) and (8)" in subsection (d).

CHAPTER 11

PSYCHIATRIC ADVANCE DIRECTIVE

Effective date.

This chapter became effective July 1, 2022.

Cross references.

Advanced directive for health care, § 31-32-1 et seq.

Law reviews.

For article, "HB 752: Psychiatric Advance Directive Act," see 39 Ga. St. U.L. Rev. 191 (2022).

37-11-1. Short title.

This chapter shall be known and may be cited as the "Psychiatric Advance Directive Act."

History.

Code 1981, § 37-11-1, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

37-11-2. Purpose.

This chapter is enacted in recognition of the fundamental right of an individual to have power over decisions relating to his or her mental health care as a matter of public policy.

History.
Code 1981, § 37-11-2, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

Law reviews.
For article, "HB 1013: Georgia Mental Health Parity Act," see 39 Ga. St. U.L. Rev. 145 (2022).

37-11-3. Definitions.

As used in this chapter, the term:

(1) "Capable" means not incapable of making mental health care decisions.

(2) "Competent adult" means a person of sound mind who is 18 years of age or older or is an emancipated minor.

(3) "Declarant" means a person who has executed a psychiatric advance directive authorized by this chapter.

(4) "Facility" means a hospital, skilled nursing facility, hospice, institution, home, residential or nursing facility, treatment facility, and any other facility or service which has a valid permit or provisional permit issued under Chapter 7 of Title 31 or which is licensed, accredited, or approved under the laws of any state, and includes hospitals operated by the United States government or by any state or subdivision thereof and community service boards.

(5) "Incapable of making mental health care decisions" means that, in the opinion of a physician or licensed psychologist who has personally examined a declarant, or in the opinion of a court, a declarant lacks the capacity to understand the risks and benefits of, and the alternatives to, a mental health care decision under consideration and is unable to give or communicate rational reasons for mental health care decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability.

(6) "Mental health care" means any care, treatment, service, or procedure to maintain, diagnose, treat, or provide for a declarant's mental or emotional illness, developmental disability, or addictive disease.

(7) "Mental health care agent" or "agent" means a person appointed by a declarant to act for and on behalf of such declarant to make decisions related to consent, refusal, or withdrawal of any type of mental health care when such declarant is incapable of making mental health care decisions for himself or herself. Such term shall include any back-up mental health care agent appointed by a declarant.

(8) "Physician" means a person lawfully licensed in this state to practice medicine pursuant to Article 2 of Chapter 34 of Title 43 and,

if the declarant is receiving mental health care in another state, a person lawfully licensed in such state.

(9) “Provider” means any person administering mental health care who is licensed, certified, or otherwise authorized or permitted by law to administer mental health care in the ordinary course of business or the practice of a profession, including, but not limited to, professional counselors, psychologists, clinical social workers, marriage and family therapists, and clinical nurse specialists in psychiatric and mental health; a physician; or any person acting for any such authorized person.

(10) “Psychiatric advance directive” or “directive” means a written document voluntarily executed by a person in accordance with the requirements of Code Section 37-11-9.

History.
Code 1981, § 37-11-3, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

37-11-4. Execution of psychiatric advance directive; appointment of mental health care agent.

(a) A competent adult may execute a psychiatric advance directive containing mental health care preferences, information, or instructions regarding his or her mental health care that authorizes and consents to a provider or facility acting in accordance with such directive. A directive may include consent to or refusal of specified mental health care.

(b) A psychiatric advance directive may include, but shall not be limited to:

(1) The names and telephone numbers of individuals to contact in the event a declarant has a mental health crisis;

(2) Situations that have been known to cause a declarant to experience a mental health crisis;

(3) Responses that have been known to de-escalate a declarant’s mental health crisis;

(4) Responses that may assist a declarant to remain in such declarant’s home during a mental health crisis;

(5) The types of assistance that may help stabilize a declarant if it becomes necessary to enter a facility; and

(6) Medications a declarant is taking or has taken in the past and the effects of such medications.

(c) A psychiatric advance directive may include a mental health care agent.

(d) If a declarant chooses not to appoint an agent, the instructions and desires of a declarant as set forth in the directive shall be followed to the fullest extent possible by every provider or facility to whom the directive is communicated, subject to the right of the provider or facility to refuse to comply with the directive as set forth in Code Section 37-11-12.

(e) A person shall not be required to execute or refrain from executing a directive as a criterion for insurance, as a condition for receiving mental health care or physical health care services, or as a condition of discharge from a facility.

(f) Unless a declarant indicates otherwise, a psychiatric advance directive shall take precedence over any advance directive for health care executed pursuant to Chapter 32 of Title 31; durable power of attorney for health care creating a health care agency under the former Chapter 36 of Title 31, as such chapter existed on and before June 30, 2007; health care proxy; or living will that a declarant executed prior to executing a psychiatric advance directive to the extent that such other documents relate to mental health care and are inconsistent with the psychiatric advance directive.

(g) No provision of this chapter shall be construed to bar use by a declarant of an advance directive for health care under Chapter 32 of Title 31.

History.
Code 1981, § 37-11-4, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

37-11-5. Designation of agent; authority; removal by court.

(a) A declarant may designate a competent adult to act as his or her agent to make decisions about his or her mental health care. An alternative agent may also be designated.

(b) An agent shall have no authority to make mental health care decisions when a declarant is capable.

(c) The authority of an agent shall continue in effect so long as the directive appointing such agent is in effect or until such agent has withdrawn.

(d) An agent appointed by a declarant:

(1) Shall be authorized to make any and all mental health care decisions on behalf of such declarant which such declarant could make if such declarant were capable;

(2) Shall exercise granted powers in a manner consistent with the intent and desires of such declarant. If such declarant's intentions and desires are not expressed or are unclear, the agent shall act in such declarant's best interests, considering the benefits, burdens, and risks of such declarant's circumstances and mental health care options;

(3) Shall not be under any duty to exercise granted powers or to assume control of or responsibility for such declarant's mental health care; but, when granted powers are exercised, the agent shall be required to use due care to act for the benefit of such declarant in accordance with the terms of the psychiatric advance directive;

(4) Shall not make a mental health care decision different from or contrary to such declarant's instruction if such declarant is capable at the time of the request for consent or refusal of mental health care;

(5)(A) May make a mental health care decision different from or contrary to such declarant's instruction in such declarant's psychiatric advance directive if:

(i) Such declarant's provider or facility determines in good faith at the time of consent or refusal of mental health care that the mental health care requested or refused in the directive's instructions is:

(I) Unavailable;

(II) Medically contraindicated in a manner that would result in substantial harm to such declarant if administered; or

(III) In the opinion of the provider or facility, inconsistent with reasonable medical standards to benefit such declarant or has proven ineffective in treating such declarant's mental health condition; and

(ii) The mental health care requested or refused in the directive's instructions is unlikely to be delivered by another provider or facility in the community under the circumstances.

(B) In the event the agent exercises authority under one of the circumstances set forth in subparagraph (A) of this paragraph, the agent shall exercise the authority in a manner consistent with the intent and desires of such declarant. If such declarant's intentions and desires are not expressed or are unclear, the agent shall act in such declarant's best interests, considering the benefits, burdens, and risks of such declarant's circumstances and mental health care options;

(6) Shall not delegate authority to make mental health care decisions; and

(7) Has the following general powers, unless expressly limited in the psychiatric advance directive:

(A) To sign and deliver all instruments, negotiate and enter into all agreements, and do all other acts reasonably necessary to exercise the powers granted to the agent;

(B) To consent to, authorize, refuse, or withdraw consent to any providers and any type of mental health care of such declarant, including any medication program;

(C) To request and consent to admission or discharge from any facility; and

(D) To contract for mental health care and facilities in the name of and on behalf of such declarant, and the agent shall not be personally financially liable for any services or mental health care contracted for on behalf of such declarant.

(e) A court may remove a mental health care agent if it finds that an agent is not acting in accordance with the declarant's treatment instructions as expressed in his or her directive.

History.
Code 1981, § 37-11-5, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

37-11-6. Rights of agent.

(a) Except to the extent that a right is limited by a directive or by any state or federal law or regulation, an agent shall have the same right as a declarant to receive information regarding the proposed mental health care and to receive, review, and consent to disclosure of medical records, including records relating to the treatment of a substance use disorder, relating to that mental health care. All of a declarant's mental health information and medical records shall remain otherwise protected under state and federal privilege, and this right of access shall not waive any evidentiary privilege.

(b) At the declarant's expense and subject to reasonable rules of a provider or facility to prevent disruption of the declarant's mental health care, an agent shall have the same right the declarant has to examine, copy, and consent to disclosure of all the declarant's medical records that the agent deems relevant to the exercise of the agent's powers, whether the records relate to mental health or any other medical condition and whether they are in the possession of or maintained by any physician, psychiatrist, psychologist, therapist, facility, or other health care provider, despite contrary provisions of any other statute or rule of law.

(c) The authority given an agent by this Code section shall include all rights that a declarant has under the federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, and its implementing regulations regarding the use and disclosure of individually identifiable health information and other medical records.

History.

Code 1981, § 37-11-6, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

U.S. Code.

The federal Health Insurance Portability and Accountability Act of 1996, referred to in subsection (c), is codified at 42 U.S.C. § 13206 et seq.

37-11-7. Persons ineligible to serve as agents.

The following persons shall not serve as a declarant's agent:

(1) Such declarant's provider or an employee of that provider unless such employee is a family member, friend, or associate of such declarant and is not directly involved in such declarant's mental health care; or

(2) An employee of the Department of Behavioral Health and Developmental Disabilities or of a local public mental health agency or of any organization that contracts with a local public mental health authority unless such employee is a family member, friend, or associate of such declarant and is not directly involved in such declarant's mental health care.

History.

Code 1981, § 37-11-7, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

37-11-8. Withdrawal by agent.

An agent may withdraw by giving written notice to a declarant. If such declarant is incapable of making mental health care decisions, such agent may withdraw by giving written notice to the provider or facility that is providing mental health care to the declarant at the time of the agent's withdrawal. Any provider or facility that receives an agent's withdrawal shall document the withdrawal as part of such declarant's medical record.

History.

Code 1981, § 37-11-8, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

37-11-9. Witness requirement; period of validity; civil liability of witnesses; copies.

(a) A psychiatric advance directive shall be effective only if it is signed by the declarant and witnessed by two competent adults, but such witnesses shall not be required to be together or present when such declarant signs the directive. The witnesses shall attest that the declarant is known to them, appears to be of sound mind, is not under duress, fraud, or undue influence, and signed his or her directive in the witness's presence or acknowledges signing his or her directive. For purposes of this subsection, the term "of sound mind" means having a decided and rational desire to create a psychiatric advance directive.

(b) A validly executed psychiatric advance directive shall become effective upon its proper execution and shall remain in effect until revoked by the declarant.

(c) The following persons shall not serve as witnesses to the signing of a directive:

(1) A provider who is providing mental health care to the declarant at the time such directive is being executed or an employee of such provider unless such employee is a family member, friend, or associate of such declarant and is not directly involved in the declarant's mental health care;

(2) An employee of the Department of Behavioral Health and Developmental Disabilities or of a local public mental health agency or of any organization that contracts with a local public mental health authority unless such person is a family member, friend, or associate of such declarant and is not directly involved in the declarant's mental health care; or

(3) A person selected to serve as the declarant's mental health care agent.

(d) A person who witnesses a psychiatric advance directive in good faith and in accordance with this chapter shall not be civilly liable or criminally prosecuted for actions taken by an agent.

(e) A copy of a directive executed in accordance with this Code section shall be valid and have the same meaning and effect as the original document.

History.
Code 1981, § 37-11-9, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

37-11-10. Revocation; effect of marriage or appointment of guardian.

(a) A directive may be revoked in whole or in part at any time by the declarant, so long as such declarant is capable, by any of the following methods:

(1) By completing a new directive that has provisions which are

inconsistent with the provisions of a previously executed directive; an advance directive for health care executed pursuant to Chapter 32 of Title 31; a durable power of attorney for health care creating a health care agency under the former Chapter 36 of Title 31, as such chapter existed on and before June 30, 2007; a health care proxy; or a living will; provided, however, that such revocation shall extend only so far as the inconsistency exists between the documents and any part of a prior document that is not inconsistent with a subsequent document shall remain unrevoked;

(2) By being obliterated, burned, torn, or otherwise destroyed by the declarant or by some person in the declarant's presence and at the declarant's direction indicating an intention to revoke;

(3) By a written revocation clearly expressing the intent of the declarant to revoke the directive signed and dated by the declarant or by a person acting at the declarant's direction. If the declarant is receiving mental health care in a facility, revocation of a directive will become effective only upon communication to the attending provider by the declarant or by a person acting at the declarant's direction. The attending provider shall record in the declarant's medical record the time and date when the attending provider received notification of the written revocation; or

(4) By an oral or any other clear expression of the intent to revoke the directive in the presence of a witness 18 years of age or older who, within 30 days of the expression of such intent, signs and dates a writing confirming that such expression of intent was made. If the declarant is receiving mental health care in a facility, revocation of a directive will become effective only upon communication to the attending provider by the declarant or by a person acting at the declarant's direction. The attending provider shall record in the declarant's medical record the time, date, and place of the revocation and the time, date, and place, if different, when the attending provider received notification of the revocation. Any person, other than the mental health care agent, to whom an oral or other nonwritten revocation of a directive is communicated or delivered shall make all reasonable efforts to inform the mental health care agent of that fact as promptly as possible.

(b) Unless a directive expressly provides otherwise, if after executing a directive, the declarant marries, such marriage shall revoke the designation of a person other than the declarant's spouse as the declarant's mental health care agent, and if, after executing a directive, the declarant's marriage is dissolved or annulled, such dissolution or annulment shall revoke the designation of the declarant's former spouse as the declarant's mental health care agent.

(c) A directive which survives disability, incapacity, or incompetency shall not be revoked solely by the appointment of a guardian or receiver for the declarant. Absent an order of the probate court or superior court having jurisdiction directing a guardian of the person to exercise the powers of the declarant under a directive which survives disability, incapacity, or incompetency, the guardian of the person has no power, duty, or liability with respect to any mental health care matters covered by the directive; provided, however, that no order usurping the authority of a mental health care agent known to the proposed guardian shall be entered unless notice is sent by first-class mail to the mental health care agent's last known address and it is shown by clear and convincing evidence that the mental health care agent is acting in a manner inconsistent with the directive.

History.
Code 1981, § 37-11-10, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

37-11-11. Inclusion in medical record; continuing consent.

(a) Upon being presented with a psychiatric advance directive, a provider or facility shall make the directive a part of a declarant's medical record.

(b) In the absence of specific knowledge of the revocation or invalidity of a directive, a provider or facility providing mental health care to a declarant may presume that a person who executed a psychiatric advance directive in accordance with this chapter was of sound mind and acted voluntarily when executing such directive and may rely upon a psychiatric advance directive or a copy of that directive.

(c) A provider or facility shall be authorized to act in accordance with a directive when a declarant is incapable of making mental health care decisions.

(d) A provider or facility shall continue to obtain a declarant's consent to all mental health care decisions if he or she is capable of providing consent or refusal.

History.
Code 1981, § 37-11-11, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

37-11-12. Compliance by providers and facilities with directive; obligations; transfers; payment assurances.

(a)(1) When acting under the authority of a directive, a provider or facility shall comply with it to the fullest extent possible unless the requested mental health care is:

(A) Unavailable;

(B) Medically contraindicated in a manner that would result in substantial harm to the declarant if administered; or

(C) In the opinion of the provider or facility, inconsistent with reasonable medical standards to benefit the declarant or has proven ineffective in treating such declarant's mental health condition.

(2) In the event that a part of a directive is unable to be followed due to any of the circumstances set forth in paragraph (1) of this subsection, all other parts of such directive shall be followed.

(b) If a provider or facility is unwilling at any time for one or more of the reasons set forth in paragraph (1) of subsection (a) of this Code section to comply with a declarant's wishes as set forth in the directive or with the decision of such declarant's agent, such provider or facility shall:

(1) Document the reason for not following the directive in such declarant's medical record; and

(2) Promptly notify such declarant and his or her agent, if one is appointed in the directive, or otherwise such declarant's legal guardian, of the refusal to follow the directive or instructions of the agent and document the notification in such declarant's medical record.

(c) In the event a provider or facility is unwilling at any time for one or more of the reasons set forth in paragraph (1) of subsection (a) of this Code section to comply with a declarant's wishes as set forth in the directive or with the decision of such declarant's agent, if an agent has been appointed, then the declarant's agent, or otherwise such declarant's legal guardian, shall arrange for such declarant's transfer to another provider or facility if the requested care would be delivered by that other provider or facility.

(d) A provider or facility unwilling at any time for one or more of the reasons set forth in paragraph (1) of subsection (a) of this Code section to comply with a declarant's wishes as set forth in the directive or with the decision of a declarant's mental health care agent shall continue to provide reasonably necessary consultation and care in connection with the pending transfer.

(e) A psychiatric advance directive shall not limit the involuntary examination, treatment, or hospitalization of patients pursuant to Chapter 3 or Chapter 7 of this title or evaluations or treatment services rendered pursuant to a court order under Code Section 17-7-130, 17-7-130.1, or 17-7-131.

(f) Nothing in this chapter shall be construed to require a provider or facility to provide mental health care for which a declarant or a third-party payor is unable or refuses to ensure payment.

History.
Code 1981, § 37-11-12, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

37-11-13. Immunity from liability or disciplinary action for health care providers.

(a) Each provider, facility, or any other person who acts in good faith reliance on any instructions contained in a directive or on any direction or decision by a mental health care agent shall be protected and released to the same extent as though such person had interacted directly with a capable declarant.

(b) Without limiting the generality of the provisions of subsection (a) of this Code section, the following specific provisions shall also govern, protect, and validate the acts of a mental health care agent and each such provider, facility, and any other person acting in good faith reliance on such instruction, direction, or decision:

(1) No provider, facility, or person shall be subject to civil or criminal liability or discipline for unprofessional conduct solely for complying with any instructions contained in a directive or with any direction or decision by a mental health care agent, even if death or injury to the declarant ensues;

(2) No provider, facility, or person shall be subject to civil or criminal liability or discipline for unprofessional conduct solely for failure to comply with any instructions contained in a directive or with any direction or decision by a mental health care agent, so long as such provider, facility, or person promptly informs such agent of such provider's, facility's, or person's refusal or failure to comply with the directive or with any direction or decision by the mental health care agent. The mental health care agent shall then be responsible for arranging the declarant's transfer to another provider. A provider who is unwilling to comply with the mental health care agent's decision or the directive shall continue to provide reasonably necessary consultation and care in connection with the pending transfer;

(3) If the actions of a provider, facility, or person who fails to comply with any instruction contained in a directive or with any direction or decision by a mental health care agent are substantially in accord with reasonable medical standards at the time of consent or refusal of mental health care and such provider, facility, or person cooperates in the transfer of the declarant pursuant to subsection (d) of Code Section 37-11-12, such provider, facility, or person shall not be subject to civil or criminal liability or discipline for unprofessional conduct for failure to comply with the psychiatric advance directive;

(4) No mental health care agent who, in good faith, acts with due care for the benefit of the declarant and in accordance with the terms of a directive, or who fails to act, shall be subject to civil or criminal liability for such action or inaction;

(5) If the authority granted by a psychiatric advance directive is revoked under Code Section 37-11-10, a provider, facility, or agent shall not be subject to criminal prosecution or civil liability for acting in good faith reliance upon such psychiatric advance directive unless such provider, facility, or agent had actual knowledge of the revocation; and

(6) In the event a declarant has appointed a health care agent in accordance with Chapter 32 of Title 31, no provider, facility, or person who relies in good faith on the direction of such health care agent shall be subject to civil or criminal liability or discipline for unprofessional conduct for complying with any direction or decision of such health care agent in the event the declarant's condition is subsequently determined to be a mental health care condition.

History.
Code 1981, § 37-11-13, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

37-11-14. Immunity for law enforcement.

A law enforcement officer who uses a declarant's valid psychiatric advance directive and acts in good faith reliance on the instructions contained in such directive shall not be subject to criminal prosecution or civil liability for any harm to such declarant that results from a good faith effort to follow such directive's instructions.

History.
Code 1981, § 37-11-14, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

37-11-15. Application; usage of form; use of substantially similar forms.

(a) The provisions of this chapter shall not apply to or invalidate a valid psychiatric advance directive executed prior to July 1, 2022.

(b) The use of the form set forth in Code Section 37-11-16 or a similar form after July 1, 2022, in the creation of a psychiatric advance directive shall be deemed lawful and, when such form is used and it meets the requirements of this chapter, it shall be construed in accordance with the provisions of this chapter.

