

House Bill 1069

By: Representatives Williamson of the 115th, Cooper of the 43rd, Hatchett of the 150th, Oliver of the 82nd, Parrish of the 158th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 3 of Title 37 of the Official Code of Georgia Annotated, relating to
2 examination, treatment, etc., for mental illness, so as to provide for the licensure of adult
3 mental health programs; to provide for a short title; to provide for the purpose; to provide for
4 definitions; to provide for classification; to provide for minimum standards of quality and
5 services; to provide for rules and regulations; to provide for licensure; to provide for
6 applications; to provide for provisional licenses; to provide for meeting certain requirements
7 based on proof of accreditation; to provide that licenses are nontransferable; to provide for
8 denial, suspension, or revocation of license; to provide for notice and hearings; to provide
9 for confidentiality of records; to provide for enforcement of violations; to provide for
10 inspection by the Department of Community Health; to provide for an annual report; to
11 provide for criminal background checks; to provide for oversight by the disability services
12 ombudsman; to provide for related matters; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Chapter 3 of Title 37 of the Official Code of Georgia Annotated, relating to examination,
16 treatment, etc., for mental illness, is amended by adding a new article to read as follows:

H. B. 1069

17 "ARTICLE 718 37-3-200.19 This article shall be known and may be cited as the 'Adult Mental Health Services
20 Licensing Act.'21 37-3-201.22 The purpose of this article is to provide for the classification and systematic evaluation,
23 licensure, and monitoring of various programs designed for the treatment and therapeutic
24 recovery of adult persons diagnosed with mental illnesses or related disorders; to ensure
25 that every governing body which operates an adult mental health program is licensed to do
26 so; and to meet the rehabilitative and recovery needs and supports of persons who have
27 mental illnesses while safeguarding their individual liberties.28 37-3-202.29 As used in this article, the term:30 (1) 'Adult mental health program' means any system of treatment or therapeutic advice
31 or counsel provided for prevention, stabilization, treatment, or recovery of mentally ill
32 persons 18 years of age or older in a residential or outpatient setting not operated directly
33 by a state or local public agency nor by a licensed general or specialty hospital authorized
34 to provide inpatient and outpatient psychiatric services and shall include programs
35 offered in the following types of facilities:36 (A) Residential care centers. A facility that is not a general or specialty hospital,
37 staffed by professional and paraprofessional persons, offering structured treatment or
38 therapeutic programs for persons who are diagnosed with mental illnesses or disorders
39 and who live on the premises or campuses of the facility; and

40 (B) Nonresidential care centers. A non-live-in facility, staffed by professional and
41 paraprofessional persons, offering structured treatment or therapeutic programs for
42 persons who are diagnosed with mental illnesses or disorders and who do not live on
43 the premises, excluding individual or family counseling or group counseling services
44 provided by the individual practices of licensed mental health professionals.

45 (2) 'Department' means the Department of Community Health.

46 (3) 'GCIC' means the Georgia Crime Information Center established under Article 2 of
47 Chapter 3 of Title 35.

48 (4) 'Governing body' means the public agency, county board of health, partnership,
49 corporation, limited liability company, association, or person or group of persons who
50 maintains and controls the adult mental health program and who is legally responsible for
51 its operation.

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

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

56 (7) 'Mentally ill person' means a person who is at risk of becoming destabilized from his
57 or her diagnosed mental or emotional illness or disorder under any of the categories listed
58 in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental*
59 *Disorders* (DSM-5) or the World Health Organization's *International Classification of*
60 *Diseases*, in effect as of July 1, 2022, or as the department may further define such term
61 by rule and regulation.

62 (8) 'Records check application' means fingerprints in such form and of such quality as
63 prescribed by the Georgia Crime Information Center and under standards adopted by the
64 Federal Bureau of Investigation and a records search fee to be established by the
65 department by rule and regulation, payable in such form as the department may direct to
66 cover the cost of obtaining criminal background information pursuant to this article.

67 37-3-203.

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

70 37-3-204.

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

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

76 (2) Adequate equipment for the delivery of adult mental health programs;

77 (3) Sufficient trained or experienced staff who are competent in the duties they are to
78 perform;

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

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

82 (6) Referral arrangements to other appropriate agencies or facilities;

83 (7) Continuing evaluation of the effectiveness of programs;

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

85 (9) A formal plan of cooperation with other programs or facilities to allow for continuity
86 of care for mentally ill persons;

87 (10) In consultation with the Board of Pharmacy, standards for the storage,
88 administration, and dispensing of prescribed medications to patients in programs licensed
89 under this article;

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

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

94 (13) Standards for protection of patient rights while resident in a program, internal
95 grievance procedures, the use of restraints or patient isolation, and access to or egress
96 from any residential facility; and

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

100 (b) No adult mental health program licensed under this article shall be subject to the
101 requirement for a certificate of need under Article 3 of Chapter 6 of Title 31.

