The House Committee on Human Relations and Aging offers the following substitute to HB 512:

A BILL TO BE ENTITLED
AN ACT

To amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so as to change certain terminology and provisions relating to the governing and regulation of mental health and to the administration of mental health as it relates to regional and local administration and services; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by revising Code Section 37-1-20, relating to obligations of the Department of Behavioral Health and Developmental Disabilities, as follows:

"37-1-20.

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 ~~planning boards~~ 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 ~~regional~~ local administration of mental health, developmental disability, and addictive disease services in institutions and in the community;

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

(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 ~~regional~~ local office's exercise of its responsibility ~~and authority~~ concerning funding and delivery of disability services;

(15) Supervise the ~~regional~~ local offices concerning the ~~receipt and~~ 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 ~~regional~~ 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 which provides the host home services by contract with the department. The department shall approve and enter into agreements with community providers which, in turn, contract with host homes. The occupant owner or lessee shall not be the guardian of any person served or of their property nor the agent in such person's advance directive for health care. 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;

~~(20)~~(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;

~~(21)~~(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; and

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

~~(22)~~(23) Exercise all powers and duties provided for in this title or which may be deemed necessary to effectuate the purposes of this title;

~~(23)~~(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 practicable, such units shall cooperate with the Georgia Department of Education and the University System of Georgia in developing such programs;

~~(24)~~(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; ~~and~~

~~(25)~~(26) Establish policies and procedures governing fiscal standards and practices of community service boards and their respective governing boards; and~~.~~

(27) Coordinate the establishment and operation of a data base and network to serve as a comprehensive management information system for disability services and programs.″

SECTION 2.

Said title is further amended by revising Code Section 37-2-4.1, relating to regional mental health, developmental disabilities, and addictive diseases offices, as follows:

″37-2-4.1.

(a) The department ~~shall~~ may create ~~regional~~ local mental health, developmental disabilities, and addictive diseases offices. The number of these offices may be modified from time to time as deemed necessary by the department.

(b) The department shall create a separate regional mental health, developmental disabilities, and addictive diseases ~~planning board for each regional office~~ advisory council for each region of the department as established under ~~subsection (a) of this~~ Code ~~section~~ Section 37-2-3. Each ~~board shall~~ regional advisory council may provide ~~and facilitate~~ recommendations for the coordinated and comprehensive planning for its region in conformity with minimum standards and procedures established by the department. ~~Each board shall be designated with such identifying words before the term 'regional mental health, developmental disabilities, and addictive diseases planning board' as that regional planning board may, from time to time, choose and designate by official action.~~

(c) The powers, functions, obligations, and duties of the regional mental health, mental retardation, and substance abuse boards as they existed on June 30, 2002, are transferred to the department. The department shall succeed to all rights, privileges, entitlements, contracts, leases, agreements, and other transactions of the regional boards which were in effect on June 30, 2002, and none of those rights, privileges, entitlements, contracts, leases, agreements, and other transactions shall be impaired or diminished by reason of such transfer. In all such instances, the department shall be substituted for such regional board and the department shall succeed to the rights and duties under such contracts, leases, agreements, and other transactions.″

SECTION 3.

Said title is further amended by revising Code Section 37-2-5, relating to regional planning boards, establishing policy and direction for disability services, membership, bylaws, meetings, and expenses, as follows:

″37-2-5.

(a) Each regional ~~planning board~~ advisory council shall engage in disability services planning ~~including job supports and housing~~ within its region and ~~shall~~ may perform ~~such~~ other functions as may be provided or authorized by law, such as:~~-~~

(1) Informing the department of local needs and priorities;

(2) Organizing natural supports;

(3) Recommending community improvements;

(4) Providing input to the department regarding the local perspective of consumers, families, and community stakeholders; and

(5) Encouraging prevention programs.

(b) Membership on the regional ~~planning board~~ advisory council within an established region shall be determined as follows:

(1) Each county with a population of 50,000 or less according to the United States decennial census of 1990 or any future such census shall appoint one member to the ~~board~~ council;

(2) Each county with a population of more than 50,000 according to the United States decennial census of 1990 or any future such census shall appoint one member for each population increment of 50,000 or any portion thereof;

(3) The appointment or appointments for each county shall be made by the county governing authority; and

(4) The county governing authority shall appoint a consumer of disability services, a family member of a consumer, an advocate for disability services, or a local leader or business person 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.

(b.1) A county governing authority may appoint the school superintendent, a member of the county board of health, a member of the local board of education, or any other elected or appointed official to serve on the regional ~~planning board~~ advisory council, provided that such person meets the qualifications of paragraph (4) of subsection (b) of this Code section, such person does not serve on a community service board, and such appointment does not violate the provisions of Chapter 10 of Title 45.