(c) Any person may use another form for a psychiatric advance directive so long as the form is substantially similar to, otherwise complies with the provisions of this chapter, and provides notice to a declarant substantially similar to that contained in the form set forth in Code Section 37-11-16. As used in this subsection, the term "substantially similar" may include forms from other states.

History.
Code 1981, § 37-11-15, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

37-11-16. Form.

"GEORGIA PSYCHIATRIC ADVANCE DIRECTIVE

By: ____________________________ Date of Birth: ____________________
(Print Name) (Month/Day/Year)

As used in this psychiatric advance directive, the term:

(1) "Facility" means a hospital, skilled nursing facility, hospice, institution, home, residential or nursing facility, treatment facility, and any other facility or service which has a valid permit or provisional permit issued under Chapter 7 of Title 31 of the Official Code of Georgia Annotated or which is licensed, accredited, or approved under the laws of any state, and includes hospitals operated by the United States government or by any state or subdivision thereof.

(2) "Provider" means any person administering mental health care who is licensed, certified, or otherwise authorized or permitted by law to administer mental health care in the ordinary course of business or the practice of a profession, including, but not limited to, professional counselors, psychologists, clinical social workers, marriage and family therapists, and clinical nurse specialists in psychiatric and mental health; a physician; or any person acting for any such authorized person.

This psychiatric advance directive has four parts:

PART ONE STATEMENT OF INTENT AND TREATMENT PREFERENCES. *This part allows you to state your intention for this document and state your mental health treatment preferences and consent if you have been determined to be incapable of making informed decisions about your mental health care. PART ONE will become effective only if you have been determined in the opinion of a physician or licensed psychologist who has personally examined you, or in the opinion of a court, to lack the capacity to understand the risks and benefits of, and the alternatives to, a mental health care decision under consideration and you are unable to give or communicate rational reasons for mental health care decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability. Reasonable and appropriate efforts will be made to communicate with you about your mental health treatment preferences before PART ONE becomes effective. You should talk to your family and others close to you about your intentions and mental health treatment preferences.*

PART TWO MENTAL HEALTH CARE AGENT. *This part allows you to choose someone to make mental health care decisions for you when you cannot make mental health care decisions for yourself. The person you choose is called a mental health care agent. You should talk to your mental health care agent about this important role.*

PART THREE OTHER RELATED ISSUES. *This part allows you to give important information to people who may be involved with you during a mental health care crisis.*

PART FOUR EFFECTIVENESS AND SIGNATURES. *This part requires your signature and the signatures of two witnesses. You must complete PART FOUR if you have filled out any other part of this form.*

You may fill out any or all of the first three parts listed above. You must fill out PART FOUR of this form in order for this form to be effective.

You should give a copy of this completed form to people who might need it, such as your mental health care agent, your family, and your physician. Keep a copy of this completed form at home in a place where it can easily be found if it is needed. Review this completed form periodically to make sure it still reflects your preferences. If your preferences change, complete a new psychiatric advance directive.

Using this form of psychiatric advance directive is completely optional. Other forms of psychiatric advance directives may be used in Georgia.

You may revoke this completed form at any time that you are capable of making informed decisions about your mental health care. If you choose to revoke this form, you should communicate your revocation to your providers, your agents, and any other person to whom you have given a copy of this form. This completed form will supersede any advance directive for health care, durable power of attorney for health care, health care proxy, or living will that you have completed before completing this form to the extent that such other documents relate to mental health care and are inconsistent with the information contained in this form.

PART ONE: STATEMENT OF INTENT AND TREATMENT PREFERENCES

[PART ONE will become effective only if you have been determined in the opinion of a physician or licensed psychologist who has personally examined you, or in the opinion of a court, to lack the capacity to understand the risks and benefits of, and the alternatives to, a mental health care decision under consideration and you are unable to give or communicate rational reasons for mental health care decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability. Reasonable and appropriate efforts will be made to communicate with you about your mental health treatment preferences before PART ONE becomes effective. PART ONE will be effective even if PARTS TWO or THREE are not completed. If you have not selected a mental health care agent in PART TWO, or if your mental health care agent is not available, then PART ONE will communicate your treatment preferences to your providers or a facility providing care to you. If you have selected a mental health care agent in PART TWO, then your mental health care agent will have the authority to make health care decisions for you regarding matters guided by your mental health treatment preferences and other factors described in this PART.]

(1) STATEMENT OF INTENT

I, *(your name)*________________, being of sound mind, willfully and voluntarily make this psychiatric advance directive as a means of expressing in advance my informed choices and consent regarding my mental health care in the event I become incapable of making informed decisions on my own behalf. I understand this document becomes effective if it is determined by a physician or licensed psychologist who has personally examined me, or in the opinion of a court, that I lack the capacity to understand the risks, benefits, and alternatives to a mental health care treatment decision under consideration and I am unable to give or communicate rational reasons for my mental health care treatment decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability.

If I am deemed incapable of making mental health care decisions, I intend for this document to constitute my advance authorization and consent, based on my past experiences with my illness and knowledge gained from those experiences, for treatment that is medically indicated and consistent with the preferences I have expressed in this document.

I understand this document continues in operation only during my incapacity to make mental health care decisions. I understand I may revoke this document only during periods when I am mentally capable.

I intend for this psychiatric advance directive to take precedence over any advance directive for health care executed pursuant to Chapter 32 of Title 31 of the Official Code of Georgia Annotated, durable power of attorney for health care creating a health care agency under the former Chapter 36 of Title 31 of the Official Code of Georgia Annotated, as such chapter existed on and before June 30, 2007, health care proxy, or living will that I have executed prior to executing this form to the extent that such other documents relate to mental health care and are inconsistent with this executed document.

In the event that a decision maker is appointed by a court to make mental health care decisions for me, I intend this document to take precedence over all other means of determining my intent while I was competent.

It is my intent that a person or facility involved in my care shall not be civilly liable or criminally prosecuted for honoring my wishes as expressed in this document or for following the directions of my agent.

(2) INFORMATION REGARDING MY SYMPTOMS

The following are symptoms or behaviors I typically exhibit when escalating toward a mental health crisis. If I exhibit any of these symptoms or behaviors, an evaluation may be needed regarding whether I am incapable of making mental health care decisions:

____

____

____

The following may cause me to experience a mental health crisis or to make my symptoms worse:

____

____

____

The following techniques may be helpful in de-escalating my crisis:

____

____

____

When I exhibit the following behaviors, I would like to be evaluated to determine whether I have regained the capacity to make my mental health care decisions:

____

____

____

(3) PREFERRED CLINICIANS

The names of my doctors, therapists, pharmacists, and other mental health care professionals and their telephone numbers are:

Name and telephone numbers:

____

____

____

I prefer and consent to treatment from the following clinicians:

Names:

____

____

____

I refuse to be treated by the following clinicians:

Names:

____

____

____

(4) TREATMENT INSTRUCTIONS

Medications

I am currently using and consent to continue to use the following medications (include all medications, whether for mental health care treatment or general health care treatment):

____

____

____

If additional medications become necessary, I prefer and consent to take the following medications:

____

____

____

I cannot tolerate the following medications because:

____

____

____

I am allergic to the following medications:

____

____

____

If my preferred medications cannot be given and I have not appointed an agent in PART TWO to make an alternative decision for me, I want my treating physician to choose an alternative medication that would best meet my mental health needs, subject to any limitations I have expressed in my treating instructions above. *(Check "yes" if you agree with this statement and "no" if you disagree with this statement.)*

Yes ____ No ____

In the event I need to have medication administered, I would prefer and consent to the following methods *(Check "yes" or "no" and list a reason for your request if you have one.)*:

Medication in pill form: Yes ____________ No ____________

Reason: ____

Liquid medication: Yes ____________ No ____________

Reason: ____

Medication by injection: Yes ____________ No ____________

Reason: ____

Covert medication

(without my knowledge in drink or food): Yes ____________ No ____________

Reason: ____

Hospitalization is Not My First Choice

It is my intention, if possible, to stay at home or in the community with the following supports:

____

____

____

If I need outpatient therapy, I prefer and consent to it being provided by:

____

____

____

Additional instructions that may help me avoid a hospitalization:

____

____

____

Treatment Facilities

If it becomes necessary for me to be hospitalized, I would prefer and consent to being treated at the following facilities:

____

____

____

I refuse to be treated at the following facilities:

____

____

____

Reason(s) for wishing to avoid the above facilities:

____

____

____

I generally react to being hospitalized as follows:

____

____

____

Staff at a facility can help me by doing the following:

____

____

____

I give permission for the following people to visit me:

____

____

____

Additional Interventions *(Please place your initials in the blanks)*

I prefer the following interventions as indicated by my initials and consent to any intervention where I have initialed next to "yes."

Seclusion: Yes __________ No __________

Reason: ____________________

Physical restraints: Yes __________ No__________

Reason: ____________________

Experimental treatment: Yes __________ No__________

Reason: ____________________

Electroconvulsive therapy (ECT): Yes __________ No__________

Reason: ____________________

Any limitations on consent to the administration of electroconvulsive therapy:

____

____

____

Other instructions as to my preferred interventions:

____

____

____

(5) ADDITIONAL STATEMENTS

[This section is optional. *This PART will be effective even if this section is left blank. This section allows you to state additional mental health treatment preferences, to provide additional guidance to your mental health care agent (if you have selected a mental health care agent in PART TWO), or to provide information about your personal and religious values about your mental health care and treatment. Understanding that you cannot foresee everything that could happen to you, you may want to provide guidance to your mental health care agent (if you have selected a mental health care agent in PART TWO) about following your mental health treatment preferences.]*

____

____

____

PART TWO: MENTAL HEALTH CARE AGENT

[PART ONE will be effective even if PART TWO is not completed. If you do not wish to appoint an agent, do not complete PART TWO. A provider who is directly involved in your health care or any employee of that provider may not serve as your mental health care agent unless such employee is your family member, friend, or associate and is not directly involved in your health care. An employee of the Department of Behavioral Health and Developmental Disabilities or of a local public mental health agency or of any organization that contracts with a local public mental health authority may not serve as your mental health care agent unless such person is your family member, friend, or associate and is not directly involved in your health care. If you are married, a future divorce or annulment of your marriage will revoke the selection of your current spouse as your mental health care agent unless you indicate otherwise in Section (10) of this PART. If you are not married, a future marriage will revoke the selection of your mental health care agent unless the person you selected as your mental health care agent is your new spouse.]

(6) MENTAL HEALTH CARE AGENT

I select the following person as my mental health care agent to make mental health care decisions for me:

Name: ______________________________

Address: ______________________________

Telephone Numbers: ______________________________
(Home, Work, and Mobile)

Agent's Acceptance: I have read this form, and I certify that I do not, have not, and will not provide mental health care and treatment for: *(your name)*______________________________

I accept the designation as agent for: *(your name)*______________

(Agent's signature and date) ______________________________

(7) BACK-UP MENTAL HEALTH CARE AGENT

[This section is optional. *PART TWO will be effective even if this section is left blank.]*

If my mental health care agent cannot be contacted in a reasonable time period and cannot be located with reasonable efforts or for any reason my mental health care agent is unavailable or unable or unwilling to act as my mental health care agent, then I select the following, each to act successively in the order named, as my back-up mental health care agent(s):

Name: ______________________________

Address: ______________________________

Telephone Numbers: ______________________________
(Home, Work, and Mobile)

Back-up Agent's Acceptance: I have read this form, and I certify that I do not, have not, and will not provide mental health care and treatment for: *(your name)* ______________________________

I accept the designation as agent for: *(your name)*__________________

(Back-up agent's signature and date) ______________________

Name: ______________________________

Address: ______________________________

Telephone Numbers: ______________________________
(Home, Work, and Mobile)

Back-up Agent's Acceptance: I have read this form, and I certify that I do not, have not, and will not provide mental health care and treatment for: *(your name)* ______________________________

I accept the designation as agent for: *(your name)*__________________

(Back-up agent's signature and date) ______________________

(8) GENERAL POWERS OF MENTAL HEALTH CARE AGENT

My mental health care agent will make mental health care decisions for me when I have been determined in the opinion of a physician or licensed psychologist who has personally examined me, or in the opinion of a court, to lack the capacity to understand the risks and benefits of, and the alternatives to, a mental health care treatment decision under consideration and I am unable to give or communicate rational reasons for my mental health care decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability.

My mental health care agent will have the same authority to make any mental health care decision that I could make. My mental health care agent's authority includes, for example, the power to:

•Request and consent to admission or discharge from any facility;

•Request, consent to, authorize, or withdraw consent to any type of provider or mental health care that is consistent with my instructions in PART ONE of this form and subject to the limitations set forth in Section (4) of PART ONE; and

•Contract for any health care facility or service for me, and to obligate me to pay for these services (and my mental health care agent will not be financially liable for any services or care contracted for me or on my behalf).

My mental health care agent will be my personal representative for all purposes of federal or state law related to privacy of medical records (including the Health Insurance Portability and Accountability Act of 1996) and will have the same access to my medical records that I have and can disclose the contents of my medical records to others for my ongoing mental health care.

My mental health care agent may accompany me in an ambulance or air ambulance if in the opinion of the ambulance personnel protocol permits a passenger, and my mental health care agent may visit or consult with me in person while I am in a facility if its protocol permits visitation.

My mental health care agent may present a copy of this psychiatric advance directive in lieu of the original, and the copy will have the same meaning and effect as the original.

I understand that under Georgia law:

•My mental health care agent may refuse to act as my mental health care agent; and

•A court can take away the powers of my mental health care agent if it finds that my mental health care agent is not acting in accordance with this directive.

(9) GUIDANCE FOR MENTAL HEALTH CARE AGENT

In the event my directive is being used, my agent should first look at my instructions as expressed in PART ONE. If a situation occurs for which I have not expressed a preference, or in the event my preference is not available, my mental health care agent should think about what action would be consistent with past conversations we have had, my treatment preferences as expressed in PART ONE, my religious and other beliefs and values, and how I have handled medical and other important issues in the past. If what I would decide is still unclear, then my mental health care agent should make decisions for me that my mental health care agent believes are in my best interests, considering the benefits, burdens, and risks of my current circumstances and treatment options.

I impose the following limitations on my agent's authority to act on my behalf:

____

____

____

(10) WHEN SPOUSE IS MENTAL HEALTH CARE AGENT AND THERE HAS BEEN A DIVORCE OR ANNULMENT OF OUR MARRIAGE

[Initial if you agree with this statement; leave blank if you do not.]

____ I desire the person I have named as my agent, who is now my spouse, to remain as my agent even if we become divorced or our marriage is annulled.

PART THREE: OTHER RELATED ISSUES

[***PART THREE is optional.*** *This psychiatric advance directive will be effective even if PART THREE is left blank.]*

(11) GUIDANCE FOR LAW ENFORCEMENT

I typically react to law enforcement in the following ways:

____

____

____

The following person(s) may be helpful in the event of law enforcement involvement:

Name: ________________ Telephone Number: ______________________

Relationship: ____

Name: ________________ Telephone Number: ______________________

Relationship: ____

(12) HELP FROM OTHERS

The following people are part of my support system (child care, pet care, getting my mail, paying my bills, etc.) and should be contacted in the event of a crisis:

Name: ________________ Telephone Number: ______________________

Responsibility: ____

Name: ________________ Telephone Number: ____________________

Responsibility: ____

Name: ________________ Telephone Number: ____________________

Responsibility: ____

PART FOUR: EFFECTIVENESS AND SIGNATURES

This psychiatric advance directive will become effective only if I have been determined in the opinion of a physician or licensed psychologist who has personally examined me, or in the opinion of a court, to lack the capacity to understand the risks and benefits of, and the alternatives to, a mental health care decision under consideration and I am unable to give or communicate rational reasons for my mental health care decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability.

This form revokes any psychiatric advance directive that I have executed before this date. To the extent this form is in conflict or is inconsistent with any advance directive for health care, durable power of attorney for health care, health care proxy, or living will executed by me at any time, this form shall control with respect to my mental health care.

Unless I have initialed below and have provided alternative future dates or events, this psychiatric advance directive will become effective at the time I sign it and will remain effective until my death.

(Initials) ____________ This psychiatric advance directive will become effective on or upon (date) ________ and will terminate on or upon (date)________.

[You must sign and date or acknowledge signing and dating this form in the presence of two witnesses.

Both witnesses must be of sound mind and must be at least 18 years of age, but the witnesses do not have to be together or present with you when you sign this form.

A witness:

•Cannot be a person who was selected to be your mental health care agent or back-up mental health care agent in PART TWO;

•Cannot be a provider who is providing mental health care to you at the time you execute this directive or an employee of such provider unless

the witness is your family member, friend, or associate and is not directly involved in your mental health care; and

•*Cannot be an employee of the Department of Behavioral Health and Developmental Disabilities or of a local public mental health agency or of any organization that contracts with a local public mental health authority unless the witness is your family member, friend, or associate and is not directly involved in your mental health care.]*

By signing below, I state that I am of sound mind and capable of making this psychiatric advance directive and that I understand its purpose and effect.

_____________________ ____________________________________

(Signature of Declarant) (Date)

The declarant signed this form in my presence or acknowledged signing this form to me. Based upon my personal observation, the declarant appeared to be of sound mind and mentally capable of making this psychiatric advance directive and signed this form willingly and voluntarily.

_____________________ ____________________________________

(Signature of First Witness) (Date)

Print Name: ____

Address: ____

_____________________ ____________________________________

(Signature of Second Witness) (Date)

Print Name: ____

Address: ____

[This form does not need to be notarized.]"

History.

Code 1981, § 37-11-16, enacted by Ga. L. 2022, p. 611, § 1-1/HB 752.

Law reviews.

For annual survey on wills, trusts, guardianships, and fiduciary administration, see 74 Mercer L. Rev. 277 (2022).

CHAPTER 12

GEORGIA BEHAVIORAL HEALTH AND PEACE OFFICER CO-RESPONDER PROGRAMS

Effective date.

This chapter became effective July 1, 2022.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2022, Title 37, Chapter 11, as enacted by Ga. L. 2022, p. 722, § 5/SB 403, was redesignated as Title 37, Chapter 12.

Editor's notes.

Ga. L. 2022, p. 722, § 1/SB 403, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Georgia Behavioral Health and Peace Officer Co-Responder Act.'"

Ga. L. 2022, p. 722, § 2/SB 403, not codified by the General Assembly, provides: "The General Assembly finds that:

"(1) Demands on peace officers include responding to emergencies involving individuals with a mental or emotional illness, developmental disability, or addictive disease, without the benefit of a behavioral health specialist being present;

"(2) The presence of a behavioral health specialist exponentially decreases the risk of escalation;

"(3) The absence of a behavioral health specialist may result in the arrest of individuals whose conduct would be more effectively treated and stabilized in a behavioral health setting rather than a jail or prison;

"(4) Law enforcement agencies throughout Georgia frequently report that jails and prisons are becoming revolving door behavioral health hospitals of last resort;

"(5) Several law enforcement agencies in Georgia have established co-responder programs and formed co-responder partnerships with local community service boards. Community service boards provide support during emergency responses and provide follow-up services to help stabilize the individual in crisis and prevent relapse;

"(6) Combining the expertise of peace officers and behavioral health specialists to de-escalate behavioral health crises prevents unnecessary incarceration of individuals with a mental or emotional illness, developmental disability, or addictive disease and instead links those in crisis to services that promote stability and reduce the likelihood of recurrence, decreases the costs incurred by prisons and jails to incarcerate such individuals, and increases the ability of peace officers outside of the co-responder teams to focus on serious crimes; and

"(7) It is in the best interest of the state to establish the framework for a statewide co-responder model to include emergency response co-responder teams and post-emergency behavioral health services."

37-12-1. Definitions.

As used in this chapter, the term:

(1) "Behavioral health crisis" means any circumstance when symptoms of a person's behavioral health disorder put that person or others at risk for causing personal injury or property damage.

(2) "Behavioral health disorder" means a mental or emotional illness, developmental disability, or addictive disease.

(3) "Co-responder program" means a program established through a partnership between a community service board and a law enforcement agency to utilize the combined expertise of peace officers and behavioral health professionals on emergency calls involving behavioral health crises to de-escalate situations and help link individuals with behavioral health issues to appropriate services.

(4) "Co-responder team" means a team established pursuant to a co-responder program, composed of at least one officer team member and one community service board team member.

(5) "Communications officer" means and includes any person employed by a public safety agency to receive, process, or transmit public safety information and dispatch law enforcement officers, firefighters, medical personnel, or emergency management personnel.

(6) "Community service board team member" means a behavioral health professional working at the direction of a community service board who is licensed or certified in this state to provide counseling services or to provide other support services to individuals and their families regarding a behavioral health disorder, and who is part of a co-responder team.

