

Senate Bill 291

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

A BILL TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"49-6-2.

As used in this article, the term:

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

(2) 'Adult services' means programs and services for adults, including but not limited to programs and services authorized by the federal Older Americans Act of 1965 and other state and federal laws, regulations, grants, initiatives, demonstration programs, and pilot programs or supported through private initiatives that are provided by the agency, that are in addition to aging services.

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

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

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

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

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

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

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

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

SECTION 2.

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

"49-6-3.

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

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

terms of office for terms of three years. All such members shall serve until their successors are appointed and qualified. Such members shall be eligible for reappointment to successive terms of office as members of the board.

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

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

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

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

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

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

SECTION 3.

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

"49-6-4.

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

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

(1) Be authorized to convene one or more panels of experts to address various adult and aging issues, including but not limited to health, employment, volunteering, long-term

care, home and community based services, protective services, caregiver support, adult education, transportation, and housing, and may consult with experts on aging issues;

(2) Establish policies and procedures for the operation of the agency as the director finds necessary for the purposes of this article, including appropriate subordinate administrative units within the agency;

(3) Establish personnel requirements and hire executive personnel, including a deputy director, chief financial officer, and chief operating officer, and other personnel as the director deems necessary for the efficient performance of all functions of the agency;

(4) Prepare and submit to the board:

(A) The annual Alzheimer's and Related Dementias State Plan;

(B) Annual reports of activities and expenditures;

(C) Such plans for restructuring of the agency as the director determines appropriate for action by the board;

(D) Estimates of sums required for carrying out this article and the proposed budget request for comment by the board prior to the director's presentation to the Governor and General Assembly for their action;

(E) Such other actions as the director believes necessary for board approval;

(F) Prepare and present to the Governor, General Assembly, and their respective designees the agency's budget reports, requests, and any other financial information requested by the Governor, General Assembly, or their respective designees; and

(G) Prepare and submit certification for disbursement, in accordance with regulations, of funds available for carrying out the purposes of this article; and

(5) Delegate to any executive officer or other employee of the agency such of the director's powers and duties, except the making of regulations and the appointment of executive personnel, as he or she finds necessary to carry out the purposes of this article."

SECTION 4.

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

"49-6-5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

202 (i) The agency shall succeed to all rules, regulations, policies, procedures, and
203 administrative orders of the department which are in effect on June 30, 2014, and which
204 relate to the functions of the Division of Aging Services. Such rules, regulations, policies,
205 procedures, and administrative orders shall remain in effect until amended, repealed,
206 superseded, or nullified by proper authority or as otherwise provided by law.

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

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

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

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

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

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

SECTION 5.

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

"49-6-6.

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

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

(c) It shall also be the duty of the agency to encourage and assist in the development of programs for older adults in the counties, towns, and cities of this state. The agency shall consult and cooperate with public and private agencies, county and municipal officers and agencies, and any federal or state agency or officer for the purpose of promoting

coordination between state and local plans and programs and between state and interstate plans and programs for older adults.
(d) The agency shall provide such adult services as the Governor or General Assembly shall determine appropriate to the agency, including adult guardianship services."

SECTION 6.

Said article is further amended by repealing Code Section 49-6-7, relating to the funds for expenses, in its entirety and by enacting a new Code Section 49-6-7 to read as follows:

"49-6-7.

The agency is authorized to:

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

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

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

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

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

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

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

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

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

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

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

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

(13) Enlist the aid of public and private agencies concerned with the welfare of older adults and study and report on the functions and facilities of governmental agencies and institutions charged with the care, control, protection, and rehabilitation of older adults;

(14) Serve as a communications clearing-house for information in the large and complex fields of human relationships with respect to older adults;

(15) Conduct or participate financially in conducting demonstration projects with counties, municipalities, or public or private agencies concerned with problems of older adults; and

(16) Appoint such committees as it deems necessary for carrying out the purposes of this article. Members of such committees shall not be entitled to compensation."

SECTION 7.

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

"49-6-8.

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

49-6-9.

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

49-6-10.

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

49-6-11.

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

309 49-6-12.

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

315 **SECTION 8.**

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