(b.2)(1) A person shall not be eligible to be appointed to or serve on a regional ~~planning board~~ advisory council if such person is:

(A) A member of the community service board which serves that region; ~~or~~

(B) An employee or board member of a private or public entity which contracts with the department, the Department of Human Services, or the Department of Public Health to provide health, mental health, developmental disabilities, or addictive diseases services within the region;

(C) An employee of such ~~regional~~ local office or employee or board member of any private or public group, organization, or service provider which contracts with or receives funds from such ~~regional~~ local office; or

(D) An employee or board member of the department, the Department of Human Services, or the Department of Public Health.

(2) A person shall not be eligible to be appointed to or serve on a regional ~~planning board~~ advisory council if such person's spouse, parent, child, or sibling is a member of that regional ~~planning board~~ advisory council or a member, employee, or board member

specified in paragraph (1) of this subsection. No person who has served a full term or more on a regional ~~board~~ advisory council or regional planning board may be appointed to a community service board until a period of at least two years has passed since the time such person served on the regional ~~board~~ advisory council or the regional planning board. No person who has served on a regional planning board and who becomes a member of a regional ~~planning board~~ advisory council ~~on~~ after June 30, ~~2002~~ 2015, may be appointed to 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 or regional advisory council.

(c) In making appointments to the regional ~~planning board~~ advisory council, the various county governing authorities shall ~~ensure that appointments are reflective of~~ consider the cultural and social characteristics, including gender, race, ethnic, and age characteristics, of the regional and county populations. The county governing authorities are further encouraged to ensure that each disability group is viably represented on the regional ~~planning board~~ advisory council, and in so doing the county governing authority may consider suggestions for appointments from clinical professional associations as well as advocacy groups, including but not limited to the Georgia Mental Health Consumer Network, People First of Georgia, the Georgia Parent Support Network, National Alliance for the Mentally Ill Georgia, the American Association for Retired Persons, Georgians for Children, Mental Health America of Georgia, Georgia ARC Network, and the Georgia Council on Substance Abuse and their local chapters and affiliates.

~~(d)(1) In addition, members of the regional mental health, mental retardation, and substance abuse boards in office on June 30, 2002, shall become members of the regional planning board for the area in which they reside on July 1, 2002, and shall serve out the balance of their terms.~~

~~(2)~~(d) The initial term of a new member of a regional ~~planning board~~ advisory council shall be determined by the commissioner in order to establish staggered terms on the ~~board~~ council. At such time as the terms of the members of the ~~board~~ council are equally staggered, the term of a member of the regional ~~planning board~~ advisory council shall be for a period of three years and until the member's successor is appointed and qualified. A member may serve no more than two consecutive terms. The term of a regional ~~planning board~~ advisory council member shall terminate upon resignation, death, or inability to serve due to medical infirmity or other incapacity or such other reasonable condition as the regional ~~planning board~~ advisory council may impose under its bylaws. Vacancies on the regional ~~planning board~~ advisory council shall be filled in the same manner as the original appointment.

(e) Prior to August 1, ~~2002~~ 2015, each regional ~~planning board~~ advisory council shall adopt bylaws governing its operation and management. At a minimum, the bylaws shall provide for staggered terms of the ~~board~~ council, requirements for an annual meeting to elect officers, a mechanism for ensuring that consumers of disability services and family members of consumers constitute a majority of the appointments to the ~~board~~ council, and a mechanism for ensuring that each disability service is equitably represented by appointments to the ~~board~~ council. Any ~~board~~ council member who serves an initial term of less than three years may be eligible to be reappointed for two full consecutive three-year terms. The chairperson and vice chairperson of the regional ~~planning board~~ advisory council shall be elected from among the members of the ~~board~~ council to serve a term of one year with the option of reelection for an additional one-year term. The bylaws shall provide for any other officers and their means of selection, as well as any necessary committees or subcommittees of the ~~board~~ council. Prior to their adoption by the regional ~~planning board~~ advisory council, the bylaws shall be submitted to the department for review and approval. The regional ~~planning board~~ advisory council must have the written approval of the commissioner prior to the adoption of bylaws.

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

(g) Each member of the regional ~~planning board~~ advisory council may, upon approval of the ~~regional coordinator~~ department, receive reimbursement for actual expenses incurred in carrying out the duties of such office in conformance with rates and allowances set for state employees by the Office of Planning and Budget and the same 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.

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

SECTION 4.

Said title is further amended by revising Code Section 37-2-5.1, relating to regional planning boards, regional coordinator, staff and personnel and allocation of funds, as follows:

″37-2-5.1.