(7) "Law enforcement agency" means a governmental unit of one or more persons employed full time or part time by the state, a state agency or department, or a political subdivision of the state for the purpose of preventing and detecting crime and enforcing state laws or local ordinances, employees of which unit are authorized to make arrests for crimes while acting within the scope of their authority.

(8) "Officer team member" means a peace officer who is part of a co-responder team.

(9) "Public safety agency" means the state or local entity which receives emergency calls placed through an emergency 9-1-1 system

and dispatches fire-fighting, law enforcement, emergency medical, or other emergency services.

History.
Code 1981, § 37-12-1, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

37-12-2. Co-responder partnership programs; operations and transportation.

(a) Each community service board shall establish a co-responder program to offer assistance or consultation to peace officers responding to emergency calls involving individuals with behavioral health crises. Law enforcement agencies within a community service board's service area may elect to partner with the community service board to establish one or more co-responder teams.

(b) When a law enforcement agency that has entered into a co-responder partnership with a community service board responds to an emergency call involving an individual with a behavioral health crisis and a co-responder team is dispatched, a community service board team member shall be available to accompany the officer team member in person or via virtual means or shall be available for consultation via telephone or telehealth during such emergency call. The officer team member may consider input from the community service board team member in determining whether to refer an individual for behavioral health treatment or other community support or to transport the individual for emergency evaluation in accordance with Code Section 37-3-42 or 37-7-42, rather than making an arrest.

(c) In the event that the officer team member transports the individual for emergency evaluation in accordance with Code Section 37-3-42 or 37-7-42, the emergency receiving facility shall notify the community service board, prior to the release of the individual whether or not the individual is admitted for treatment, for purposes of identifying and facilitating any necessary follow-up services for such individual to prevent relapse.

(d) Following an individual's behavioral health crisis, the community service board shall make available voluntary outpatient therapy to eligible individuals pursuant to Code Section 37-12-9.

(e) Transport conducted pursuant to this Code section shall occur in government-owned vehicles configured for safe transport based on the individual's condition; provided, however, that the officer team member may authorize alternative transportation by a medical transport company or otherwise if deemed safe to do so based on the individual's condition.

History.

Code 1981, § 37-12-2, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2022, "Code Section 37-12-9" was substituted for "Code Section 37-11-9" at the end of subsection (d).

37-12-3. Identification of entities responding to emergency calls.

Every county shall retain a written list available for public inspection that identifies all law enforcement agencies within such county whose routine responsibilities include responding to emergency calls. Such list shall be created no later than August 1, 2022, and shall be updated immediately when additional departments assume routine responsibility for emergency response and shall be maintained with current information.

History.

Code 1981, § 37-12-3, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

37-12-4. Contracting with behavioral health professionals for participation as community service board team member; list of emergency receiving facilities.

(a) Each community service board shall employ or contract with behavioral health professionals who are licensed in this state to provide counseling services, or to provide other support services to individuals and their families regarding a behavioral health disorder, and whose responsibilities include participation as a community service board team member on a co-responder team. The community service board shall designate a sufficient number of individuals to serve as community service board team members to partner with the law enforcement agencies located within the community service board's service area, with on-call availability at all times.

(b) The department shall maintain a current, written list of emergency receiving facilities within each community service board area where an individual experiencing a behavioral health crisis may be transported by or at the direction of an officer or team member. The written list shall be maintained by each community service board and provided to each law enforcement agency.

History.

Code 1981, § 37-12-4, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

37-12-5. Role of law enforcement agencies.

(a) A law enforcement agency that has entered into a co-responder partnership with a community service board shall designate one or more peace officers to participate as officer team members in a co-responder team.

(b) A law enforcement agency that has not entered into a co-responder partnership with a community service board shall designate one peace officer to serve as the primary point of contact with the community service board.

(c) A law enforcement agency shall designate a peace officer who shall serve on the co-responder protocol committee.

History.
Code 1981, § 37-12-5, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

37-12-6. Crisis intervention team training.

(a) Officer team members may elect to receive crisis intervention team training as approved by the Georgia Police Officer Standards and Training Council.

(b) All communications officers and other employees of public safety agencies who make dispatch decisions shall receive educational training about identifying emergency calls involving individuals in a behavioral health crisis and dispatching appropriate response units.

(c) Community service board team members shall receive training on the operations, policies, and procedures of the law enforcement agencies with which they partner.

(d) All training undertaken in accordance with this Code section shall be provided at the expense of the department and at no expense to any law enforcement agency, public safety agency, or community service board.

History.
Code 1981, § 37-12-6, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

37-12-7. Notification of co-responder team of emergencies.

When an emergency call involving an individual's behavioral health crisis is received by a communications officer or public safety agency, and a civilian-only response team is not appropriate or available, the communications officer shall notify the co-responder team in the jurisdiction where the emergency is located, if practicable, regardless of whether other peace officers are also dispatched. The co-responder team will work collaboratively to de-escalate the situation; provided, however, that all final decisions shall be made by the officer team member or his or her superiors.

History.
Code 1981, § 37-12-7, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

37-12-8. Co-responder protocol committee; role.

Each community service board shall establish a co-responder protocol committee for its service area which shall work to increase the availability, efficiency, and effectiveness of community response to behavioral health crises. The protocol committee shall address best practices for issues which arise during the operation of co-responder teams. Such issues include, but shall not be limited to, data collection, privacy protection, interagency coordination, intragovernmental coordination, available treatment modalities, data sharing and analysis, training, and community outreach. Implemented best practices should increase public safety in the service area, improve outcomes for individuals experiencing mental health crises, and enhance cooperation between law enforcement and behavioral health specialists.

History.
Code 1981, § 37-12-8, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

37-12-9. Role of community service boards following response.

When a co-responder team responds to a behavioral health crisis, the community service board of the service area where the crisis occurred shall contact the individual within two business days following the crisis, regardless of whether that individual was incarcerated. If the individual resides in a different community service board area, the case shall be transferred to the appropriate community service board. The community service board handling the case shall work to identify the types of services needed to support the individual's stability and to locate affordable sources for those services, including housing and job placement. If the individual was incarcerated, the community service board may make recommendations for inclusion in a jail release plan. Following the behavioral health crisis, the community service board shall provide voluntary outpatient therapy as needed.

History.
Code 1981, § 37-12-9, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

37-12-10. Identification of individuals better served by behavioral health system than criminal justice system; referral system.

(a) Community service board team members may review publicly available arrest and incarceration records and may request access to evaluate currently incarcerated individuals for the purpose of identifying individuals who may be treated more effectively within the behavioral health system rather than the criminal justice system. If such individuals are identified, the community service board team member shall provide a written recommendation to the appropriate law enforcement agency and jail or prison operator for consideration. The law enforcement agency and jail or prison operator shall provide community service board team members with access to requested nonrestricted records and shall grant access to such records at mutually convenient times, for the purpose of facilitating the community service board team member's analysis.

(b) The department shall establish a referral system, by which any law enforcement agency may request behavioral health consultation for an individual who is currently incarcerated, or frequently incarcerated, who it believes may be treated more effectively within the behavioral health system rather than the criminal justice system. The department shall assign the case to the appropriate community service board for evaluation and any appropriate treatment to be provided or facilitated by the community service board.

History.
Code 1981, § 37-12-10, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

37-12-11. Record keeping; annual reporting.

(a) Each community service board shall compile and maintain records of the services provided by co-responder teams and community service board team members, which shall include community follow-ups and actions taken on behalf of incarcerated individuals together with reasonably available outcome data. Community service boards shall report data to the department in a form developed cooperatively by the community service boards.

(b) No later than January 31, 2024, and annually thereafter, the department shall issue a written annual report regarding the co-responder program, which shall include statistics derived from all sources, including community service board documentation and reports. Data shall be presented per community service board, where available, and cumulatively. Such report shall be posted in a prominent location on the department's website.

History.
Code 1981, § 37-12-11, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

37-12-12. Funding and budgeting; collaboration.

(a) The requirements contained in this chapter shall be contingent upon the appropriation of funds by the General Assembly or the availability of other funds.

(b) No later than July 15, 2023, and annually thereafter, the department shall submit to the board proposed budgets for co-responder programs for each community service board. The proposed budget for each community service board shall be based on each community service board's operational analysis and shall include the salaries of an adequate number of staff dedicated to the responsibilities of the co-responder program and shall delineate unique factors existing in the area served, such as the population and demographics.

(c) In the event that full funding or staffing is not obtained by a community service board, such board may work collaboratively with other entities, including but not limited to the Georgia Association of Community Service Boards, to identify and apply for potential sources of additional funding, identify and pursue additional recruiting options, and identify the elements of the co-responder program that will be implemented given the resources available, until full resources are obtained.

(d) The department may pursue funding for purposes of implementing the co-responder program pursuant to this chapter, including without limitation from block grants, the Substance Abuse and Mental Health Services Administration; the Coronavirus Aid, Relief, and Economic Security Act of 2020, P.L. 116-136; the American Rescue Plan Act of 2021, P.L. 117-2; and other grants.

History.
Code 1981, § 37-12-12, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

Editor's notes.
Funds were appropriated at the 2022 session of the General Assembly.

37-12-13. Liability.

Any peace officer, law enforcement agency, community service board, community service board team member, public safety agency, communications officer, or any employee or contractor thereof, who acts in good faith in compliance with the provisions of this chapter shall be immune from civil or criminal liability for his or her actions in connection with any of the following decisions: to dispatch or not dispatch a co-responder team, to incarcerate an individual, to transport an individual to an emergency receiving facility, or not take an individual into custody.

History.
Code 1981, § 37-12-13, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

37-12-14. Statutory construction.

Nothing in this chapter shall be construed as creating an exclusive method for a law enforcement agency to establish emergency response teams combining peace officers and behavioral health specialists.

History.
Code 1981, § 37-12-14, enacted by Ga. L. 2022, p. 722, § 5/SB 403.

CHAPTER 13

COMMUNITY LIVING ARRANGEMENTS

Article 1

General Provisions

Article 2

Abuse and Exploitation Within Community Living Arrangement

Effective date.
This chapter becomes effective January 1, 2026.

ARTICLE 1

GENERAL PROVISIONS

37-13-1. (Effective January 1, 2026.) Definitions.

As used in this article, the term:

(1) "Community living arrangement" means a group home that serves up to four individuals with a developmental disability who require intense levels of residential support and which services are financially supported, in whole or in part, by funds authorized through the department and provides a range of interventions that focuses on training and support in one or more of the following areas:

(A) Eating and drinking;

(B) Toileting;

(C) Personal grooming and healthcare;

(D) Dressing;

(E) Communication;

(F) Interpersonal relationships;

(G) Mobility;

(H) Home management; and

(I) Use of leisure time.

(2) "License" means the official permit issued by the department which authorizes the holder to operate a community living arrangement for the term provided therein.

(3) "Licensee" means any person holding a license issued by the department under this article.

History.
Code 1981, § 37-13-1, enacted by Ga. L. 2025, p. 177, § 4-1/HB 584, effective January 1, 2026.

37-13-2. (Effective January 1, 2026.) Regulatory authority.

(a) The department is authorized and directed to create and promulgate all rules and regulations necessary for the implementation of this article; provided, however, that such rules and regulations shall include physical plant health and safety standards, supplies, services, staffing, admission agreements, resident rights, records, medications, nutrition, discharge and transfer, and procedures addressing changes in condition or serious or unusual incidents.

(b)(1) The department shall require a licensee to have a regularly rehearsed disaster preparedness plan with which staff and residents shall comply in cases of emergent events including, but not limited to, natural disasters, pandemics, fires, or interruption of essential services such as a electrical power, heat, and water supply.

(2) Such disaster preparedness plan shall include written procedures with which staff shall comply in the event of an emergency and shall include care of the resident, notification of other individuals responsible for the resident, and plans for transportation, alternative living arrangements or sheltering in place, emergency energy sources, or other appropriate services.

(c) Any rule and regulation relating to community living arrangements created by the Department of Community Health and in effect on December 31, 2025, shall continue to be in effect and shall be enforceable by the department until such time as such rule or regulation is amended or revoked by the department.

History.
Code 1981, § 37-13-2, enacted by Ga. L. 2025, p. 177, § 4-1/HB 584, effective January 1, 2026.

37-13-3. (Effective January 1, 2026.) Licensing for operation of community living arrangements.

(a) No person, business entity, corporation, or association, whether operated for profit or not for profit, may operate a community living arrangement without first obtaining a license or provisional license issued by the department. A license issued by the department is neither assignable nor transferable.

(b) Any license issued to a community living arrangement by the Department of Community Health on December 31, 2025, shall be valid until renewed or revoked by the department, surrendered by the licensee, or otherwise terminated.

History.
Code 1981, § 37-13-3, enacted by Ga. L. 2025, p. 177, § 4-1/HB 584, effective January 1, 2026.

37-13-4. (Effective January 1, 2026.) Periodic on-site inspections; proof of accreditation.

(a) The department shall be authorized to conduct periodic on-site inspections of any licensee in this state.

(b) The department may accept proof of accreditation by a nationally recognized healthcare accreditation body, in accordance with specific standards, as evidence of compliance with one or more departmental requirements for issuance or renewal of a license or provisional license.

(c) The department shall not be bound by any policy or practice of the Department of Community Health in effect on December 31, 2025, in determining whether to issue a license based on the findings of an accreditation agency pursuant to subsection (b) of this Code section.

History.
Code 1981, § 37-13-4, enacted by Ga. L. 2025, p. 177, § 4-1/HB 584, effective January 1, 2026.

ARTICLE 2

ABUSE AND EXPLOITATION WITHIN COMMUNITY LIVING ARRANGEMENT

37-13-20 (Effective January 1, 2026.) Definitions.

As used in this article, the term:

(1) "Abuse" means any intentional or grossly negligent act or series of acts or intentional or grossly negligent omission to act which causes injury to a resident, including, but not limited to, assault or battery, failure to provide treatment or care, or sexual harassment of a resident.

(2) "Community living arrangement" means any group home licensed by the department pursuant to Article 1 of this chapter.

(3) "Exploitation" means the illegal or improper use of a resident or a resident's resources through undue influence, coercion, harassment, duress, deception, false representation, false pretenses, or other similar means for one's own or another's profit or advantage.

(4) "Resident" means any person receiving treatment or care in a community living arrangement.

History.
Code 1981, § 37-13-20, enacted by Ga. L. 2025, p. 177, § 4-1/HB 584, effective January 1, 2026.

37-13-21. (Effective January 1, 2026.) Reporting of abuse; mandatory reporters; requirements for reporting.

(a) Any of the following persons who have reasonable cause to believe that a resident or former resident has been abused or exploited while residing in a community living arrangement shall immediately make a report as described in subsection (d) of this Code section by telephone or in person to the department and to the appropriate law enforcement agency or prosecuting attorney:

(1) Administrators, managers, or other employees of a community living arrangement;

(2) Physical therapists;

(3) Occupational therapists;

(4) Coroners;

(5) Medical examiners;

(6) Emergency medical services personnel, as such individuals are defined in Code Section 31-11-49;

(7) Any person who is certified as an emergency medical technician, cardiac technician, paramedic, or first responder pursuant to Chapter 11 of Title 31;

(8) Employees of a public or private agency engaged in professional health related services to residents; and

(9) Clergy members.

(b) Persons required to make a report pursuant to subsection (a) of this Code section shall also make a written report to the department within 24 hours after making the initial report.

(c) Any other person who has knowledge that a resident or former resident has been abused or exploited while residing in a community living arrangement may report or cause a report to be made to the department or the appropriate law enforcement agency.

(d) An initial report of suspected abuse or exploitation shall include the following:

(1) The name and address of the person making the report, unless such person is not required to make a report pursuant to subsection (a) of this Code section;

(2) The name and address of the resident or former resident for which abuse or exploitation is suspected;

(3) The name and address of the community living arrangement;

(4) The name and extent of any known injuries or the condition relating to, or resulting from, the suspected abuse or exploitation;

(5) The suspected cause of the abuse or exploitation; and

(6) Any other information which the reporter reasonably believes might be helpful in determining the cause of the resident's or former resident's injuries or condition and in determining the identity of the person or persons responsible for the suspected abuse or exploitation.

(e) The department shall maintain accurate records which shall include all reports of suspected abuse or exploitation, the results of all investigations and administrative or judicial proceedings, and a summary of actions taken to assist the resident or former resident.

(f) Any suspected abuse or exploitation which is required to be reported by any person pursuant to this Code section shall be reported notwithstanding that the reasonable cause to believe such abuse or exploitation has occurred or is occurring is based in whole or in part upon any communication to that person which is otherwise made privileged or confidential by law; provided, however, that a member of the clergy shall not be required to report such matters confided to him or her solely within the context of confession or other similar communication required to be kept confidential under church doctrine or practice. When a clergy member receives information about abuse or exploitation from any other source, such clergy member shall comply with the reporting requirements of this Code section, even though the clergy member may have also received a report of such matters from the confession of the perpetrator.

History.
Code 1981, § 37-13-21, enacted by Ga. L. 2025, p. 177, § 4-1/HB 584, effective January 1, 2026.

37-13-22. (Effective January 1, 2026.) Conduct of investigations.

(a) Immediately after the receipt of any report of suspected abuse or exploitation, the department shall make and document a determination as to whether such report requires an investigation. The department may, through its rules, regulations, or policies, limit the scope of any investigation and may delegate all or part of its authority to investigate to the appropriate law enforcement agency or other appropriate investigating agencies. If such delegation occurs, the agency to which authority has been delegated shall report the results of its investigation to the department immediately upon completion of such investigation.

(b) The investigation shall determine the nature, cause, and extent of the suspected abuse or exploitation reported, an assessment of the current condition of the resident or former resident, and an assessment of any needed action or service. Where appropriate, the investigation shall include a prompt in-person visit to the resident or former resident.

(c) The investigating agency shall collect and preserve all evidence relating to, or resulting from, the suspected abuse or exploitation.

(d) All state, county, and municipal law enforcement agencies, employees of community living arrangements, and other appropriate persons shall cooperate with the department or investigating agency in the administration of this article.

History.
Code 1981, § 37-13-22, enacted by Ga. L. 2025, p. 177, § 4-1/HB 584, effective January 1, 2026.

37-13-23. (Effective January 1, 2026.) Post-investigation actions.

(a) Upon the receipt of the results of an investigation conducted pursuant to Code Section 37-13-22, the department, in cooperation with the investigating agency, shall immediately evaluate such results to determine what actions, if any, shall be taken to assist the resident or former resident.

(b) The department or agency designated by the department shall assist to prevent further harm to a resident or former resident who has been abused or exploited. The department may also take appropriate legal actions to assure the safety and welfare of all other residents of the community living arrangement where necessary.

(c) Within a reasonable time, not to exceed 30 days, after it has initiated action to assist a resident or former resident, the department shall determine the current condition of the resident or former resident, whether the abuse or exploitation has been abated, and whether continued assistance is necessary.

(d) If, as a result of any investigation pursuant to this article, a determination is made that a resident or former resident has been abused or exploited, the department shall contact the appropriate prosecuting authority and provide all information and evidence to such prosecuting authority.

History.
Code 1981, § 37-13-23, enacted by Ga. L. 2025, p. 177, § 4-1/HB 584, effective January 1, 2026.

37-13-24. (Effective January 1, 2026.) No liability for actions done in good faith.

(a) Any agency or person who in good faith makes a report or provides information or evidence pursuant to this article shall be immune from liability for such actions.

(b) Neither the department nor its employees, when acting in good faith and with reasonable diligence, shall have any liability for defamation, invasion of privacy, negligence, or any other claim in connection with the collection or release of information pursuant to this article and neither shall be subject to suit based upon any such claims.

History.
Code 1981, § 37-13-24, enacted by Ga. L. 2025, p. 177, § 4-1/HB 584, effective January 1, 2026.

37-13-25. (Effective January 1, 2026.) Disclosures.

The identities of the resident or former resident, the alleged perpetrator, and the person or persons making a report or providing information or evidence pursuant to this article shall not be disclosed to the public unless required to be revealed in court proceedings or upon the written consent of the person whose identity is to be revealed or as otherwise required by law. Upon the resident's or the former resident's, or his or her representative's, request, the department shall make information obtained in an abuse or exploitation report and investigation available to the allegedly abused or exploited resident, the allegedly abused or exploited former resident, or his or her representative for inspection or duplication, except that such disclosure shall be made without revealing the identity of any other resident, the person making the report, or persons providing information by name or inference. For the purpose of this Code section, the term "representative" means any person authorized in writing by the resident or former resident or appointed by an appropriate court to act upon the resident's or former resident's behalf. The term "representative" also means a family member of a deceased or physically or mentally impaired resident or former resident unable to grant authorization; provided, however, that such family members who do not have written or court authorization shall not be authorized by this Code section to receive the resident's or former resident's clinical records as defined in Code Section 37-3-1, 37-4-2, or 37-7-1. Nothing in this Code section shall be construed to deny agencies participating in joint investigations at the request of and with the department, or conducting separate investigations of abuse or exploitation within an agency's scope of authority, or law enforcement personnel who are conducting an investigation into any criminal offense in which a resident or former resident is a victim from having access to such records.

