

House Bill 512 (AS PASSED HOUSE AND SENATE)

By: Representatives Jasperse of the 11th and Dempsey of the 13th

A BILL TO BE ENTITLED
AN ACT

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

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

11 "37-1-20.

12 The department shall:

- 13 (1) Establish, administer, and supervise the state programs for mental health,
14 developmental disabilities, and addictive diseases;
- 15 (2) Direct, supervise, and control the medical and physical care and treatment; recovery;
16 and social, employment, housing, and community supports and services based on single
17 or co-occurring diagnoses provided by the institutions, contractors, and programs under
18 its control, management, or supervision;
- 19 (3) Plan for and implement the coordination of mental health, developmental disability,
20 and addictive disease services with physical health services, and the prevention of any of
21 these diseases or conditions, and develop and promulgate rules and regulations to require
22 that all health services be coordinated and that the public and private providers of any of
23 these services that receive state support notify other providers of services to the same
24 patients of the conditions, treatment, and medication regimens each provider is
25 prescribing and delivering;

- 26 (4) Ensure that providers of mental health, developmental disability, or addictive disease
27 services coordinate with providers of primary and specialty health care so that treatment
28 of conditions of the brain and the body can be integrated to promote recovery, health, and
29 well-being;
- 30 (5) Have authority to contract, including performance based contracts which may include
31 financial incentives or consequences based on the results achieved by a contractor as
32 measured by output, quality, or outcome measures, for services with community service
33 boards, private agencies, and other public entities for the provision of services within a
34 service area so as to provide an adequate array of services and choice of providers for
35 consumers and to comply with the applicable federal laws and rules and regulations
36 related to public or private hospitals; hospital authorities; medical schools and training
37 and educational institutions; departments and agencies of this state; county or municipal
38 governments; any person, partnership, corporation, or association, whether public or
39 private; and the United States government or the government of any other state;
- 40 (6) Establish and support programs for the training of professional and technical
41 personnel as well as regional ~~planning boards~~ advisory councils and community service
42 boards;
- 43 (7) Have authority to conduct research into the causes and treatment of disability and
44 into the means of effectively promoting mental health and addictive disease recovery;
- 45 (8) Assign specific responsibility to one or more units of the department for the
46 development of a disability prevention program. The objectives of such program shall
47 include, but are not limited to, monitoring of completed and ongoing research related to
48 the prevention of disability, implementation of programs known to be preventive, and
49 testing, where practical, of those measures having a substantive potential for the
50 prevention of disability;
- 51 (9) Establish a system for ~~regional~~ local administration of mental health, developmental
52 disability, and addictive disease services in institutions and in the community;
- 53 (10) Make and administer budget allocations to ~~regional offices established by the board~~
54 ~~pursuant to Code Section 37-2-4.1~~ to fund the operation of mental health, developmental
55 disabilities, and addictive diseases facilities and programs;
- 56 (11) Coordinate in consultation with providers, professionals, and other experts the
57 development of appropriate outcome measures for client centered service delivery
58 systems;
- 59 (12) Establish, operate, supervise, and staff programs and facilities for the treatment of
60 disabilities throughout this state;
- 61 (13) Disseminate information about available services and the facilities through which
62 such services may be obtained;

- 63 (14) Supervise the ~~regional~~ local office's exercise of its responsibility ~~and authority~~
64 concerning funding and delivery of disability services;
- 65 (15) Supervise the ~~regional~~ local offices concerning the ~~receipt~~ and administration of
66 grants, gifts, moneys, and donations for purposes pertaining to mental health,
67 developmental disabilities, and addictive diseases;
- 68 (16) Supervise the administration of contracts with any hospital, community service
69 board, or any public or private providers without regard to regional or state boundaries
70 for the provision of disability services and in making and entering into all contracts
71 necessary or incidental to the performance of the duties and functions of the department
72 and the ~~regional~~ local offices;
- 73 (17) Regulate the delivery of care, including behavioral interventions and medication
74 administration by licensed staff, or certified staff as determined by the department, within
75 residential settings serving only persons who are receiving services authorized or
76 financed, in whole or in part, by the department;
- 77 (18) Classify host homes for persons whose services are financially supported, in whole
78 or in part, by funds authorized through the department. As used in this Code section, the
79 term 'host home' means a private residence in a residential area in which the occupant
80 owner or lessee provides housing and provides or arranges for the provision of food, one
81 or more personal services, supports, care, or treatment exclusively for one or two persons
82 who are not related to the occupant owner or lessee by blood or marriage. A host home
83 shall be occupied by the owner or lessee, who shall not be an employee of the same
84 community provider which provides the host home services by contract with the
85 department. The department shall approve and enter into agreements with community
86 providers which, in turn, contract with host homes. The occupant owner or lessee shall
87 not be the guardian of any person served or of their property nor the agent in such
88 person's advance directive for health care. The placement determination for each person
89 placed in a host home shall be made according to such person's choice as well as the
90 individual needs of such person in accordance with the requirements of Code
91 Section 37-3-162, 37-4-122, or 37-7-162, as applicable to such person;
- 92 (19) Provide guidelines for and oversight of host homes, which may include, but not be
93 limited to, criteria to become a host home, requirements relating to physical plants and
94 supports, placement procedures, and ongoing oversight requirements;
- 95 (20) Supervise the regular visitation of disability services facilities and programs in order
96 to assure contracted providers are licensed and accredited by the designated agencies
97 prescribed by the department, and in order to evaluate the effectiveness and
98 appropriateness of the services, as such services relate to the health, safety, and welfare