~~(a) Each region shall be served by a regional coordinator who shall be duly qualified and appointed by the commissioner. The regional coordinator shall serve as the supervisor of the regional office, which shall be a unit of the department. The regional coordinator shall~~

~~serve at the pleasure of the commissioner. The commissioner shall be authorized to appoint an interim regional coordinator at any time that the position of regional coordinator is vacant and prior to the appointment of a duly qualified and approved successor.~~

~~(b) The regional coordinator may appoint such other staff including a regional services administrator and personnel to work for the regional office as the department deems necessary and appropriate. The regional coordinator and such staff and personnel shall be employees of the department. Expenses for the regional office and planning board, the employment of the regional coordinator, other staff and personnel, and the operation of the regional office shall be funded by the department as funds are appropriated by the General Assembly. The department shall impose limits on the administrative and operating expenditures of the regional office and planning board.~~

~~(c)(1)~~(a) State, federal, and other funds appropriated to the department and available for the purpose of funding the planning and delivery of disability services shall be distributed in accordance with this subsection. All funds associated with services to clients residing within a given region shall be managed through the department; the term 'all funds' shall include funding for hospitals, community service boards, private and public contracts, and any contracts relating to service delivery for clients within the given region. The department shall establish a funding amount for regions conditioned upon the amount of funds appropriated. The funding amount shall be determined, in part, based on consumer service needs, service and program history, population based funding needs, infrastructure mandates, program efficiency and effectiveness, geographic distances, and other factors affecting the cost and level of service needs within each region.

~~(2)~~(b) The department shall establish guidelines to ensure that regions receive such funding based on client population, past and future service delivery needs and capabilities, and in consideration of special needs populations, such as homeless and transient populations. The department shall ensure that funds are managed based primarily on services to clients and in compliance with all federal, state, and regulatory requirements.

~~(3)~~(c) The department, in compliance with the provisions of the General Appropriations Act and other applicable laws, is authorized to move funds to and between community and institutional programs based on need, and the department shall develop appropriate allocation and accounting mechanisms to move funds in a planned and rational manner between hospitals, community service boards, and other providers based on client needs and utilization.″

SECTION 5.

Said title is further amended by revising Code Section 37-2-5.2, relating to regional planning boards, duties and functions, power to contract, delegation of powers and duties, and books of accounts, as follows:

"37-2-5.2.

Under the supervision of the department, each ~~regional~~ local office shall have the following duties and functions:

~~(1) To prepare, in consultation with consumers and families, community programs, hospitals, other public and private providers, its regional planning board, and appropriate advisory and advocacy groups, an annual plan identifying the needs and priorities for disability services in the region. The plan shall be submitted to the department at a time and in the manner specified by the department so as to ensure that the plan informs the annual appropriations request;~~

~~(2) To provide, as funds become available, for consumer assessment and service authorization and coordination for each consumer receiving services within the region;~~

~~(3) To exercise responsibility and authority as specified in this chapter within the region in all matters relating to the funding and delivery of disability services;~~

~~(4)~~(1) To receive and administer ~~grants,~~ gifts, moneys, and donations for purposes pertaining to mental health, developmental disability, and addictive disease services;

~~(5) To enter into contracts on behalf of the department with any hospital, community service board, or other public or private providers without regard to regional or state boundaries for the provision of disability services, and to enter into all contracts on behalf of the department necessary or incidental to the performance of duties and functions of the department and regional office;~~

~~(6)~~(2) To encourage the development, in cooperation with the department, of private and public providers of programs and disability services which respond to the needs of consumers and families of consumers within the region;

~~(7)~~(3) To serve as the representative of the citizens of the area in regard to disability services;

~~(8)~~(4) To receive and consider complaints and grievances submitted by individuals, associations, or agencies involved with the delivery or receipt of disability services and, if deemed appropriate, to seek resolution in coordination with the department, through processes which may include impartial mediation and alternative dispute resolution, of such complaints and grievances with the appropriate hospital, community service board, or other private or public provider of service;

~~(9)~~(5) To assure the highest achievable level of public awareness and understanding of both available and needed disability services;

~~(10)~~(6) To visit regularly disability services facilities and programs which serve the region 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; and

~~(11)~~(7) To participate with other ~~regional~~ local offices and planning boards, the department, local, state, or federal government agencies, educational institutions, and public and private organizations in the coordination of planning, research, service development, and evaluation activities:

(A) To work cooperatively with all units of county and local government, including the county boards of health, within the region; and

(B) To establish goals and objectives, not inconsistent with those established by the department, for its region.~~; and~~

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

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

~~(c) Each regional office shall account for all funds received, expended, and administered and shall make reports to the department regarding the funds received from the department. The audit of such activity shall be part of the annual audit of the department.~~"

SECTION 6.

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