History.
Code 1981, § 37-13-25, enacted by Ga. L. 2025, p. 177, § 4-1/HB 584, effective January 1, 2026.

37-13-26. (Effective January 1, 2026.) Prohibition on retaliation.

No person or community living arrangement shall discriminate or retaliate in any manner against any person for making a report or providing information pursuant to this article or against any resident or former resident who is the subject of a report. Nothing in this Code section shall be construed to prohibit the termination of the relationship between the community living arrangement and the resident for reasons other than that the community living arrangement has been made the subject of a report, that such a report has been made, or that information has been provided pursuant to this article.

History.
Code 1981, § 37-13-26, enacted by Ga. L. 2025, p. 177, § 4-1/HB 584, effective January 1, 2026.

37-13-27. (Effective January 1, 2026.) Notice on reporting requirements.

The department shall prepare a written notice describing the reporting requirements set forth in this article. Such notice shall be distributed to all community living arrangements in this state, and copies thereof shall be posted in conspicuous locations within community living arrangements.

History.
Code 1981, § 37-13-27, enacted by Ga. L. 2025, p. 177, § 4-1/HB 584, effective January 1, 2026.

TITLE 38

MILITARY, EMERGENCY MANAGEMENT, AND VETERANS AFFAIRS

CHAPTER 2

MILITARY AFFAIRS

ARTICLE 1

STATE MILITIA GENERALLY

Part 1

General Provisions

38-2-2. Definitions.

As used in this chapter, the term:

(1) "Active military service of the United States" and "in the armed forces of the United States" mean full-time duty in the army, navy, marine corps, air force, space force, or coast guard of the United States.

(2) "Active service" and "active duty" mean military duty in or with a force of the organized militia (not including the inactive National Guard) or in the Military Division, Department of Defense, either in a full-time status or in a part-time status, depending upon the conditions under which the duty is performed.

(3) "Military" and "military and naval" mean army or land, air force or air, and navy or naval.

(4) "Military" or "military or naval" means army or land, air force or air, or navy or naval.

(5) "Military service of the state," as to military personnel, means service in or with a force of the organized militia or in the Military Division, Department of Defense.

(6) "National Guard" means the Georgia National Guard, the composition of which is set forth in Code Section 38-2-3.

(7) "Naval Militia" means the Georgia Naval Militia as may be organized hereafter.

(8) "Officer" or "commissioned officer" includes warrant officers.

(9) "On the active list" means on the rolls of a force of the organized militia, not including the inactive National Guard.

(10) "Organized militia," "all or any part of the organized militia," "organized militia or any part thereof," "any force of the organized militia," and "organized militia or any force thereof" mean, severally,

the Army National Guard, the Air National Guard, the Georgia Naval Militia, when organized, and the State Defense Force, when organized, and include any unit, component, element, headquarters, staff, or cadre thereof as well as any member or members.

History.
Ga. L. 1955, p. 10, § 3; Ga. L. 1985, p. 356, § 1; Ga. L. 2024, p. 81, § 10/HB 299, effective July 1, 2024.

Amendments.
The 2024 amendment, effective July 1, 2024, inserted "space force," in paragraph (1).

Editor's notes.
Ga. L. 2024, p. 81, § 10/HB 299, which amended this Code section, purported to amend paragraph (a)(4) of this Code section but actually amended paragraph (1) of this Code section.

ARTICLE 2

MILITARY ADMINISTRATION

PART 1

COMMANDER IN CHIEF AND STAFF

38-2-111. Honorary Georgia Colonels and Georgia Lieutenant Colonels.

(a) The Governor may appoint one or more persons each year with the honorary title of Georgia Colonel. The selection of such persons shall be based on distinguished service to the State of Georgia and shall be without regard to previous military service, sex, or age limit. Georgia Colonel appointments shall be for the lifetime of the honoree.

(b) The General Assembly may designate through joint resolution one or more persons each year with the honorary title of Georgia Lieutenant Colonel. The selection of such persons shall be based on noteworthy contributions to the designee's community and shall be without regard to previous military service, sex, or age limit. Georgia Lieutenant Colonel designations shall be for the lifetime of the honoree.

History.
Ga. L. 1916, p. 158, § 1; Ga. L. 1921, p. 195, § 1; Ga. L. 1931, p. 198, § 1; Code 1933, §§ 86-103, 86-104; Ga. L. 1951, p. 311, § 4; Ga. L. 1955, p. 10, § 12; Ga. L. 1963, p. 10, § 1; Ga. L. 2024, p. 921, § 1/SB 337, effective July 1, 2024.

Amendments.
The 2024 amendment, effective July 1, 2024, substituted the present provisions of subsection (a) for the former provisions, which read: "The Governor's personal staff shall consist of one chief of aides-de-camp, with rank of brigadier general; two assistant chiefs of aides-de-camp, with rank of colonel; all other aides-de-camp shall be appointed with the rank of lieutenant colonel. The selection of aides-de-camp shall be without regard to previous military service, sex, or age limit; and the commissions of all of these officers shall expire with the expiration of the term of the Governor making the appointment. All appointments will be in either the army or air force. Officers of the National Guard shall be eligible to appointment to any of the ranks or the offices of aide-de-camp provided for, but such ap-

pointments shall not vacate or affect their status as commissioned officers in the National Guard in which they are serving. The aides-de-camp shall perform such personal and ceremonial duties pertaining to their office as may be required of them by the Governor." and added subsection (b).

Part 3

Adjutant General and Other Executives

38-2-151. Adjutant general — Duties; records; seal; effect of seal on documentary evidence.

(a) The adjutant general shall be chief of staff to the Governor and subordinate only to the Governor in matters pertaining to the Department of Defense and the military and naval affairs of the state.

(b) Whenever the Governor and those who would act in succession to him or her under the Constitution and laws of the state are unable to perform the duties of commander in chief, the adjutant general shall command the militia.

(c) It shall be the duty of the adjutant general:

(1) To direct the planning and employment of the forces of the organized militia in carrying out their state military mission;

(2) To establish unified command of state forces whenever they are jointly engaged; and

(3) To coordinate the military and naval affairs with the emergency management agency of the state.

(d) The adjutant general shall:

(1) Be custodian of all military records and shall keep the same indexed and available for ready reference;

(2) Keep an itemized account of all moneys received and disbursed from all sources; and

(3) Make an annual report to the Governor on the condition of the organized militia and such other matters relating to the Military Division, Department of Defense as the adjutant general shall deem expedient.

(e) The adjutant general shall further perform such duties pertaining to the office as from time to time may be provided by the laws, rules, and regulations of the United States and such as may be designated by the Governor.

(f) The adjutant general shall have a seal of office approved by the Governor, and all copies and papers in the Military Division, Department of Defense which are duly certified and authenticated under the seal shall be evidence in like manner as if the original were produced.

History.

Ga. L. 1916, p. 158, § 3; Code 1933, § 86-501; Ga. L. 1935, p. 95, § 1; Ga. L. 1951, p. 311, § 9; Ga. L. 1955, p. 10, § 24; Ga. L. 2024, p. 181, § 1/SB 144, effective July 1, 2024.

Amendments.

The 2024 amendment, effective July 1, 2024, inserted "or her" in subsection (b); added "and" at the end of paragraph (d)(2); in paragraph (d)(3), deleted "with a roster of all commissioned officers" following "militia", substituted "the adjutant general" for "he", and replaced "; and" with a period at the end; and deleted former paragraph (d)(4), which read: "Cause the laws and regulations relating to the militia to be indexed, printed, bound, and distributed to all forces of the organized militia."

ARTICLE 3

PERSONNEL

Part 1

Officers

38-2-217. Resignations; acts constituting resignation; types of discharge after resignation; resignation of officers who are accountable for military funds or property.

(a) A commissioned officer of the organized militia may tender his resignation at any time to the Governor. If the Governor accepts the resignation, the officer shall receive an honorable discharge; but, if the officer tendering his resignation is under arrest or if charges have been preferred against him for the commission of an offense punishable by a court-martial, he may be given a discharge in such form as the Governor may direct.

(b) Enlistment in the regular army, air force, navy, marine corps, space force, or coast guard of the United States shall be deemed a resignation by the person so enlisting of all commissions in the militia held by him or her.

(c) The acceptance of a commission in the organized militia shall be deemed a resignation by the person accepting the same of any other commission held by him in the militia.

(d) Permanent removal from the state of an officer of the organized militia shall be deemed a resignation.

(e) All officers of the organized militia accountable or responsible for military funds or property who tender their resignations or who are deemed to have resigned shall be transferred immediately to an unassigned list pending discharge from such accountability or responsibility. The transfer shall not relieve the officers of their liability until they are discharged therefrom as provided by the laws of the United States and by this chapter and regulations issued pursuant thereto.

History.

Ga. L. 1916, p. 158, § 3; Code 1933, § 86-514; Ga. L. 1951, p. 311, § 18; Ga. L. 1955, p. 10, § 47; Ga. L. 2024, p. 81, § 11/HB 299, effective July 1, 2024.

Amendments.

The 2024 amendment, effective July 1, 2024, in subsection (b), inserted "space force," near the beginning and added "or her" at the end.

Part 2

Enlisted Personnel

38-2-230. Enlistment; qualifications; period of service; transfer; discharge; extensions of enlistments.

Cross references.

Attendance credit for military obligations of students, § 20-2-692.4.

Part 4

Rights, Privileges, and Prohibitions

38-2-285. State sponsored life insurance program for the Georgia National Guard.

(a) For purposes of this Code section, "state sponsored life insurance program" or "program" means the life insurance program offered exclusively to all members of the Georgia National Guard as authorized by the federal Veterans' Insurance Act of 1974, P.L. 93-289.

(b) The adjutant general shall be the official sponsor of the state sponsored life insurance program.

(c) In the role of official sponsor of the state sponsored life insurance program, the adjutant general shall:

(1) Allow, facilitate, and coordinate all efforts to make the program available to all members of the Georgia National Guard;

(2) Provide an opportunity for members of the Georgia National Guard to purchase products of the program;

(3) Allow, facilitate, and coordinate requested allotments with the appropriate United States Property and Fiscal Officer for purposes of the program;

(4) Allow representatives of the program to provide information on the program to Georgia National Guard members through briefings during annual training and inactive duty training periods; and

(5) Allow members of the Georgia National Guard to designate or change beneficiaries under the program.

(d) The National Guard Association of Georgia shall select the insurer used to provide the state sponsored life insurance program.

History.

Code 1981, § 38-2-285, enacted by Ga. L. 2024, p. 417, § 1/SB 389, effective April 24, 2024.

Effective date.

This Code section became effective April 24, 2024.

ARTICLE 5

CODE OF MILITARY JUSTICE

Part 1

General Provisions

38-2-1001. Definitions.

As used in this article, the term:

(1) "Accuser" means a person who signs and swears to charges, directs that charges nominally be signed and sworn to by another, or has an interest other than an official interest in the prosecution of the accused.

(2) "Another state" means any one of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the United States Virgin Islands.

(3) "Apprehension" means the taking of a person into custody.

(4) "Arrest" means the restraint of a person by oral or written order that is not imposed as punishment and that directs such person to remain within specified limits.

(5) "Arrest in quarters" means a punishment requiring a person to remain within his or her military residence, whether a tent, stateroom, or other quarters assigned, or a private residence when government quarters have not been provided during the period of punishment.

(6) "Cadet," "candidate," or "midshipman" means a person enrolled in or attending a military academy, regional training institute, or any other formal education program for the purpose of becoming a commissioned officer in the organized militia.

(7) "Classified information" means any information or material that has been determined by an official of the United States or of another state, pursuant to law, an executive order, or regulation, to

require protection against unauthorized disclosure for reasons of national or state security.

(8) “Commander” means:

(A) A commissioned officer of the organized militia who is in command or who is in charge;

(B) The Governor; or

(C) The adjutant general.

(9) “Commanding officer” means a commander.

(10) “Confinement” means physical restraint imposed by order of competent authority depriving a person of freedom.

(11) “Convening authority” means the person convening the court, a successor in office, or an authorized designee of the person or successor.

(12) “Enlisted member” means a person in an enlisted grade.

(13) “Judge advocate” means an individual who is certified or designated as such by the Judge Advocate General of the United States Army or Air Force or certified by the state judge advocate as competent to perform such military justice duties required by this article. Such individual shall be a commissioned officer of the organized militia.

(14) “Military court” means a court-martial or court of inquiry.

(15) “Military judge” means an active or retired commissioned officer of the organized militia or state military force of another state or of the armed forces of the United States or a reserve component thereof who meets all requirements set forth in subsection (b) of Code Section 38-2-1026.

(16) “Organized militia” means the National Guard of this state as provided for by Title 32 of the United States Code, the Georgia Naval Militia, and any other military force organized under the Constitution and laws of this state when not in a status subjecting such force or forces to exclusive jurisdiction under Chapter 47 of Title 10 of the United States Code.

(17) “Record,” when used in connection with the proceedings of a court-martial, means:

(A) An official written transcript, written summary, or other writing relating to the proceedings; or

(B) An official audiotape, videotape, digital image or file, or similar material from which sound, or sound and visual images, depicting the proceedings may be reproduced.

(18) "Senior force commander" means the assistant adjutant general for army, the assistant adjutant general for air, or the brigadier general in charge of the State Defense Force.

(19) "Superior commissioned officer" means a commissioned officer superior in rank or command.

History.

Code 1981, § 38-2-1001, enacted by Ga. L. 2015, p. 753, § 1/HB 98; Ga. L. 2016, p. 864, § 38/HB 737; Ga. L. 2025, p. 493, § 2/HB 325, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, substituted "an active or retired commissioned officer of the organized militia or state military force of another state or of the armed forces of the United States or a reserve component thereof who meets all requirements set forth in subsection (b) of Code Section 38-2-1026" for "an official of a general or special court-martial detailed by the convening authority" in paragraph (15).

38-2-1006.1. Stalking between organized militia members; petition; hearing; issuance of protective orders.

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

(1) "State active duty" means full-time duty in the organized militia under an order of the Governor or otherwise issued by authority of law when such duty is paid for with funds of the state, including travel to and from such duty.

(2) "Verified petition" means a petition that has been sworn to or affirmed by the petitioner, in the presence of a notary public or other person authorized pursuant to 10 U.S.C. Section 1044a, indicating that the information contained in such petition is true and accurate to the best of such petitioner's knowledge. Such term shall include a counter petition filed by a respondent.

(b) A member of the organized militia who alleges stalking by another member of the organized militia may seek a protective order by filing a verified petition alleging conduct constituting stalking under Code Section 16-5-90. Subject matter jurisdiction under this Code section shall be established if a nexus exists between the alleged conduct constituting stalking under Code Section 16-5-90 and the organized militia. If either the petitioner or the accused member was in a status as provided for by Title 32 of the United States Code or was on state active duty during the time of the alleged conduct, a rebuttable presumption exists that such nexus is established.

(c) A petition provided for in subsection (b) of this Code section shall be filed through the petitioner's immediate commander or any superior commander of such petitioner if the immediate commander is the respondent, and such immediate commander or superior commander shall forward such petition to the Office of the State Judge Advocate within 24 hours of such commander's receipt of such petition. The Office of the State Judge Advocate shall provide a copy of the verified petition to the respondent's immediate commander who shall serve the petition upon such respondent; provided, however, that, if the respondent's immediate commander is the petitioner, another appropriate superior commander of the respondent shall serve such respondent.

(d) Upon the filing of a verified petition in which the petitioner alleges with specific facts that probable cause exists to establish that stalking under Code Section 16-5-90 by the respondent has occurred in the past and may occur in the future, the military judge may order such temporary relief ex parte as he or she deems necessary to protect the petitioner from stalking. If the military judge issues an ex parte order, a copy of the order shall be furnished to the petitioner and a copy shall be provided to the respondent's immediate commander, who shall serve the order upon the respondent; provided, however, that, if the respondent's immediate commander is the petitioner, another appropriate superior commander of the respondent shall serve such respondent.

(e) Within 10 days of the filing of the verified petition under this Code section or as soon as practical thereafter, but not later than 45 days after the filing of the verified petition, a hearing shall be held at which the petitioner must prove the allegations of the verified petition by a preponderance of the evidence. Notice of such hearing shall be provided to the petitioner and the respondent by their respective immediate commander or superior commander at least five days in advance of such hearing.

(f) At the hearing provided for in subsection (e) of this Code section, the military judge may grant a protective order on a temporary or permanent basis or approve a consent agreement to bring about a cessation of conduct constituting stalking under Code Section 16-5-90. The military judge shall not have the authority to issue or approve mutual protective orders unless the respondent has filed a verified petition as a counter petition no later than three days, not including Saturdays, Sundays, and legal holidays, prior to the hearing. Such orders or agreements may:

(1) Direct a party to refrain from such conduct constituting stalking under Code Section 16-5-90; and

(2) Order a party to refrain from harassing and intimidating, as defined in Code Section 16-5-90, the other party to the case.

(g) The military judge may compel obedience to a protective order or consent agreement issued pursuant to this Code section and may punish by contempt, in accordance with Code Section 38-2-1048, a party's disobedience to a protective order or consent agreement issued pursuant to this Code section.

(h) A protective order or consent agreement issued pursuant to this Code section shall apply and shall be effective throughout this state, regardless of the duty status of the petitioner or the respondent. It shall be the duty of the immediate commanders and any respective superior commanders or superior commissioned officers of the parties, every military judge, every superior court, every sheriff, every deputy sheriff, and every military, state, county, or municipal law enforcement officer within this state to enforce and carry out the terms of any valid protective order or consent agreement issued under the provisions of this Code section.

(i) A protective order or consent agreement issued pursuant to this Code section shall expire by operation of law when the respondent is no longer a member of the organized militia by virtue of resignation, retirement, expiration of term of service, discharge, or transfer to the national guard of a state other than Georgia, but shall remain in full force and effect during any time period in which the respondent is not a member of the organized militia due to active military service of the United States under call or order into service.

(j) Appeals of the grant or denial of verified petitions filed pursuant to this Code section shall be authorized in the same manner as appeals of domestic relations cases under Code Section 5-6-35.

History.
Code 1981, § 38-2-1006.1, enacted by Ga. L. 2025, p. 493, § 3/HB 325, effective July 1, 2025.

Effective date.
This Code section became effective July 1, 2025.

Part 7

Trial Procedures

38-2-1048. Contempt; compelled obedience; penalty.

(a) A military judge may punish for contempt, in the same manner and subject to the same limitations as authorized for courts in Code Section 15-1-4, any person who uses any menacing word, sign, or gesture in his or her presence, or who disturbs the proceedings of the military court by any riot or disorder.

(b) A military judge may compel obedience to any lawful writ, process, order, rule, decree, or command of the military judge issued pursuant to this article and may punish by contempt, in the same manner and subject to the same limitations as authorized for courts in Code Section 15-1-4, any person's disobedience to any lawful writ, process, order, rule, decree, or command of the military judge issued pursuant to this article.

(c) A person subject to this article may be punished for contempt by confinement not to exceed 30 days or a fine of $1,000.00, or both.

(d) A person not subject to this article may be punished for contempt by a military court in the same manner as a criminal court of this state.

(e) A person subject to this article who commits contempt may be tried by court-martial or otherwise disciplined under this article for such misconduct in addition to or instead of punishment for contempt.

(f) Appeals by persons punished for contempt shall be authorized in the same manner as appeals of contempt cases under Code Section 5-6-34.

History.

Code 1981, § 38-2-1048, enacted by Ga. L. 2015, p. 753, § 1/HB 98; Ga. L. 2025, p. 493, § 4/HB 325, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, inserted ", in the same manner and subject to the same limitations as authorized for courts in Code Section 15-1-4," following "contempt" in subsection (a); added subsection (b); redesignated former subsections (b) and (c) as subsections (c) and (d); and added subsections (e) and (f).

PART 10

PUNITIVE PROVISIONS

38-2-1092. Failure to obey an order, regulation, protective order, or consent agreement and dereliction of duties.

Any person subject to this article shall be punished as a court-martial may direct who:

(1) Violates or fails to obey any lawful general order or regulation;

(2) Having knowledge of any other lawful order issued by a member of the organized militia, which it is his or her duty to obey, fails to obey the order;

(3) Is derelict in the performance of his or her duties; or

(4) Having knowledge of a protective order or consent agreement issued pursuant to Code Section 38-2-1006.1, which it is his or her duty to obey, fails to obey the protective order or consent agreement.