99 of service recipients, and to provide technical assistance to programs in delivering
 100 services;
 101 ~~(20)~~(21) Establish a unit of the department which shall receive and consider complaints
 102 from individuals receiving services, make recommendations to the commissioner
 103 regarding such complaints, and ensure that the rights of individuals receiving services are
 104 fully protected;
 105 ~~(21)~~(22) With respect to housing opportunities for persons with mental illness and
 106 co-occurring disorders:
 107 (A) Coordinate the department's programs and services with other state agencies and
 108 housing providers;
 109 (B) Facilitate partnerships with local communities;
 110 (C) Educate the public on the need for supportive housing;
 111 (D) Collect information on the need for supportive housing and monitor the benefit of
 112 such housing; and
 113 (E) Identify and determine best practices for the provision of services connected to
 114 housing;
 115 ~~(22)~~(23) Exercise all powers and duties provided for in this title or which may be deemed
 116 necessary to effectuate the purposes of this title;
 117 ~~(23)~~(24) Assign specific responsibility to one or more units of the department for the
 118 development of programs designed to serve disabled infants, children, and youth. To the
 119 extent practicable, such units shall cooperate with the Georgia Department of Education
 120 and the University System of Georgia in developing such programs;
 121 ~~(24)~~(25) Have the right to designate private institutions as state institutions; to contract
 122 with such private institutions for such activities, in carrying out this title, as the
 123 department may deem necessary from time to time; and to exercise such supervision and
 124 cooperation in the operation of such designated private institutions as the department may
 125 deem necessary; ~~and~~
 126 ~~(25)~~(26) Establish policies and procedures governing fiscal standards and practices of
 127 community service boards and their respective governing boards; ~~and~~;
 128 (27) Coordinate the establishment and operation of a data base and network to serve as
 129 a comprehensive management information system for disability services and programs."

130 **SECTION 2.**

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

133 "37-2-4.1.

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

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

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

155 **SECTION 3.**

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

159 "37-2-5.

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

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

164 (2) Organizing natural supports;

165 (3) Recommending community improvements;

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

168 (5) Encouraging prevention programs.

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

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

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

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

179 (4) The county governing authority shall appoint a consumer of disability services, a
180 family member of a consumer, an advocate for disability services, or a local leader or
181 business person with an interest in mental health, developmental disabilities, and
182 addictive diseases; provided, however, that for counties with more than one appointment,
183 the county governing authority shall seek to ensure that such appointments represent
184 various groups and disability services.

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

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

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

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

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

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

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

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

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

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

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

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

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

261 (g) Each member of the regional ~~planning board~~ advisory council may, upon approval of
 262 the ~~regional coordinator~~ department, receive reimbursement for actual expenses incurred
 263 in carrying out the duties of such office in conformance with rates and allowances set for
 264 state employees by the Office of Planning and Budget and the same mileage allowance for
 265 use of a personal car as that received by all other state officials and employees or a travel
 266 allowance of actual transportation cost if traveling by public carrier.

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

271 SECTION 4.

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

274 "37-2-5.1.

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

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

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

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

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

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

311 **SECTION 5.**

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

315 "37-2-5.2.

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

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

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

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

328 ~~(4)~~(1) To receive and administer grants, gifts, moneys, and donations for purposes
 329 pertaining to mental health, developmental disability, and addictive disease services;

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

335 ~~(6)~~(2) To encourage the development, in cooperation with the department, of private and
 336 public providers of programs and disability services which respond to the needs of
 337 consumers and families of consumers within the region;

338 ~~(7)~~(3) To serve as the representative of the citizens of the area in regard to disability
 339 services;

340 ~~(8)~~(4) To receive and consider complaints and grievances submitted by individuals,
 341 associations, or agencies involved with the delivery or receipt of disability services and,
 342 if deemed appropriate, to seek resolution in coordination with the department, through
 343 processes which may include impartial mediation and alternative dispute resolution, of
 344 such complaints and grievances with the appropriate hospital, community service board,
 345 or other private or public provider of service;

346 ~~(9)~~(5) To assure the highest achievable level of public awareness and understanding of
 347 both available and needed disability services;

348 ~~(10)(6)~~ To visit regularly disability services facilities and programs which serve the
 349 region in order to assure contracted providers are licensed and accredited by the
 350 designated agencies prescribed by the department, and in order to evaluate the
 351 effectiveness and appropriateness of the services, as such services relate to the health,
 352 safety, and welfare of service recipients, and to provide technical assistance to programs
 353 in delivering services; and

354 ~~(11)(7)~~ To participate with other ~~regional~~ local offices and planning boards, the
 355 department, local, state, or federal government agencies, educational institutions, and
 356 public and private organizations in the coordination of planning, research, service
 357 development, and evaluation activities:

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

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

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

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

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

377 SECTION 6.

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