102 (c) A residential care center which is an adult mental health program licensed under this
103 article may offer a crisis stabilization unit licensed under Article 2 of Chapter 1 of this title
104 by the Department of Behavioral Health and Developmental Disabilities for the patients
105 of the licensee who may need stabilization during the course of their residential treatment.

106 37-3-205.

107 The department is authorized and directed to create and promulgate all rules and
108 regulations necessary for the implementation of this article. All rules and regulations and
109 any enforcement actions initiated by the department shall comply with the requirements of
110 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

111 37-3-206.

112 No governing body shall operate an adult mental health program without having a valid
113 license or provisional license issued pursuant to this article.

114 37-3-207.

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

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

122 37-3-208.

123 The department may issue a provisional license effective for a period not to exceed 90 days
124 to each applicant who has substantially complied with all requirements for a regular
125 license. Provisional licenses shall be renewed in the discretion of the department only in
126 cases of extreme hardship and in no case for longer than 90 days. The obligations and
127 conditions of a provisional license shall be the same as those of a regular license except as
128 otherwise provided for in this article.

129 37-3-209.

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

133 37-3-210.

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

137 37-3-211.

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

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

144 37-3-212.

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

163 licensee shall furnish, copies of summary records of each mentally ill person treated or
164 advised pursuant to an adult mental health program.

165 37-3-213.

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

175 37-3-214.

176 The department shall publish an annual report using data from the department's central
177 registry data base on the number of patients enrolled in treatment, the number of patients
178 discharged from treatment, each patient's state of residence, and other information
179 determined by the department. Such published report shall exclude patient identifying
180 information and be compliant with all applicable state and federal laws.

181 37-3-215.

182 (a)(1) Prior to approving any license for a new program and periodically as established
183 by the department by rules and regulations, the department shall require the administrator
184 of the applicant to submit a records check application. The department shall establish a
185 uniform method of obtaining an administrator's and applicant's records check application.

186 (2)(A) Unless the department contracts pursuant to subparagraph (B) of this paragraph,
187 the department shall transmit to the GCIC the fingerprints and records search fee from
188 each fingerprint records check application in accordance with Code Section 35-3-35.
189 Upon receipt thereof, the GCIC shall promptly transmit the fingerprints to the Federal
190 Bureau of Investigation for a search of bureau records and an appropriate report and
191 shall promptly conduct a search of its records and records to which it has access.
192 Within ten days after receiving fingerprints acceptable to the GCIC and the fee, the
193 GCIC shall notify the department in writing of any criminal record or if there is no such
194 finding. After a search of Federal Bureau of Investigation records and fingerprints and
195 upon receipt of the bureau's report, the department shall make a determination about an
196 administrator's and applicant's criminal record and shall notify the administrator or
197 applicant in writing as to the department's determination as to whether such
198 administrator or applicant has or does not have a criminal record.

199 (B) The department may either perform criminal background checks under agreement
200 with the GCIC or contract with the GCIC and appropriate law enforcement agencies
201 which have access to the GCIC and the Federal Bureau of Investigation information to
202 have those agencies perform for the department criminal background checks for
203 administrators and applicants. The department or the appropriate law enforcement
204 agencies may charge reasonable fees for performing criminal background checks.

205 (3) The department's determination regarding an administrator's or an applicant's
206 criminal record, or any action by the department revoking or refusing to grant a license
207 based on such determination, shall constitute a contested case for purposes of Chapter 13
208 of Title 50, the 'Georgia Administrative Procedure Act,' except that any hearing required
209 to be held pursuant thereto may be held reasonably expeditiously after such determination
210 or action by the department.

211 (4) Neither the GCIC, the department, any law enforcement agency, nor the employees
212 of any such entities shall be responsible for the accuracy of information nor have any

213 liability for defamation, invasion of privacy, negligence, or any other claim in connection
214 with any dissemination of information or determination based thereon pursuant to this
215 Code section.

216 (b) All information received from the Federal Bureau of Investigation or the GCIC shall
217 be for the exclusive purpose of approving or denying the granting of a license to a new
218 program and shall not be released or otherwise disclosed to any other person or agency.
219 All such information collected by the department shall be maintained by the department
220 pursuant to laws regarding and the rules or regulations of the Federal Bureau of
221 Investigation and the GCIC, as is applicable. Penalties for the unauthorized release or
222 disclosure of any such information shall be as prescribed pursuant to laws regarding and
223 rules or regulations of the Federal Bureau of Investigation and the GCIC, as is applicable.

224 (c) The requirements of this Code section are supplemental to any requirements for a
225 license application or other requirements imposed by this article.

226 (d) The department shall promulgate written rules and regulations reasonable and
227 necessary to implement the provisions of this Code section.

228 37-3-216.

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

233 **SECTION 2.**

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