History.

Code 1981, § 38-2-1092, enacted by Ga. L. 2015, p. 753, § 1/HB 98; Ga. L. 2025, p. 493, § 5/HB 325, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, deleted "or" at the end of paragraph (2); added "or" at the end of paragraph (3); and added paragraph (4).

CHAPTER 3

EMERGENCY MANAGEMENT

ARTICLE 1

GENERAL PROVISIONS

38-3-2. Policy and purpose.

JUDICIAL DECISIONS

Immunity denied to doctor and employer in medical malpractice suit. — In a medical malpractice action, the trial court properly denied the motion to dismiss filed by the defending doctor and employer based on immunity under the Governor's COVID-19 Executive Order 04.14.20.01 and O.C.G.A. § 38-3-35(b) because they failed to show the elective spinal surgery was an emergency management activity as the surgery was elective and unrelated to the COVID-19 public health emergency. Resurgens, LLC v. Ervin, 369 Ga. App. 675, 894 S.E.2d 408, 2023 Ga. App. LEXIS 510 (2023).

38-3-3. Definitions.

JUDICIAL DECISIONS

Immunity denied to doctor and employer in medical malpractice suit. — In a medical malpractice action, the trial court properly denied the motion to dismiss filed by the defending doctor and employer based on immunity under the Governor's COVID-19 Executive Order 04.14.20.01 and O.C.G.A. § 38-3-35(b) because they failed to show the elective spinal surgery was an emergency management activity as the surgery was elective and unrelated to the COVID-19 public health emergency. Resurgens, LLC v. Ervin, 369 Ga. App. 675, 894 S.E.2d 408, 2023 Ga. App. LEXIS 510 (2023).

ARTICLE 2

ORGANIZATION AND ADMINISTRATION

38-3-20. Georgia Emergency Management and Homeland Security Agency created; director; staff; offices; director's duties; disaster coordinator.

(a) There is established the Georgia Emergency Management and Homeland Security Agency with a director of emergency management and homeland security who shall be the head thereof. The Georgia Emergency Management and Homeland Security Agency shall be assigned to the Office of Planning and Budget for administrative purposes only as provided in Code Section 50-4-3.

(b) The Governor shall appoint the director of emergency management and homeland security. He or she shall hold office at the pleasure of the Governor, who shall fix his or her compensation. The director of emergency management and homeland security shall hold no other state office.

(c) The director may employ such professional, technical, clerical, stenographic, and other personnel, may fix their compensation, and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency management and homeland security, as may be necessary to carry out the purposes of Article 9 of Chapter 3 of Title 35; Article 1, this article, and Article 3 of this chapter; and the duties of the agency and the director described in Part 4 of Article 2 of Chapter 5 of Title 46, the "Georgia Emergency Telephone Number 9-1-1 Service Act of 1977," as amended.

(d) The director and other personnel of the Georgia Emergency Management and Homeland Security Agency shall be provided with appropriate office space, furniture, equipment, supplies, stationery, and printing in the same manner as provided for personnel of other state agencies.

(e) The director, subject to the direction and control of the Governor, shall:

(1) Be the executive head of the Georgia Emergency Management and Homeland Security Agency and shall be responsible to the Governor for carrying out the program for emergency management and homeland security in this state;

(2) Serve as the central authority reporting to the Governor on all matters relating to homeland security;

(3) Have authority over areas involving imminent or current terrorist activity within this state, including, but not limited to, leading and directing the actions of the Homeland Security Task Force and the Emergency Operations Command where such Emergency Operations Command shall not usurp the operational authority of participating agencies but shall be responsible only for coordinating the public safety response to natural disasters, homeland security activities, and other emergencies within the state;

(4) Coordinate the activities of all organizations for emergency management and homeland security within the state;

(5) Maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government;

(6) Through risk and threat assessments, coordinate plans for timely and complete responses through a network of state, local, and federal organizations, including, but not limited to, the coordination of efficient and timely flow of information;

(7) Be responsible for crisis and consequence management planning, including, but not limited to, measures to identify, acquire, and plan the use of resources needed to anticipate, prevent, or resolve a threat or act of terrorism;

(8) Coordinate and review activities involving homeland security within any agency, authority, or entity of this state, including, but not limited to, homeland security activities found within the Department of Public Safety, the Georgia Bureau of Investigation, the Georgia National Guard, the Department of Natural Resources, the Department of Community Health, and the Department of Public Health;

(9) Evaluate information developed by the criminal justice community in regard to threats or potential threats of terrorism;

(10) Serve as the state's security manager for the purpose of identifying and processing state personnel for security clearances through the United States Department of Homeland Security;

(11) Have such additional authority, duties, and responsibilities authorized by Article 1, this article, and Article 3 of this chapter as may be prescribed by the Governor and such additional authority, duties, and responsibilities as described in Article 9 of Chapter 3 of Title 35 and Part 4 of Article 2 of Chapter 5 of Title 46, the "Georgia Emergency Telephone Number 9-1-1 Service Act of 1977," as amended; and

(12) As deemed necessary by the Governor, develop a new statewide homeland security strategy; provided, however, that such strategy shall, in the Governor's discretion, improve the state's ability to protect against, respond to, and recover from domestic terrorism and other homeland security threats and hazards and mitigate loss of life and property by lessening the impact of future homeland security threats and hazards.

(f) The director of emergency management and homeland security shall also be the disaster coordinator and shall act for the Governor when requested to do so.

History.

Ga. L. 1951, p. 224, § 4; Ga. L. 1953, Nov.-Dec. Sess., p. 171, § 2; Ga. L. 1981, p. 389, § 2; Ga. L. 1985, p. 468, § 1; Ga. L. 1992, p. 1258, § 3; Ga. L. 1998, p. 1017, § 1; Ga. L. 1999, p. 372, § 2; Ga. L. 2005, p. 660, § 7/HB 470; Ga. L. 2016, p. 91, § 6/SB 416; Ga. L. 2018, p. 681, § 1-2/HB 779; Ga. L. 2025, p. 332, § 9-1/SB 96, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, in paragraph (e)(10), substituted "the state's" for "this state's" near the beginning and deleted "and" at the end, substituted "; and" for a period at the end of paragraph (e)(11), and added paragraph (e)(12).

38-3-35. Immunity of state and political subdivisions; of emergency management workers.

JUDICIAL DECISIONS

Immunity denied to doctor and employer in medical malpractice suit.— In a medical malpractice action, the trial court properly denied the motion to dismiss filed by the defending doctor and employer based on immunity under the Governor's COVID-19 Executive Order 04.14.20.01 and O.C.G.A. § 38-3-35(b) because they failed to show the elective spinal surgery was an emergency management activity as the surgery was elective and unrelated to the COVID-19 public health emergency. Resurgens, LLC v. Ervin, 369 Ga. App. 675, 894 S.E.2d 408, 2023 Ga. App. LEXIS 510 (2023).

ARTICLE 2A

BOARD OF HOMELAND SECURITY

38-3-40 through 38-3-42. [Repealed].

History.

Code 1981, § 38-3-40, enacted by Ga. L. 2018, p. 681, § 1-4/HB 779Code 1981, §§ 38-3-40 through 38-3-42, enacted by Ga. L. 2018, p. 681, § 1-4/HB 779; Ga. L. 2025, p. 224, § 2-6/HB 161, effective July 1, 2025; repealed by Ga. L. 2025, p. 332, § 9-2/SB 96, effective July 1, 2025.

Code Commission notes.

Pursuant to Code Section 28-9-5, the amendment of paragraph (4) of Code Section 38-3-40 by Ga. L. 2025, p. 68, § 2-6/SB 68, was treated as impliedly repealed and superseded by Ga. L. 2025, p. 332, § 9-2/SB 96, due to irreconcilable conflict.

Editor's notes.

Ga. L. 2025, p. 332, § 9-3/SB 96, not codified by the General Assembly, provides: "Any assets of the Board of Homeland Security existing as of June 30, 2025, shall devolve by operation of law and without further action to the State of Georgia on July 1, 2025. Any liabilities and obligations of the Board of Homeland Security existing as of June 30, 2025, shall be transferred to and assumed by the State of Georgia, by such instruments as may be required to maintain the same."

The former article, relating to board of homeland security, consisted of Code Sections 38-3-40 through 38-3-42.

Ga. L. 2025, p. 68, § 2-6/SB 68 purported to make changes to paragraph (4) of § 38-3-40, however this section was repealed by Ga. L. 2025, p. 332, § 9-2/SB 96, effective July 1, 2025.

ARTICLE 3

EMERGENCY POWERS

Part 1

Governor

38-3-51. Emergency powers of Governor; termination of emergency; limitations in energy emergency; immunity.

JUDICIAL DECISIONS

Immunity denied to doctor and employer in medical malpractice suit. — In a medical malpractice action, the trial court properly denied the motion to dismiss filed by the defending doctor and employer based on immunity under the Governor's COVID-19 Executive Order 04.14.20.01 and O.C.G.A. § 38-3-35(b) because they failed to show the elective spinal surgery was an emergency management activity as the surgery was elective and unrelated to the COVID-19 public health emergency. Resurgens, LLC v. Ervin, 369 Ga. App. 675, 894 S.E.2d 408, 2023 Ga. App. LEXIS 510 (2023).

Part 2

Judicial Emergency

38-3-60. Definitions.

JUDICIAL DECISIONS

Judicial Emergency Order. — Juvenile court did not err by conducting a virtual termination hearing by video conference as the Chief Justice's November 9, 2020 Eighth Order Extending Declaration of Statewide Judicial Emergency was in effect; the court did not violate the Uniform Juvenile Court Rule allowing video conferencing in termination of parental rights proceedings; the mother did not identify any harm that the mother suffered as a result of the virtual hearing; and the mother's attorney did not allege any connectivity issues. In the Interest of N. P., 363 Ga. App. 879, 872 S.E.2d 501, 2022 Ga. App. LEXIS 212 (2022).

38-3-61. Declaration of judicial emergency; duration of judicial emergency declaration; designation of alternative facility in lieu of court.

JUDICIAL DECISIONS

State's burden in a criminal case. — State does not need to allege or prove the application of orders issued under the Judicial Emergency Act, O.C.G.A. § 38-3-60 et seq., to rely on such orders to prolong the limitations period, and, therefore, the state was not required to allege and prove the tolling or extension of limitations arising from emergency orders during the COVID-19 pandemic, because the issuance of an order under the Act renders the order effective in every case, the text of the Act does not impose notice requirements as a prerequisite for the state to rely on such orders, and there is no factual defense that a defendant could mount against the application of a valid order. Garrison v. State, 319 Ga. 711, 905 S.E.2d 629, 2024 Ga. LEXIS 178 (2024).

38-3-62. Suspension or tolling of deadlines and time schedules in event of judicial emergency; statutory speedy trial requirements defined.

JUDICIAL DECISIONS

Construction. — O.C.G.A. § 38-3-62 empowers an authorized judicial official to suspend, toll, extend, or otherwise grant relief from the application of a statute of repose. Golden v. Floyd Healthcare Management, Inc., 319 Ga. 496, 904 S.E.2d 359, 2024 Ga. LEXIS 152 (2024).

Medical malpractice action was time-barred. — Dismissal of a medical malpractice and wrongful death action was upheld because plaintiffs' complaint and amended complaint did not include an expert affidavit as required by O.C.G.A. § 9-11-9.1, and the subsequent filing was untimely. Leggat v. Navicent Health, Inc., 369 Ga. App. 731, 893 S.E.2d 438, 2023 Ga. App. LEXIS 448 (2023).

Application of Judicial Emergency Act in a criminal case. — State does not need to allege or prove the application of orders issued under the Judicial Emergency Act, O.C.G.A. § 38-3-60 et seq., to rely on such orders to prolong the limitations period and, therefore, the state was not required to allege and prove the tolling or extension of limitations arising from emergency orders during the COVID-19 pandemic because the issuance of an order under the Act renders the order effective in every case, the text of the Act does not impose notice requirements as a prerequisite for the state to rely on such orders, and there is no factual defense that a defendant could mount against the application of a valid order. Garrison v. State, 319 Ga. 711, 905 S.E.2d 629, 2024 Ga. LEXIS 178 (2024).

38-3-64. Appeal rights of adversely affected parties; cost of appeal borne by state.

(a) Any person whose rights or interests are adversely affected by an order declaring the existence of a judicial emergency or any modification or extension of such an order shall be entitled to appeal.

(b) A petition for review shall be filed no later than 45 days after the expiration of the judicial emergency order, or any modification or extension of a judicial emergency order, from which an appeal is sought. A petition for review shall be filed with the clerk of a superior court in any jurisdiction affected by the order and shall be served upon:

(1) The authorized judicial official who issued the order;

(2) The parties to any criminal proceeding or civil litigation in which the appellant is involved which would be affected by the appeal;

(3) The district attorney of the county in which the petition for review is filed; and

(4) All other parties in any criminal proceeding or civil litigation which would be affected by the appeal; provided, however, that service in this regard shall be accomplished by publishing notice of the filing of the appeal in the newspaper which is the legal organ for the county in which the petition for review is filed.

(c) The appeal shall be heard immediately by the Georgia Court of Appeals under the procedure of emergency motions. A party dissatisfied by the judgment of the Georgia Court of Appeals may appeal as a matter of right to the Georgia Supreme Court. Filing fees for these appeals shall be waived. All costs of court shall be borne by the state. Appeals shall be heard expeditiously.

History.

Code 1981, § 38-3-64, enacted by Ga. L. 2004, p. 420, § 3; Ga. L. 2022, p. 767, § 2-30/HB 916.

Amendments.

The 2022 amendment, effective July 1, 2023, substituted "petition for review" for "notice of appeal" twice in the introductory language of subsection (b) and in paragraph (b)(3), and substituted "petition for review" for "notice of the appeal" in paragraph (b)(4). See Editor's notes for applicability.

Editor's notes.

Ga. L. 2022, p. 767, § 3-1/HB 916, not codified by the General Assembly, makes this Code section applicable to petitions for review filed in superior or state court on or after July 1, 2023.

ARTICLE 10

STATE-WIDE FIRST RESPONDER BUILDING MAPPING INFORMATION SYSTEM

38-3-151. Definitions.

As used in this article, the term:

(1) “Agency” means the Georgia Emergency Management and Homeland Security Agency established by Code Section 38-3-20.

(2) “Building mapping information system” means a state-wide informational system containing maps of designated public buildings.

(3) “Director” means the director of the agency.

(4) “School mapping data” means building information, floor plans, and aerial imagery of any public or private school.

History.

Code 1981, § 38-3-151, enacted by Ga. L. 2008, p. 564, § 1/SB 33; Ga. L. 2016, p. 91, § 17/SB 416; Ga. L. 2025, p. 99, § 1-2/HB 268, effective April 28, 2025.

Amendments.

The 2025 amendment, effective April 28, 2025, added paragraph (4).

38-3-154. School mapping data; immunity from liability.

(a) Not later than July 1, 2026, each public school shall procure school mapping data which shall:

(1) Be in formats that conform to and integrate with software platforms utilized in local public safety answering points and by local, state, and federal public safety agencies that respond to emergencies at schools and that do not require such agencies to purchase additional software or provide payment in order to view or access such data;

(2) Be in formats capable of being printed, shared electronically, and, if requested, digitally integrated into interactive mobile platforms;

(3) Be verified for accuracy by July 1 each year by the entity producing such school mapping data by means of an in-person inspection of each school;

(4) Identify and label access points of each building interior, including, but not limited to, rooms, doors, stairwells, and hallways, each of which shall include any identifiers or names utilized by staff and students;

(5) Identify and label locations of critical utilities, key boxes,

automated external defibrillators, and trauma kits or other emergency response aids; and

(6) Identify and label areas at or near each school, including parking areas, athletic fields, surrounding roads, outbuildings, and neighboring properties.

(b) Any future updates to school mapping data provided for in this Code section shall conform to and integrate with software platforms utilized in local public safety answering points and by local, state, and federal public safety agencies that provide emergency services to each school.

(c) The agency shall be authorized to develop rules and regulations for the requirements for school mapping data, including, but not limited to, standards for the use of school mapping data, encryption of such data, and transmission of such data over secure methods to law enforcement officers, firefighters, and other authorized emergency first responders.

(d) Local school systems shall collaborate with and receive concurrence from its primary local law enforcement agency prior to procuring school mapping data to ensure such school mapping data meets the requirements of this Code section.

(e) Information provided to the agency under this Code section shall be exempt from public disclosure to the extent provided in Code Section 50-18-72.

(f)(1) Local boards of education, local school systems, public schools, and local governments and agencies shall be immune from civil liability for any damages arising out of the creation and use of the school mapping data.

(2) Employees of local boards of education, local school systems, and local governments and agencies shall be immune from civil liability for any damages arising out of the creation and use of the school mapping data unless it is shown that such employee acted with gross negligence or bad faith.

History.

Code 1981, § 38-3-154, enacted by Ga. L. 2025, p. 99, § 1-3/HB 268, effective April 28, 2025.

Effective date.

This Code section became effective April 28, 2025.

ARTICLE 12

EMERGENCY COMMUNICATIONS AUTHORITY

38-3-181. Definitions.

As used in this article, the term:

(1) “Authority” means the Georgia Emergency Communications Authority established pursuant to Code Section 38-3-182.

(2) “Board of directors” or “board” means the governing body of the authority.

(2.1) “Commonly accepted standards” means the technical standards followed by the communications industry for network, device, and internet protocol connectivity that enables interoperability. Such standards are developed and approved by a standards development organization that is accredited by an American standards body, such as the Association of Public-Safety Communications Officials, the Internet Engineering Task Force, or the National Emergency Number Association.

(2.2) “Emergency medical dispatch” means the management of requests for emergency medical assistance by utilizing a system of:

(A) A tiered response or priority dispatching of emergency medical resources based on the level of medical assistance appropriate for the victim; and

(B) Prearrival first aid or other medical instructions given by trained telecommunicators responsible for receiving 9-1-1 calls and dispatching public safety agencies.

(3) “Emergency 9-1-1 system” or “9-1-1 system” has the same meaning as set forth in Code Section 46-5-122.

(4) “Enhanced ZIP Code” has the same meaning as set forth in Code Section 46-5-122.

(4.1) “ESInet” means a state emergency services IP network which is an NG9-1-1 network contracted by the Georgia Emergency Communications Authority to one or more NG9-1-1 system providers for the purpose of securely receiving 9-1-1 requests for emergency assistance, transferring 9-1-1 requests for emergency assistance and all associated data, providing centralized network management and security monitoring, and enabling call routing using GIS data.

(4.2) “Geographic information systems data” or “GIS data” means digital geospatial information that can be used to assist in locating a person who places a 9-1-1 request for emergency assistance, including, but not limited to, mapped data sets, such as public safety answering point boundaries; boundaries; site structure address points; road centerlines; emergency service boundaries; and other additional data.

(5) “Local government” means a county, municipality, regional authority, or consolidated government in this state that operates or contracts for the operation of a public safety answering point and has

adopted a resolution or ordinance pursuant to Code Section 46-5-133 to impose 9-1-1 charges under Code Section 46-5-134.

(5.1) "Next Generation core services" means services required to deliver secure, interoperable, multimedia-capable services to public safety answering points, seamlessly and without the need for proprietary interfaces.

(6) "Next Generation 9-1-1" or "NG9-1-1" means an internet protocol based system that:

(A) Ensures interoperability;

(B) Is secure;

(C) Provides resiliency and redundancy;

(D) Employs commonly accepted standards;

(E) Enables 9-1-1 public safety answering points to receive, process, and analyze all types of 9-1-1 requests for emergency assistance;

(F) Acquires and integrates additional information useful for handling 9-1-1 requests for emergency assistance; and

(G) Supports the sharing of information related to 9-1-1 requests for emergency assistance among public safety answering points and emergency response providers.

(6.1) "Next Generation 9-1-1 system provider" or "NG9-1-1 system provider" means an entity that provides a Next Generation 9-1-1 system to a public safety answering point.

(7) "9-1-1 charge" has the same meaning as set forth in Code Section 46-5-122.

(7.1) "9-1-1 request for emergency assistance" means a communication, such as voice, text, picture, multimedia, or any other type of data, that is sent to a 9-1-1 public safety answering point for the purpose of requesting emergency assistance.

(8) "Primary public safety answering point" means the first point of reception of a 9-1-1 request for emergency assistance by a facility that has been designated to receive 9-1-1 requests for emergency assistance and route such requests to emergency service personnel as defined in 47 U.S.C.A. Section 222.

(8.1) "Public safety answering point" has the same meaning as provided set forth in Code Section 46-5-122.

(9) "Service supplier" has the same meaning as set forth in Code Section 46-5-122.

(10) “Telephone subscriber” has the same meaning as set forth in Code Section 46-5-122.

(11) “Wireless enhanced 9-1-1 charge” has the same meaning as set forth in Code Section 46-5-122.

History.

Code 1981, § 38-3-181, enacted by Ga. L. 2018, p. 689, § 1-1/HB 751; Ga. L. 2022, p. 413, § 2/SB 505; Ga. L. 2025, p. 213, § 1-1/HB 423, effective July 1, 2025.

Amendments.

The 2022 amendment, effective July 1, 2022, added paragraph (2.1).

The 2025 amendment, effective July 1, 2025, added paragraph (2.1); redesignated former paragraph (2.1) as present paragraph (2.2); in paragraphs (3) and (4), substituted “set forth” for “provided”; added paragraphs (4.1), (4.2), and (5.1); rewrote paragraph (6); added paragraph (6.1); in paragraph (7), substituted “set forth” for “provided”; added paragraph (7.1); added paragraph (8) and redesignated former paragraph (8) as present paragraph (8.1); added “set forth” in paragraph (8.1); and substituted “set forth” for “provided” in paragraphs (9), (10), and (11).

38-3-182. Establishment of Georgia Emergency Communications Authority; purpose; duties and responsibilities; board of directors; perpetual existence; power and authority; operation; regulation.

(a)(1) There is established the Georgia Emergency Communications Authority as a body corporate and politic, an instrumentality of the state, and a public corporation, and by that name the authority may contract and be contracted with and defend and bring actions, including, but not limited to, a private right of action to enforce this article. The authority shall be an entity within the Georgia Emergency Management and Homeland Security Agency and attached to said agency for all operational purposes.

(2) All local governments as of July 1, 2018, shall be members of the authority. Additional local governments shall become members upon adoption of a resolution or ordinance to impose the monthly 9-1-1 charge as authorized by Code Section 46-5-133 and contingent upon approval by the authority which shall not be unreasonably withheld. Any local government member of the authority that ceases operating or contracting for the operation of a public safety answering point shall withdraw from the authority subject to the terms of any contract, obligation, or agreement with the authority.

(b) The primary purpose of the authority shall be to administer, collect, audit, and remit 9-1-1 revenues for the benefit of local governments, as specified in this article, and on such terms and conditions as may be determined to be in the best interest of the operation of local governments in light of the following factors:

(1) The public interest in providing cost-efficient collection of revenues;

(2) Increasing compliance in collection of revenues;

(3) Easing the administrative burden on vendors and service suppliers; and

(4) Such other factors as are in the public interest and welfare of the citizens of Georgia.

(c) In addition to the purposes specified in subsection (b) of this Code section, the authority shall have the duties and responsibilities to:

(1) Apply for, receive, and use federal grants or state grants or both;

(2) Study, evaluate, recommend, and enforce commonly accepted standards for a state-wide NG9-1-1 system;

(3) Identify any changes necessary to accomplish more effective and efficient 9-1-1 service across this state, including consolidation and interoperability of 9-1-1 systems;

(4) Identify any changes necessary in the assessment and collection of fees under Part 4 of Article 2 of Chapter 5 of Title 46;

(5) Develop, offer, or make recommendations to the Georgia Public Safety Training Center, Georgia Peace Officer Standards and Training Council, and other state agencies as to training that should be provided to telecommunicators, trainers, supervisors, and directors of public safety answering points;

(6) Recommend minimum standards for operation of public safety answering points;

(7) Collect data and statistics regarding the performance of public safety answering points;

(8) Identify any necessary changes or enhancements to develop and deploy NG9-1-1 state wide;

(9) Upon request by a public safety answering point, provide assistance to such public safety answering point with its locally managed processes to be regarded as Logan's List: the collection, storage, retrieval, and dissemination of information voluntarily submitted to a public safety answering point which indicates an individual has a physical, mental, or neurological condition which impedes his or her ability to communicate with any law enforcement officer or emergency responder;

(10) Administer the deployment of a 9-1-1 service for emerging communications technologies, including, but not limited to, the state ESInet and Next Generation core services;

(11) Establish and operate a network management center in coordination with cybersecurity subject matter experts to protect the

state ESInet, Next Generation core services, and public safety answering points;

(12) Monitor the state ESInet performance and service provider adherence to commonly accepted standards;

(13) Establish cooperative purchasing agreements or other contracts for the procurement of goods and services, including, but not limited to, call-handling equipment, computer aided dispatch, data management, and logging recorders;

(14) Coordinate, adopt, and communicate all necessary technical standards and requirements to ensure an effective state-wide interconnected and interoperable state ESInet;

(15) Coordinate, adopt, and communicate all necessary technical standards and requirements for GIS data related to NG9-1-1;

(16) Collect, manage, and analyze 9-1-1 requests for emergency assistance data delivered to the state ESInet for the purpose of monitoring state ESInet and Next Generation core services performance;

(17) Coordinate outreach and education programs on how the public and emergency response providers can best use NG9-1-1 and the capabilities and usefulness of NG9-1-1;

(18) Coordinate with rural and urban 9-1-1 public safety answering points, regional authorities, local authorities, and other relevant stakeholders to develop a plan for the implementation of NG9-1-1;

(19) Coordinate with rural and urban 9-1-1 public safety answering points, regional authorities, local authorities, and other relevant stakeholders to prepare and submit applications for eligible grant funding related to NG9-1-1;

(20) Promote interoperability between 9-1-1 public safety answering points that are deploying or have deployed Next Generation 9-1-1 and emergency response providers, including users of the nationwide public safety broadband network;

(21) Coordinate with adjoining states, Native American tribes, and federal entities to establish and maintain NG9-1-1; and

(22) Develop recommendations for the most efficient and effective short-term and long-term implementation and maintenance of NG9-1-1.

(d)(1) Control and management of the authority shall be vested in a board of directors which shall consist of the following:

(A) The commissioner of public safety or his or her designee;

(B) The commissioner of revenue or his or her designee;

(C) The director of the Georgia Public Safety Training Center or his or her designee;

(D) Three members appointed by the Governor who shall be 9-1-1 directors, each of whom shall be currently employed by a public safety answering point. The Georgia 9-1-1 Directors Association, the Georgia Chapter of the Association of Public Safety Communications Officials, and the Georgia Chapter of the National Emergency Number Association may provide recommendations to the Governor for such appointments;

(E) One member appointed by the Governor who shall be an elected member of a county governing authority that operates or contracts for the operation of a public safety answering point. The Association County Commissioners of Georgia may provide recommendations to the Governor for such appointment;

(F) One member appointed by the Governor who shall be a county manager, county administrator, or finance officer from a county that operates or contracts for the operation of a public safety answering point. The Association County Commissioners of Georgia may provide recommendations to the Governor for such appointment;

(G) One member appointed by the Governor who shall be an elected member of a city governing authority that operates or contracts for the operation of a public safety answering point. The Georgia Municipal Association may provide recommendations to the Governor for such appointment;

(H) One member appointed by the Governor who shall be a city manager, city administrator, or finance officer from a city that operates or contracts for the operation of a public safety answering point. The Georgia Municipal Association may provide recommendations to the Governor for such appointment;

(I) Two members from the telecommunications industry who shall be appointed by the Governor;

(J) One member appointed by the Governor who is a sheriff responsible for managing a public safety answering point. The Georgia Sheriffs' Association may provide recommendations to the Governor for such appointment;

(K) One police chief appointed by the Governor who is serving a local government. The Georgia Association of Chiefs of Police may provide recommendations to the Governor for such appointment;

(L) One fire chief appointed by the Governor who is serving a local government. The Georgia Association of Fire Chiefs may provide recommendations to the Governor for such appointment;

(M) The executive director of the Georgia Technology Authority or his or her designee;

(N) One member who is a subject matter expert in cybersecurity who shall be appointed by the Governor; and

(O) One member who is a subject matter expert in geographic information systems data who shall be appointed by the Governor.

(2) The initial term for appointments made pursuant to subparagraphs (D), (E), (F), (G), and (H) of paragraph (1) of this subsection shall be from July 1, 2018, until June 30, 2021. The initial term for appointments made pursuant to subparagraphs (I), (J), (K), and (L) of paragraph (1) of this subsection shall be from July 1, 2018, until June 30, 2020. All subsequent terms shall be for three years. Any vacancies that occur prior to the end of a term shall be filled by appointment in the same manner as the original appointment and shall be for the remainder of the unexpired term.

(3) The board may appoint additional persons to serve in an advisory role to the board. Such advisers shall be nonvoting and shall not be counted in ascertaining if a quorum is present.

(4) Members of the board of directors shall receive no compensation for their services but may be authorized by the authority to receive an expense allowance and reimbursement from funds of the authority in the same manner as provided for in Code Section 45-7-21, but only in connection with the member's physical attendance at a meeting of the board.

(5) Nine members of the board of directors shall constitute a quorum, and the affirmative votes of a majority of a quorum shall be required for any action to be taken by the board.

(6) The executive director of the authority shall convene the initial meeting of the board of the authority no later than September 1, 2018, at which time the board shall elect one of its members as chairperson. In addition, the board shall elect from its membership a vice chairperson and a secretary/treasurer.

(7) The board of directors shall promulgate bylaws and may adopt other procedures for governing its affairs and for discharging its duties as may be permitted or required by law or applicable rules and regulations.

(e) The authority shall have perpetual existence.

(f) The authority through its board of directors shall have the power and authority to:

(1) Have a seal and alter the same at its pleasure;

(2) Make and execute contracts, lease agreements, and all other instruments necessary or convenient to exercise the powers of the authority or to further the public purpose for which the authority is created;

(3) Acquire by purchase, lease, or otherwise and to hold, lease, and dispose of real or personal property of every kind and character, or any interest therein, in furtherance of the purpose of the authority;

(4) Apply for and to accept any gifts or grants, loan guarantees, loans of funds, property, or financial or other aid in any form from the federal government or any agency or instrumentality thereof, from the state government or any agency or instrumentality thereof, or from any other source for any or all purposes specified in this article and to comply, subject to the provisions of this article, with the terms and conditions thereof;

(5) Deposit or otherwise invest funds held by it in any state depository or in any investment that is authorized for the investment of proceeds of state general obligation bonds and to use for its corporate purposes or redeposit or reinvest interest earned on such funds;

(6) Exercise any powers granted by the laws of this state to public or private corporations that are not in conflict with the public purpose of the authority;

(7) Do all things necessary or convenient to carry out the powers conferred by this article and to carry out such duties and activities as are specifically imposed upon the authority by law;

(8) Bring and defend actions;

(9) Provide for the collection of moneys;

(10) Manage, control, and direct proceeds retained under subsection (a) of Code Section 38-3-188 and the expenditures made therefrom;

(11) Distribute the proceeds identified under subsection (b) of Code Section 38-3-188 in such manner and subject to such terms and limitations as provided by such Code section; and

(12) Exercise all other powers necessary for the development and implementation of the duties and responsibilities provided for in this article.

(g) The creation of the authority and the carrying out of its purpose under this article are in all respects for the benefit of the people of this state. The authority shall be carrying out an essential governmental function on behalf of local governments in the exercise of the powers conferred upon it by this article and is, therefore, given the same immunity from liability for carrying out its intended functions as other state officials and employees.

(h) The authority shall not be required to pay taxes or assessments upon any real or personal property acquired under its jurisdiction, control, possession, or supervision.

(i) All moneys received by the authority pursuant to this article shall be deemed to be trust funds to be held and applied solely as provided in this article.

(j) This article, being for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

(k) Notwithstanding any provision of this Code section to the contrary, the authority shall have no jurisdiction concerning the setting of rates, terms, and conditions for the offering of telecommunications services, as defined in Code Section 46-5-162, or for the offering of broadband service, VoIP, or wireless service, as such terms are defined in Code Section 46-5-221.

(l) The board shall be subject to and shall comply with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," in the same manner as an agency as such term is defined in Code Section 50-13-2. The board may promulgate and amend, from time to time, such rules or regulations, consistent with this article and Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," as it deems consistent with or required for the public welfare, for the administration of any provision of this article, or for the orderly conduct of the board's affairs. Any claim by the authority that a service supplier has violated any provision of this article shall be adjudicated as a contested proceeding under Code Section 50-13-13 and be subject to judicial review under Code Section 50-13-19.

History.

Code 1981, § 38-3-182, enacted by Ga. L. 2018, p. 689, § 1-1/HB 751; Ga. L. 2019, p. 1056, § 38/SB 52; Ga. L. 2021, p. 205, § 1/HB 631; Ga. L. 2025, p. 213, § 1-2/HB 423, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, substituted "evaluate, recommend, and enforce commonly accepted standards for a state-wide NG9-1-1 system" for "evaluate, and recommend technology standards for the regional and state-wide provision of a public safety communications network and 9-1-1 system" in paragraph (c)(2), substituted "NG9-1-1 state wide;" for "NG911 statewide; and" in paragraph (c)(8), substituted a semicolon for a period at the end of paragraph (c)(9), and added paragraphs (c)(10) through (c)(22); deleted "and" at the end of subparagraph (d)(1)(K), substituted a semicolon for a period at the end of subparagraph (d)(1)(L), and added subparagraphs (d)(1)(M) through (d)(1)(O).

38-3-183. Appointment of executive director; role; additional staffing.

The director of the Georgia Emergency Management and Homeland Security Agency shall appoint an executive director, subject to approval by the board, who shall be the administrative head of the authority, and shall establish the salary of the executive director. The executive director shall serve at the pleasure of such director. The executive director shall be considered the state 9-1-1 administrator for the purposes of relevant state and federal law and program requirements. The executive director, with the concurrence and approval of such director, shall hire officers, agents, and employees; prescribe their duties, responsibilities, and qualifications; set their salaries; and perform such other duties as may be prescribed by the authority. Such officers, agents, and employees shall serve at the pleasure of the executive director.

History.

Code 1981, § 38-3-183, enacted by Ga. L. 2018, p. 689, § 1-1/HB 751; Ga. L. 2025, p. 213, § 1-3/HB 423, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, added the third sentence.

38-3-186. Contracting with Department of Revenue for collection and disbursement of charges remitted and for collection and disbursement of prepaid wireless 9-1-1 charges.

(a) The authority shall contract with the Department of Revenue for the collection and disbursement of charges remitted to the authority under subsection (a) of Code Section 38-3-185, other than prepaid wireless 9-1-1 charges under Code Section 46-5-134.2. Under such nonmonetary contract and to defray the cost of administering such collection and disbursement, the Department of Revenue shall receive payment equal to 0.25 percent of the total amount of the gross charges remitted to the authority under subsection (a) of Code Section 38-3-185, other than prepaid wireless 9-1-1 charges under Code Section 46-5-134.2.

(b) The authority shall also contract with the Department of Revenue for the collection and disbursement of prepaid wireless 9-1-1 charges remitted to counties and municipalities under Code Section 46-5-134.2. Under such nonmonetary contract and to defray the cost of administering such collection and disbursement, the Department of Revenue shall receive payment equal to 0.25 percent of the total amount of the gross charges remitted to the authority or Department of Revenue under Code Section 46-5-134.2.

History.

Code 1981, § 38-3-186, enacted by Ga. L. 2018, p. 689, § 1-1/HB 751; Ga. L. 2022, p. 109, § 1/SB 84.

Amendments.

The 2022 amendment, effective July 1, 2022, substituted "0.25 percent" for "1 percent" in the second sentence of subsections (a) and (b).

38-3-188. Retention of funds by Department of Revenue; payments to local governments.

(a) The Department of Revenue shall retain and remit from the total amount of funds collected by it from charges imposed pursuant to subsection (a) of Code Section 38-3-185 and pursuant to Code Section 46-5-134.2 an amount equal to 1 percent to the authority and an amount equal to 0.75 percent of the total amount to the Peace Officers' Annuity and Benefit Fund as further provided for in Code Section 47-17-63.

(b) Except for the amounts retained by the authority, Department of Revenue, Peace Officers' Annuity and Benefit Fund, and service suppliers pursuant to Code Sections 38-3-186 and 46-5-134 and this Code section, the remainder of the charges remitted by service suppliers shall be paid by the Department of Revenue to each local government on a pro rata basis based on the remitted amounts attributable to each such local government reported by service suppliers in the reports required by subsection (b) of Code Section 38-3-185. Such payments shall be made by the Department of Revenue to such local governments not later than 30 days following the date charges must be remitted by service suppliers to the Department of Revenue pursuant to subsection (a) of Code Section 38-3-185. Under no circumstances shall such payments be, or be deemed to be, revenues of the state and such payments shall not be subject to or available for appropriation by the state for any purpose.

History.

Code 1981, § 38-3-188, enacted by Ga. L. 2018, p. 689, § 1-1/HB 751; Ga. L. 2022, p. 109, § 2/SB 84.

Amendments.

The 2022 amendment, effective July 1, 2022, rewrote subsection (a), which read: "The Department of Revenue shall retain from the charges remitted to it pursuant to subsection (a) of Code Section 38-3-185 and pursuant to Code Section 46-5-134.2 an amount equal to 1 percent of the total amount of such charges and remit such amount to the authority."; and inserted "Peace Officers' Annuity and Benefit Fund," in the first sentence in subsection (b).

CHAPTER 4

VETERANS AFFAIRS

ARTICLE 1

DEPARTMENT OF VETERANS SERVICE

38-4-14. Creation of Georgia Veterans Service Foundation, Inc.; purpose; operation; reporting.

(a) The Veterans Service Board shall have the power and authority to establish a nonprofit corporation to be designated as the Georgia Veterans Service Foundation, Inc., to qualify as a public foundation under Section 501(c)(3) of the federal Internal Revenue Code for the purposes described in this Code section. The nonprofit corporation created pursuant to this Code section shall be created pursuant to Chapter 3 of Title 14, the "Georgia Nonprofit Corporation Code," and the Secretary of State shall be authorized to accept such filing.

(b)(1) The purpose of the Georgia Veterans Service Foundation, Inc., shall be to actively seek supplemental funds and in-kind goods, services, and property to promote Georgia's state war veterans' homes and veterans' cemeteries and for any other purpose of the Veterans Service Board. Funds received by the foundation may be conveyed to the Department of Veterans Service or awarded through a competitive grant process administered by the Veterans Service Board.

(2) The Georgia Veterans Service Foundation, Inc., shall be governed by a board of directors comprising between seven and thirteen persons, who shall not be the same individuals as the currently serving members of the Veterans Service Board, who shall be appointed by the commissioner of veterans service, subject to the approval of the Veterans Service Board. At least four of the persons appointed to the board of directors shall have honorably served not less than three months in the armed forces of the United States or

two years in a reserve or National Guard component of the armed forces of the United States. The members of the board of directors shall serve for three-year terms that shall be staggered. The members may succeed themselves on the board of directors one time and thereafter may be reappointed to additional terms following a three-year interval after completion of any second consecutive term.

(3) The board of directors shall meet at least quarterly to conduct the business of the Georgia Veterans Service Foundation, Inc. The board of directors shall annually elect from its membership a chairperson, a vice chairperson, a secretary, and a treasurer.

(4) The commissioner of veterans service shall appoint a chief executive officer, a chief operating officer, and a chief financial officer of the Georgia Veterans Service Foundation, Inc., from individuals who are employees of the Department of Veterans Service, excluding the commissioner of veterans service, who shall serve in these capacities without compensation but who shall be entitled to reimbursement of expenses reasonably incurred from the Georgia Veterans Service Foundation, Inc., for performing their duties under this Code section.

(c) The nonprofit corporation created pursuant to this Code section shall be subject to the following provisions:

(1) In accordance with the Constitution of Georgia, no governmental functions or regulatory powers shall be conducted by such nonprofit corporation;

(2) Upon dissolution of such nonprofit corporation incorporated by the Veterans Service Board, any assets shall revert to the Veterans Service Board or to any successor to the Veterans Service Board or, failing such succession, to the State of Georgia;

(3) To avoid the appearance of undue influence on regulatory functions by donors, no donations to such nonprofit corporation from private sources shall be used for salaries, benefits, or travel expenses of the Veterans Service Board;

(4) Such nonprofit corporation shall be subject to all laws relating to open meetings and the inspection of public records;

(5) The Veterans Service Board shall not be liable for the action or omission to act of such nonprofit corporation; provided, however, that as an administrative cost, such nonprofit corporation shall obtain and maintain errors and omissions liability coverage insurance in the amount of not less than $1 million; and

(6) No debts, bonds, notes, or other obligations incurred by such nonprofit corporation shall constitute an indebtedness or obligation

of the State of Georgia nor shall any act of such nonprofit corporation constitute or result in the creation of an indebtedness of the state; provided, however, that such nonprofit corporation shall not have the power to incur long-term or short-term indebtedness in connection with its authority under this Code section but may incur short-term credit obligations. No holder or holders of such bonds, notes, or other obligations shall ever have the right to compel any exercise of the taxing power of the state nor to enforce the payment thereof against the state.

(d) The Georgia Veterans Service Foundation, Inc., shall prepare and make public an annual report identifying all donors to the Georgia Veterans Service Foundation, Inc., and the amount or property each donor donated, as well as all expenditures or other expenditures of money or property donated. Such report shall be provided to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons of the House Committee on Defense and Veterans Affairs and the Senate Veterans, Military and Homeland Security Committee, or their successors. The Georgia Veterans Service Foundation, Inc., shall also provide such persons with a copy of all filings with the federal Internal Revenue Service.

History.

Code 1981, § 38-4-14, enacted by Ga. L. 2018, p. 186, § 1/HB 422; Ga. L. 2019, p. 1056, § 38/SB 52; Ga. L. 2023, p. 60, § 1/SB 21, effective July 1, 2023.

Amendments.

The 2023 amendment, effective July 1, 2023, in paragraph (b)(2), substituted "board of directors comprising between seven and thirteen persons" for "board of directors composed of seven persons" in the first sentence, substituted "At least four of the persons appointed to the board of directors shall have" for "Persons appointed to the board of directors shall have" at the beginning of the second sentence, and substituted "shall serve for three-year terms that shall be staggered" for "shall serve for seven-year terms that shall be staggered such that one member completes a term each year" in the third sentence; substituted "at least quarterly to conduct" for "at least one time each year to conduct" near the beginning of paragraph (b)(3); and substituted "The commissioner of veterans service" for "The board of directors" at the beginning of paragraph (b)(4).

38-4-15. Veterans Mental Health Services Program; grant programs.

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

(1) "Addictive disease" shall have the same meaning as set forth in Code Section 37-1-1.

(2) "Behavioral health services" means services which are designed to prevent or ameliorate the effects of mental illness or addictive disease.

(3) "Eligible person" means a service member, veteran, or a family member of such service member or veteran.

(4) “Family member” means an individual with a close familial relationship, including, but not limited to, a spouse, parent, child, stepchild, sibling, or grandparent.

(5) “Mental illness” shall have the same meaning as set forth in Code Section 37-1-1.

(6) “Program” means the Veterans Mental Health Services Program created pursuant to subsection (b) of this Code section.

(7) “Service member” means an active duty member of the regular or reserve component of the United States armed forces, the United States Coast Guard, the Georgia National Guard, or the Georgia Air National Guard on ordered federal duty for a period of 90 days or longer.

(8) “Veteran” means a person who is a former member of the United States armed forces, the United States Coast Guard, the Georgia National Guard, or the Georgia Air National Guard, regardless of their role or discharge status.

(b) The Department of Veterans Service shall create and administer a grant program, to be known as the Veterans Mental Health Services Program, to aid in the provision of behavioral health services through nonprofit community behavioral health programs to eligible persons.

(c) Subject to the availability of funding, the Department of Veterans Service shall award competitive matching grants to establish and expand nonprofit community behavioral health programs that:

(1) Provide behavioral health services to eligible persons in the community;

(2) Utilize evidence based practices;

(3) Integrate military cultural competency training for program staff members; and

(4) Connect eligible persons to appropriate community based behavioral health services in a timely manner on discharge from the nonprofit community behavioral health program.

(d) The Department of Veterans Service, in implementing the Veterans Mental Health Services Program, shall develop grant program qualification requirements for applicants, including, but not limited to, the provision:

(1) That applicants must provide behavioral health services to service members, veterans, and their families;

(2) Of priority status for program eligibility for locations within 50 miles of a military base; and

(3) Of priority status for applicants seeking grants for operating costs attached to a qualifying project for which capital investments have already been made.

(e) If taxpayer funded grants total fifty percent of non profits total funding with any combination of federal, state, or local grants non profit shall be subject to the provisions of Article 4 of Chapter 18 of Title 50.

(f) The Department of Veterans Service shall promulgate such other rules and regulations as necessary to implement this Code section.

History.
Code 1981, § 38-4-15, enacted by Ga. L. 2023, p. 58, § 1/HB 414, effective April 25, 2023.

Effective date.
This Code section became effective April 25, 2023.

Cross references.
Notation of post traumatic stress disorder on driver's license, § 40-5-38.

Code Commission notes.
Pursuant to Code Section 28-9-5, in 2023, "of the Official Code of Georgia Annotated" was deleted following "Title 50" at the end of subsection (e).

ARTICLE 2

VETERANS BENEFITS

Part 3

Georgia Veterans Cemeteries

38-4-70. Cemeteries established; eligibility for interment.

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

(1) "Full term" means the length of service agreed to by an enlisted or commissioned person in the armed forces of the United States.

(2) "Reserve component" means, with respect to the United States armed forces, the Army Reserve, Navy Reserve, Marine Corps Reserve, Air Force Reserve, Space Force Reserve, Coast Guard Reserve, Army National Guard, and Air National Guard.

(b) The Department of Veterans Service is authorized to establish, operate, and maintain Georgia veterans cemeteries in this state; provided, however, that the Georgia veterans cemetery in existence on July 1, 2002, shall be known as the "Georgia Veterans Memorial Cemetery."

(c) The Department of Veterans Service has the primary responsibility for verifying eligibility for interment in a Georgia veterans cemetery. Eligibility criteria for interment in a Georgia veterans cemetery is as follows:

(1) The same as required for interment in a national cemetery as provided by federal law and rules and regulations applicable thereto; or

(2) The following individuals shall qualify for interment in a Georgia veterans cemetery pursuant to the federal Burial Equity for Guards and Reserves Act of 2021, provided such individuals completed a full term of service and became deceased on or after August 1, 1990:

(A) A member of a reserve component whose service was terminated under honorable conditions;

(B) A member of the Reserve Officers' Training Corps of the Army, Navy, Air Force, or Space Force who died under honorable conditions while a service member; or

(C) A spouse, minor child, or unmarried adult child of any service member described in paragraph (1) or (2) of this subsection.

(d) The Department of Veterans Service is authorized to charge a fee for burial services in Georgia veterans cemeteries for each person being buried. Such fees may be based on the allowance paid for the burial of an eligible veteran in a national veterans cemetery or such other amount as the commissioner of veterans service determines is appropriate.

History.

Code 1981, § 38-4-70, enacted by Ga. L. 1988, p. 877, § 1; Ga. L. 2000, p. 797, § 1; Ga. L. 2002, p. 1135, § 1; Ga. L. 2005, p. 1479, § 1/HB 440; Ga. L. 2025, p. 528, § 2/HB 53, effective July 1, 2025.

Amendments.

The 2025 amendment, effective July 1, 2025, rewrote this Code section.

Editor's notes.

Ga. L. 2025, p. 528, § 1/HB 53, not codified by the General Assembly, provides: "The General Assembly finds the following:

"(1) At present, National Guard and other reserve component members of the United States armed forces, their spouses, and their children are generally not eligible to be buried in a national or state veterans cemetery;

"(2) The federal Burial Equity for Guards and Reserves Act of 2021 prohibits the Department of Veterans Affairs from establishing a condition for a federal cemetery grant that restricts the ability of states to bury certain reserve component members, their spouses, and their children at state owned veterans cemeteries solely because such individuals are ineligible for burial in a national veterans cemetery;

"(3) Consequently, this state may authorize certain reserve component members, their spouses, and their children to be buried at a Georgia veterans cemetery without the threat of loss of federal veterans burial grants;

"(4) Approximately 25 other states have revised their laws since the enactment of the federal Burial Equity for Guards and Reserves Act of 2021;

"(5) The Department of Veterans Affairs does not provide a plot allowance or marker for interment at Georgia veterans cemeteries; and

"(6) Legislation is needed to honor Georgians who honorably served in reserve components of the United States armed forces and their families and fees need to be charged for services provided."

TITLE 39

MINORS

CHAPTER 1

GENERAL PROVISIONS

39-1-1. Age of legal majority; residence of persons in state for purpose of attending school.

RESEARCH REFERENCES

ALR.
Implication and Meaning of "Primary Residence" in Insurance Coverage Disputes, 87 A.L.R.7th 6.

CHAPTER 4

INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

Delayed effective date.
Ga. L. 2024, p. 206, § 6(b)/SB 483, provides that the repeal and reservation of this chapter shall become effective upon enactment of the Interstate Compact for the Placement of Children into law by the thirty-fifth state. As of May 2025, this condition has not been met.

CHAPTER 4A

INTERSTATE COMPACT FOR THE PLACEMENT OF CHILDREN

Delayed effective date.

Ga. L. 2024, p. 206, § 6(b)/SB 483, provides this chapter shall become effective upon enactment of the Interstate Compact for the Placement of Children into law by the thirty-fifth state. As of May 2025, this condition had not been met.

39-4A-1. (For effective date, see note.) Short title.

This chapter shall be known and may be cited as the "Interstate Compact for the Placement of Children Act."

History.

Code 1981, § 39-4A-1, enacted by Ga. L. 2024, p. 206, § 1/SB 483.

Editor's notes.

For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this chapter.

39-4A-2. (For effective date, see note.) "Deprived" defined.

As used in Article III of the Interstate Compact for the Placement of Children contained in Code Section 39-4A-7, the term "deprived" means, with reference to this state, the same as the term "dependent child" as defined in Code Section 15-11-2.

History.

Code 1981, § 39-4A-2, enacted by Ga. L. 2024, p. 206, § 1/SB 483.

Editor's notes.

For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this chapter.

39-4A-3. (For effective date, see note.) "Non-relative with such significant ties to the child that they may be regarded as relatives" defined.

As defined in Article II of the Interstate Compact for the Placement of Children contained in Code Section 39-4A-7, the phrase "non-relative with such significant ties to the child that they may be regarded as relatives" means, with reference to this state, the same as the term "fictive kin" as defined in Code Section 15-11-2.

History.
Code 1981, § 39-4A-3, enacted by Ga. L. 2024, p. 206, § 1/SB 483.

Editor's notes.
For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this chapter.

39-4A-4. (For effective date, see note.) "Public child placing agency" defined.

As defined in Article II of the Interstate Compact for the Placement of Children contained in Code Section 39-4A-7, the term "public child placing agency" means, with reference to this state, the Department of Human Services.

History.
Code 1981, § 39-4A-4, enacted by Ga. L. 2024, p. 206, § 1/SB 483.

Editor's notes.
For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this chapter.

39-4A-5. (For effective date, see note.) "State human services administration" defined.

As used in Article VIII of the Interstate Compact for the Placement of Children contained in Code Section 39-4A-7, the term "state human services administration" means, with reference to this state, the Department of Human Services.

History.
Code 1981, § 39-4A-5, enacted by Ga. L. 2024, p. 206, § 1/SB 483.

Editor's notes.
For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this chapter.

39-4A-6. (For effective date, see note.) "Unmanageable" defined.

As used in Article III of the Interstate Compact for the Placement of Children contained in Code Section 39-4A-7, the term "unmanageable" means, with reference to this state, the same as the term "child in need of services" as defined in Code Section 15-11-2.

History.
Code 1981, § 39-4A-6, enacted by Ga. L. 2024, p. 206, § 1/SB 483.

Editor's notes.
For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this chapter.

39-4A-7. (For effective date, see note.) Provisions of the compact.

The Interstate Compact for the Placement of Children is enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

"ARTICLE I. PURPOSE.

The purpose of this Interstate Compact for the Placement of Children is to:

(a) Provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner.

(b) Facilitate ongoing supervision of a placement, the delivery of services, and communication between the states.

(c) Provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner.

(d) Provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states.

(e) Provide for uniform data collection and information sharing between member states under this compact.

(f) Promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance and other compacts affecting the placement of and which provide services to children otherwise subject to this compact.

(g) Provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate.

(h) Provide for the promulgation of guidelines, in collaboration with Indian tribes, for interstate cases involving Indian children as is or may be permitted by federal law.

ARTICLE II. DEFINITIONS.

As used in this compact,

(a) 'Approved placement' means the public child placing agency in the receiving state has determined that the placement is both safe and suitable for the child.

(b) 'Assessment' means an evaluation of a prospective placement by a public child placing agency in the receiving state to determine if the placement meets the individualized needs of the child, including but not limited to the child's safety and stability, health and well-being, and mental, emotional, and physical development. An assessment is only applicable to a placement by a public child placing agency.

(c) 'Child' means an individual who has not attained the age of eighteen (18).

(d) 'Certification' means to attest, declare or swear to before a judge or notary public.

(e) 'Default' means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or rules of the Interstate Commission.

(f) 'Home Study' means an evaluation of a home environment conducted in accordance with the applicable requirements of the state in which the home is located, and documents the preparation and the suitability of the placement resource for placement of a child in accordance with the laws and requirements of the state in which the home is located.

(g) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in section 3 (c) of the Alaska Native Claims settlement Act at 43 USC § 1602(c).

(h) 'Interstate Commission for the Placement of Children' means the commission that is created under Article VIII of this compact and which is generally referred to as the Interstate Commission.

(i) 'Jurisdiction' means the power and authority of a court to hear and decide matters.

(j) 'Legal Risk Placement' ('Legal Risk Adoption') means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law.

(k) 'Member state' means a state that has enacted this compact.

(l) 'Non-custodial parent' means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child, and who is not the subject of allegations or findings of child abuse or neglect.

(m) 'Non-member state' means a state which has not enacted this compact.

(n) 'Notice of residential placement' means information regarding a placement into a residential facility provided to the receiving state including, but not limited to the name, date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed. Notice of residential placement shall also include information regarding a discharge and any unauthorized absence from the facility.

(o) 'Placement' means the act by a public or private child placing agency intended to arrange for the care or custody of a child in another state.

(p) 'Private child placing agency' means any private corporation, agency, foundation, institution, or charitable organization, or any private person or attorney that facilitates, causes, or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law.

(q) 'Provisional placement' means a determination made by the public child placing agency in the receiving state that the proposed placement is safe and suitable, and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement.

(r) 'Public child placing agency' means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality or other governmental unit and which facilitates, causes, or is involved in the placement of a child from one state to another.

(s) 'Receiving state' means the state to which a child is sent, brought, or caused to be sent or brought.

(t) 'Relative' means someone who is related to the child as a parent, stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin or a non-relative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state.

(u) 'Residential Facility' means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, residential facilities do not include institutions primarily educational in character, hospitals or other medical facilities.

(v) 'Rule' means a written directive, mandate, standard or principle issued by the Interstate Commission promulgated pursuant to Article XI of this compact that is of general applicability and that implements, interprets or prescribes a policy or provision of the compact. "Rule" has the force and effect of an administrative rule in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(w) 'Sending state' means the state from which the placement of a child is initiated.

(x) 'Service member's permanent duty station' means the military installation where an active duty Armed Services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary.

(y) 'Service member's state of legal residence' means the state in which the active duty Armed Services member is considered a resident for tax and voting purposes.

(z) 'State' means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other territory of the United States.

(aa) 'State court' means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or status offenses of individuals who have not attained the age of eighteen (18).

(bb) 'Supervision' means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

ARTICLE III. APPLICABILITY.

(a) Except as otherwise provided in Article III, subsection (b), this compact shall apply to:

(1) The interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected, or deprived as defined by the laws of the sending state, provided, however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement.

(2) The interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

(A) the child is being placed in a residential facility in another member state and is not covered under another compact; or

(B) the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact.

(3) The interstate placement of any child by a public child placing

agency or private child placing agency as defined in this compact as a preliminary step to a possible adoption.

(b) The provisions of this compact shall not apply to:

(1) The interstate placement of a child in a custody proceeding in which a public child placing agency is not a party, provided, the placement is not intended to effectuate an adoption.

(2) The interstate placement of a child with a non-relative in a receiving state by a parent with the legal authority to make such a placement provided, however, that the placement is not intended to effectuate an adoption.

(3) The interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state.

(4) The placement of a child, not subject to Article III, subsection (a), into a residential facility by his parent.

(5) The placement of a child with a non-custodial parent provided that:

(A) The non-custodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child; and

(B) The court in the sending state makes a written finding that placement with the non-custodial parent is in the best interests of the child; and

(C) The court in the sending state dismisses its jurisdiction in interstate placements in which the public child placing agency is a party to the proceeding.

(6) A child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country.

(7) Cases in which a U.S. citizen child living overseas with his family, at least one of whom is in the U.S. Armed Services, and who is stationed overseas, is removed and placed in a state.

(8) The sending of a child by a public child placing agency or a private child placing agency for a visit as defined by the rules of the Interstate Commission.

(c) For purposes of determining the applicability of this compact to the placement of a child with a family in the Armed Services, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

(d) Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The Interstate Commission may in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children, and the reduction of unnecessary or duplicative administrative or procedural requirements.

ARTICLE IV. JURISDICTION.

(a) Except as provided in Article IV, subsection (h) and Article V, subsection (b), paragraph two and three concerning private and independent adoptions, and in interstate placements in which the public child placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child which it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

(b) When an issue of child protection or custody is brought before a court in the receiving state, such court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

(c) In cases that are before courts and subject to this compact, the taking of testimony for hearings before any judicial officer may occur in person or by telephone, audio-video conference, or such other means as approved by the rules of the Interstate Commission; and Judicial officers may communicate with other judicial officers and persons involved in the interstate process as may be permitted by their Canons of Judicial Conduct and any rules promulgated by the Interstate Commission.

(d) In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

(1) The child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child placing agency in the receiving state; or

(2) The child is adopted; or

(3) The child reaches the age of majority under the laws of the sending state; or

(4) The child achieves legal independence pursuant to the laws of the sending state; or

(5) A guardianship is created by a court in the receiving state with the concurrence of the court in the sending state; or

(6) An Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

(7) The public child placing agency of the sending state requests termination and has obtained the concurrence of the public child placing agency in the receiving the state.

(e) When a sending state court terminates its jurisdiction, the receiving state child placing agency shall be notified.

(f) Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

(g) Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

(h) The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

(1) when the child is a ward of another court that established jurisdiction over the child prior to the placement; or

(2) when the child is in the legal custody of a public agency in the sending state; or

(3) when a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

(i) A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an "approved placement" by the public child placing agency in the receiving state.

ARTICLE V. PLACEMENT EVALUATION.

(a) Prior to sending, bringing, or causing a child to be sent or brought into a receiving state, the public child placing agency shall provide a written request for assessment to the receiving state.

(b) For placements by a private child placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state, upon receipt and immediate review of the required content in a request for approval of a placement in both the sending and receiving state public child placing agency. The required content to accompany a request for approval shall include all of the following:

(1) A request for approval identifying the child, birth parent(s), the prospective adoptive parent(s), and the supervising agency, signed by the person requesting approval; and

(2) The appropriate consents or relinquishments signed by the birth parents in accordance with the laws of the sending state, or where permitted the laws of the state where the adoption will be finalized; and

(3) Certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted the laws of the state where finalization of the adoption will occur; and

(4) A home study; and

(5) An acknowledgment of legal risk signed by the prospective adoptive parents.

(c) The sending state and the receiving state may request additional information or documents prior to finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted, received and reviewed by the public child placing agency in both the sending state and the receiving state.

(d) Approval from the public child placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the Interstate Commission.

(e) The procedures for making and the request for an assessment shall contain all information and be in such form as provided for in the rules of the Interstate Commission.

(f) Upon receipt of a request from the public child placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination for a provisional placement.

(g) The public child placing agency in the receiving state may request from the public child placing agency or the private child placing agency in the sending state, and shall be entitled to receive supporting or additional information necessary to complete the assessment or approve the placement.

(h) The public child placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the timeframes established by the rules of the Interstate Commission.

(i) For a placement by a private child placing agency, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.

(j) The Interstate Commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

ARTICLE VI. PLACEMENT AUTHORITY.

(a) Except as otherwise provided in this Compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

(b) If the public child placing agency in the receiving state does not approve the proposed placement then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the Interstate Commission. Such determination is not subject to judicial review in the sending state.

(c) If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination.

(1) The administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable Administrative Procedures Act.

(2) If a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved, provided however that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

ARTICLE VII. PLACING AGENCY RESPONSIBILITY.

(a) For the interstate placement of a child made by a public child placing agency or state court:

(1) The public child placing agency in the sending state shall have financial responsibility for:

(A) the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

(B) as determined by the public child placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state.

(2) The receiving state shall only have financial responsibility for:

(A) any assessment conducted by the receiving state; and

(B) supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child placing agencies of the receiving and sending state.

(3) Nothing in this provision shall prohibit public child placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

(b) For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency shall be:

(1) Legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption.

(2) Financially responsible for the child absent a contractual agreement to the contrary.

(c) The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the Interstate Commission.

(d) The public child placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

(e) Nothing in this compact shall be construed as to limit the authority of the public child placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

(f) Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with, the compact and Interstate Commission activities, through the creation of an advisory council or use of an existing body or board.

(g) Each member state shall establish a central state compact office, which shall be responsible for state compliance with the compact and the rules of the Interstate Commission.

(h) The public child placing agency in the sending state shall oversee compliance with the provisions of the Indian Child Welfare Act (25 USC 1901 et seq.) for placements subject to the provisions of this compact, prior to placement.

(i) With the consent of the Interstate Commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN.

The member states hereby establish, by way of this compact, a commission known as the 'Interstate Commission for the Placement of Children.' The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

(a) Be a joint commission of the member states and shall have the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states.

(b) Consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy related matters governed by this compact binding the state.

(1) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

(2) A majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(3) A representative shall not delegate a vote to another member state.

(4) A representative may delegate voting authority to another person from their state for a specified meeting.

(c) In addition to the commissioners of each member state, the Interstate Commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the Interstate Commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the Interstate Commission.

(d) Establish an executive committee which shall have the authority to administer the day-to-day operations and administration of the Interstate Commission. It shall not have the power to engage in rulemaking.

ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

The Interstate Commission shall have the following powers:

(a) To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact.

(b) To provide for dispute resolution among member states.

(c) To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules or actions.

(d) To enforce compliance with this compact or the bylaws or rules of the Interstate Commission pursuant to Article XII.

(e) Collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

(f) To establish and maintain offices as may be necessary for the transacting of its business.

(g) To purchase and maintain insurance and bonds.

(h) To hire or contract for services of personnel or consultants as necessary to carry out its functions under the compact and establish personnel qualification policies, and rates of compensation.

(i) To establish and appoint committees and officers including, but not limited to, an executive committee as required by Article X.

(j) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose thereof.

(k) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

(l) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

(m) To establish a budget and make expenditures.

(n) To adopt a seal and bylaws governing the management and operation of the Interstate Commission.

(o) To report annually to the legislatures, governors, the judiciary, and state advisory councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(p) To coordinate and provide education, training and public awareness regarding the interstate movement of children for officials involved in such activity.

(q) To maintain books and records in accordance with the bylaws of the Interstate Commission.

(r) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.

(a) Bylaws

(1) Within 12 months after the first Interstate Commission meeting, the Interstate Commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact.

(2) The Interstate Commission's bylaws and rules shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(b) Meetings

(1) The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states shall call additional meetings.

(2) Public notice shall be given by the Interstate Commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

(A) relate solely to the Interstate Commission's internal personnel practices and procedures; or

(B) disclose matters specifically exempted from disclosure by federal law; or

(C) disclose financial or commercial information which is privileged, proprietary or confidential in nature; or

(D) involve accusing a person of a crime, or formally censuring a person; or

(E) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons; or

(F) disclose investigative records compiled for law enforcement purposes; or

(G) specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

(3) For a meeting, or portion of a meeting, closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission or by court order.

(4) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or other electronic communication.

(c) Officers and Staff

(1) The Interstate Commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The staff director shall serve as secretary to the Interstate Commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the Interstate Commission.

(2) The Interstate Commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

(d) Qualified Immunity, Defense and Indemnification

(1) The Interstate Commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred

within the scope of Commission employment, duties, or responsibilities; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(A) The liability of the Interstate Commission's staff director and employees or Interstate Commission representatives, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suitor liability for damage, loss, injury, or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person.

(B) The Interstate Commission shall defend the staff director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(C) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.

(a) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(b) Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the Model State Administrative Procedures Act, 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or such other administrative procedure acts as the Interstate Commission deems appropriate consistent with due process requirements under the United States Constitution as now or hereafter interpreted by the U. S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Interstate Commission.

(c) When promulgating a rule, the Interstate Commission shall, at a minimum:

(1) Publish the proposed rule's entire text stating the reason(s) for that proposed rule; and

(2) Allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available; and

(3) Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

(d) Rules promulgated by the Interstate Commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(e) Not later than 60 days after a rule is promulgated, an interested person may file a petition in the U.S. District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

(f) If a majority of the legislatures of the member states rejects a rule, those states may by enactment of a statute or resolution in the same manner used to adopt the compact cause that such rule shall have no further force and effect in any member state.

(g) The existing rules governing the operation of the Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than 12, but no more than 24 months after the first meeting of the Interstate Commission created hereunder, as determined by the members during the first meeting.

(h) Within the first 12 months of operation, the Interstate Commission shall promulgate rules addressing the following:

(1) Transition rules

(2) Forms and procedures

(3) Time lines

(4) Data collection and reporting

(5) Rulemaking

(6) Visitation

(7) Progress reports/supervision

(8) Sharing of information/confidentiality

(9) Financing of the Interstate Commission

(10) Mediation, arbitration and dispute resolution

(11) Education, training and technical assistance

(12) Enforcement

(13) Coordination with other interstate compacts

(i) Upon determination by a majority of the members of the Interstate Commission that an emergency exists:

(1) The Interstate Commission may promulgate an emergency rule only if it is required to:

(A) Protect the children covered by this compact from an imminent threat to their health, safety and well-being; or

(B) Prevent loss of federal or state funds; or

(C) Meet a deadline for the promulgation of an administrative rule required by federal law.

(2) An emergency rule shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

(3) An emergency rule shall be promulgated as provided for in the rules of the Interstate Commission.

ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT.

(a) Oversight

(1) The Interstate Commission shall oversee the administration and operation of the compact.

(2) The executive, legislative and judicial branches of state government in each member state shall enforce this compact and the rules of the Interstate Commission and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact.

(3) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact.

(4) The Interstate Commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the Interstate Commission shall render any judgment, order or other determination, however so captioned or classified, void as to the Interstate Commission, this compact, its bylaws or rules of the Interstate Commission.

(b) Dispute Resolution

(1) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.

(2) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

(c) Enforcement

(1) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its bylaws or rules, the Interstate Commission may:

(A) Provide remedial training and specific technical assistance; or

(B) Provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; or

(C) By majority vote of the members, initiate against a defaulting member state legal action in the United State District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal office, to enforce compliance with the provisions of the compact, its bylaws or rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees; or

(D) Avail itself of any other remedies available under state law or the regulation of official or professional conduct.

ARTICLE XIII. FINANCING OF THE COMMISSION.

(a) The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(b) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission which shall promulgate a rule binding upon all member states.

(c) The Interstate Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

(d) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT.

(a) Any state is eligible to become a member state.

(b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The effective date shall be the later of July 1, 2007 or upon enactment of the compact into law by the 35th state. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.

(c) The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XV. WITHDRAWAL AND DISSOLUTION.

(a) Withdrawal

(1) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute which enacted the compact into law.

(2) Withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute.

(3) The withdrawing state shall immediately notify the president of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall then notify the other member states of the withdrawing state's intent to withdraw.

(4) The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal.

(5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the Interstate Commission.

(b) Dissolution of Compact

(1) This compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XVI. SEVERABILITY AND CONSTRUCTION.

(a) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

(c) Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS.

(a) Other Laws

(1) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

(b) Binding Effect of the Compact

(1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

(2) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(3) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XVIII. INDIAN TRIBES.

Notwithstanding any other provision in this compact, the Interstate Commission may promulgate guidelines to permit Indian tribes to utilize the compact to achieve any or all of the purposes of the compact as specified in Article I. The Interstate Commission shall make reasonable efforts to consult with Indian tribes in promulgating guidelines to reflect the diverse circumstances of the various Indian tribes."

History.

Code 1981, § 39-4A-7, enacted by Ga. L. 2024, p. 206, § 1/SB 483.

Code Commission notes.

Pursuant to Code Section 28-9-5, in 2024, "ARTICLE I. PURPOSE" was substituted for "ARTICLE 1. PURPOSE".

Editor's notes.

For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this chapter.

CHAPTER 5

ONLINE INTERNET SAFETY

39-5-5. Commercial entity age verification; access to material harmful to minors; data retention; penalties; exclusions.

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

(1) "Commercial entity" means a corporation, limited liability company, partnership, limited partnership, sole proprietorship, or other legally recognized entity.

(2) "Digitized identification card" means a data file available on a mobile device with connectivity to the internet that contains all of the data elements visible on the face and back of a driver's license or identification card and displays the current status of the driver's license or identification card as being valid, expired, cancelled, suspended, revoked, active, or inactive.

(3) "Distribute" means to issue, sell, give, provide, deliver, transfer, transmute, circulate, or disseminate by any means.

(4) "Material harmful to minors" means:

(A) Any material that the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, prurient interest;

(B) Any of the following materials that exploit, are devoted to, or principally consist of descriptions of actual, simulated, or animated displays or depictions of any of the following, in a manner patently offensive with respect to minors:

(i) Nipple of the female breast, pubic hair, anus, vulva, or genitals;

(ii) Touching, caressing, or fondling of nipples, breasts, buttocks, the anus, or genitals; or

(iii) Any sexual act, including, but not limited to, sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions, and exhibitions of sexual acts; or

(C) The material taken as a whole lacks serious literary, artistic, political, or scientific value for minors.

(5) "Minor" means any individual under the age of 18 years.

(6) "News-gathering organization" means:

(A) An employee of a newspaper, news publication, or news source, printed or published on an online or mobile platform, while operating as an employee of a news-gathering organization who can provide documentation of employment with the newspaper, news publication, or news source; or

(B) An employee of a radio broadcast station, television broadcast station, cable television operator, or wire service while operating as an employee of a news-gathering organization who can provide documentation of employment.

(7) "Publish" means to communicate or make information available to another person or entity on a public website.

(8) "Reasonable age verification" means to confirm that a person seeking to access published material that may have a substantial portion of material that is harmful to minors is at least 18 years of age.

(9) "Substantial portion" means more than 33.33 percent of total material on a public website which meets the definition of material that is harmful to minors as defined in this Code section.

(b) Before allowing access to a public website that contains a substantial portion of material that is harmful to minors, a commercial entity shall use a reasonable age verification method, which may include, but not be limited to:

(1) The submission of a digitized identification card, including a digital copy of a driver's license;

(2) The submission of government-issued identification; or

(3) Any commercially reasonable age verification method that meets or exceeds an Identity Assurance Level 2 standard, as defined by the National Institute of Standards and Technology.

(c)(1) A commercial entity that knowingly and intentionally publishes or distributes material that is harmful to minors on a public website which contains a substantial portion of material that is harmful to minors is liable if the commercial entity fails to perform reasonable age verification of the individual attempting to access the material.

(2) A commercial entity that violates this Code section is liable to an individual for damages resulting from a minor accessing material harmful to minors, including court costs and reasonable attorneys' fees as ordered by the court.

(3) A commercial entity that violates this Code section shall be subject to a fine of up to $10,000.00 for each violation, the amount of which shall be determined by the superior court in the county in which any affected minor resides. The Attorney General or solicitor general or district attorney having jurisdiction shall institute proceedings to impose such fine within one year of the violation. The issuance of a fine under this paragraph shall not preclude any right of action.

(d)(1) When a commercial entity or third party performs a reasonable age verification, the commercial entity shall not retain any identifying information after access to the material has been granted.

(2) A commercial entity that is found to have knowingly retained identifying information of an individual after access to the material has been granted is liable to such individual for damages resulting from retaining the identifying information, including court costs and reasonable attorney's fees as ordered by the court.

(e) This Code section shall not:

(1) Apply to a news or public interest broadcast, public website video, report, or event;

(2) Affect the rights of a news-gathering organization; or

(3) Apply to cloud service providers.

(f) An internet service provider and any affiliate, subsidiary, or search engine shall not be considered to have violated this Code section solely by providing access or connection to or from a public website or to other information or content on the internet or on a facility, system, or network that is not under that internet service provider's control, to the extent the internet service provider is not responsible for the creation of the content or the communication that constitutes material that is harmful to minors.

History.

Code 1981, § 39-5-5, enacted by Ga. L. 2024, p. 298, § 3-2/SB 351, effective July 1, 2025.

Effective date.

This Code section became effective July 1, 2025.

Editor's notes.

Ga. L. 2024, p. 298, § 1-1/SB 351, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Protecting Georgia's Children on Social Media Act of 2024.'"

CHAPTER 6

SOCIAL MEDIA PLATFORMS

Effective date.

This chapter became effective July 1, 2025.

Editor's notes.

Ga. L. 2024, p. 298, § 1-1/SB 351, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Protecting Georgia's Children on Social Media Act of 2024.'"

39-6-1. Definitions.

As used in this chapter, the term:

(1) "Account holder" means a person who is a resident of this state and has an account or profile to use a social media platform, including a minor account holder.

(2) "Educational entity" means:

(A) A public elementary or secondary school, including without exception public schools provided for under Articles 31, 31A, and 31C of Chapter 2 of Title 20;

(B) A private elementary or secondary school;

(C) A unit of the University System of Georgia;

(D) A unit of the Technical College System of Georgia;

(E) An independent or private college or university located in Georgia and eligible to be deemed an "approved school" pursuant to paragraph (2) of Code Section 20-3-411; or

(F) A nonpublic postsecondary educational institution provided for in Part 1A of Article 7 of Chapter 3 of Title 20.

(3) "Minor" means an individual who resides in this state and is actually known or reasonably believed by a social media platform to be under the age of 16 years.

(4) "Minor account holder" means an account holder who is a minor.

(5) "Post" means content that an account holder makes available on a social media platform for other account holders or users to view or listen to, including text, images, audio, and video.

(6) "Social media platform" means an online forum that allows an account holder to create a profile, upload posts, view and listen to posts, form mutual connections, and interact publicly and privately with other account holders and users. Such term shall not include an online service, website, or application where the predominant or exclusive function is any of the following:

(A) Email;

(B) A service that, pursuant to its terms of use, does not permit minors to use the platform and utilizes commercially reasonable age assurance mechanisms to deter minors from becoming account holders;

(C) A streaming service that provides only licensed media that is not user generated in a continuous flow from the service, website, or application to the end user and does not obtain a license to the media from a user or account holder by agreement to its terms of service;

(D) News, sports, entertainment, or other content that is preselected by the provider and not user generated, and any chat, comment, or interactive functionality that is provided incidental to or directly or indirectly related to such content;

(E) Online shopping or ecommerce, if the interaction with other users or account holders is generally limited to the ability to upload a post and comment on reviews, the ability to display lists or collections of goods for sale or wish lists, and other functions that are focused on online shopping or ecommerce rather than interaction between users or account holders;

(F) Interactive gaming, virtual gaming, or an online service, website, or application that allows the creation and uploading of content for the purpose of interactive gaming, educational entertainment, or associated entertainment, and communications related to that content;

(G) Photograph editing that has an associated photograph hosting service if the interaction with other users or account holders is generally limited to liking or commenting;

(H) Single-purpose community groups for public safety if the interaction with other users or account holders is limited to that single purpose and the community group has guidelines or policies against illegal content;

(I) Business-to-business software;

(J) Teleconferencing or videoconferencing services that allow reception and transmission of audio and video signals for real-time communication;

(K) Cloud storage;

(L) Shared document collaboration;

(M) Cloud computing services, which may include cloud storage and shared document collaboration;

(N) Providing access to or interacting with data visualization platforms, libraries, or hubs;

(O) Permitting comments on a digital news website if the news content is posted only by the provider of the digital news website;

(P) Providing or obtaining technical support for a platform, product, or service;

(Q) Academic, scholarly, or genealogical research where the majority of the content is created or posted by the provider of the online service, website, or application and the ability to chat, comment, or interact with other users is directly related to the provider's content;

(R) Internet access and broadband service;

(S) A classified advertising service in which the provider of the online service, website, or application is limited to all of the following:

(i) Permitting only the sale of goods;

(ii) Prohibiting the solicitation of personal services;

(iii) Posting or creating a substantial amount of the content; and

(iv) Providing the ability to chat, comment, or interact with other users only if it is directly related to the provider's content;

(T) An online service, website, or application that is used by or under the direction of an educational entity, including a learning management system, student engagement program, or subject- or skill-specific program, where the majority of the content is created or posted by the provider of the online service, website, or application and the ability to chat, comment, or interact with other users is directly related to the provider's content;

(U) Peer-to-peer payments, provided that interactions among users or account holders are generally limited to the ability to send, receive, or request funds; like or comment on such transactions; or other functions related to sending, receiving, requesting, or settling payments among users or account holders; or

(V) Career development opportunities, including professional networking, job skills, learning certifications, and job posting and application services.

(7) "User" means a person who has access to view all or some of the posts on a social media platform, but who is not an account holder.

History.
Code 1981, § 39-6-1, enacted by Ga. L. 2024, p. 298, § 3-1/SB 351, effective July 1, 2025.

39-6-2. Age verification of account holders; minors; information relating to available content censorship or moderation features.

(a) The provider of a social media platform shall make commercially reasonable efforts to verify the age of account holders with a level of certainty appropriate to the risks that arise from the social media platform's information management practices or shall apply the special conditions applied to minors under this chapter to all account holders.

(b) The provider of a social media platform shall treat as a minor any individual such provider verifies to be under the age of 16 years.

(c) No provider of a social media platform shall permit a minor to be an account holder unless such provider obtains the express consent of such minor's parent or guardian. Acceptable methods of obtaining express consent from a parent or guardian include:

(1) Providing a form for the minor's parent or guardian to sign and return to the social media platform by common carrier, facsimile, email, or scanning;

(2) Providing a toll-free telephone number for the minor's parent or guardian to call to consent;

(3) Coordinating a call with the minor's parent or guardian using videoconferencing technology;

(4) Collecting information related to the minor's parent's or guardian's government issued identification or financial or payment card information and deleting such information after confirming the identity of the parent or guardian;

(5) Allowing the minor's parent or guardian to provide consent by responding to an email and taking additional steps to verify the parent's or guardian's identity; and

(6) Any other commercially reasonable method of obtaining consent using available technology.

(d) Notwithstanding any other provision of this chapter, no provider of a social media platform shall permit a minor to hold or open an account on the social media platform if the minor is ineligible to hold or open an account under any other provision of state or federal law.

(e) The provider of a social media platform shall make available, upon the request of a parent or guardian of a minor, a list and description of the features offered by the social media platform related to censoring or moderating content available on the social media platform, including any features that can be disabled or modified by an account holder.

History.
Code 1981, § 39-6-2, enacted by Ga. L. 2024, p. 298, § 3-1/SB 351, effective July 1, 2025.

39-6-3. Prohibitions for minor account holders.

For a minor account holder, the provider of a social media platform shall prohibit all of the following:

(1) The display of any advertising in the minor account holder's account based on such minor account holder's personal information, except age and location; and

(2) The collection or use of personal information from the posts, content, messages, text, or usage activities of the minor account holder's account other than what is adequate, relevant, and reasonably necessary for the purposes for which such information is collected, as disclosed to the minor.

History.
Code 1981, § 39-6-3, enacted by Ga. L. 2024, p. 298, § 3-1/SB 351, effective July 1, 2025.

39-6-4. Enforceability by Attorney General.

(a) The Attorney General shall have exclusive authority to enforce the provisions of this chapter and the authority to take action pursuant to Part 2 of Article 15 of Chapter 1 of Title 10, the "Fair Business Practices Act of 1975."

(b) Nothing in this chapter shall be interpreted to serve as the basis for a private right of action under this chapter or any other law.

(c) Subject to the ability to cure an alleged violation under subsection (d) of this Code section, the Attorney General may initiate an action and seek damages for up to $2,500.00 for each violation under this chapter.

(d) At least 90 days before the day on which the Attorney General initiates an enforcement action against a person or entity that is subject to the requirements of this chapter, the Attorney General shall provide the person or entity with a written notice that identifies each alleged violation and an explanation of the basis for each allegation. The Attorney General shall not initiate an action if the person or entity cures the noticed violation within 90 days of receiving notice from the Attorney General and provides the Attorney General with a written statement indicating that the alleged violation is cured.

History.
Code 1981, § 39-6-4, enacted by Ga. L. 2024, p. 298, § 3-1/SB 351, effective July 1, 2025.

39-6-5. Contract, statement of terms or conditions, or any other purported agreement cannot prevent the application of this chapter.

No provision in a contract, statement of terms or conditions, or any other purported agreement, including, but not limited to, a choice of law provision, a waiver or limitation, or a purported waiver or limitation, may be utilized to prevent the application of this chapter or prevent, limit, or otherwise interfere with any person's or entity's right to cooperate with the Attorney General or to file a complaint with the Attorney General. Any such provision shall be null and void and unenforceable as contrary to public policy, and a court or arbitrator shall not enforce or give effect to any such provision.

History.
Code 1981, § 39-6-5, enacted by Ga. L. 2024, p. 298, § 3-1/SB 351, effective July 1, 2025.